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**INQUIRY INTO THE CONVICTIONS OF KATHLEEN MEGAN FOLBIGG**

**MONDAY, 29 APRIL 2019 at 10.00am**

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**PRESENT:**

**Legal representatives**

**Gail Furness SC**, Senior Counsel assisting the Inquiry

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**Ann Bonnor**, counsel assisting the Inquiry

**Sian McGee**, counsel assisting the Inquiry

**Jeremy Morris SC**, Senior Counsel for Ms Folbigg

**Robert Cavanagh**, counsel for Ms Folbigg

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**Isabel Reed**, counsel for Ms Folbigg

**Christopher Maxwell QC**, Queen's Counsel for New South Wales ODPP

**Margaret Cunneen SC**, Senior Counsel for Craig Folbigg

**Witnesses**

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**Kathleen Megan Folbigg**

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SPECIAL INQUIRY

THE HONOURABLE REGINALD BLANCH AM QC

5 MONDAY 29 APRIL 2019

**INQUIRY INTO THE CONVICTIONS OF KATHLEEN MEGAN FOLBIGG**

**PART HEARD**

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JUDICIAL OFFICER: Yes, Ms Furness.

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FURNESS SC: Thank you, your Honour. I appear with my learned friends, Ms Bonnor and Ms McGee, instructed by Ms Richards, to assist your Honour in the Inquiry.

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JUDICIAL OFFICER: Thank you.

MORRIS SC: Your Honour, as before, I appear with Dr Cavanagh and Ms Reed in the interests of Ms Folbigg.

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JUDICIAL OFFICER: Yes, thank you. Mr Maxwell, you're appearing--

MAXWELL QC: Yes, I appear for the New South Wales Director of Public Prosecutions.

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JUDICIAL OFFICER: Yes, thank you, Mr Maxwell.

CUNNEEN SC: Your Honour, my name is Cunneen and I seek leave to appear in the interests of Mr Craig Folbigg.

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JUDICIAL OFFICER: Yes, well, I grant leave, Ms Cunneen.

CUNNEEN SC: Thank you, your Honour.

40

JUDICIAL OFFICER: I see Ms Folbigg is here. I should say at the beginning, that in terms of the cross-examination, first we need to sort out - or have you sorted out amongst yourselves, as to who should examine Ms Folbigg first. Counsel assisting will introduce her in a formal sense. The question then is who should go next, in terms of whether you go first, Mr Morris, or whether the cross-examination goes first. What's your view about it?

45

MORRIS SC: Well, your Honour, I'm happy to - after counsel assisting introduces her, I'm happy to lead evidence from her, if that's the most convenient course. I just wonder, in terms of practicality, there's some background - I know that this is - the scope of the Inquiry relates to the content of the diaries, but there is some background material we need to - we do need

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some context as to how the diaries were generated and what the issues were

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in this woman's life at the time.

5 JUDICIAL OFFICER: Well, as to that, the scope of the Inquiry is strictly limited to the fact that she will be allowed to give evidence about the diary entries, possession of the diaries and her disposal of the diaries.

MORRIS SC: Yes, your Honour.

10 JUDICIAL OFFICER: And her evidence will be restricted, and the cross-examination will be restricted, to those particular matters and nothing else.

MORRIS SC: Yes, your Honour. Well, if that be the case, I mean--

15 JUDICIAL OFFICER: That was the order that was made--

MORRIS SC: Yes, I'm sorry, your Honour--

JUDICIAL OFFICER: --right at the beginning.

20 MORRIS SC: --I don't mean to talk across you. But the circumstances in which the diaries came to be created and the issues that are evidenced by the - it really depends on the view your Honour takes about the material contained in the diaries, because there's - the diaries, there are two or three different types of diaries, really. There are those relating to Caleb, which are very punctuated in time and so on, and so forth, and I understand they have a particular character. There are also those that are generated contemporaneously at the time and then there are those that are generated at some later time, in which she's referring to earlier events.

25  
30 Now, your Honour, within that, there's a great deal more context within the diaries themselves, which may be self-evident to your Honour, about some of the other issues going on in her life which may give some insight as to what she was doing when writing the diaries. And, to that extent, that is context as to the nature of her relationship with her adoptive family, the nature of her relationship with her husband, so on and so forth and some of the issues that were going on at the time.

35  
40 Now, your Honour, if your Honour forms the view that that context is not directly relevant, then there's no need for me to go first and to lead any evidence about those issues from her. But it would be my submission that some of those issues may well be relevant to your Honour's consideration of what she's saying.

45 JUDICIAL OFFICER: Well, I must say that I take the view, Mr Morris, that the context is irrelevant. The order that was made was that her evidence will be restricted, and the cross-examination be restricted, to the issue of the diary entries--

50 MORRIS SC: Yes.

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JUDICIAL OFFICER: -- and the context only in the sense of the diaries themselves, the possession of them and the disposal of the diaries.

5 MORRIS SC: Well, your Honour, if that be the case, then I should wish to go last, given that Ms Folbigg's my witness.

JUDICIAL OFFICER: Mr Maxwell, do you have a view about it?

10 MAXWELL QC: Your Honour, my intention is to cross-examine Ms Folbigg about certain of the more - what we would say are the more significant entries and I'm happy - I've discussed it with my learned friend, Ms Cunneen and counsel assisting, Ms Furness, and I'm happy to start my cross-examination sooner rather than later. I just raise this for your Honour's consideration, that, yes, this is an inquiry, it's not a trial and so we don't have examination-in-chief and cross with the same rules, but it just appears to me, in terms of fairness to Ms Folbigg, that - I mean, the normal way is that a witness would go through particular entries with her counsel, with her counsel probably trying to look at, you know, exculpatory meanings or explanations that she might give, and then I cross-examine. So, if that doesn't happen, which as Mr Morris is saying won't, then it's me just starting at cross-examination. So, I'm happy to do it, but I just raise that for your Honour's consideration, that's all.

25 JUDICIAL OFFICER: Yes, thank you. Ms Cunneen, you've obviously spoken to Mr Maxwell about it?

CUNNEEN SC: Yes, your Honour.

JUDICIAL OFFICER: And?

30 CUNNEEN SC: And we came to the view that, of course, he would be before me. But we did anticipate that there may be something in the nature of examination-in-chief upon which to cross-examine, as it were. However, if it's not, then I, by agreement with my learned friend and with your Honour's leave, will follow Mr Maxwell.

35 JUDICIAL OFFICER: Thank you. Ms Furness?

40 FURNESS SC: Well, your Honour, firstly, can I indicate that Ms Folbigg is not Mr Morris' witness, Ms Folbigg is here of her own choosing but is, nevertheless, a witness for your Honour as part of the Inquiry.

JUDICIAL OFFICER: Yes.

45 FURNESS SC: In terms of the order, in my submission, it's sensible for Ms Cunneen to follow Mr Maxwell and further, for me as counsel assisting your Honour to conclude, and that would put Mr Morris after Ms Cunneen.

JUDICIAL OFFICER: Yes. All right. Are you content with that, Mr Morris?

50 MORRIS SC: Yes, your Honour, given where we're up to. Your Honour, there

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was another matter and we - the diaries which I anticipate will form part of the tender bundle is not the complete diaries and, your Honour, there was a diary from 1992, which doesn't have a lot of direct relevance to any of the diary entries, which I understand may form part of the questioning of Ms Folbigg.

5

But, your Honour, it does provide some - firstly, it is a diary from 1992 and the other thing is, it does set out additional material which forms part of the context which demonstrates that Ms Folbigg was keeping another type of diary, firstly. Secondly, that there are all sorts of appointments and so on and so forth, for taking the children to doctors, so on and so forth, and that forms part of a broader context, and the very fact that there's nothing particularly challenging in it also forms part of the context. It's a contemporaneous record of what was going on in her life over that period and, your Honour, we ask that that material be included in the tender bundle, but I'm not sure that it's intended to form part of the tender bundle.

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JUDICIAL OFFICER: Ms Furness, are you aware of it?

FURNESS SC: Well, it's not in the tender bundle, your Honour. It is a diary that those assisting your Honour are certainly aware of. It has not been placed in the tender bundle because there is nothing in it of relevance to the scope as your Honour has indicated it will be. However, I have no objection to it being part of the tender bundle, on the basis that it's understood that it's not considered to be relevant.

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JUDICIAL OFFICER: Yes, all right. Thank you. Well, it can form part of the tender bundle.

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<KATHLEEN MEGAN FOLBIGG, SWORN(10.13AM)

JUDICIAL OFFICER: Yes, thank you. Mr Maxwell?

5 MAXWELL QC: You didn't want to introduce--

JUDICIAL OFFICER: Sorry, counsel assisting.

<EXAMINATION BY MS FURNESS SC

10

Q. Would you tell the Inquiry your full name?

A. Kathleen Megan Folbigg.

Q. Thank you.

15

FURNESS SC: Thank you, your Honour.

JUDICIAL OFFICER: Yes, Mr Maxwell?

20

<EXAMINATION BY MR MAXWELL QC

MAXWELL QC: Your Honour, I'd like to, during the course of my cross-examination, put some of the exhibits up on the screen so Ms Folbigg can see them. The first one that I want to go to is from her record of interview and it's question 456.

25

FURNESS SC: Your Honour, I might just say that it's probably appropriate to tender the tender bundle, at this stage.

30

JUDICIAL OFFICER: Yes, well, I admit the tender bundle, together with the additional diary from 1992 - was it, Mr Morris?

MORRIS SC: Yes, your Honour.

35

EXHIBIT #AZ TENDER BUNDLE TOGETHER WITH ADDITIONAL DIARY FROM 1992 TENDERED, ADMITTED WITHOUT OBJECTION

MAXWELL QC: So, I'll just wait for it to come up. It's 457, actually.

40

Q. Ms Folbigg, I'll be asking you some questions to start off with about the diaries that were, or that you got rid of, do you understand?

A. Yes.

Q. How many diaries did you get rid of?

45

A. I only have a clear recollection of getting rid of one.

Q. Only one? So we have diary entries before the Commission that initially start in 1989, do you understand that?

A. Yes.

50

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Q. There's a diary that you produced which is dated 1999.

A. Yes.

5 Q. That was one that you produced after your record of interview and the police took you back to your house and executed a search warrant, do you recall that?

A. Yes.

10 Q. Do you recall that?

A. Yeah, I recall that.

Q. In between there's the possibility, and those two dates, ten or 11 years, ten or 11 diaries. Did you have diaries for every year? Did you keep diaries for every year?

15 A. I wouldn't say I kept them for every year, no.

Q. Do you know how many years you kept diaries for?

A. I kept diaries on and off my whole life since I was a teenager.

20 Q. All right, but we're just concerned in that ten year period during which four or your children lost their lives, do you understand?

A. Yes, I understand.

25 Q. I'm asking you how many diaries did you keep or for how many years did you keep diaries during that ten or 11 year period?

A. I can't answer that because I didn't write in them all the time regularly.

30 Q. What we have before the Inquiry are in fact dairies for 1989, one for 1990, one for 1992, one for 96/97, one for 97/98, and one for 1999. So that's a total of six. Do you accept that?

A. Yes.

35 Q. If we could just go to question - I'll come back to 457 - but go to question 460 to 463. Can you see that?

A. Yes, I can.

40 Q. You were asked at 460 "Where are they now?", and your answer, "They were thrown away in the bin, probably dumped by now as far as I know." 461, "Who did that?" and you say "Me", and you threw them away at Andrews Street, correct?

A. Yes, that's correct.

45 Q. Andrews Street was what, an apartment that you had moved into out of moving out of living with Mr Folbigg in around mid-April of 1999, is that right?

A. Yes.

Q. Just going to 463, you see:

50 "Q. How many were there Kathy, how many books?

A. I had, I had three I think. I don't know what's happened with the

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others, so I'd say with all our moves and that I've probably lost them along the way or whatever, but I had three books that I had written in."

5 Do you see that?

A. Yes.

10 Q. That followed on from the questioning as to you throwing out diaries, and you were asked "How many were there?" and you said "Three", so by that did you mean there were three diaries that you threw out?

A. No, I recollect throwing one and that's all I can say about that.

15 Q. In your answer to 463 you say, "I had three I think. I don't know what's happened to the others." What did you mean by that? That you had three that you still possessed or you had three that you threw out? What did you mean by that?

A. I'm meaning that I had three that I'm remembering possessing, but I'm recalling only throwing out one.

20 Q. You say, "I'd say with all our moves that I've probably lost them along the way or whatever", you seem to be referring to more than one diary there.

A. Yes. As I said, I've written in diaries since I was a teenager. There were more around.

25 Q. Just this ten years.

A. Yes.

Q. That's what you're being asked about.

30 A. I know, yep.

Q. You can remember throwing one out but maybe having lost some of the others along the way?

A. Yes.

35 Q. These are the diaries for the ten year period?

A. Yes.

40 Q. If we look at the years that we don't have in that ten year period though, 1991, 1993, which we just have one calendar page, we don't have a diary, 1994 and 1995 we do not have, do you accept that?

A. Yes.

45 Q. And also one for 98/99 there is no diary. You were asked, we'll just go back to 459, and there you are talking about the reason that you wrote in the diaries, or perhaps more at 457 where you say "I used to write in the diaries as basically a sort of like a vent or a release"?

A. Correct.

50 Q. You accept that that was the truth?

A. Yes.



Q. Things that might have bothered you, and you used to write in the diary rather than talk to him you say?

A. Yes, I agree.

5

Q. By "him" you mean your then husband Craig Folbigg?

A. Yes.

Q. Then at 459 you explain why you got rid of you say that one diary, is that correct?

A. No, the one diary that I got rid of was later.

Q. Just have a look there at 459 and about midway through the answer where it starts, "So it was probably only to be truthful Mother's Day this year". Have you got that part?

15

A. Okay, yes.

Q.

20

"Because I had written in a few and on Mother's Day this year I sort of pulled one out to have a look and I flicked back at what I'd written, and pretty much decided that life's pretty crappy, I shouldn't be writing it down reminding myself of all these things. I just got rid of them all. I haven't written in one since."

25 Do you see that?

A. Yes.

Q. You speak about the diaries that you got rid of in the plural there as more than one. Do you accept that?

30

A. Yes.

Q. You say, "I just got rid of them all".

A. I may have said that but I'm only remembering just getting rid of one.

35 Q. Yes, but you see on 23 July 1999 were the events surrounding getting rid of your diaries on 9 May 1999 fresher in your memory than they are now?

A. I don't think so, no.

Q. You don't think that a couple of months later, as opposed to nearly 20 years later, you don't think two months later that these events might have been fresher in your recollection? Is that what you're telling this Inquiry?

40

A. I am, considering that these diaries have been constantly used in the manner of which they've been used for the last 20 years.

Q. When you said, "I just got rid of them all", by that did you mean to say "I just got rid of one"?

45

A. Yes.

Q. But you didn't say "I just got rid of one" did you?

A. No, no I didn't.

50

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Q. Can you explain that?

A. No, no I can't explain that.

Q. Could it be that you actually got rid of more than one? Is that possible?

5 A. Possible, but I'm only remembering getting rid of one.

Q. You go on to say, "I haven't written in one since".

A. Correct.

10 Q. Correct?

A. Yeah.

Q. So this is you probably just past noon or so on 23 July or maybe just before noon because the interview started at 9.20am, telling the police that you hadn't written in a diary since 9 May 99, Mother's Day?

15 A. Correct.

Q. Was that true?

A. From what I'm recalling, yes.

20

Q. You said in the interview and you tell this Inquiry that you did not write in a diary after 9 May 1999?

A. Not as far as I know, no.

25 Q. You say that the reason, in 459, that you stopped writing in them was that they reminded you, or you decided that life's pretty crappy and you shouldn't be writing it down, correct?

A. Yes.

30 Q. And that it wasn't a good thing to remind yourself of all these things?

A. That's right.

Q. So after 9 May you didn't want to use the diaries in the way that you used them before as a sort of event or release?

35 A. No.

Q. Because you didn't want to write down these deep and maybe depressing things, is that correct?

A. Absolutely.

40

Q. I just want to direct you to tab 10 in the tender bundle and it's a diary entry of 19 June 1999. There are a number of pages in that diary entry dated 19/6/99 4am. In the third line, or second line, you say "So much going through my mind and none of it pleasant." Do you see that?

45 A. Yes.

Q. Then, at about the middle of the page, you talk about your father who was so selfish, "unthoughtful, that he took my mother from me." Have you got that?

A. Yes.

50

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Q. Then on about page 3 of this entry, this is the next - you see just towards the top of the page, "I know I love him." And that, you're referring to Craig. Do you see that?

A. Yes.

5

Q. A bit further down that page you've got, "Which once my" - something, what's that word, do you know - "Which once my"? Do you know what that word is?

A. Laura, "Once my Laura left."

10

Q. "Which once my Laura left that's what has happened to a great extent anyway. I just want to cry all day and night." Have you got that?

A. Yes.

15

Q. Then going over another I think two pages, and then at about the third line there:

"It saddens me to realise that none of them will ever reach this stage in life. Only comfort I have is that where they are now they definitely have no stress or decisions to make and eternity can be spent carefree and loved always."

20

Do you see that?

A. Yes.

25

Q. That's referring to your dead children, correct?

A. Yes.

30

Q. Would it be fair to describe this entry as a release or venting in the way that you spoke about at 459?

A. I'd agree with that, yes.

Q. When did you write that entry?

A. As it turns out it was June 99.

35

Q. In the question to the police officers at 459, you'd indicated that you hadn't written in a diary since 9 May, correct?

A. Yeah, that's right. Yep, that is, or that was my intention at the time.

40

Q. But at the time of the interview, you knew you had written in a diary after 9 May 1999, didn't you?

A. No, I didn't recall writing in the diary.

Q. You see it's a pretty significant kind of entry that. It goes over about, at least five pages, pretty heavy material isn't it?

45

A. I'm not arguing with you on that. I'm--

Q. But are you saying that when you were answering questions about your disposal of the diaries, you didn't remember that entry on 19 June, is that what you're saying?

50

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A. Correct.

Q. Well, let's just look then at tab 11 and the next page. The next one if you can.

5 A. Okay.

Q. You see that July 99, 10pm Thursday night. Do you see that?

A. Yeah.

10 Q. You say, "Decided to start writing in a diary again. Have missed being able to vent regularly." Do you see that?

A. Yes.

Q. When did you write that entry?

15 A. July 99.

Q. When in July?

A. Thursday night at 10pm.

20 Q. What date in July?

A. I don't recall. If I haven't written it, I don't remember.

Q. This entry was part of the diary that you produced when the police came to execute the search warrant at your flat wasn't it?

25 A. I didn't produce that diary no.

Q. Isn't it the case that you were taken back to the matrimonial home with the police after your interview and the police officer said, "What we are actually doing here is we are here to look for diaries like we did at the last flat. Are there any diaries here?" And you said, "Yeah one that I bought yesterday." Do you remember saying that?

30 A. Yes.

Q. You went into the main bedroom of the house and retrieved from the built-in wardrobe a personal diary from 1999?

35 A. No, that's incorrect. There was a diary that I was writing in that was very visible on my bedside table.

Q. I've just read there from the evidence given at your trial on 28 April, by the police officer, 28 April 2003, transcript 965, line 30 to 966 line 1. You can accept that the police officer gave that evidence that you said, "Yeah, I bought one yesterday." Did you say that?

40 A. Yes.

45 Q. And that you went into the house and retrieved a personal diary from 1999 and gave it to them?

A. I'm not recalling that. I'm recalling a diary that was presented at the trial and given into evidence found by detectives at my house and I questioned as to where he found that diary. That's the one that I'm remembering.

50

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Q. Well, in any event the entry of July 99 that I've just referred to is under your hand, correct?

A. Yes.

5 Q. And it's in a 1999 diary that the police obtained somehow?

A. Yes.

Q. You say you're not sure whether you gave it to them or not?

A. Correct, yeah.

10

Q. I suggest to you that this entry dated July 99, 10pm Thursday night was an entry that was made before you gave the record of interview. What do you say?

A. I'm not sure what to say about--

15

Q. Well, do you know or not?

A. No, I don't.

Q. What you start out by saying is, "Have missed being able to vent regularly." Was that true?

20

A. Yes, I used to use, that's what I used to use my diaries for, yes.

Q. But you see the reason that you say you got rid of the diaries was because you didn't want to vent and put down, write down thoughts that would depress you?

25

A. That's--

Q. That's what you said in 459 of the interview isn't it?

A. Yes, and that was the intention when I said it. I wasn't going to.

30

Q. Do you say that you changed your mind?

A. Yes.

Q. You needed to vent again?

35

A. Yes.

Q. Coming back to your answer at 459, regarding your reason for disposal of the diaries and also that you hadn't written in one since 9 May, just coming back to that concept, were you aware that a search warrant would be executed on your house at the time you were giving the interview?

40

A. No.

Q. This was a big surprise to you?

A. Correct.

45

Q. The answer you gave that you hadn't written in one since 9 May was false, wasn't it?

A. It was what I had intended. It was my intention at the time, so I'm not going to say it was false.

50

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Q. The answer that you gave in the interview that you hadn't written in a diary since 9 May was false wasn't it?

A. Considering there are now diaries stating so, then all right, yes I would agree.

5

Q. You gave a false answer to that question?

A. I gave an answer that I believed at the time to be correct.

Q. But now you realise it was wrong?

10

A. Well, obviously yes.

Q. I put it to you that you knew that you had written in a diary since 9 May at the time you gave that answer to the police?

A. No, I'm not going to agree to that.

15

Q. You gave that answer about not wanting to write anymore as a reason that you'd got rid of the diaries didn't you?

A. I'm not going to agree to that either. The words--

20

Q. You see--

A. The - I'm sorry, the word "disposal" and "get rid of" is constantly used and I am going to object to that because they're, it wasn't, they weren't a planned decision to get rid of anything.

25

Q. But you threw them out?

A. To throw something out, if you're finished with something what you do with it, you throw it out.

Q. All right, well let's just use that term, your term, you threw it out right?

30

A. Mm.

Q. Part of the reason that you threw it out was that you didn't want to write in them anymore?

A. At that particular time, yeah.

35

Q. But in fact, you had written in them hadn't you?

A. Obviously, yes.

Q. What I'm suggesting to you is that you threw out the diaries for a different reason. What do you say?

40

A. That my reason stands. I threw the - they weren't a purposeful thing done. They were simply thrown because I'd finished with them. That's how I viewed my diaries; once full I was finished with them.

45

Q. No, they were thrown you say because what you wrote in them was about how crappy life was and how it depressed you. That's the reason you gave?

A. Yes.

Q. As at some time in July 99 that reason had changed. That was no longer a reason is that right?

50

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A. That's correct. I changed my mind.

Q. See, what I'm suggesting to you is that you lied in that answer to the police about the reason you got rid of your diaries?

5 A. No, I didn't lie.

Q. I'm suggesting to you that you got rid of your diaries because there was significantly incriminating material in the diaries. What do you say about that?

10 A. Won't agree with that at all, no.

Q. You see two of the diaries were quite significant years. Two of the diaries we don't have, being 91 and 92, were quite significant years weren't they?

A. They were.

15 Q. Did you write diaries during those years?

MORRIS SC: Just excuse me your Honour--

MAXWELL QC: What--

20

MORRIS SC: I object. The fact is that there was a 1992 diary.

MAXWELL QC: All right, I withdraw that. My mistake.

25 Q. For 1990 and 91, there was no diary is that right?

A. Correct.

MAXWELL QC: Excuse I may be wrong.

30 Q. There's no diary for 91, none for 94, none for 95, is that right?

A. As far as I recollect, yes.

Q. So 91 was the year that Patrick died, correct, 13 February 91?

35 A. Yes.

Q. Did you write in a diary at around that time, around the time Patrick died?

A. I'm not remembering writing one no.

40 Q. Would it have been a time when you felt that you needed to vent and release?

A. I'm not recalling, I can't answer that because I don't remember writing in one.

45 Q. But thinking about it, thinking about the death of your second, the second death of one of your children, is it a time when you as a diary writer, may well have written a diary?

A. I concede, yes I may well have.

50 Q. But we don't have a diary, one has not been found for 91, correct?

A. Correct.

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Q. Yet one was found for 89 and 90?

A. Yes.

5 Q. So is it possible that you threw out the diary for 1991?

A. I can't answer that, I could have simply misplaced it or it's been lost, I'm not going to say I threw it out.

10 Q. Do you recall in early May 1999, telling Craig to throw all your stuff in the bin?

A. No I don't.

Q. Do you recall your then husband giving evidence at your trial, Mr Folbigg, giving evidence?

15 A. Yes.

Q. And that he said that you had told him in early May 99 that he could throw your things in the bin, because you didn't want them, is that correct?

20 A. I'm not recalling the conversation, so I can't--

Q. So are you saying that may have happened but you can't remember?

A. That's correct.

25 Q. And it was at that time that he located the 96/97 diary inside one of your bedside tables?

A. If you say so yes.

Q. Could that have happened?

30 A. Could've happened.

Q. Could that be correct?

A. Could be correct yes.

35 Q. And that he gave certain evidence about having read it, do you remember that evidence?

A. I remember him giving evidence, I don't recall specifics.

Q. After he found that diary, did he come and speak to you about it?

40 A. A brief conversation, I do recall yes.

Q. And when did he speak to you about it in 99, that's just his evidence is that he found it in early May 99, when did he speak to you about it?

A. I don't remember dates, I couldn't tell you that.

45 Q. But it was before the record of interview that he gave wasn't it, that he spoke to you about it?

A. Yes.

Q. And did it concern you that he'd found this diary?

50 A. No.



Q. Well you were asked a number of questions about the diary in your interview, the 96/97 diary weren't you?

A. Yes.

5

Q. And you were upset about being asked those questions were you not, by the police?

A. Eventually yes.

10

Q. You were upset during the interview being asked questions about it weren't you?

A. Yes.

15

Q. Because you felt they were trying to suggest that you were guilty of killing your own children, you say that upset you, is that correct?

A. I didn't get that feeling until later into the interview.

20

Q. But you see, didn't it concern you that Craig had become aware of the things that you were saying about the death of your children, in that interview?

A. No, because I didn't deem them to be anything to be highly concerned about.

25

Q. And were you surprised when the police started asking you questions about it in the interview?

A. Slightly yes.

30

Q. But you knew they had it did you not?

A. Yes he had told me he had given them.

Q. And you knew that you had another interview, sorry you knew that you had another diary in your possession didn't you?

A. The one I said I was writing in at the time yes.

35

Q. You knew you had one for an earlier time, didn't you?

A. I'm not recalling that no.

40

Q. Well after the interview, the police as I've indicated to you, took you to the matrimonial house at Singleton, the former matrimonial house?

A. Mm.

Q. And there they found another diary?

A. Yes.

45

Q. Where was that found?

A. It was alluded to me that it had been found in my wardrobe.

Q. And what was it found in?

A. I had been told that they'd simply found it underneath some clothing of mine.

50

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Q. Well it was in fact found in a crocheted bag, did you know that?

A. No I didn't.

Q. And clothes were wrapped around the crocheted bag?

5 A. No, no mention of a bag was made, I was simply told that they'd found it amongst clothing.

Q. Well I'm just putting this to you that this is how it was found?

A. Yep.

10

Q. In a crocheted bag, clothes wrapped around it and then finally inside a plastic, I think it was a blue plastic container in the wardrobe, underneath some clothes?

A. I'm not recalling that at all.

15

Q. What, you're not recalling--

A. I'm not recalling the crocheted bag, or the plastic bag, the container, I was simply told they'd found it underneath clothing in my wardrobe.

20

Q. So the evidence, from a statement of one of the police officer involved, Sergeant John Gralton of 24 August 1999 at page 6, he said that the 97/98 diary was inside the built in wardrobe, specifically inside a crocheted carry bag wrapped in clothing, which was contained inside a blue plastic container which was on the floor inside the wardrobe, that was in his statement, paragraph 6, reflecting what he had found, now do you know anything about that diary, apart from having written it, but do you know how it got there?

25

A. No, no I don't.

Q. Well see, your husband hadn't found it had he?

30

A. I can't answer that.

Q. I'm sorry?

A. I can't answer that, you'd have to ask him.

35

Q. Well the police found it in the search warrant, so do you accept that he hadn't found it?

A. No I'm not going to accept, he may, he may have found it.

Q. You put it in the crocheted bag didn't you?

40

A. No I never hid my diaries, they were never hidden, people always knew I was writing in them, they were always in places where people could see them.

Q. You also became aware that there was a listening device placed into your former matrimonial home, correct?

45

A. Yes.

Q. And I want to show you because I can't play it, because I'd like to play it in fairness to you, but I want to show you tab 18, if that could be brought up. Do you see that, that's the property at 8 Millard Close, Singleton, and this is at 7.53, I'm presuming AM, yes 7.53 on 24 July 1999, see that?

50

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A. Yes.

5 Q. "Mrs Folbigg enters her bedroom, appears to open a cupboard or drawer, causing a loud noise", and then you voice "I should have fucking done what I was going to do, stuck it underneath that." Do you accept that you said that?  
A. I'm not remembering saying that, but.

Q. Do you accept that you said it?

10 A. If it's recorded I said it then yes I said it.

Q. What you're referring to there is to the diary 96/97 that you'd been asked all these questions about in your interview the day before, that's correct isn't it?

A. I don't believe so, I'm not--

15 Q. Do you know what, have you got any idea what you're talking about there?

A. I've got no idea what I'm talking about.

Q. I suggest what you're talking about is hiding one of the diaries and you didn't hide the diary well enough and that you should've "stuck it underneath that", now does that refresh your memory?

20 A. No, no it doesn't.

Q. So you don't have a clue what--

25 A. I don't have a clue what I could--

Q. --you were talking about?

A. --have been talking about there.

30 Q. Could it have been a concern about not having hidden the diary well enough, could it have?

A. No, because my diaries were not a concern to me that I had to hide them anyway.

Q. I put it to you that that's what you were talking about?

35 A. I'm not going to agree.

Q. Are you going to deny it?

A. Yes.

40 Q. That's the questioning that I have of you relating to getting rid of the diaries, do you understand?

A. Yes.

45 Q. Now I want to ask you some questions about the actual diary entries themselves, do you understand?

A. Yes.

50 MAXWELL QC: This is the 96/97 diary and what I've done your Honour is to extract the, at least in my assessment, the most significant of the diary entries and I've tabbed those. My instructing solicitors have given a list of the tabbed

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ones to the Law in Order people, so that they can go relatively quickly to the entries. I also have copies for all of my learned friends and for your Honour, if that assists, which I'll have distributed now, and there's an index as well.

5 Q. Would you prefer to look at the screen or to look at one of these photocopies, Ms Folbigg?

A. I think I'd prefer to look at the screen, please.

10 Q. Okay. So, the first entry I want to take you to is our tab 28, which is of 25 October 1997. Your daughter, Laura, was born on 7 August 1997, correct?

A. Yes.

Q. This is October 97. At this stage, Laura's about two and a half months old, right?

15 A. Yep.

Q. And Sarah had died almost four years earlier on 30 August 1993, right?

A. Yep.

20 Q. Do you see, about halfway down the page, where you've said, "To be honest" - and say - I think you'd earlier, or that night, you'd watched a video of Sarah. Correct?

A. Yes.

25 Q. And you say then, "I looked at it, but have to be honest and say I cherish Laura more". You see that?

A. Yes.

Q. "I miss her, yes", you're referring there to Sarah?

30 A. Yes.

Q. "But am not sad that Laura is here and she isn't", you see that?

A. Yes.

35 Q. By the "she isn't", you're referring to Sarah?

A. Correct.

Q. So, you were not sad, on that night, that Sarah was dead?

40 A. No, I'm merely reflecting.

Q. See, what you've said - well, just look at it, because these are your words?

A. Yes.

45 Q. You say, "I miss her" - that's Sarah - "I miss her, yes, but am not sad that Laura is here and she isn't". So, what I'm saying to you is, there you're saying you're not sad that Sarah's not with you anymore?

A. No, what I'm saying there is, if Sarah had been with us, Laura wouldn't have. So, what I'm saying is, I'm cherishing Laura, she's with us now, and I can't be too upset that Sarah isn't.

50

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Q. What, because Laura is?

A. Yes. Yeah, if Sarah had been alive, we may not have had Laura.

5 Q. But you see, there was plenty of time to have Laura, even if Sarah had lived, because it was four years after?

A. That's correct, but I also went through a time after Sarah died where I decided I was not having any more children.

10 Q. You go on to say, "I think I am more patient with Laura". You see that?

A. Yes.

Q. Does that mean you were less patient with Sarah?

A. That is reflective to me always thinking I'd done something wrong.

15 Q. Yes, well, whether it is or not, it seems to be saying that you were more patient with Laura than you were with Sarah?

A. Because at the time, I believed that, yes.

20 Q. You say, "I take the time to figure out what is wrong now, instead of just snapping my cog"?

A. Yes.

Q. What did you mean by "snapping" your "cog"?

25 A. "Snapping my cog", to me, could have been simply as even showing a slight frustration.

Q. Well, could it have been more than "a slight frustration"?

A. No.

30 Q. Was there ever a time when you say that you almost purposely dropped Sarah on the floor?

A. I didn't believe that that was Sarah, I thought you were referring to Laura there. Are you referring to Laura or are you referring to Sarah?

35 Q. Sarah.

A. Sarah. I don't recall saying that..(not transcribable)..--

Q. You don't recall. But you think you might have said it about Laura?

40 A. Mm.

Q. You say, in that entry and just going back, "I'm not sad that Laura is here and she, Sarah, isn't. Is that a bad way to think? I don't know"?

A. I'm questioning myself. It's something I constantly did.

45 Q. Didn't you know the answer to that question?

A. I didn't know the answer to anything. I didn't know the answers to why--

50 Q. But this is a specific question that you're posing to yourself as the mother of Sarah, who had died, and of the mother of Laura, who was still alive, and you're saying you're not sad that Laura is here and Sarah is not here?

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A. And--

Q. And then you say, "Is that a bad way to think?"

5 A. Yes, because, as I said, I was reflecting that if Sarah had been around Laura may not have been. So, I was therefore questioning was I even thinking straight and was that a bad way to think.

10 Q. I suggest to you, Ms Folbigg, that it is obviously bad for a mother to think she's not sad that her dead daughter is not now alive. It's obviously a bad way to think. What do you say about that?

A. I don't think it's obvious at all. There's nothing obvious in my diaries, in total.

15 Q. Then, if we go to the end of that entry of - it's the next page, you say at the bottom of that page, "Wouldn't have handled another one like Sarah. She saved her life by being different". Do you see that?

A. Yes.

20 Q. Now, these are diary entries that you've thought about, because they've figured prominently over the years in relation to you. So, you're familiar with that, is that right?

A. Yes.

25 Q. Aren't you saying there that if Laura had been like Sarah you wouldn't have handled it?

30 A. "Wouldn't have handled another one like Sarah", refers to Sarah in particular and I'm also, at the same time, reflecting the different style in parenting which, which I was trying to do. Sarah, I felt at the time that, I didn't handle very well. I was constantly doubting my ability as a mother. It was a constant thought.

Q. You say that Laura "saved her life by being different" to Sarah, is that right?

35 A. Yes, and that alludes to just the difference in my children. But it's simply just the difference in their characters and how they were.

Q. Because you had difficulties with Sarah, didn't you?

A. I had a sleeping issue with Sarah, yes.

40 Q. You felt that you were sleep-deprived with Sarah?

A. At times, yes.

Q. And that you had a "battle of wills" with Sarah, I think you've described?

A. "Battle of wills" was a term that was used by someone else, but, yes.

45 Q. It was a term that you have used in your diaries?

A. After it was mentioned by someone else that they thought that's what it was, yes.

50 Q. But it's a term that you wrote down in relation to your relationship with Sarah, that it was a battle of wills between you. That is correct, isn't it?

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A. At time, yes.

Q. And because you didn't have that same battle of wills with Laura, that saved Laura's life, is that correct?

5 A. It's a belief I had at the time, yes.

Q. So, at the times that you were having a battle of wills with Sarah, were those the times when you "snapped your cog"?

10 A. No.

Q. Not--

A. No, not all, no.

Q. Not at all?

15 A. I wouldn't say not at all but, no.

Q. Was there ever a time when you were sleep-deprived and battling wills with Sarah that you "snapped your cog" as you refer to?

20 A. As in, being frustrated with her lack of sleep of routine, then, yes.

Q. Well, see, frustration is something that probably goes on in your mind, isn't it? It's a state of mind, is it not?

A. Frustration? Yes, yeah.

25 Q. "Snapping your cog" suggests some kind of action, doesn't it?

A. Not to me.

Q. Doesn't it suggest losing control?

30 A. It's a loss of control, yes. "Frustration", "loss of control", "anger", "snapping cog", all these references I don't differentiate between.

Q. But they're not one and the same concept, are they?

A. I believed at the time they were.

35 Q. You see, what we're talking about is the meaning of your use of words in these diaries, isn't it?

A. If you like, yes.

40 Q. And what I'm suggesting to you is that there's a distinction between feeling frustrated and snapping your cog. What do you say about that? They're different concepts, is the point I'm trying to put to you. What do you say about that?

45 A. At the time, I didn't believe - I didn't differentiate between them. If I was slightly frustrated, that equalled me being out of control in some fashion, which equalled me snapping my cog. There was no differentiation for me.

Q. I suggest to you that you used the term "snapping your cog" as a mitigating term for something that you had done to Sarah in order to stop her living. What do you say about that?

50 A. No, I won't agree with that at all.

- 5 Q. Just going to 29, it's the next one. Do you see there at about the middle of the page again is the comparison between Sarah and Laura and you say, "But Laura's different", do you see that? Have you got that? It's just about point 5 of that page, "But Laura's different totally, she doesn't", have you got that?  
A. Okay.
- 10 Q. Do you see that red dot?  
A. Yeah. Yep, okay.
- 15 Q. So you say, "But Laura's different totally. She doesn't push my button anywhere near the extent she did." So there the "she" is Sarah, correct?  
A. Yes.
- 20 Q. Then you say, "which is good for her is all I can say".  
A. Yes.
- 25 Q. By that do you mean it's good for Laura that she doesn't push your button to anywhere near the extent that Sarah did?  
A. It's simply comparing my children and their characters and style.
- 30 Q. What did you mean by "which is good for her"?  
A. Because it kept her mother calm and that was good for her.
- 35 Q. So the mother wouldn't lose or snap her cog in other words?  
A. Her - talking of third person - I felt at the time with Sarah that I didn't handle things. This is also a diary that's in retrospect thinking over things with a constant doubt to my ability of being a mother and with Laura being such a different child where she was quieter and she was calmer, I felt that that made a difference.
- 40 Q. Do you say that you didn't smother Sarah, you didn't kill her? That's your position isn't it?  
A. Absolutely.
- 45 Q. Do you say that at the time you wrote these diaries you missed her desperately?  
A. I miss all my children all the time.
- 50 Q. But I'm asking about Sarah. Do you say that at the time on 29 October 97 you missed Sarah desperately?  
A. Yes.
- 55 Q. This is a child you say that died in an unexplained way but had nothing to do with you, correct?  
A. Yes.
- 60 Q. You didn't kill her is what you say?  
A. No.
- 65 Q. But yet here you are four years after her death speaking about her, noting



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characteristics of her that pushed your button, that snapped your cog. Do you see anything kind of heartless about that?

MORRIS SC: I object.

5

JUDICIAL OFFICER: No, I'll allow it.

MAXWELL QC

10

Q. Madam?

A. No, as I'm simply - this is simply a diary where I'm reflecting and comparing and Sarah, it must be noted that Sarah was also the child I had the longest at the time, so she was the only child that I could even compare Laura to in any way whatsoever.

15

Q. I'll now go to number 1 on the tabbed copies, and that is an entry of 3 June 1990. Tab 3 in the tender bundle. So this is 1990, 3 June 1990, the day that Patrick was born, and you say - could I just ask you, was this an entry that you actually put in on 3 June 1990?

20

A. I don't recall.

Q. Was it the situation that you sometimes went back, in other words wrote an entry back in time on a particular date?

A. Yes, possible.

25

Q. What you've said there is that you had mixed feelings on that day, and the mixed feelings were about whether or not you were going to cope as a mother or whether you were going to get stressed out "like I did last time", right?

A. Yes.

30

Q. When you refer to "last time" that was referring to the death of Caleb, is that right?

A. It's referring to the fact I was a brand new mother last time with Caleb.

35

Q. But is it referring to the fact that you were stressed out at the time of Caleb's death?

A. Stressed out at the time of his death?

Q. Well immediately before he died.

40

A. No, I don't agree with that.

Q. You weren't stressed out at all?

A. No. I won't say at all. I was a brand new mother, you're constantly--

45

Q. You say--

MORRIS SC: Let her finish.

WITNESS: --worried that you're not doing the right thing on how to go about things, so I was also a first time mother. There were a lot of doubts.

50

MAXWELL QC

5 Q. You say, "I often regret Caleb and Patrick only because your life changes so much and maybe I'm not a person that likes change but we will see", do you see that?

A. Yes.

10 Q. If this was written on 3 June 1990, the date of Patrick's birth, you'd hardly have time to regret him?

15 A. It's - regret's probably the wrong word. It all boils down to me doubting myself. I'm not seeing anything unusual in that entry. I'm doubting myself as how I went about was I good enough mother with Caleb, I'd failed, Caleb had died. I was now doubting as to whether I was making the right decision with Patrick.

20 Q. But what you say is, you don't say I doubted myself as a mother or I regret how I acted as a mother, you don't say that. You say, "I often regret Caleb and Patrick only because your life changes". Do you see that?

25 A. But I never put in my diaries exactly what I was meaning. I already had in my head what I was meaning. I was having difficulty in trying to put down what I was meaning in my diaries.

30 Q. Regret means to feel sorry or disappointed about something doesn't it? You know that.

A. Well I was disappointed. Disappointed and sorry that Caleb had died.

35 Q. But you say you regret Patrick as well.

40 A. As in was I making the right decision to have gone ahead and had Patrick.

45 Q. Were you happy to bring this new life into the world of Patrick?

A. Yes, at the time, yes.

50 Q. Did you feel warmth towards your new baby?

55 A. I was reserved. I was a little reserved with Patrick, but yes I did.

60 Q. You felt warmth towards him?

A. Yes.

65 Q. But yet you say that you regretted him?

70 A. I'm not - I don't believe I'm saying I regretted him. I'm, I'm saying I regretted doubting the decision whether to have had him.

75 Q. Do you accept that when you give birth to a child your life does immediately change?

A. Absolutely.

80 Q. You suddenly have a baby to care for and it takes all your time and puts you under pressure.

85 A. Okay.

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Q. Do you accept that?

A. Yes.

5 Q. But here in this entry of 3 June you're saying you regret your newborn child because of how it will change your life. That's what you're saying isn't it?

A. No, I don't believe that's what I'm saying at all.

Q. You say that that interpretation that I've put to you just does not follow--

10 A. No, that's--

Q. --is that your answer?

A. Yeah, that's right.

15 MAXWELL QC: I'm just going onto perhaps a longer one, your Honour, is that a convenient time?

JUDICIAL OFFICER: Yes, we'll adjourn for 20 minutes.

20 SHORT ADJOURNMENT

JUDICIAL OFFICER: Yes, Mr Maxwell.

MAXWELL QC

25

Q. Tab 3, 18 June 96. Sorry, I mean tab 3 on the one I've given you, anyway it's 18 June 96, it's the bottom of that page, "When I think I'm going to", do you see that, do you see that Ms Folbigg?

A. Yes.

30

Q. "When I think I'm going to lose control like last time, like last times, I'll just hand baby over to someone else, not feel so totally alone", do you see that?

A. Yes.

35 Q. Then at the end, the last sentence "I have learnt my lesson this time", do you see that?

A. Yes.

40 Q. You were asked about that entry in your interview at question, and your answer was at question 597 of the ERISP, if that could be brought up. 597, so if you could just read that 597, question and answer to yourself first?

A. Yes okay.

45 Q. So in that answer you, where you're asked about what you mean by "lose control", you start out by referring to the frustration that you felt with Sarah every now and then and the "frustration I feel with Patrick"?

A. Yes.

50 Q. You say "Never frustrations that was detrimental to the kids in any way but always directed at myself or at Craig", and you say, "Keeping in control as

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such, sorry I meant keeping in control as in not keeping in control as such, but sort of keeping control and learning to voice an objection or voice if I've got a problem", see that?

A. Yes.

5

Q. If you could now go back to the diary again. You've said, "When I think I'm going to lose control like last times, I'll just hand the baby over to someone else"?

A. Yes.

10

Q. Now, I just want to compare that entry with what you've said in your interview. Because what you've said in your interview is that "losing control" is kind of equivalent to you "being frustrated" in a way that was directed at yourself or at Craig, and if you felt like that then you "needed to learn to voice an objection", and by that, I suppose, speaking to someone. Is that right?

A. Yes.

15

Q. But you see, in your diary entry, you don't use the word "frustration", do you accept that?

20

A. But I have used the word frustration.

Q. Sorry?

A. I did use the word "frustration".

25

Q. In your diary?

A. In - no, sorry, in this entry in the diary. No, you're correct, yes.

Q. You only ever start to use the word "frustration" in your record of interview. That's correct, isn't it?

30

A. If you're talking about this specific entry then, yeah, no, I haven't used the word "frustration" in here.

Q. No, instead you use the word "lose control, like last times". Correct?

35

A. Yes, and "lose control", at the - at that time, I had a belief that I had to control absolutely everything, and it wasn't necessarily just me, it was the relationship, it was my whole life. I felt I'd lost control.

Q. But you see, in your diary, immediately after you refer to "losing control, like last times", you say, "I'll just hand the baby over to someone else"?

40

A. Yes, because, in my view--

Q. And is that--

MORRIS SC: Yes, let her finish.

45

WITNESS: In my--

MAXWELL QC

50

Q. Well, I'm just asking whether you accept that answer, that you've said, "I'll

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just hand the baby over to someone else". Do you accept that that was the entry?

A. At, at the - yes, at the time I thought that would be better, yes.

5 Q. I suggest that the only meaning that that entry can have is that, at a time that you lost control was a time when the baby was in danger and you had to hand the baby over. What do you say about that?

A. I don't agree with that at all.

10 Q. That the baby was in danger from your losing control with it. What do you say about that?

A. I don't agree with that.

Q. And that's what you meant--

15 A. No, that's not what I meant.

Q. --in your diary?

A. That's not what I meant at all.

20 Q. And that the answer you gave in your interview is an attempt by you to water down the truth. What do you say about that?

A. The same as I said, I'm not going to agree with that at all.

25 Q. You're not going to agree with it, because to agree with it would admit that you had killed your child. That's correct, isn't it?

MORRIS SC: I object.

JUDICIAL OFFICER: I'll allow her to answer that.

30

MAXWELL QC

Q. What do you say?

35 A. I'm going to say that when I used the words "control" through all - throughout every diary--

Q. "Loss of control"?

40 A. "Loss of control", for me, I had decided that I had lost control of something. My children had died, I'd lost control of something. It became almost obsessional that I get that control back.

Q. You see--

45 A. So, when I use the word "control" - sorry, I had a belief that if anything was ever going to happen and I thought I was losing control even slightly, even with anything - the relationship, myself, Craig, anything at all - I had decided that maybe it would be better if I did leave the child with Craig, because Craig had family, Craig had support, Craig had everything that could help him.

50 Q. You see, there's a contemporaneity in this diary entry between losing control and handing your baby over. That's what I'm putting to you. Do you

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accept that?

A. Not really, no.

5 Q. You see, what I'm putting to you is that, you recognise that in the past, in relation to your babies, you have lost control and at that time you need to hand your baby over to someone else. What do you say?

A. No, I--

10 Q. Is that a correct interpretation of that?

A. No, I - I'm recognising there that my thought was I had to have control of just about the whole universe and if I was losing any and slipping any control whatsoever, then it crossed my mind, as a fleeting thought, "Would it be better if I'd left my child with Craig?"

15 Q. I put to you that you acknowledge in this entry of 18 June 1996 that, at the times you've lost control, your babies were in danger from you?

A. No, I won't agree with that at all.

20 Q. You deny that completely?

A. Absolutely.

25 Q. Would you ever get in a dangerous mood?

A. A dangerous mood to me equals depression, but it does not mean a dangerous - as in, dangerous.

Q. Well, does it mean - could it mean that you're placing someone in danger--

A. No, that's not--

30 Q. --because of your mood?

A. --that's not how I was thinking of it.

Q. But you used that word in your entry of 22 June 1996, didn't you, "In my most dangerous mood, I'm not nice to be around"?

A. Yes, as in, I was depressed, a little cranky, don't come near me.

35 Q. But doesn't the word "dangerous" suggest that you might hurt someone or that somebody could suffer? Isn't that what danger suggests?

A. If you're referring to someone suffering then, yes, that was me, I was suffering. So, if you want to use the word like that then, yes, I was suffering.

40 Q. But you're there - in that entry you say, "In my most dangerous mood, I'm not nice to be around", so you're talking there of a danger to someone else, aren't you?

A. No, I'm talking of being in a very depressive mood and wouldn't be a very nice person to be around.

45 Q. So, the entry of 26 August 1996, at about point 5 of the first page you say, "Because I want a baby", do you see that?

A. Yeah.

50

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Q. About point 5 of that page?

A. Yes.

5 Q. "Yes, I actually do want one. Went to a clairvoyant last week, so did  
Craig". You say:

10 "I always believed there's more going on than just human nature. I  
seem content now, because I now know that even though I'm  
responsible, it's all right. She accepts and is happy there. I've  
always felt her strongly and now I know why, she is with me."

So, who are you referring to there?

A. Sarah, I believe.

15 Q. So, did you make contact with Sarah at the clairvoyant, did you?

A. I wouldn't say I made contact, no.

Q. Well, you say that you know she's happy. How do you know she's happy?

20 A. The clairvoyant that I went to was a general one, it was in a mall. I didn't  
specifically go to a targeted one. She was capable of reading auras and  
colours, as such, and had stated that she thought she saw children around me,  
that they were all happy and, and that everything was okay.

25 Q. But what you've said here is that "She" - being Sarah - "accepts and is  
happy there". You see that?

A. Yes.

Q. So, you believed that, did you?

30 A. At the time, yes. I've always believed--

Q. Well, do you now?

35 A. Well, if you'd let me finish. I've always believed that - maybe not  
necessarily in god, but I've always believed that there are other things that go  
on. I always believed in fate, destiny, karma, all of those styles of belief.  
When I saw this clairvoyant, I was pleased that she told me that she'd seen  
children around me. I had concluded that they must have been mine and  
Sarah, being gone, I used to always - all of them - worry about their spiritual  
wellbeing, as to whether were content and at peace.

40 Q. So, as a result of going to the clairvoyant, you came away believing that  
Sarah was happy, wherever she might be?

A. Yes.

45 Q. That Sarah, who died at ten and a half months, is happy, wherever she's  
gone, that's what you came away from the clairvoyant thinking, is that right?

A. Yes, because for me there, there would have been no, no worse a thought  
than your children have passed on and they're not at peace in some way.

Q. Even though you said you're responsible?

50 A. Because I felt responsible, I was their mother.

Q. You say your position is that you were very hard on yourself about the children, isn't it?

A. Absolutely.

5

Q. So, you felt responsible for what was actually just a death that you had nothing to do with physically? That's your position isn't it?

A. Yes, because I didn't understand why.

10

Q. You see, what I suggest to you is that, what you're saying there is that you're accepting in your diary you were directly responsible for their death, by smothering them?

A. No.

15

Q. Or Sarah, in this case?

A. No.

Q. But that it's okay because Sarah, wherever she is now, is happy, so that kind of made you feel better. What do you say about that?

20

A. No.

Q. So, if you go to question 610 in the interview. So, you're there being referred to this diary entry and you're asked - just read it to yourself, 610 and the answer thereto.

25

A. Yeah.

Q. And, question, "What do you mean by that, 'even though I'm responsible'". You say, "I was still carrying around the thought that I could have done more or should have done more, so the word 'responsible' in there sort of refers to that, my thoughts of, or I didn't try enough, or didn't do something, or should have done something". That's what responsible meant to you, correct?

30

A. Yes.

Q. Wouldn't it have been more accurate to say in your diary "even though I could have done more"?

35

A. To me it's the same thought.

Q. "Even though I could have done" more would have expressed far more accurately your position?

40

A. It may have but it's still along the same line of thought. I felt responsible because I was their mother and I had failed at being that mother.

Q. I suggest that you didn't have words something like, "I could have done more" because you have used the word "responsible" to mean that you killed your child. What do you say about that?

45

A. No, I won't accept that.

Q. And that acceptance that she's happy in death is a way of you trying to absolve your guilt? What do you say?

50



LTS:DAT

MORRIS SC: I object.

MAXWELL QC

5 Q. What do you say about that?

MORRIS SC: I object.

MAXWELL QC

10

Q. Do you have an answer to that?

A. Sorry, I didn't hear a response. That's why I've delayed.

MORRIS SC: I objected I think, your Honour.

15

JUDICIAL OFFICER: Did you?

MORRIS SC: Yes.

20 JUDICIAL OFFICER: Sorry, what was the question Mr Maxwell?

MAXWELL QC

25 Q. I've put it to you, madam, that your use of the word "responsible" instead of something like "I could have done more" is you saying you were directly responsible for her death. What do you say?

JUDICIAL OFFICER: I'll allow the question.

30 MORRIS SC: Thank you.

35 WITNESS: My feeling, and I still carry that now is that I do feel responsible, doing more or not doing more, all those questions are all the same thought and along the same lines. I'm not seeing any difference. It makes to me, just because I didn't use those words again in my diary, the thought pattern is all the same, I'm feeling responsible, I was their mother, and I, I've always felt I didn't do enough. Something went wrong, and I was always searching for why.

MAXWELL QC

40

Q. Now we'll go to the entry of 4 December 96. You need to move it to the next page. So see from the top of that page where it starts "Also I have and will change my attitude and try earnestly not to let anything stress me to the max." Do you see that?

45

A. Yes.

Q.

50 "I will do things to pamper myself regularly and just deal with things. If I have a clingy baby then so be it. A catnapper, so be it. That will be when I will ask help and sleep whenever I can to keep myself in

LTS:DAT

a decent mood. I know now that battling wills and sleep deprivation were the causes last time."

Do you see that?

5 A. Yes.

Q. At this stage, three of your babies had died, Caleb, Patrick and Sarah, correct?

10 A. Yes.

Q. Were any of them bad sleepers?

A. Sarah was, yes.

Q. What about Caleb and Patrick?

15 A. Patrick no. Caleb, I didn't have him long enough to even find out.

Q. You've used the word "catnapper". By that did you mean that at least Sarah woke up a lot?

20 A. Yes, I used to joke and refer to Sarah as a catnapper.

Q. So just when you'd finally - did you ever experience this with Sarah during her life, that just when you'd finally got off to sleep she'd wake up again?

A. Yes, quite often.

25 Q. It put you under enormous pressure?

A. Yes, I would say so.

Q. Enormous stress?

30 A. Yes.

Q. Such that you snapped?

A. No.

Q. Such that you snapped your cog?

35 A. No.

Q. This "snap the cog" you say has got nothing to do with losing control and doing something, is that right?

40 A. Not to my child, no.

Q. Not to your child?

A. Snap--

45 Q. Did you lose control and do anything physically to yourself at the time you snapped a cog?

A. No.

Q. You've referred to a clingy baby. Was either Patrick, Caleb or Sarah a clingy baby?

50 A. Not as such, no.

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Q. When you say, "If I have a clingy baby" were you not really referring to any babies that you'd had?

5 A. No. I may have been thinking to myself whether my next one might be clingy.

Q. Was the thought of having a clingy baby not appealing to you?

10 A. I'm not saying that there. I'm saying that any style would be fine and I would deal with it.

Q. Even if it was a clingy baby?

A. Yes.

15 Q. But to the extent that the baby might be clingy, might that be something that you would find difficult?

A. I can't answer that because I never had a clingy baby.

20 Q. You've referred to "battling wills and sleep deprivation" that were the causes last time. Is that right? Is that what you said in your diary entry, "battling wills and sleep deprivation were the causes last time"?

A. Because I--

25 MORRIS SC: I stand just to make the observation that we need to clarify what she meant by the word "causes".

MAXWELL QC: I'm just about to ask that.

MORRIS SC: Okay.

30 JUDICIAL OFFICER: I thought that was the purpose of the question.

MAXWELL QC

Q. So causes of what?

35 A. Causes of the deaths. I'm, I'm reaching and searching for any reason or cause of death.

Q. Sleep deprivation, that's something that you suffered from, particularly with Sarah, correct?

40 A. Yes.

Q. It can put or would put or did put you under enormous pressure?

A. At times, yes.

45 Q. Such that you could snap your cog?

A. Not at Sarah.

Q. Not at Sarah?

50 A. Not at Sarah, no.

LTS:DAT

Q. Even though you were battling wills with Sarah, is that right?

5 A. My frustration levels and snapping cogs is the word you like to keep using, was more directed at my feelings of not having enough support at the time, that I felt like I was doing everything myself and deprivation, my sleep deprivation wasn't helping that situation. It was exasperating it.

Q. But you accept that sleep deprivation for an extended period with a child who you've said that you battled wills with at times, correct?

10 A. Yes.

Q. Could put you under enormous pressure and did, is that right?

A. Yes, I've never denied that.

Q. Such that you might lose control of your actions and hurt the child?

15 A. No.

Q. Did you ever have any feelings like that, even close to that?

A. No, no, not at all.

20 Q. I suggest that what the concept or idea that you are describing in that entry is being placed under such stress that you snapped and were a danger to your children. What do you say?

A. I say no to that.

25 Q. Can I just go to the next one, 1 January 97--

30 JUDICIAL OFFICER: Before you leave it, Mr Maxwell, earlier on in that passage there's a sentence that "I've already decided if I get any feelings of jealousy or anger too much I will leave Craig and baby rather than answer being as before."

MAXWELL QC

35 Q. Do you see that, Ms Folbigg, the previous page?

A. Yes.

Q. You've said now if you feel jealousy or anger you'd just leave Craig and the baby, right?

40 A. Jealousy is referring to - they're two separate thoughts there. They're broken up by the word "or", okay. Jealousy is referring to, it was a recollection of how Patrick was, even though I cared for him all the time, he was more Craig's boy, Sarah was my girl, and Laura ended up being my girl. The jealousy refers to that. It's not a jealousy as in me being jealous of my children. I was never ever jealous as such of my children.

45 Q. Is the word "jealousy" in relation to you, feeling jealous?

50 A. No, the word "jealousy" is a, is a reflection as the difference in, between the children, and how, you know, you can have a daddy's girl, you can have a mummy's girl. It's a, it's a different reference. Then it's broken by the word "or" and "anger too much", well as I said I didn't back then differentiate

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between frustration, anger, annoyance. It was all the same to me.

Q. But where does jealousy come into that explanation? I just don't understand that.

5 A. As I say, if I had any feelings of the jealousy as in just with, you know, was this child going to be more Craig's or more mine, you know, and to - if it fell into any sort of frustration or an anger situation, then yes, I felt that I would leave Craig and leave the baby with Craig. Again it's another fleeting thought. These are not set in stone. They were never set in stone. All my thoughts  
10 were just random thoughts.

Q. But do you accept that it was a feeling of jealousy that you had?

15 A. Not jealousy as in a jealousy that I would do anything about. It's a fleeting, it's a fleeting thought.

Q. You would do something about it. You'd leave Craig and the baby.

A. But I never did.

Q. I beg your pardon?

20 A. But I never did.

Q. You see, I want to get - to try to understand what you've said in your diary. You say that if you had any feelings of jealousy, too much that you'd leave Craig and the baby.

25 A. Jealousy is also--

Q. Is that right?

30 A. Jealousy is also as I said, it's, it's, it was a reflective thought. It, it, it wasn't connected to the next phrase.

Q. Whether it's reflective or not, it's a thought that you had and it's something that you acknowledged in your diary that you felt jealousy, correct?

35 A. But as far as I was concerned, I also believed Craig felt the same thing in reverse.

Q. Let's forget about Craig at the moment if you wouldn't mind.

A. Yep, no that's okay.

Q. Is this a statement in your diary that you felt some jealousy?

40 A. Okay, I will concede yes.

Q. Who did you feel, in relation to what did you feel jealousy?

A. In relation to maybe a little jealous of Craig. Not jealous of my child.

45 Q. Maybe what?

A. Maybe jealous of Craig, not, not my child.

Q. Jealous, what that Craig had the affections of a child, the child liked him more than he liked you. Is that right?

50 A. Along those lines, yes.

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Q. Is that the basis for it?

A. Basically, yes.

5 Q. Is the answer yes?

A. Yes.

Q. You are saying here that if you felt jealousy either jealousy like that or anger, too much that you would leave Craig and the baby?

10 A. Because at the time I had a belief and constant doubt as to my own mothering skills and I was reaching and desperate and searching for whatever answers I could find. And part of that whole thing was if I didn't believe in myself that I was going to be very good at this, then yes, I would have left the child with Craig.

15

Q. Which child?

A. Any. The, the diaries refer to me, doing, saying similar thoughts with all of them.

20 Q. By that time three of your babies had died?

A. Yes.

Q. The thing that you were telling yourself here in December 96, that if you felt jealousy or anger too much this time then you would leave Craig and the baby?

25

A. Yes.

Q. You'd be prepared to leave your baby?

30

A. I'm not agreeing that I would have been prepared to do it because I never did.

Q. Well, that's what you've said isn't it?

A. Yes, but the bottom line of this is, these are diaries and these are thoughts. They're not actions.

35

Q. This was your vehicle to vent, to speak about things that concerned you, correct?

A. Yes.

40 Q. In that entry you say and I'll read it again, "If I get any feelings of jealousy or anger too much, I will leave Craig and the baby, rather than answer being as before." See that?

A. Yes.

45 Q. I'll ask you something about that; what happened before is that when you'd felt anger and perhaps jealousy, you didn't leave Craig and the baby did you?

A. No.

Q. Rather, the babies died, correct?

50

A. Yes.

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Q. Rather than, "answer being as before", you're referring to you having killed the babies. That's correct isn't it?

5 A. No, it's not. The words as to, "answer as before" is I never wanted to be put in the position where I, where I walked in and found one.

Q. We'll just go to 1 January 97. You see if you just look towards the bottom of the page; or perhaps in fairness to you read that all to yourself first that entry.

10 A. Yeah.

Q. You say there, "I know that was the main reason" - or I'll go to the sentence before that - "I'm going to call for help this time and not attempt to do everything myself anymore. I know that was the main reason for all my stress before and stress made me do terrible things." Do you see that?

15

A. Yes.

Q. You were asked about that in the interview at 706? We're really starting at 705 and I'll just read it. At 705, it's a very strong expression isn't it, "terrible things"? Your answer:

20

"Yeah, yeah it is but you know I used to sort of think that the odd angry thought or the odd stress or the odd frustration didn't help the situation. It's not that that particular angry thought or the frustration or stress in general, it was actually what caused their death. But I didn't help the situation any was what I was probably trying to get at, so stress made me do terrible things. Would probably mean I didn't want to get to the stress level where I would have an angry thought and therefore"--

25

30

--the word, it says "exasperated", it might be exaggerated. You probably don't remember but anyway - "therefore" - either, exasperated or exaggerated - "the situation and make it worse sort of thing is what I probably meant." Is that something like the answer in explanation that you would give today?

35

A. Yes. And as I said, that goes back to me not differentiating between a slight frustration, an angry thought, anything along those lines. The doing terrible things part is I had such a, a belief that I'd got it all so wrong that it, it didn't really matter if I was going to have a frustrative(as said) thought, that was a terrible thing. If, if I left my child to cry for a second it was a terrible thing. If I hadn't met my child's needs in some way, that was a terrible thing. It all meant exactly the same to me.

40

Q. The concept, "doing terrible things" you have explained as what, having a bad thought or something like that?

45

A. Yes.

Q. Is that right?

A. (No verbal reply)

50 Q. Would it not have been more appropriate for you to say, well stress made

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me feel anger towards the child?

5 MORRIS SC: I rise at this point because this is one of the issues I addressed your Honour about in context. And this passage is in a context of the following passages and my friend has not directed the witness to that. And it may be important with respect.

10 JUDICIAL OFFICER: Well, that's something perhaps you can clear up at a later stage Mr Morris.

MAXWELL SC

15 Q. What I'm suggesting to you is the word "terrible things" is far more consistent with killing your children than it is with having some kind of angry thought. What's your answer to that?

A. As I stated before, no.

20 Q. Just go to 4 February 97 and the second page. You say towards the end of that entry, and I'll seek to put it into context as much as I can, but the last three sentences I'll read to you;

25 "Yes, I think so but it's too late to realise now. I'm sure with the support I'm going to ask for I'll get through. What scares me most will be when I'm alone with the baby. How do I overcome that, defeat that?"

You accept that's what you wrote there?

A. Yes.

30 Q. Is it the case that the time that you were the most scared about was when you were alone with the baby?

A. Yes. And that's purely because when I found the children I was always alone.

35 Q. Were you?

A. I felt I was.

Q. But were you?

40 A. Technically no.

Q. Physically were you alone?

A. A couple of times Craig was there yes.

45 Q. Two out of the four babies' deaths, Craig was asleep in the house as well with you was he not?

A. Asleep, so therefore alone.

Q. You had been asleep as well had you not?

50 A. Yes.



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Q. When the baby died?

A. Yes.

5 Q. Because you weren't awake when the baby died were you?  
A. No.

Q. You were in the same position as Craig?

A. Yes, but--

10 Q. Both of you asleep?

A. He wasn't the one that found them. I was.

Q. What you are expressing in that entry is great fear of being awake and alone with the baby, what do you say about that?

15 A. I agree with that purely on the point that I was the one that always found them.

Q. What you are saying is that the time of greatest danger to the baby is when you were with them. That's what you're saying isn't it?

20 A. No.

Q. That's what scared you the most. Is that right?

A. No.

25 Q. Because you'd snap a cog?

A. No.

Q. And because that's what you'd done before when you were alone with the babies that had already died, isn't that correct?

30 A. No.

Q. Isn't that the thought you're expressing in that diary at that point?

A. No. I'm expressing my fear. That's all it is.

35 Q. You were expressing a fear of being alone with the baby. That's what you're frightened of?

A. I'm expressing the fear that I was scared to death of finding my child not alive.

40 Q. All right, so we go to 16 May 97, so that's the second page, starting with "Craig says he will stress and worry", see that?

A. Yes.

Q. Just read that paragraph. Have you done that?

45 A. Yes.

Q. You're saying there's a feeling of resentment towards Craig, correct, correct?

A. Not resentment no.

50

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Q. You're saying, "Craig says he will stress and worry but he still seems to sleep okay every night and did with Sarah"?

A. It's a little frustration yes.

5 Q. "I really needed him to wake up that morning and take over from me", so are you referring to that morning when Sarah died?

A. I'm referring to the early morning, as in the day and just the thoughts that I felt like Craig did sleep too easily through a lot and that I just felt like he could've helped out more.

10

Q. But you see it's a cry of desperation almost isn't it?

A. (No verbal reply)

Q. Understand what I'm getting at?

15

A. I understand what you're getting at, yes.

Q. But you're feeling that you desperately needed him to wake up that morning and take over from you, and you're referring to the morning, the time that Sarah died aren't you?

20

A. I don't believe I am, I believe I'm being more general.

Q. Well what else can it mean?

A. That because of the sleep deprivation and being exhausted and tired, that I just felt I needed more help and I wasn't getting it.

25

Q. "Wake up that morning", what is "that", isn't that the morning that Sarah died?

A. It may have been.

30

Q. Well it is isn't it, that's what you're referring to?

A. I'm not, I'm not a hundred per cent clear on that.

Q. "I really needed him to wake up", let's just go back a bit, "Says he will stress and worry, but he still seems to sleep okay every night and did with Sarah, I really needed him to wake up that morning and take over from me", well clearly you're referring to the time that Sarah died aren't you?

35

A. I may have been, I'm not a hundred per cent clear.

Q. And you are saying that you were awake, "I really needed him to wake up that morning and take over from me", well that means you were awake, doesn't it?

40

A. I'm still not a hundred per cent clear that I'm referring to that morning that she died there in that reference. I'm still--

45 Q. You see--

A. I believed and felt then that I wasn't getting the support that I thought I wanted and yes I was having a frustration with how easily I think Craig could sleep, compared to me and that I needed care and help with Sarah.

50

Q. You were awake with Sarah that morning, weren't you?

LTS:DAT

A. If I was caring for her then yes I most likely was.

Q. And that was the morning she died wasn't it?

A. I can't say with any clarity on that.

5

Q. And you were saying there that you were awake when Sarah died, aren't you?

A. No.

10

Q. That's what it means doesn't it?

A. No it doesn't.

Q. And you're trying to give it a different meaning I suggest to you, what do you say?

15

A. No, it doesn't mean that at all.

Q. Because that's not what - you haven't told the police or - you say that you went to Sarah and she was dead and that you weren't awake at the time, the actual time she died, that's what your position is isn't it?

20

A. Yes.

Q. But I suggest to you that this diary entry demonstrates something different to that?

A. I'm not agreeing with that.

25

Q. So we now come to the entries from the second notebook, so you weren't asked about any of these in the interview, because the police never had it, do you understand?

A. Yeah.

30

Q. That's what we're coming to now?

A. Okay.

Q. The entry of 6 July 97, so the second page, starting "Hopefully", yes about point 5 of the second page, "Hopefully preparing myself will mean the end of my dark moods", are you referring to feeling depressed there?

35

A. Yes.

Q. "Or at least the ability to see it coming and say to him or someone, hey help I'm getting overwhelmed, help me out", see that?

40

A. Yes, I'm referring to depression.

Q. "That will be the key to this baby's survival", do you see that?

A. Yes.

45

Q. So in dark moods did you lose control?

A. No, what I'm referring to there is I had a belief that even a mood from me could affect my child.

50

Q. What, cause its death?

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A. Cause it to be not happy, I had a desperate weird thought that my moods contributed to my children making a choice that they didn't want to stay, that's how desperate I was.

5 Q. Anyway, so in order for the baby that you - this is a month before Laura's birth, correct?

A. Yes.

10 Q. About. So you're considering her survival, whether she'll survive or not?  
A. Whether she'd stay with me yes.

15 Q. And I suggest you're considering her survival because you know that you've killed the other three when you've been in a dark mood, what do you say about that?

A. No.

20 Q. This is 12 August 97, so just the second page towards the top, this is, what are you still in hospital with Laura, this is five days after she's born or are you at home or what?

A. I don't remember.

25 Q. Well it's shortly after she's born anyway, five days it appears, you may be in hospital or you may be at home, correct?

A. Yep.

30 Q. You say "Craig is home with me, will be so different when the time comes for him to be gone all day", right?

A. Yes.

35 Q. "That will be my test but I hope by then I will be able to walk okay and get back my exercise", see that?

A. Yep.

40 Q. You see, in entries that I've taken you to just shortly, not too long before this, you are talking as though Craig wasn't much use to you at all, even when he was there, is that correct?

A. At times yes.

45 Q. So even if he's there he's not helping you much, is what you're saying?

A. That's how I felt yes.

50 Q. So why will it be your big test when he's not with you?

A. Because of the apprehension and fear and all those overwhelming thoughts that I was having by the time Laura arrived.

45

Q. But it was no use to you anyway you were saying, so like how does it make any difference if he's not at home with you?

A. Because I had a fear of being alone with my child.

50 Q. I suggest to you the fear was that you might do something to the child if

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Craig wasn't there at home to intervene, what do you say about that?

5 A. No, you've just said Craig whether he was there or not makes no difference to me, my fear is and always was, especially by the time I was preparing for Laura, that being alone with her in the past had always equalled something tragic happening.

10 Q. But you weren't always alone in the past, there were two occasions when Craig was with you, is what you've said?

A. Doesn't change the fact that I felt alone.

15 MAXWELL QC: Is that a convenient time, your Honour?

JUDICIAL OFFICER: Yes. We'll take the lunch adjournment until 2 o'clock.

15 LUNCHEON ADJOURNMENT

JUDICIAL OFFICER: Yes, Mr Maxwell.

20 MAXWELL QC

20 Q. 9 November 1997. About three-quarters of the way down the first page, you're talking about Laura and you said, "He - well, I know there's nothing wrong with her, nothing out of the ordinary anyway, because it was me not them". Do you see that part?

25 A. Yes.

Q. So, you're saying there that Laura, then aged about three months--

A. Yep.

30 Q. --that there was nothing wrong with her?

A. No, that's right.

Q. You'd done all the checks with the nurse and doctors and so on, that she was okay?

35 A. Yep.

Q. And you say, "nothing out of the ordinary anyway". What did you mean by that?

A. Well, she didn't have any major health issues or concerns.

40

Q. Well, nothing at all?

A. Basically, yeah.

45 Q. I'll go back a little bit, because you were talking about how Craig felt in relation to whether Laura was going to survive and you said, "There's a problem with his security level with me and he has a morbid fear about Laura, and he - well, I know there's nothing wrong with her, nothing out of the ordinary anyway". By that, you seem to be saying, "Well, he doesn't have anything to worry about", is that right?

50 A. That, that particular extract is two separate - they're separate thoughts

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there, they're not all the same thought. "There's a problem with his security level with me" is in reference to Craig's and my personal relationship. That's got nothing to do with Laura.

5 Q. I understand that, but you then say, "and he has a morbid fear about Laura"?

A. Well, we both did. We both were quite paranoid.

Q. No, but you're speaking about him there?

10 A. Yes. Yeah, I agree with that.

Q. You say, "and he has a morbid fear about Laura, he - well, I know there's nothing wrong with her"?

A. Yes, I was telling myself--

15

Q. So, by that, are you kind of commenting that there really isn't any need for Craig to have a morbid fear because there's nothing wrong with her?

A. You could look at it that way, yes.

20 Q. Well, isn't that the only way to look at it?

A. I'm saying that I thought Craig had a paranoid or morbid fear of losing Laura, exactly the same as I did.

25 Q. Well, I'm not asking - you see, you're not talking about yourself there, you're talking about Craig. Do you understand?

A. Yes, I know that.

Q. That's what I'm asking you about.

A. Yes.

30

Q. Do you understand that?

A. My thoughts were, at the time, that I felt that Craig had a fear, yes.

Q. But the--

35 A. And then, I'm saying to myself and convincing myself that there is no problem, Laura's fine.

Q. Well, you're not only convincing yourself, you're saying that you "know" there's nothing wrong with her?

40 A. Convincing myself, yes.

Q. And then you say, "nothing out of the ordinary anyway". So, by that, do you mean nothing enough that it might cause her to stop breathing in the middle of the night?

45 A. That's right.

Q. And then you say, "because it was me, not them". Do you say that then?

A. I said that then--

50 Q. And I'll ask you about it--

LTS:DAT

A. Yes.

Q. --before you - "because it was me, not them", the "them" you are referring to are your three dead children?

5 A. Yes.

Q. Is that right?

A. Yes.

10 Q. Aren't you saying there that they were all okay too?

A. No.

Q. You're not saying that?

A. No.

15

Q. Because you say - you're taking responsibility for their death there, aren't you?

A. Absolutely, I was their mother.

20 Q. And you say, "because it was me, not them", is it not implicit in that that there was nothing wrong with them either?

A. I'm blaming myself there. That sentence is totally me blaming myself.

Q. I see, that's you blaming yourself because you killed three children that didn't have anything wrong with them?

25

A. No.

Q. And that's what that means?

A. No.

30

Q. All right, well, we then go on. You say, "Think I handled her fits of crying better than I did with Sarah. I've learnt to - getting to me, to walk away and breathe in for a while myself. It helps me cope and figure out how to help her." See that?

35

A. Yes.

Q. And then you say - and this is about your daughter who died, all right?

A. Yes.

40 Q. You say, "With Sarah, all I wanted was her to shut up". Do you see that?

A. Yes.

Q. Were you sad that Sarah had died?

A. Yes, of course.

45

Q. But, you see, that seems somewhat - I've used this word before - a heartless way to describe this baby of yours who died, "All I wanted her to do was shut up"?

A. It's not heartless at all.

50

LTS:DAT

Q. Okay.

A. There wouldn't be a mother in this room who hasn't - with their baby incessantly crying, hasn't wished that they'd stop.

5 Q. And then you say, "All I want her to do is shut up, and one day she did"?

A. Well, she did, she died.

Q. So, one day you got what you wanted?

A. No, that's not what I wanted.

10

Q. Am I misreading, am I misunderstanding that, am I?

A. Absolutely.

Q. You're saying you wanted - "all" you wanted, was her to "shut up, and one day she did". You're the mother, you've described her death like that. What I'm putting to you is, do you not even concede that may be a heartless way of describing it?

15

A. Not from where I stood, no.

Q. Right, okay. Well, then we go to 31 December 1997. So, there on the second page, "She's a fairly good-natured baby". Do you see that towards the bottom?

20

A. Yes.

Q. You see that, the red marker? Can you see it?

25

A. Yes, yeah.

Q. You refer to, a bit before that, "If the battle of the wills will start with her and I, then we'll actually get to see". You see that?

30

A. Yeah.

Q. So, the child is four months old?

A. Yes.

Q. And you're posing the question, if you start to have a battle of wills with Laura, like you did with Sarah?

35

A. Mm-hmm. That is--

Q. Yes, all right. And then, if you have a battle of wills with Laura, you'll "actually get to see". "Get to see" what?

40

A. Get to see how I cope with that as a mother.

Q. Now you say, "She's a fairly good-natured baby", is that correct?

A. Yes.

45

Q. And you say, "Thank goodness, it has saved her from the fate of her siblings". Correct?

A. Yes.

Q. You associate the death of her three siblings at times when you were

50



LTS:DAT

stressed out?

A. No.

Q. You don't?

5 A. No.

Q. At times when you may have lost control?

A. No.

10 Q. You don't?

A. No.

Q. Not at all?

A. In a metaphysical way, in a--

15

Q. Well, no - all right--

A. Yeah.

Q. --what do you mean by "metaphysical"?

20 A. I mean, the next sentence in that is "I think she was warned", which I - you're - I'm gathering you're going to ask about.

Q. Well, let's just explore that.

A. It's all connected.

25

Q. Hang on, do you believe in the metaphysical?

A. I've always believed that there is a spiritual or something else going on, fate, karma, destiny.

30 Q. So, you're saying there then that, she's good because some higher being has warned her that if she's not good she'll lose her life?

A. No, I'm, I'm merely thinking to myself that, you know, this goes back to - right back to the, the clairvoyant sort of thing, where I'm thinking, did the other children have little chats to her, was she - you know, there was a discussion about whether Laura's soul was even her own, at one point, between us and other family members.

35

Q. So, did the other dead children have a discussion with the live one, Laura? Is that what you just said then?

40 A. It's, it's a thought of which I had, yes.

Q. And did you believe it?

A. At the time, yes.

45 Q. And so, what, they told her to be good and she'd live, is that how one interprets that?

A. No, I, I, take that as though they told her if, if she was good, mum would be okay and mum wouldn't stress as much.

50 Q. Mum wouldn't get angry and snap her cog--

LTS:DAT

A. No--

Q. --is that what you meant?

A. No, I'm generalising, it's - no.

5

Q. What I'm putting to you is that, you knew you'd got angry with your children, the three children that died, before you wrote this. What do you say?

A. I believed and felt that my moods at any given time affected my children, yes. I believed, as far out there as it is, that whatever bad mood I might have been in was a negative thing I was putting onto my children and I didn't like it.

10

Q. And because you were in a bad mood, in some way that led to their death, but you can't really say how or why?

A. That's right, I'm always searching for why. It never stops.

15

Q. I suggest you know why, and that is because you smothered them.

A. No.

Q. That's what you're talking about in that entry.

20

A. No.

Q. Did you prefer Laura to the others?

A. It wasn't a case of preferring her.

25

Q. Did you like her more?

A. Not necessarily, no.

Q. Was she your favourite?

A. She was my favourite only because I had her the longest.

30

Q. 4 January 1998, you say at the start of that about point 3 you'd watched a video of Sarah on that day, correct?

A. Yes.

35

Q. Just at about point 2 you say, "Sarah's missed. We watched her video." Do you see that?

A. Yes.

40

Q. "Made me realise how much I love Laura and cherish her like I never did the others". Aren't you saying there that you preferred Laura more than the others?

A. No. What I'm saying there is that I felt I hadn't given enough to the others.

45

Q. But that's not what you said is it?

A. It reads the same to me.

Q. Aren't you at all times looking at words and sentences in these diaries and giving them different meanings?

A. No, I've always stated the same from the very beginning.

50

LTS:DAT

Q. When you say "I cherished her like I never did the others", in plain English you're saying you preferred Laura to the others. That's true isn't it?

5 A. What I'm saying is the others aren't with me so therefore I cherish Laura, of course I do. But I was also lamenting the fact that I felt like I hadn't given enough to the other three and I wasn't good enough.

Q. Now we go to 28 January 98. At that point Laura was a little over five months old, correct?

10 A. Yes.

Q. Then at the top of the page you say, "I've done it", do you see that?

A. Yes.

15 Q. "I lost it with her. I yelled at her so angrily that it scared her and she hasn't stopped crying." When did you lose it with her on that day do you know, how long before this entry?

A. No, I don't remember.

Q. So this was 5.30pm.

20 A. Mm.

Q. Could it have been all day that she was crying?

A. I can't tell you that.

25 Q. So this is something that really upset you?

A. Yes.

Q. Was it the first time that you'd lost it with her?

30 A. Yes.

Q. Could you see visions of the other three coming back because you'd lost it with Laura?

A. No, my immediate reaction was to be incredibly disappointed with myself.

35 Q. Because you'd lost it with the other three hadn't you?

A. No.

Q. You hadn't, no? Never felt angry towards Sarah?

40 A. Frustrated with Sarah, yes.

Q. Anger?

A. Not anger as such, no.

Q. Never anger?

45 A. No.

Q. Not even when you were sleep deprived and you had all this battling with wills, never angry at her?

50 A. No, not, not at Sarah, no.

LTS:DAT

Q. You're not the kind of person to get angry with children, is that what you say?

A. No.

5 Q. You don't say that?

A. No, I'm agreeing with you, I don't get angry with children, yeah.

Q. In any event did you get angry with Laura on this day?

A. Incredibly frustrated with her that day.

10

Q. Did you get angry?

A. As I said before, I never differentiated between frustration and anger, they're the same thing. They were the same thing to me then.

15 Q. Frustration is just feeling perhaps a bit miffed about something hasn't gone right, but anger is a far stronger word where you actually feel antipathy towards another person or another thing. That's correct isn't it?

A. (No verbal reply)

20 Q. I put it to you it's a different state of mind, anger?

A. At that time in my life, as I said, I didn't think it was, I didn't think there was any difference between them.

Q. Anyway, you didn't use the word "frustration" in this entry did you?

25

A. No.

Q. You said, "I yelled at her so angrily that it scared her"?

A. Yes.

30 Q. So you've used the word "angrily"?

A. Yeah.

Q. Anger there. So it got so bad - so what was happening?

A. I don't remember.

35

Q. What did you yell at her?

A. I don't remember.

Q. How did you lose it with her?

40

A. It would have simply been I yelled at her.

Q. And she just started crying and didn't stop.

A. No, if I'd been yelling at her she was crying before that.

45 Q. Sorry?

A. If I've yelled at her it's because she's crying before that.

Q. So did you yell at her when she was crying?

A. Not all the time, no.

50

LTS:DAT

Q. Sometimes?

A. No.

Q. Ever?

5 A. Only if she was frustrating to the point of me not being able to figure out how to help her, yes.

Q. So you'd yell at her?

10 A. Occasionally.

Q. In anger?

A. In frustration, as I keep saying, there's no difference to me.

Q. You say "lost it with her" means you yelled at her?

15 A. Yes.

Q. Where was this that this happened?

A. At home.

20 Q. In her room?

A. I don't recall.

Q. You said that then it got so bad that you nearly purposely dropped her on the floor.

25 A. That's an exaggeration.

Q. Is it the case that you nearly on purpose dropped her on the floor?

30 A. No. I - this is hard to explain. If you're that frustrated with a child and you can't figure out why they won't stop crying, you've got them in your arms, you go to put them on the floor, in my belief and my mind, putting her on the floor is almost dropping her on the floor.

Q. So you've just kind of had her an inch off the floor and you just nearly drop, is that what you mean?

35 A. Probably not even an inch but yes.

Q. At all times you're just minimising what these entries mean aren't you?

40 A. No, I'm trying to tell you exactly what was in my frame of mind when I wrote them.

Q. Any reading of that indicates that you're saying you nearly purposely dropped her from waist height onto the floor.

A. No, it doesn't - does it say anywhere there that it was from waist height?

45 Q. No it doesn't, but you're saying now that you know that it was just somewhere close to the floor, is that what you can recall can you?

A. Yes, yeah.

Q. I put it to you that's not correct.

50 A. Well I was there, that's correct.

LTS:DAT

Q. Then you go on to say, "I feel like the worst mother on this earth, scared that she'll leave me now, like Sarah did" do you see that?

A. Yes.

5

Q. Do you see that?

A. Yes.

Q. Then you say, "I knew I was short tempered and cruel sometimes to her and she left", and you're talking about Sarah there, correct?

10

A. Yeah, that's Sarah.

Q. So you're expressing this idea or thought that because you were short tempered and cruel to her, to Sarah, that she left this world?

15

A. Yes, that's how weird my belief had gotten.

Q. What, she decided that she wanted to go into another world because she couldn't put up with your short temperedness and cruelty towards her, is that it?

20

A. Cruelty, the word cruelty, I need to also clarify that to me that's like if you leave your child to cry for too long, I figured that and deemed that as being cruel. I'm not talking cruel as in a cruel physical action on anything. Short tempered, yes, it goes with being frustrated. If you're frustrated you get a little short tempered.

25

Q. So you weren't using those terms in any - just a sort of minimal kind of way in the way you've described--

A. Yes.

30

Q. --short tempered and cruel?

A. Yes.

Q. But it was enough in your mind for her to get the idea, "Look, I don't want to be around this mother anymore, I'll simply die." Is that what you're trying to say?

35

A. Because by the time, by the time Laura came around that's where most of my thoughts were. They were dark and they weren't very pleasant.

Q. It just doesn't make any kind of sense at all does it?

40

A. It made sense to me at the time when I was writing it.

Q. You see it's a farcical explanation, wouldn't you agree with that?

A. No.

45

Q. Then you say "with a bit of help", do you see that?

A. Yes.

Q. So you're saying there that you were that bit of help?

50

A. No, I'm saying that God, higher power, or another decision, or even my children Sarah deciding that she didn't want to say was the bit of help, not me.

LTS:DAT

Q. What I'm suggesting to you is that that's one of the closest places that you have come in the diaries to admitting your guilt of killing Sarah. What do you say about that?

5 A. I say it's me admitting how badly responsible I felt, and I will always feel that way.

Q. I'll just go to the entry of 14 October 96.

10 JUDICIAL OFFICER: Sorry, 14 October?

MAXWELL QC: 14 October 96, I'm going back. So it's the next page.

15 Q. It's at the top, "still isn't happening". I've taken you back, and this is at a time, this is 96, so I've taken you back at least a year, over a year, the time before Laura was born and it appears that you sort of were thinking about having another child. You start out that entry by saying, "The children thing still isn't happening", and at the top of that page there, "still isn't happening", "thinking of forgetting the idea. Nature, fate and the man upstairs have  
20 decided I don't get the fourth chance". Well, you did in fact get the fourth chance didn't you?

A. Yes.

25 Q. "And rightly so I suppose. I would like to make all my mistakes and terrible thinking be converted and mean something though. Plus, I'm ready to continue my family time now." And then you say, "Obviously, I'm my father's daughter but I think losing my temper stage and being frustrated with everything has passed."

30 MAXWELL SC: It's redacted but it's in tab 6 of the tender bundle.

MORRIS SC: In tab 6 of mine--

MAXWELL SC: No, the tender bundle.

35

MORRIS SC: That you handed up?

MAXWELL SC: No, not my one. It's the tender bundle.

40 MORRIS SC: The one you handed up?

MAXWELL SC: Not the one I handed up, no. It's the tender bundle that counsel assisting has tendered.

45 MORRIS SC: It's been redacted in my version your Honour.

MAXWELL SC: On 6, on the second page. Here look.

50 JUDICIAL OFFICER: I think it was redacted at one stage because in front of the jury there was an argument as to whether that should go to the jury.

LTS:DAT

MORRIS SC: That may be so but the concern that I've got is that I'm working from the version that was distributed to me through counsel assisting.

5 MAXWELL SC: And so am I.

10 MORRIS SC: And I've got the redacted version and it makes me wonder whether we're all running from the same document and quite what the basis was upon which this evidence was going to be advanced because I was working on the basis that this information was going to be redacted. Now, I'm happy to show my friend the page that I've got but it's what I've had distributed to me.

15 FURNESS SC: Might I stand at this stage, my version and certainly all those assisting, the version of tab 6 is unredacted. It's separately set out in the tender bundle at tab 6.

MORRIS SC: I accept everybody's got it except me.

20 JUDICIAL OFFICER: Okay.

MORRIS SC: That's the problem.

25 JUDICIAL OFFICER: We'd better give it to you. It's been tendered and it's part of that exhibit, which is AZ, I think.

30 MORRIS SC: I understand that but the understanding that I had was that this was not going to be led at this Inquiry by reason of the material that was given to me.

JUDICIAL OFFICER: Did anyone say that to you?

35 MORRIS SC: I drew that assumption from the document I was given which had the precise redaction from the trial.

40 JUDICIAL OFFICER: Yes, well we haven't got the same problem as the trial had because we don't have a jury. It is part of the exhibit and there's no reason for it not to be part of the exhibit because we're not bound by the rules of evidence, nor by what happened at the trial itself.

MORRIS SC: I understand but you'd appreciate the issue that it presents me in that I was working on the basis that this was not going to be led.

45 JUDICIAL OFFICER: It's a small piece of evidence. I doubt that it would cause you too much trouble to deal with.

50 FURNESS SC: Might I just say that behind tab 14 is the unedited ERISP that refers to that entry in the diary. I would be most distressed if my friend didn't have that, which is tab 14.



LTS:DAT

MORRIS SC: I understand.

5 FURNESS SC: That clearly indicates that it's in, notwithstanding and I understand what my friend has said in relation to what he has. In fact, if one looks at the diary entry before that, behind that tab, that's clearly the unredacted as well. Perhaps if my friend could look at tab 14 to see (1) whether he has the ERISP which contains the question and answer.

10 MORRIS SC: I've got the ERISP.

FURNESS SC: And the document behind that is the unredacted diary. It's on the last page.

15 MORRIS SC: Sorry, tab 14 was - just excuse me a moment your Honour. Yes, I stand corrected on that.

JUDICIAL OFFICER: Yes, thank you. Yes, Mr Maxwell.

20 MAXWELL QC

Q. We got to the stage, I'll just refresh your memory, the sentence before that was, "Plus, I'm ready to continue my family now. Obviously, I'm my father's daughter but I think losing my temper stage and being frustrated with everything has passed." You were asked about that in your original interview, about what you meant by, "Obviously, I'm my father's daughter." Do you remember that?

A. Yes.

30 Q. At 644 and 656 you said it meant to you that, "My father is just like a big total loser." 656, "Thinking I was a loser of some kind, just a passing thought." Do you accept that they're the answers that you gave?

A. Yes.

35 Q. As to what you were referring to when you said obviously you're your father's daughter?

A. Yes, I believed and thought at the time that my father's actions ruined my life and my life never seemed to go right from there. And it was a thought of, along the lines of sins of the father being on the daughter. Was I paying the price?

40

Q. What was the sin of your father?

A. My father killed my mother.

45 Q. You thought the sin of the father might come through to the daughter?

A. I believed at the time, yes that the, as I said by the, writing these diaries in preparation for Laura, everything was very dark and every thought was very dark and I blamed my father a lot for most of my life just going wrong.

50 Q. But you see, what you're talking about there, there are three concepts there. You're talking about being ready to continue your family. Then you say,

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"Obviously, I'm my father's daughter" and then you say, "But, I think losing my temper stage and being frustrated with everything has passed." So, you're saying there aren't you, that you think you're ready to have another family because the losing your temper stage and being frustrated has passed. Is that right?

5

A. No, number one is I thought I might have been ready to have another family. The second thought is about my father and how my life never went right after that. And the temper and frustration bit was me lamenting and desperately trying to seek answers and trying to control and make sure that everything went right and this attempt at having another child went the way it was supposed to.

10

Q. But you see, your father and you knew this at the time, had killed your mother?

15

A. Yes.

Q. Your understanding was that he'd killed her as a result of losing his temper?

20

A. Yes.

Q. What you're saying there is that you're ready because you won't lose your temper anymore like your father lost his temper and killed your mother. That's what you're saying aren't you?

25

A. No.

Q. You see, I put it to you that this reference to you just meant your father was a loser, doesn't make any sense at all in the context in which you say that, "Obviously I'm my father's daughter." What do you say?

30

A. That there are two separate thoughts there. I'm ready for my family now and then I've randomly thought because of thinking of family I've randomly thought because of my father, how life has gone all wrong. And then I've jumped back to going back to did the sins of my father visit on me as in me being frustrated in any way whatsoever and then my inability to control absolutely everything in my life at the time. I have to make sure. I was preparing and had to make sure that all went well.

35

Q. What you're putting in those three sentences is that not that your father is a loser but that he was a killer and he killed when he was angry and that you're concerned about that quality in you. What do you say?

40

A. No. My thoughts of my father rarely entered my head. That would have been one of the few times that it ever did. I disregarded him 90% of my life. But here I am preparing after three failures at being a mother, failures at, and me believing that I'd failed and lost control and couldn't handle anything, severely doubting my abilities. Here I am preparing to have another child and my father happened to pop into my head and I reflected on that.

45

Q. Reflected that you may have inherited the sin of killing when you're angry?

A. I don't believe you can, you can inherent being able to kill people.

50

Q. What you just said, the sins of your father, you were the one that raised it.

LTS:DAT

A. As a, as a generalised saying. It's what I believe isn't it.

Q. Thank you.

5 MAXWELL QC: That's the cross-examination.

JUDICIAL OFFICER: Yes, Ms Cunneen?

10 CUNNEEN SC: Thank you. I would be assisted if I were to be able to borrow my learned friend Mr Maxwell's lectern. I don't know whether it's convenient to do that while we're--

<EXAMINATION BY MS CUNNEEN SC

15 Q. Ms Folbigg, I will start at the start and endeavour not to repeat the areas which have been covered by Mr Maxwell. If I could ask you this in relation to the various, the diaries or the documents that have been called diaries; some are literally diaries with dates on them. That's right. And you fill in what you did on a particular date or something about that date?

20 A. Yes.

Q. But others of your diaries or other documents are in effect journals without dates on them unless you put the dates on them?

25 A. Yep.

Q. We have some that are printed with dates and small areas for days of the year and those generally have quite short concise entries when you have done them, is that right?

30 A. Yep.

Q. And in the journal type books, the ones with no printed dates inside, it's up to you how long you make each entry for each day?

A. Yes, yeah.

35 Q. And you don't necessarily write in each day, there's no particular regularity about it?

A. No.

40 Q. So those, the two books that are your longer writings about things, are more like journals I suppose, would you agree with that?

A. I would agree with that yes.

Q. Rather than a daily diary, rather than an appointment book or some such thing?

45 A. Yes.

Q. And you've had a number of those types of journals in your life?

A. Yes.

50 Q. We have I think only two of them before us at the moment?

LTS:DAT

A. (No verbal reply)

Q. Sorry you just have to say your answer?

A. Sorry yes.

5

Q. So that it can be recorded. And I think you've indicated that you started writing that type of journal much earlier, or early in your life, in your teens perhaps?

A. Yes yeah by the time I was 12 it was something I did yes.

10

Q. And the ones that we have before us are journals that you wrote in your 20s, late 20s?

A. Yes.

15

Q. And including the time you turned 30?

A. Yes.

Q. And you turned 30 didn't you, just before, not long before you gave birth to Laura?

20

A. Yeah.

Q. And in relation to your earlier children, I think you had Caleb when you were 21?

A. Yes.

25

Q. And so that's a period in your life we're speaking of now and the age that you were when you gave birth to and subsequently lost your four children?

A. Yes.

30

Q. Tab 1 is a - literally a diary isn't it, now I don't quite know your Honour the means by which these things are shown to the witness, 1989 diary, tab 1 in this Inquiry, it's before you now ma'am?

A. Yep.

35

Q. And that is from a diary rather than a journal and your entry looks as though some of it was written in advance of that day?

A. Mm.

40

Q. And some of it was written perhaps on that day or shortly after?

A. Yes.

Q. That was the due date of baby Caleb?

A. Yep.

45

Q. And it seems he arrived on his due date?

A. Yes.

Q. You perhaps before that day you had written "Pull hair out if not here"?

A. Yes.

50

LTS:DAT

Q. Because you were hoping of course that the baby would soon be with you?

A. Yep.

5 Q. And "Baby Caleb born" and some statistics about the time of his birth and his height and weight?

A. And I'd also like to point out that "Baby Caleb born" and those details is not my writing, that's Craig's.

10 Q. I see, so is all of that writing about, that was obviously written once the baby was born, is that Mr Folbigg's writing?

A. Yes.

15 Q. Then on the next, the next entry in that diary of any relevance was 14 February and there are, it seems that you - that's your writing is it?

A. Yes.

20 Q. You were keeping a lot of written records about the various things to do with babies sleeping and the formula that you were feeding him and how much he was taking?

A. It was a care journal yes.

25 Q. And keeping close - keeping a close eye on everything and behaving as an attentive mother should?

A. Yes.

Q. Doing your best to look after your baby just as well as you could?

A. Correct.

30 Q. On 19 February 1989, that was sadly the last day of Caleb's life and he had by, well 3am passed away, 3am into 20 February was it?

A. Yes.

35 Q. But as late in his life as 2am, you had written there at 1.30, "A little restless" to "Finally asleep"?

A. Yes.

Q. Would that have been an entry that you wrote at 2am on that date?

A. I would say yes.

40 Q. And sadly within the hour the baby had died?

A. Yes.

Q. Even though you had been with him at 2?

A. Mm-hmm.

45

Q. And you thought that he had gone to sleep?

A. Yes.

50 Q. Just an entry in the right margin there or some writing, I'm sure that it's very hard for you to see, but would you - I expect you don't remember whether you

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wrote something there or what it is?

A. I'm not recognising that, I wouldn't know what that is.

5 Q. I am aware that the diaries are now, the originals are now here in court with us, I wonder if I could call for that, the original your Honour please.

FURNESS SC: They were produced under summons this morning from Mr Folbigg.

10 CUNNEEN SC: Might the witness be shown the diary of 1989 your Honour, opened at the page for 19 February.

MORRIS SC: Your Honour I've not seen the original document and I was not aware of the summons or production this morning.

15 JUDICIAL OFFICER: Show the witness and then we will show if it becomes relevant.

20 WITNESS: I still can't make out even what that says, so I can't help with that.

CUNNEEN SC

Q. Just while you have it there, can I suggest to you that it says "I wish"?

25 A. No I don't think that looks like "wish."

Q. Written on the side as it were?

A. Yeah.

30 Q. "I wish"?

A. No.

Q. You don't agree with that?

A. No.

35 Q. You don't think it's possible that it says that?

A. No, I'm not seeing that as "wish" at all.

Q. Do you say that it's anyone's handwriting but yours?

40 A. No I'm not saying it's not my handwriting, I'm just saying I can't recognise it and I don't know what it says.

Q. But you reject that it says "I wish"?

A. Yeah.

45 JUDICIAL OFFICER: You want to see it Mr Morris?

MORRIS SC: Yes please your Honour.

MAXWELL QC: Could I also see it please.

50

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CUNNEEN SC

5 Q. Now I will turn to the 1993 diary which is tab 3 in this Inquiry and I know you've been asked about this by Mr Maxwell but I just wish to ask you some more questions about the entry for 3 June 1990, you will recall at once the significance of that day?

A. Yes.

10 Q. But may I suggest to you that that entry was clearly written after Patrick's birth, not on the day of Patrick's birth?

A. No, that's right.

15 Q. Because otherwise you wouldn't have written "This was the day that Patrick Allan David Folbigg was born", and nor would you have written "I had mixed feelings this day"?

A. Yeah that's right.

20 Q. So it could well have been written some considerable time after Patrick's birth, could it not?

A. Could have been yes.

25 Q. When you say there, "I had mixed feeling this day, whether or not I was going to cope as a mother or whether I was going to get stressed out like I did last time", you were talking about having felt on the day that you gave birth to Patrick, a concern about whether things would go the way they had the last time, is that right?

A. Yes, I was doubting my ability yes.

30 Q. Did you do the underlining, under "I did last time"?

A. Yes.

Q. So it is clear that you felt by the time that Patrick was born, that you had been stressed out during Caleb's life?

35 A. I felt - that's hard to say, I felt that I wasn't sure whether or not I'd been a good enough mother last time, Caleb was only around for three, four weeks, it was hard you know, I can't say as to whether I was successful or not, other than the fact I felt like I wasn't because he died, stressed out, you're a new mother, it's not a hard stretch to think you'd be stressed out if you're a brand new mother and you're not sure what's going on.

40

Q. You would only feel that you had been unsuccessful because he died, if you did something to contribute to his death I'd suggest to you?

45 A. No, as, as his mother I felt I'd failed, so as in failing being his mother, something went wrong, I couldn't say what it was so I therefore doubted my ability, so here I am having Patrick and was doubting my ability straight up.

Q. You were doubting your ability to control your stress, is that right?

A. To a degree yes.

50 Q. You were doubting your ability to control yourself when your stress

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overwhelmed you?

A. No, I won't - I won't say that. As I said, Caleb wasn't around for life - long enough for me to make a comparison of any sort. I, I, I simply knew that something had gone wrong and I'd failed.

5

Q. Well, no-one from the medical profession told you that there was any obvious reason why Caleb had died, did they?

A. No. No, they did not.

10 MORRIS SC: Your Honour, I rise at this point and I don't wish to interrupt the cross-examination unduly but, as I understand the position, Ms Cunneen is retained by Mr Craig Folbigg and he has a right of appearance in order to protect his reputation or character. Now, there's nothing that's arising out of this diary entry, with respect, for Ms Cunneen to have a relevant interest for  
15 cross-examination and we're going over material which has been already addressed by Mr Maxwell. And so, to that extent, it's my submission that she does not have a general right of cross-examination on all issues outside her interest in protecting her client's reputation or character.

20 JUDICIAL OFFICER: Yes, well, I think she's allowed to ask those questions. I'll allow the questions. Ms Cunneen?

CUNNEEN SC

25 Q. Now, you say in that entry, "I often regret Caleb and Patrick, only because your life changes so much and maybe I'm not a person that likes change". Do you agree that that entry is most likely to have been written after Patrick's death, after the death of both little boys?

A. No, isn't, isn't this diary after Patrick was born?

30

Q. Well, the entry is in the space for the day that he was born, but I think you've already conceded that the entry must have been written at least after that day, and perhaps considerably after?

35 A. I'm not believing that it was after Patrick's death. In - you referred to, "I often regret Caleb", Caleb's a regret because he died and I was unsuccessful. Patrick was a regret because I was unsure of my ability and as to whether I'd made the right decision. They're two separate things.

40 Q. So, you're saying that you might be writing that you regret Patrick, even while he was still alive?

A. Regret as in whether I was good enough, yes. I had to prove - I was constantly having to prove to myself that I might be good enough.

45 Q. So, do you say that you believe that this entry was written between Patrick's birth and his death?

A. That's what I'm believing by reading it, yes.

50 Q. So, even while Patrick was alive, you said, "I often regret Caleb and Patrick, only because your life changes so much and maybe I'm not a person that likes change, but we will see?"



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A. "But we will see?" is an optimism at the end of all of that. I was looking forward to being able to see. Patrick was with me, and will I cope, and will it all be good, and will it work out? Yes.

5 Q. And you were hoping that you might become a person that doesn't mind change after all?

A. That's right.

10 Q. And you were hoping you might become a person who is a better mother to Patrick than she was to Caleb?

A. Yes, 'cause when Caleb died, you can't get a bigger change in your life than your child dying, it's a humongous change.

15 Q. Except, perhaps, when a child comes into your world?

A. That's right, and that's another change.

Q. "But we will see?"?

20 A. As in, optimism as to, I'm looking forward to the possibility of seeing where this would go.

Q. Well, there's not much optimism in a passage that includes "stressed out, like I did last time", and regretting two - named the two children that you've so far had, is there?

25 A. Not in the expressing of those feelings at the time, no, but I had ended it with an optimistic expression of thought.

Q. Qualified by the question mark?

A. ..(Not transcribable)..

30 Q. Now, perhaps we might go forward to 10 July 1990, also in that tab 3.

A. ..(Not transcribable)..10 July.

Q. In that passage, you say, do you not, that "It looks like Pat might be starting to sleep all night, hope so"?

35 A. Yes.

Q. But then you go on to talk about a "bad habit" that Pat is getting, "He is getting a bad habit of going to bed with Craig"?

40 A. Yes.

Q. So, you were talking about a little boy who's only a bit over a month old, a baby--

A. Yes.

45 Q. --and you are noting in your diary that "He is getting a bad habit"?

A. As in, Craig's getting a bad habit.

Q. Well, you're saying that Patrick's getting a bad habit, are you not?

50 A. If it continued then, yes, it would have been a bad habit.

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Q. It can't be Craig, because you say, "He is getting"- "He" is the subject--

A. Yes.

Q. --"is getting a bad habit of going to bed with Craig", who is the object?

5 A. Yes, and that comes from being advised in pregnancy and when having Patrick that taking your child to bed with you is not supposed to be a good thing.

Q. Yes, and yet, you are saying that the baby himself is developing the bad habit?

10

A. I may be. I might have been thinking that he's going to get a bad habit from doing this, so I've written it that way.

Q. You then go on to say, "I'll have to really try to stop that. He's getting to an age where he realises that it's lovely to do". Who was the person you were speaking of there, when you say, "He's getting to an age where he realises that it's lovely to do"?

15

A. Well, all babies love you having them close to you, and I, I had thought that this could develop into a bad habit if he's going to be going into bed with Craig at all times. And, being advised that that wasn't a good thing to do because of SIDS thinking and that was around at the time and, yes, I thought I would - I'll probably have to put a stop to it.

20

Q. May I suggest that this was the start of a jealous feeling that you were getting about the bonding between Patrick and his father?

25

A. No.

Q. On the next day, which is on the same page, there's one paragraph and then, "Think I'll give up trying to get him to settle down of a night time, it obviously doesn't work. The life of a mother"?

30

A. Just, lamenting with what it's like to be a mother.

Q. Perhaps we should move on then to tab 5 in this Inquiry, the diary that goes from 4 June 1996 to 5 June 1997 and, again, I'll try not to go over ground which you have covered with my learned friend, Mr Maxwell. Might we go to 7 June 1996 in that diary?

35

CUNNEEN SC: I'm sorry, your Honour, we've lost power, temporarily.

Q. At the bottom of that page, you say, "I need" and then - over the page please - "some time to myself. I don't really get to have any of that. Craig has to be with me all the time"?

40

A. Mm-hmm.

Q. So, in some senses you wanted Craig with you all the time, but other times you didn't want Craig with you all the time. Is that fair?

45

A. Yes.

Q. At the end of that entry, "I know" - you might have to help me - "I know Craig's", I think it says "P-O-O-D", does it?

50

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A. Yes.

Q. "Pood because of my mood", is that right?

A. Yes, that's right.

5

Q. "But fair is fair, he's never had to suffer one ever with me, so, PMT away we go, ha"?

A. Yes.

10

Q. Would it be fair to say that you are there indicating that you will be out there with your premenstrual tension and show Craig that you're going through a difficult time?

15

FURNESS SC: Your Honour, I rise because I submit that the relationship between the witness and her husband, and so far as it is relayed in this diary and the subject of the questioning, is not relevant for your Honour's task.

JUDICIAL OFFICER: Yes, I think that's right, Ms Cunneen.

20

CUNNEEN SC: As your Honour pleases.

FURNESS SC: Thank you, your Honour.

25

CUNNEEN SC

Q. We might move on to 8 June 1990(as said), please. 96, yes, thank you very much. You say there about "handling a crisis", ma'am?

A. Mm-hmm.

30

Q. "We're all different that way. Me, I become a nasty person"?

A. As in, cranky and not nice to be around. I would deem that as equalling to being nasty.

35

Q. Speaking of this entry - and this was something that you may not do now if you write things, but - throughout this book and the next, you often write a few lines about what's happening and then you will say, "Me, I do such and such, and so and so"?

A. Mm-hmm.

40

Q. That's one of the things that you do?

A. Yes.

Q. To show that some people are doing this but, on the other hand, you might do it differently or think differently or whatever?

45

A. Yes.

Q. Moving ahead to 18 June 1996. Towards the bottom of the left-hand page you say, "I'm ready this time" and from what you've said before would you agree that means I'm ready to have a baby this time?

50

A. Yes.

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Q. "And I know I'll have help and support this time".

A. I was always thinking I needed it, yes.

5 Q. In fact you mentioned earlier today that when you were being asked about the prospect of leaving Laura with Craig, if you became stressed--

A. Mm-hmm.

10 Q. --leaving the two of them, leaving the house, and you said that you would leave the baby with Craig because he had a lot of support and a big family--

A. Yes.

Q. --and so forth.

A. That's correct.

15

Q. That support and that family of Craig's was always available to you too wasn't it?

A. It was, but I always thought that I was alone and felt lonely and all my basic thoughts always went back to that. I always felt like I needed more, more support.

20

Q. Even though you wouldn't say, would you, that Craig's brothers and sisters and their partners weren't very helpful to you, kind, supportive?

A. They were very, very helpful and kind. I've never said they weren't.

25

Q. Some of them, like Craig's sister Carol, lived very close?

A. Yes.

Q. John was close and supportive?

30

A. Absolutely, but that doesn't change the fact that my - in myself always felt that I was alone and had to do everything myself, and I myself was having issues and problems that had nothing to do with whether or not they all loved me and supported me and stuff. I knew they were there, and I knew that I could ask them and I knew that they would help, but that didn't stop the inner turmoil that I was going through on my own.

35

Q. You knew that they would help because they often did help?

A. Yes.

40

Q. Isn't that right?

A. That's right.

Q. Craig's family completely enveloped you into their family and loved, accepted you and supported you from the start?

45

A. Yes, but that's - as I said, that doesn't change the fact that I myself always had this inner thing where I didn't quite fit, there was never enough, things weren't right, and I was always constantly in turmoil myself.

50 Q. When you said "I'll have help and support this time" was it the case that you no longer had that feeling of being alone?

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A. No, I've always had the feeling of being alone. I've always had the feeling of having to do things myself.

5 Q. Do you today accept that you weren't alone at all and that that was a false feeling of aloneness?

A. Yes, most - yeah, I can agree with that.

Q. Because you had plenty of family help and support close by and ready to assist?

10 A. Yes I did and it's also another concern and turmoil in me that I didn't verbally reach out and ask a lot for it. I attempted to do everything myself.

Q. But you knew that you could drop the baby over to your sister-in-law and did that often, didn't you?

15 A. At times, yes.

Q. So you did ask for help?

20 A. As I said, occasionally, but as I'm saying the - all of that support and all the friends and all of the access that I had didn't change the fact that in myself I felt like I couldn't ask, and in myself I was having turmoil and trouble with that.

Q. Now when we get to June of 1996 you say, "I'm ready this time and I know I'll have the help and support this time"?

25 A. Yes.

Q. Was it different people or the same people, you just--

A. No, it would have been the same core of people.

Q. You decided that this time you would ask?

30 A. This time I was deciding that I should try and convince myself that I needed to reach out more and be verbal and attempt to do so more myself.

Q. So when you say there, "When I think I'm going to lose control, like last times, I'll just hand baby over to someone else".

35 A. And as I said before, control for me was absolutely every, every aspect of my life, ranging from right down to how I looked, my weight, my dietary concerns, right down to whether my relationship with Craig was working. I felt like I had to fix everything. It was total control.

40 Q. Let's just return to this entry, "When I think I'm going to lose control, like last times, I'll just hand baby over". I want to put to you that you deliberately chose to write "last times" instead of "time" there because you were there referring to the three babies that you had lost.

45 A. Yes.

Q. You were referring there to having lost control with all of those babies?

A. No, I'm referring to my feeling that I lost control of the whole situation and my whole life, not just a bit of them.

50 Q. Wouldn't you agree that when you talk about "last times" you're talking

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about some specific occasions?

5 A. Yes, I am referring to losing control of the whole situation and my whole life, and the end result of that was the death of my children and I equated that to be the same. I've lost control of something, my children have left me. It was all an ongoing turmoil thing and constant.

Q. This entry is just about losing control in relation to your children I'd suggest to you?

10 A. Yes, I was the mother, they died, I must have lost control of something, and that's how I viewed and believed it to be.

Q. Well you lost control of yourself when you brought about their deaths.

A. I didn't bring about their deaths, so I didn't lose control in that fashion at all.

15 Q. You are talking here about losing control, which will be helped by handing the baby over to someone else.

20 A. I'm talking about if I felt like my world was unravelling and I was contemplating dark and doomy things where it possibly could, I had a permanent view by the time I'd written these diaries, that something bad was always going to happen, because I had nothing but proof of that my whole life, and as in giving the baby to someone else, yes that was a reference to leaving it with Craig because I knew Craig loved this child, and would look after the child, and his family support and everyone that was there, that also was there for me but I wasn't reaching out to them, would be successful and he would  
25 have the child that he wanted and life would continue.

Q. You said you knew Craig loved this child. The child wasn't born yet was she?

30 A. I never doubted, I never doubted that Craig would love his children.

Q. You were right, weren't you, he always loved them totally and completely?

A. Yes.

Q. And was always there to give you whatever help you asked him for?

35 A. Yes, and I lament the fact that I didn't ask, yes.

Q. He was always there to give you help that he volunteered without you having to ask?

40 A. Yes, I'm sure.

Q. Well he was, wasn't he?

A. Yes.

45 Q. At the end you go on to say, "getting back into my exercise after will help my state of mind and sleeping wherever possible as well", and that means doesn't it that after you have the baby, that you were planning to have Laura as it turned out, that the way you were going to do things differently was to get back into your exercise and sleep as much as you could, is that right?

50 A. Yes.

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Q. That would, you hoped, bring about a happier result this time?

5 A. Yes. In preparation for Laura I had also become quite obsessed with the thought that I myself whilst pregnant with her had to be the ultimate of health. I was continually - my diaries are full of me lamenting over my weight and diet, and the consequence that that may have on my unborn child. I had to make sure and control even that, that she would be as healthy as possible when born.

10 Q. Your constant references in your diaries to your weight were not in relation to the effect that it would have on your unborn child in the main, were they?

15 A. In this one, in these diaries in preparation for Laura, that was one of my main issues with it. There were three probably. One was the health in regards to Laura. The second was an overwhelming concern that I wasn't good enough to keep my marriage and relationship together, connected to how I looked. It was all scooting to the same thing. And the third was probably slight vanity. Any woman likes to go to the gym and try to look their best.

Q. And you wanted to look good at nights out with your friends as you've--

20 A. Yes.

Q. --you often said.

A. Yes.

Q. So that women would envy you? I think you say that in terms.

25 A. Yes, yeah.

Q. And that men would look at you?

30 A. Yes. The reference to men looking at me was my feelings of not quite getting the attention that I thought I should have had from my own husband.

Q. You're not suggesting that he was ever inattentive to you?

35 A. No, I'm, I'm merely trying to explain how much turmoil my whole mind and - would have been - was at the time. Everything I had to control and that included down to how I was looking and the reason, all different reasons as to why I wished to look that way.

Q. But you've mentioned now turmoil in your mind, and you mentioned earlier before lunch about being depressed on occasions.

40 A. Yes.

Q. You say in the diaries often, "I'm depressed today. I feel very depressed today."

A. Yes.

45 Q. Were you suffering from clinical depression?

A. I was never diagnosed with it, I never saw anybody about it.

Q. Was there any reason why you didn't mention it to your doctor?

50 A. I mentioned it to GPs as such, but didn't go to actual doctors as such in regards to depression. I was put on antidepressant medication at one time.

Q. When was that?

A. I don't remember, I can't recall exactly when.

5 Q. Was it close relative to the births or deaths of any of your children?

A. More than likely, the deaths more likely, yes, with Laura yes.

10 Q. What you say after your idea about getting back into exercise, sleeping as well as possible, you say back onto the entry of 18 June 1996, "I have learnt my lesson this time."

15 A. Yes. I was continually feeling like I'd failed. I was continually walking around feeling like I was just a failure as a mother, that everything had to be controlled, routines had to be set, it was all a matter of me trying to keep it all together and I had in my head decided that I had to have learnt lessons from my last three, so therefore Laura would be fine.

Q. Because you were trying to tell yourself that you have learnt your lesson not to be what you were with your previous three children?

20 A. I have learnt my lesson this time, it's a desperation statement. It's not, it's not because I thought I'd done all these - I believed I'd done a lot of mistakes and errors of judgment, and my inability and I decided I hadn't been a very good mother, and I haven't learnt my lesson this time is simply me telling myself I have to get this right.

25 Q. You knew you'd been a very good mother in some respects didn't you?

A. (No verbal reply)

Q. Your children were always well dressed and clean?

30 A. Yes.

Q. Your house was always clean and tidy?

A. Yes.

Q. And painted and decorated?

35 A. Yes.

Q. Your children were very well fed and nourished?

A. Yes.

40 Q. The only problem was the terrible things you did when you got stressed out wasn't it?

A. My belief that being stressed out is a terrible thing, yes.

Q. For you it became a terrible thing on five occasions didn't it?

45 A. No, not in the way that you're inferring it, no.

Q. That was the lesson. You were trying to psych yourself up in preparation for your fourth child, psyche yourself up that you had learnt your lesson at last and you wouldn't lose the next child the way the others had been lost?

50 A. No. I was merely saying my preparation for Laura was almost extreme in



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5 regards to tried to have the best and changing the home and the environment right down to how I was thinking about things. Trying to keep my relationship and my marriage as perfect as I thought it was supposed to be. And, "I have learnt my lesson" is simply me reaching out and going okay, whatever things went wrong in the past, they're not going to go wrong this time and it's all going to work out.

10 Q. Might we go to 22 June 1996, just a few pages on please? In that entry halfway down the page on the right-hand side of the screen you start talking about having watched a movie about schizophrenia wondering if you have a mild case of that?

A. I'm searching for answers there. I'm searching for anything. Sorry.

15 Q. You said, "I change moods really quickly."

A. I believed I used to do that, yes.

Q. That means doesn't it that your anger rises very quickly?

A. I'm talking more how I could get depressed so easily.

20 Q. But in the next line you say, "In my most dangerous mood I'm not nice to be around and always want to be anywhere but where I am."

A. As I said, dangerous mood equalled a black depression to me, where I always wanted just to be on my own.

25 Q. "Dangerous" suggests that it's a mood that might do someone else some harm doesn't it or even yourself some harm?

A. Yes. As in myself some harm, yes. It was also a depressive mood that I didn't wish to inflict on anyone else around me either. It's why I always wanted to be anywhere than where I was.

30 Q. When you say, "I'm not nice to be around", that's about the effect on other people of your mood isn't it?

A. Yes. Yes.

35 Q. Who were you thinking of?

A. Well Craig was my world at the time, so it was only Craig. I didn't want my mood affecting Craig.

40 Q. May we move forward please to 21 July 1996? Yes, thank you I think it's the second part. On the second page there, there's a few lines where you indicate that you don't think you're pregnant and on the second page, can you see that?

A. Yeah.

45 Q. "God I hope so, or else--" , you're not pregnant, "God I hope so--" as in, "I hope I'm not pregnant or else these tablets will cause brain damage." Did you mean brain damage to your unborn child?

A. Yes, I was concerned about any medications I took for any reason.

50 Q. Then you say, "Probably would be just desserts for me considering, but not

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fair for Craig at all."

A. Yes, I felt like I was a failure as a mother. I'd already lost three. So, I felt like a total failure and thought--

5 Q. The situation is there that you are concerned that whatever tablets you were taking at the time, you hope you're not pregnant because if you are the tablets you're taking may cause brain damage to the baby weren't you?

A. Yes.

10 Q. Not yourself?

A. No.

Q. Then you say, "Probably would be just desserts for me considering."

15 A. As in not having another baby straight away. I'm talking about delaying as in having a baby there.

Q. No, you're not. I would suggest to you that you are talking about it would be just desserts to you. You would deserve having a baby with brain damage after what you had already done to your other babies?

20 A. No, not at all. That's, that's two separate thoughts. One is about the medication and the concern I had for brain damage for an unborn child. The second is my criticising myself and saying could it be just desserts and I may not get to have another baby because I didn't have success in the last three.

25 Q. You see, you're not talking about - you're hoping not to be pregnant this time. But you're talking about the prospect of brain damage being caused to an unborn child that you might be carrying but hope you're not, right?

A. Yes.

30 Q. Then you say, "It's just desserts for me considering, but not fair for Craig at all."

A. Yeah, not fair for Craig if I don't have another child.

35 Q. Not fair for Craig to have a baby with brain damage, but just desserts for you because of what you had done to your other children isn't it?

40 A. No. I've just explained that they're two separate thoughts there. You, every time someone reads these diaries you keep extracting and dumping sentences together. And I'm trying to tell you that they're two separate thoughts. My thoughts are not always fluid when I'm writing these diaries. They're random at times.

Q. There's nothing random about this is there?

45 A. I wrote it. It's random. I've got two separate thoughts going on there. One is about the effects that it could have on a child and I am thinking to myself if I'm not pregnant that's good because damage could be done to a child if I take this medication. The second is I am being criticising myself, lamenting and saying I've just lost three. Maybe it's just desserts that I don't get to have a fourth one and then, the thought flips to that's not fair on Craig because he deserves to have another child.

50

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Q. Well, you're putting in a lot of extra phrases and clauses that aren't there.

A. No, I'm not. You've asked me to explain what's written and I'm explaining what's written.

5 Q. I'll ask you again; this passage is about the prospect of a baby being born brain damaged isn't it?

A. Yes.

10 Q. Straight after the words "brain damage" you say, "Probably would be just desserts for me considering." And I'm going to suggest to you that you were considering there, you were thinking there of what had happened to your child, Patrick?

15 A. No. I, I, I've, I've just explained that when I was writing in these diaries, I write random and spasmodically and thoughts can switch at any given moment into anything.

20 Q. You were acknowledging there the fact that you thought it would be just desserts for you to give birth to a baby with brain damage, because you had caused brain damage to your son, Patrick in the close call that he suffered in the early months of his life, months before he died?

A. No. That's incorrect. I'm not going to say anymore on that because I've said it three times exactly what I meant when I wrote that.

25 Q. It's not a matter for you, it's a matter for his Honour to stop me if--

A. Okay, I understand that but I'm not sure how much more I can explain this to everybody that there are three separate thoughts going on there and they're random.

30 Q. One final thing; you didn't think it would be fair for Craig to have a brain damaged baby because he hadn't done anything to Patrick or the other children but you deserved it and you knew it?

35 A. No, the reference to "not fair at all to Craig" is simply that I thought he deserved - he should have had another child. He would have been a good dad and it wouldn't have been fair for him to have not been able to have another child.

Q. That's not true is it?

A. That is true and that's all I'll say.

40 Q. Then you say further down the page,

45 "I truly deserve anything life throws at me, so my philosophy is, whatever happens, happens and it's the way it shall be. I'm going to try my hardest this time. If anything does happen, I will just leave and try to let Craig go in peace and start again. No, I wouldn't. I'm not that brave."

50 Now, that, in this diary that you wrote for yourself to vent, I'm suggesting to you that you were showing an insight and some kind of remorse for what you had done, that you deserve anything life throws at you after what you'd done with

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your other children?

A. Incorrect. I felt that I deserved whatever bad things were happening in my life because of how much of a failure and - sorry--

5 Q. I'm sorry, I missed your last words, when you're ready? Are you able to repeat your answer?

10 MORRIS SC: Your Honour, the witness may need a break to compose herself. If she perhaps could have a glass of water and just a moment to compose herself?

JUDICIAL OFFICER: Yes, we'll adjourn for just a couple of minutes.

SHORT ADJOURNMENT

15 JUDICIAL OFFICER: Yes, Ms Cunneen.

CUNNEEN SC

20 Q. Just returning to that last entry from 21 July 1996, "I'm going to try my hardest this time" and then over the page, "If anything does happen, I'll just leave and try to let Craig go in peace and start again", what you mean there is this right, is although you'll try hard, if your next baby dies, you'll just leave and let Craig go in peace and start again?

25 A. Yes.

Q. Because it doesn't look like you're there talking about leaving Craig with the baby does it, "If anything does happen, I'll just leave and try to let Craig go in peace and start again"?

30 A. No, you're right.

Q. So what you mean by "If anything does happen, you mean the baby dying?

35 A. Yes, if I was - if anything had happened and we weren't successful at being parents again then yes I was prepared to leave Craig so that he could.

Q. So "I'm going to try my hardest this time" means that you are going to try hard not to lose control and kill the baby?

40 A. No, it is, I just had a belief that I had to try my best and succeed, I was determined to succeed.

Q. You knew what you had done before was wrong?

A. I didn't do anything before, I don't know why any of my children died, but I didn't kill them.

45 Q. You did kill them all, didn't you?

A. No, no I didn't.

50 Q. And your references throughout both of these books, don't point in any other direction but that you killed them and you knew you had, but you wanted to try again and do better?

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A. No I didn't kill my children and these diaries are a record of just how depressed and how much trouble I was having and all of the issues that go with that.

5 Q. Well there's a lot of positive material in these--

A. There's quite a bit.

Q. --diaries, isn't there?

A. Yes there is quite a bit.

10

Q. Many good times and things going very well through these diaries?

A. Yes but--

15

Q. And certainly you don't dwell in these diaries about how sad you are that any of your children are no longer with you, do you?

A. I always thought of my children and I've always been sad at their passing and will always suffer grief for that, but you're correct, a lot of it is not mentioned in these diaries, because a lot of the focus on these last few diaries is in the preparation for Laura.

20

Q. May we go to 6 August 1996 and I will have to ask you to help me with a word I can't decipher, on the page on the right of the screen, "Is it a sign, don't bother with having a child, would be just desserts for me if it is, exactly what I deserve for my", and I'm sorry I don't understand the next word "of life"?

25

A. Under-reacting I think it says.

Q. Your what I'm sorry?

A. Under-reacting.

30

Q. "Under-reacting of life", what does that mean may I ask?

A. My view that I hadn't reacted the right way, my belief that after each child died that I must have reacted differently, faster, should I have done this, should I have done that, that's a hypothetical as to all the things that I was thinking at the time.

35

Q. How do you spell that word, under-reacting is it?

A. U-N-D-E-R R-E - but I think I forgot the A, C-T-I-N-G.

40

Q. While we're on that, sorry, "Would be just desserts for me if it is", again you're saying that you really don't deserve to be - to have another child because of what you'd done in your life?

A. I'm thinking I didn't deserve the happiness and I didn't deserve the chance because I'd failed and was unsuccessful before.

45

Q. Can we just move on to the next page please. There's another word there I'm afraid I have been unable to decipher, "With summer coming, starting to doubt whether ruining my body with a kid is a good idea, worry that I'll be" and I don't know the next word, would you be able to tell us what that is please?

A. Undesirable I think.

50

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Q. "Worried that I'll be undesirable by any man's standard after I've had it", thank you for that. So in some respects you weren't, you had mixed feelings about having a further child?

A. Yes.

5

Q. 26 August 1996 again you say, that you hope you're pregnant, "I feel the time would be right now for us" that's on the right-hand side page about in the middle of the page?

A. (No verbal reply)

10

Q. You express numerous times through this book, the idea that now things would be right because you have become more mature, at one stage you say you're almost 30 and that now is a better time to have children for you and Craig?

15

A. Yes, it was also that we're in a good, I thought we were in good, trying to keep our relationship and our marriage in a good way, I also thought that we had a lovely home, the environment was right and I also thought that financially we were in a good position.

20

Q. And you also thought didn't you that you may have matured enough not to lose it, not to snap your cog, not to get angry and do terrible things with your new baby?

A. Yes I agree with that.

25

Q. You were intent on being different this time?

A. Yes, because I believed that that was what I had to do, that's what was supposed to be--

30

Q. You knew it was in your control didn't you?

A. Sorry.

Q. You knew it was in your control?

A. I took everything as being in my control yes.

35

Q. And it was indeed in your control whether your children, health as they were, lived or died wasn't it?

A. No I'm not going to go to say that far, I don't, as I said I don't know why my children died, that's out of my control.

40

Q. I'm suggesting to you that because you knew it was within your control, that is why you continue to express through this book, that the time is finally here, that you could--

45

A. I was convincing myself that the time was right and that it should happen and convincing myself that we couldn't get a better time, with the correlation of everything else that was going on, for us to have another child.

Q. You had determined to do better?

A. Yes.

50

Q. Just briefly, I know you've been through this one, the visit to the

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clairvoyant, which is I think in the entry for 26 August 1996, on the next page please - I was just going to ask you about this reference to Sarah, accepting, "It's all right she accepts and she's happy there, I've always felt her strongly and now I know why, she is with me", you have underlined the "is"?

5 A. Yes.

Q. And that's because the clairvoyant reassured you that she could see the children around you?

10 A. She told me she could see children around me and I assumed that meant mine.

Q. So that's why you thought, Sarah is with me?

A. Yes.

15 Q. That's why I feel that she's here?

A. Correct, yes.

Q. And you said that "It's all right, she accepts and she's happy there", she has even grown to accept and be happy despite the fact that she knows that her mother took her life?

20

A. No that's, I'm looking for peace there, if you've lost your child, you want peace, you also want to know that your children are resting in peace, you want them safe, you want them secure in wherever you've you know, interred them and seeing the clairvoyant and her saying that she saw children around me and they seemed happy, I took that as meaning mine and I took that and got peace from that, as in Sarah must be happy and that also helped me refocus my attention then on the child I was about to have.

25

Q. Because you said, "I seem content now because I now know that even though I'm responsible, it's all right, she accepts and she's happy there"?

30

A. Because I felt responsible, I was their mother and I failed.

Q. You were responsible because you were her mother who had smothered her to death?

35

A. No.

Q. But this reassured you that she accepted that and was happy anyway?

A. No, responsible as in I was their mother, I failed and it brought me peace when I spoke to that clairvoyant to know that her spirit was peaceful and that she was happy.

40

Q. Yes and you felt--

A. It's as simple as that.

45 Q. --that she'd forgiven you, that's right isn't it?

A. Forgiveness had nothing to do with it.

Q. Well she accepted it?

A. Correct.

50

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CUNNEEN SC: Is that a convenient time, your Honour?

JUDICIAL OFFICER: Yes. We'll adjourn until 10am.

5 <THE WITNESS WITHDREW

MORRIS SC: Your Honour just before we rise, I'm sorry I neglected to raise this. As I understand it, some of the original diaries have been produced under a notice to produce on summons.

10

JUDICIAL OFFICER: Yes.

MORRIS SC: Your Honour, I'd like the opportunity either this afternoon or tomorrow morning first thing, to examine the originals.

15

JUDICIAL OFFICER: Yes, you can have access, certainly.

MORRIS SC: Yes, thank you.

20

JUDICIAL OFFICER: That's no problem.

ADJOURNED PART HEARD TO TUESDAY 30 APRIL 2019