

1982/457 S.S.

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THE HIGH COURT

STATE SIDE

IN THE MATTER OF THE HABEAS CORPUS ACT 1782 AND
IN THE MATTER OF THE GUARDIANSHIP OF INFANTS ACT 1964 AND
IN THE MATTER OF FIONA MARY MURPHY, AN INFANT

BETWEEN:

E M

Prosecutrix

and

M AND M M

Respondents

JUDGMENT of Mr. Justice Murphy delivered the 2nd day of December 1982

These proceedings were brought by way of Habeas Corpus by
Miss Evelyn M the natural mother of the above-named Fiona
Mary M . It follows that the Prosecutrix complains, implicitly
if not explicitly, that Fiona is being detained unlawfully by the
Respondents, Edward M and M M in whose custody
Fiona is and has been since shortly after her birth in September 1979.

On the 20th August 1982 the matter came before Miss Justice Carroll who made an order in accordance with Article 40(4)(2) of the Constitution that the Respondents should produce Fiona before the Court on the date named therein. As a result of subsequent orders of the Court the Respondents were dispensed from the necessity of producing the infant in Court and the matter was subsequently listed for plenary hearing in January of next year. Due to a misunderstanding by the solicitors on behalf of one or other of the parties it was understood that the case would be heard on the 18th November of this year and as the parties attended with their witnesses on that date the learned President of the High Court arranged that the matter would be heard by me on that date.

At the commencement of the hearing Counsel on behalf of the Respondents indicated that proceedings had been commenced by the Respondents with a view to having the infant taken into wardship and I was invited to deal with the matter as if such proceedings were properly before me.

In the particular circumstances of the case I did not feel that it was necessary to take that course even if the learned President had delegated to me the appropriate jurisdiction in the wardship matter.

Counsel on behalf of the Prosecutrix conceded that the right of the Prosecutrix to relief could not be determined solely by reference to her legal rights and that in fact and in law the determination of the question of custody necessarily turned upon the welfare of the infant. That concession was made subject to the qualification that it was contended - in my view rightly - on behalf of the Prosecutrix that the presumption was that the welfare of the infant would be best achieved by her being placed in the custody of her natural mother. Again, it was expressly conceded for the purposes of the case that the Respondents had sufficient locus standi to argue not only that the infant was not being unlawfully detained but the entire issue as to the welfare of the infant. In those exceptional circumstances I decided that it was proper to proceed with the hearing of the case but I feel it proper to record that I do not necessarily accept that the procedure adopted was correct or appropriate to a case of this nature and it must not be treated as creating a precedent which may be followed in other cases.

Whilst the decision of the Supreme Court in G. v. An Bord Uchtala 1980 I.R. 50 is clearly distinguishable from the present case in as

much as the Plaintiff there - unlike the Prosecutrix in the present case - had invoked the machinery of the Adoption Act 1952, there are certain statements in relation to the rights of unmarried mothers and their children provided in that case which are relevant and apposite to the present proceedings. In particular I would refer to a passage from the judgment of Henchy, J., (at page 87) where he says:-

"In the normal state of things, the effectuation of the constitutional rights of an illegitimate child will require that the mother be given custody, particularly in the case of a very young child. In such a case the custody has a constitutional footing in so far as it satisfied a constitutional right of the child; while the mother's own right to custody has a legal, as distinct from a constitutional, foundation. In such circumstances, the mother's legal right to custody must always yield

"to the constitutional rights of the child, so that the mother's claim to custody will not be given recognition if (because of factors such as physical incapacity, mental illness, personality defect, chronic alcoholism, drug addiction, moral depravity or dereliction of parental duty) the mother's custody would be incompatible with the child's constitutional rights."

I was also referred to the following unreported decisions, namely, S. .v. The Eastern Health Board and others (28th February 1979); J..v. D. and others (a decision of the Supreme Court dated the 22nd day of June 1977); Lynch (a minor) (a decision of the President dated the 2nd March 1978); O'N. .v. O'B. (a decision of the President dated the 22nd January 1980) and P.W. .v. A.W. (a decision of Mr. Justice Ellis dated the 21st April 1980).

It seems to me that these decisions (taken in conjunction with

the decision of the majority of the Supreme Court in G. .v. An Bord Uchtala) are authority for the following propositions:-

1. That the right of a mother to custody of her illegitimate child is a constitutional right.
2. That the illegitimate child has an equal right with legitimate children to the constitutional protection of its personal rights of life, to be fed, to be protected, to be reared and educated.
3. The constitutional right of a parent (and a fortiori the legislative right) to custody of a legitimate or illegitimate child may be lost by surrender or abandonment of those rights.
4. A surrender or abandonment of such rights may be established by conduct but only where (as the learned President pointed out in S. .v. The Eastern Health Board) "it is such as to warrant the clear and unambiguous inference that such was her fully informed free and willing intention".

In the particular circumstances of this case it seems to me that the most helpful starting point is to consider the welfare of the infant involved deriving from her constitutional rights which are, of

necessity having regard to her age, inalienable. However, I would approach that exercise by presuming (as Mr. Justice Henchy did in G. v. An Bord Uchtala) that the effectuation of the constitutional rights of the illegitimate child would ordinarily require that the mother be given custody.

The facts of this case are as follows. The Prosecutrix (Evelyn) is one of five children of the Respondents. She is now 23 years of age. Her father is self employed and his financial circumstances may be indicated by stating that he has an annual income in the order £10,000.

In May 1979 the Respondents were informed by Evelyn that she believed she was pregnant and that the father was her boyfriend, a Mr. X. The Respondents admitted that they were disappointed that this should have happened but I am quite satisfied that they were in no way critical of their daughter. On the contrary, they were compassionate, sympathetic and supportive in both emotional and practical terms. Indeed Evelyn fully recognises that this was so and if she has any minor complaints at all it is to the effect that her parents might have consulted her more fully with regard to the

arrangements made on her behalf in those difficult circumstances.

Mrs. M: immediately arranged for Evelyn to attend the family doctor who confirmed that Evelyn was some four months pregnant. A meeting was then arranged between Evelyn, both of her parents and Mr. X. There is some controversy as to what decisions were made at this meeting. Evelyn's evidence is to the effect that she was upset and took little part in the debate. It seems clear that the question of adoption was discussed and that this course was favoured by Mr. X. Mrs. M says that she indicated that she would be willing to adopt the unborn child herself and to bring it up as her own and that, in effect, this arrangement was agreed upon. Accepting as I do the complete veracity of each of the Respondents I am sure that some such conversation took place. On the other hand I am clear that none of the parties believed that they were making a final decision and indeed, this would have been quite inappropriate partly having regard to Evelyn's somewhat distressed condition and partly the uncertainty as to the manner in which the situation - and in particular the relationship between Evelyn and Mr. X. - might evolve. In any event it is common case that no further discussion took place in

relation to that aspect of the matter prior to the birth of Fiona on the 18th September 1979.

Mrs. M. made arrangements for her daughter to travel to Dublin in June 1979 and take up residence in an institution in Navan Road until the birth of her daughter, the infant in question Fiona, on the 18th September 1979. Prior to the birth of her child Evelyn was visited by her parents and other members of her family. Subsequent to the birth Mrs. M. visited her daughter and - according to Evelyn's evidence - said at that stage that the infant was a beautiful child and should not be given out in adoption. In any event Evelyn returned to her home shortly after the birth. The infant was fostered out for some six weeks but her intended return to the home was delayed further as a result of the illness of Mrs. M. It was in December 1979 that Fiona was brought to the Respondents' home.

The evidence does establish clearly that Mr. and Mrs. M looked after Fiona as if she was their own child. She slept in a cot in their room and clearly it was Mrs. M who took the immediate responsibility for her day to day needs. In fact Evelyn

returned to her previous lifestyle as a young girl involving herself in the usual pastimes of a girl of her age. There was some element of conflict in the evidence as to whether Evelyn was discouraged by her parents from playing a more significant role in the upbringing of her infant daughter. I am satisfied that there was nothing oppressive in the conduct of her parents in that regard. Clearly, an understanding had evolved that it would be represented publicly that the infant was the adopted child of its grandparents so that any significant overt involvement by Evelyn with her daughter would be likely to prejudice the public acceptance of this presentation of the facts. The Respondents gave evidence to the effect that this device or charade was adopted primarily in ease of Evelyn and to avoid the embarrassment which she would otherwise suffer particularly with her immediate circle of friends. At the same time the arrangement ensured the welfare of the infant. Again, I fully accept that this was the case.

In fact, Evelyn resumed her relationship with Mr. X. Let it be said that she did - in my view very properly - discuss this step with her parents knowing the objection which they and in particular

her father had to Mr. X. They gave a reluctant approval. Unhappily this relationship resulted in a second pregnancy. In June 1981 Evelyn informed her mother of that fact. Evelyn's evidence is to the effect that "they hit the roof". Mrs. M herself says that she went berserk. In fact Mrs. M's immediate reaction was to phone Mr. X. though it was late in the evening. It seems to me that reactions of disappointment, concern and even anger were entirely understandable. What is much more important is that almost immediately Mrs. M - with the assistance of her husband - calmed down, as she says herself, and there were no further recriminations. Instead the parents once more showed the same compassion and sympathy as well as the same practical efficiency as they had in relation to the previous pregnancy. Mrs. Murphy did indicate that it would be impracticable to bring a second infant into the house but apart from that set about canvassing the options available in these very unfortunate circumstances. It was she who made contact with an organisation known as "The Life Group" and ascertained particulars of a variety of arrangements which could be adopted by which Evelyn could give birth to her second child without public embarrassment.

Evelyn, herself, made it clear that she would prefer not to return to Navan Road. It is Evelyn's evidence that her mother selected the arrangement under which the baby would be born in England rather than in Ireland but whether that is so or not Evelyn is quite clear that she agreed to that arrangement.

It is not without significance that Mrs. Murphy was anxious that Evelyn would remain in the household over Christmas 1981 notwithstanding the fact that her pregnancy was becoming more obvious. In January 1982 Mrs. Murphy made arrangements to travel to London with her daughter and put her on a coach for Northampton where she was to be received by the Life organisation. There she resided in a house with three other unmarried girls all of whom were pregnant. Evelyn came under the immediate care of a Mrs. Watkins who was a member of the Life organisation and had very considerable experience of dealing with girls in Evelyn's situation. Mrs. Watkins gave evidence before me and again I may say that in addition to establishing herself as a witness of complete credibility she is obviously a person of immense humanity and concern dedicated to the very charitable task in which she is involved. Indeed, I am satisfied

that it is very largely due to her good work that Evelyn has not merely survived but recovered to a very large extent - if not fully - from the traumatic experiences which she has endured.

In March 1982 Evelyn's second child - Sinead - was born. Evelyn has made the decision to make her home in Northampton. Whilst this is a courageous decision, necessarily involving some element of risk, it may be seen, in my view, as a growing sense of maturity and a determination by Evelyn to stand on her own two feet. She applied for and in October of this year was allocated a three bedroomed house by the local authority in Northampton. She has social welfare assistance in the order of £30 per week over and above the house. This will increase to £37 in January 1983 and by a further £10 if she obtains custody of Fiona.

During her stay in Northampton Evelyn was in communication with her parents in Cork by letter and by telephone. She returned to visit her parents on the 11th August 1982. Almost immediately after her return she made it clear to her parents that she wished to have custody of Fiona and bring her back to Northampton. She did, however, indicate that it would be October before she would take

custody. Again there is some measure of conflict of evidence between the parties, not so much as to what took place, but rather with regard to matters of emphasis and understanding. Mrs. Murphy, herself, expresses her reaction by saying that when Evelyn said that she would be taking the child back to England that she, Mrs. M. said, "You will in your eye". Mr. M. was equally negative and effectively gave reasons why such a course was impracticable if not wholly out of the question. In this regard Evelyn's complaint is very much to the effect that her parents did not give her an opportunity of speaking or alternatively did not listen to what she had to say. In fact further discussions did take place in the days immediately following Evelyn's return but when she was under the impression that her parents would not agree to the change in custody she sought legal advice. She was advised that she was entitled to custody of the child and it was her evidence that she was advised that she was entitled to remove the child from her parents' home. There was considerable debate as to whether Evelyn attempted to remove the child on Monday the 16th August or was planning to do so. It seems to me that that debate was wholly irrelevant in as much as

Evelyn unquestionably attempted to "snatch", as she described it herself, the child the following morning. For that purpose she locked her brother in his bedroom and attempted to remove Fiona from her cot in Mrs. M. 's room. This led to a very unpleasant incident in which Evelyn and her mother struggled for the possession of the child who was understandably screaming at that stage. Indeed, there was evidence to suggest that this incident upset Fiona for some period afterwards.

Subsequently, Evelyn sought the assistance of the Gardai to recover her child and again, I may say, in passing, that the Guards appeared to have acted not merely with propriety but also with compassion. The particular member of the Guards who attended with Evelyn at the Respondents' house explained that Evelyn was not entitled to remove the child at that stage but the Guards, themselves, put Evelyn in touch with an appropriate legal agency. However, arising out of this unhappy incident it is significant to note that Mr. M. , with the assistance of his son-in-law searched Cork for his daughter and called on the houses of her friends with a view to finding her. He was clearly concerned about her welfare and what

action she might take in the stressful circumstances. He eventually traced her to a house of one of her friends and spoke to her sympathetically and understandingly in his motor car on that occasion. He urged Evelyn to contact her mother to allay her concern too. Again, it is pleasing to record that Evelyn accepted that advice and promptly contacted her mother by phone and subsequently returned to the family home where she stayed until her departure for Northampton.

Perhaps the final matter of fact to be noted is the institution of these proceedings. Again, the Respondents were distressed by the fact that their daughter brought proceedings against them. I believe the Respondents were distressed that it should be alleged that they had acted wrongly in any way but more particularly they were concerned that these proceedings should raise a fence or barrier between themselves and their daughter.

In addition to hearing the evidence of Mrs. Watkins I had the advantage of hearing evidence from Dr. McQuaid and Dr. O'Donnell, each of whom is a distinguished psychiatrist. Mrs. Watkins' evidence may be summarised by saying that she counselled Evelyn for two or more

hours every Monday night from shortly after her arrival in Northampton and that she arrived at a stage where she was satisfied that Evelyn had overcome her problems and was fully capable of coping with her situation. She was in a position to confirm the situation with regard to Evelyn's accommodation and the friendships which she had formed in Northampton. Dr. O'Donnell interviewed Evelyn in the company of Fiona: she also interviewed Mr. and Mrs. M in the company of Fiona and then interviewed all of the parties together. Dr. O'Donnell was satisfied that Evelyn was very good with the baby (Fiona): that there was a good inter-reaction between Evelyn and Fiona: that she had matured. She described Evelyn as being competent, stable, and verbal. When she was asked whether Evelyn required further medical attention to work out any residual problems Dr. O'Donnell said that Evelyn was stable and that she had worked through her problems. Dr. O'Donnell did not envisage Evelyn requiring further medical advice or counselling assistance.

Dr. O'Donnell - like all of the other witnesses - was satisfied that Fiona herself was a happy, attractive child who had been well cared for and who was, by implication, a tribute to Mr. and Mrs. M

in whose care she had been. It was Dr. O'Donnell's opinion that Fiona would make the adjustment to living in Northampton easily and it was Dr. O'Donnell's view that the transition should be made without delay. At the present time Fiona was relaxed and by reason of her age lacked any idea of time or location. It was Dr. O'Donnell's view that the change could and should be made now and that she did not foresee any danger arising to Fiona as a result of the change. Dr. O'Donnell emphasised the fact that the child would be with its mother who was no stranger to it and would have the company of its sister. A change at a later date would involve greater difficulties.

Dr. McQuaid analysed the needs and capabilities of the three protagonists. Whilst he was in full agreement that Fiona was a healthy, happy baby he emphasised the importance which he attached to the bonds which Fiona had with her surrogate parents. She calls them and always has "Mummy and Daddy". He explained that it was not the genetic relationship which was significant in providing the continuity required by the child but the availability of the parent figures. It was his view that the removal of Fiona from the custody of the grand-parents to the natural mother would carry risks. He saw

it as a "vulnerable situation". In relation to Evelyn it was Dr. McQuaid's view that she was in need of assistance in working through the conflict which she was experiencing. It was his view that Evelyn was seeking to establish herself independently from her own family and to that end had moved to Northampton: Evelyn was going through the phase in life where she was moving from the last stage of adolescence to the first stage of adulthood: that this stage was complicated by her double parenthood: the issue with regard to Fiona was a further unresolved conflict between her parents and herself which was causing distress to all parties.

Now it is common case between all of the interested parties and of the expert witnesses that Fiona must be told sooner or later that Evelyn is her mother. Likewise it is agreed that Fiona should, at some stage, be entrusted to Evelyn. The difference of opinion is to when and how this transition should be effected in Fiona's best interests.

There is no doubt whatever but that Fiona has been well cared for by her grand-parents. In my view the conduct of Mr. and Mrs. K to their daughter and their grand-daughter has been exemplary.

As I have already said their concern and compassion for their daughter and their interest in and dedication for their granddaughter as well as their practical and efficient help and support provides a standard to which few parents would aspire. If the custody of a child was to be awarded as a prize for good conduct - and it has been pointed out again and again that this is not the case - it would be difficult to reject their claim. I may say that it was argued by Counsel on behalf of Evelyn that in fact the Respondents acted immaturely in rejecting in the first instance Evelyn's right to take custody of Fiona or in failing to give her a fuller hearing in relation to her claim in that behalf. Counsel contended that in acting as they had done in relation to Fiona and in making arrangements with regard to Evelyn's move to Northampton they had merely discharged their christian duty to their daughter. That being so - the argument ran - they should have recognised the obvious and reasonable claim of their daughter to custody of the infant instead of raising objections to that course. In my view this is to impose a standard of heroic virtue in parents whose patience had been sorely tried. Furthermore, and on a more practical level, it seems to me that a

ready response by the parents to the claims of their daughter to custody would have been irresponsible. They knew their daughter and they knew the mistakes which she had made in the immediate past. They knew little of her life in Northampton and would rightly view with concern the serious responsibilities which Evelyn was proposing to undertake.

Whatever the immediate reaction of Mr. and Mrs. M. to their daughter's proposal their evidence before me was clear and unequivocal. Their primary concern is the welfare of Fiona and with that the restoration of a happy and harmonious relationship with their daughter Evelyn to whom they are deeply attached. That being so they made it clear that they would facilitate the change of custody to Evelyn provided that this course was in Fiona's best interests. It seems to me that this is the culmination of the magnanimous and affectionate attitude which they have adopted throughout.

Dr. McQuaid takes the view that the change in custody should take place in about five years time and that it should be preceded by counselling for both Evelyn and her parents as well as a careful

introduction of Fiona to the changed circumstances. Clearly this view is in sharp conflict with the opinion expressed by Dr. O'Donnell. I did, however, invite Dr. McQuaid's views on a proposal that the transfer in custody should take place in some six months hence preceded by visits from Evelyn to her mother and vice versa and that the actual change in custody would be effected by Mrs. Murphy bringing the child to Northampton and remaining with her daughter and grand-daughter for some weeks. I think it may be said that Dr. McQuaid saw this arrangement as having some merits although clearly it fell short of the course which he preferred.

As to Evelyn herself. In addition to the expert and other evidence which I have heard I have had the opportunity of hearing Evelyn herself giving evidence and forming some view as to her character. She is still a young woman. She has undergone several traumatic experiences. She became an unmarried mother in 1979 and again in 1982. She was cruelly neglected by her irresponsible boyfriend. She is living in a society where she has no roots. She has no professional or vocational qualification. She is wholly dependant upon State welfare for her accommodation and her financial

support. She has had differences with her own parents, including of course, the stress of these proceedings. These factors and the view which Dr. McQuaid takes of them and their impact on Evelyn are necessarily a matter of concern for me. On the other hand I am greatly impressed by the progress which Evelyn appears to have made since she went to live in England. Mrs. Watkins who has very considerable experience of people in Evelyn's situation is satisfied that Evelyn has overcome her problems and is coping with her emotional and domestic situation in a competent fashion. She has made friends in the locality and she has created a secure environment. Again, Dr. O'Donnell's view is that Evelyn is stable and capable. Notwithstanding the inauspicious background and the mistakes which she made and the problems in the past I was impressed by the forthright and frank manner in which Evelyn gave her evidence and the independence which she has established for herself. Of necessity, this has as its corollary a degree of assertiveness which any parent must find somewhat surprising in the first instance. Mr. M had urged Evelyn to return to Ireland and make her home here on the basis that she could obtain more support from her family and perhaps institute proceedings

against Mr. X. for maintenance of the children. Whilst, I see myself the force of that argument I think that events may well have proved Evelyn correct in her courageous decision to strike out on her own and in particular to disclaim any support from the father of her children. Whatever question may arise in relation to Evelyn's maturity no doubt has been cast upon her love and concern for her two children. Indeed I am sure that these are qualities which she has inherited in large measure from her own devoted parents.

As I have already said all parties recognise that sooner or later Evelyn must be acknowledged as the mother of Fiona in Fiona's best interests. With this acknowledgement custody must follow - again in Fiona's interests - as otherwise Fiona might feel that her true mother had rejected her. The only question then is how best in the present circumstances this transition should be made. Unfortunately I am placed in the position that the expert witnesses are not in agreement. To the extent that I must prefer the evidence of one witness as against another I prefer the solution advocated by Dr. O'Donnell on the basis of the evidence which she gave. Basically it is her opinion that the sooner the change is made the better.

Subject to the important qualifications which I indicate hereafter I accept that view, though in doing so I do not for one moment cast doubt upon the integrity of Dr. McQuaid or the value of the opinions which he expressed. In the same context I bear in mind the presumption of law that the constitutional rights of the infant to welfare are ordinarily best served by entrusting the custody of the child to its natural mother. Again I recognise that the implementation of the solution advocated by Dr. McQuaid would create difficult procedural problems involving the supervision of Fiona in both Ireland and England over a period of nearly five years. As there are obvious difficulties in enforcing the orders of this Court on persons resident outside the jurisdiction it would be, in any event, difficult to implement in full the proposals which Dr. McQuaid adumbrated.

As I have indicated at the outset I have approached this matter from the standpoint of the welfare of Fiona. In so far as the constitutional rights of Evelyn are involved I must make it clear that in my view that the extent to which she agreed to or acquiesced in a proposal made by her mother at the meeting in May of 1979 with

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Mr. X that the unborn child would be adopted by the Respondents this was not intended or indeed understood as a full and free agreement to abandon her rights. Indeed, even if she had expressly so agreed I believe that her circumstances at the time would have deprived her agreement of that free consent which is fundamental to the validity of such a bargain. Furthermore whilst I accept that Evelyn willingly adopted a minor role in the care of Fiona in the period from December 1979 to January 1982 and permitted her mother to carry out the domestic and maternal duties in relation to the child within the same household I do not accept that her actions in that regard warrant with the clarity and unambiguity which is necessary for that purpose an inference that she intended to surrender or abandon custody in favour of her parents.

To the best of my judgment Evelyn is now capable and confident of looking after her daughter Fiona and it is in Fiona's overall best interests, and in particular her long-term interests, that she should be in her mother's custody even though this does mean foresaking a household in which she has received every care and attention. That being so I conclude that it would be better that the change should be

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made in the very near future before Fiona puts down additional roots by attending schools and making further friendships here. However, as there is evidence that difficulties might lie ahead and because of my duty to ensure, as far as possible, the welfare of the child I will make the order for custody subject to a number of conditions as follows:-

1. The order for custody will not become operative until the 1st May 1983. (The operative date).
2. Upon Evelyn making herself available for counselling in relation to any problems arising from Mrs. Watkins or such of her associates as she, Mrs. Watkins, nominates.
3. On Evelyn agreeing - as I am sure she will - to invite her parents and each of them to visit her at her home in Northampton before the operative date.
4. On Evelyn inviting her mother in particular to travel to Northampton with Fiona and to stay with her for at least two weeks whilst the transfer in custody is effected.
5. On confirmation being obtained from Mrs. Watkins that she or a

person experienced in social work nominated by her will visit Evelyn in her home at least once a month between now and the operative date and at least once every two months for the period thereafter to December 1984.

6. On Mrs. Watkins confirming in writing to the Court that she or a person experienced in social work will report to the Registrar of this Court in December 1983 and again in December 1984 on the circumstances and welfare of Evelyn and her children or on any other occasion if and when she has reason to be concerned about the welfare of either Evelyn or the children.
7. On Evelyn giving to the Court a solemn undertaking to the following effect:-
 - (a) that she will facilitate Mrs. Watkins or the social worker nominated by her as aforesaid in carrying out the functions mentioned above.
 - (b) to facilitate as far as practicable access by her parents to Fiona and Sinead.
 - (c) to return Fiona to the jurisdiction of this Court if and when required by this Court so to do.

(d) to notify the Registrar of the High Court (Family Division) of any change from her present address in Northampton.

I have also considered the desirability of imposing a term on the parties that they should reconcile whatever differences are still outstanding between them. Whilst I think that that might not be practicable I would take the liberty of urging such a reconciliation. It is patently clear that the love and affection of the Respondents for their daughter is undiminished. Likewise I am satisfied that this deep affection is reciprocated. No doubt the existence of these proceedings and, indeed, the mere fact of Evelyn's growing independence has created a barrier which I trust can be removed in the immediate future. I urge this course because I am convinced it would be in the interests of the adults and that the attainment or restoration of their happiness will necessarily redound to the advantage and benefit of Fiona - the party with whom I am primarily concerned.

Francis D. Murphy
20/12/82