FIRST DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

WEDNESDAY, 29th MAY, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Hon. Lord Mackay of Drumadoon), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayer (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.J. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, solicitor, Edinburgh, for the Central Police Force;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Glasgow, for the Scottish Police Federation.

.....

I N D E X.

Page.

JAMES LISTER,
Examined by the Lord Advocate..... 8

EILEEN HARRILD,
Examined by the Lord Advocate..... 10

STATEMENT OF MARY BLAKE..... 24

MALCOLM RODGER CHISHOLM,
Examined by the Lord Advocate..... 28

Cross-examined by Mr. Gibb..... 59

Re-examined by the Lord Advocate..... 59

DAVID JOHN GOULD,
Examined by the Lord Advocate..... 60
Cross-examined by Mr. Campbell..... 60

ANTHONY BUSUTTIL,
Examined by the Lord Advocate..... 66

HOSIE TEVADIA,
Examined by the Lord Advocate..... 77

JACK BEATTIE,
Examined by the Lord Advocate..... 79
Cross-examined by Mr. Campbell..... 82

MICHAEL FLEMING SMITH,
Examined by the Lord Advocate..... 84

EDWARD GOLDIE,
Examined by the Lord Advocate..... 85

LESLIE CAMPBELL GOW HAIRE,
Examined by the Lord Advocate..... 88

STATEMENT OF GEORGE ANDERSON..... 90

MICHAEL BAXTER,
Examined by the Lord Advocate..... 91

JOHN OGG,
Examined by Mr. Bonomy..... 94

WEDNESDAY, 29th MAY, 1996.

FIRST DAY.

LORD CULLEN: Ladies and gentlemen, this is the opening of the Dunblane Public Inquiry. The first thing I would like to do is, for the record make sure who represents whom this morning, apart from the Lord Advocate and the counsel appearing with him. Mr. Campbell, there may have been some changes since you addressed me four weeks ago.

MR. C.M. CAMPBELL, Q.C.: Sir, my name is Colin Campbell, Q.C. I appear with Miss Laura Dunlop, Advocate, instructed by Levy & McRae, solicitors. I appear on behalf of the families of the deceased children, the families of the injured children and the families of the children absent from the class on the day in question. I also appear for Mrs. Harrild and Mrs. Blake.

MR. A.T.F. GIBB: Sir, my name is Andrew Gibb, solicitor, and I appear on behalf of the 23 members of the teaching staff of Dunblane Primary School who are members of the Educational Institute of Scotland and also the six members who are members of the PTA. I do not appear for anybody else.

MR. M.J. JONES, Q.C.: Sir, my name is Michael Jones, I am a Queen's Counsel, instructed by Messrs. Simpson & Marwick, W.S., and I appear on behalf of Stirling Council.

MR. J. TAYLOR: Sir, my name is James Taylor. I am representing the interests of Central Scotland Police.

MR. M.S. STEPHEN: Sir, my name is Martin Stephen, and I appear on behalf of Mr. Ronald Taylor, the headteacher.

LORD CULLEN: I take it that is all those who appear here today to represent parties.

One or two things I would like to say at this point perhaps for the assistance of those who are seated in the audience. Four weeks ago at the Preliminary/

Preliminary Hearing I set out the ground rules which were to be followed in this Inquiry, and since that time have had no need to change those rules: so those will be the rules for this Inquiry.

There will be no opening submissions in this Inquiry; we will go right into the evidence, subject to any preliminary points which are brought to my attention before we got to the first witness.

The Inquiry will sit daily Monday to Friday, from l0 till l, and in the afternoon from 10 to 2 until 20 past 4. That afternoon period may be altered, not as regards its length but as regards its position, in the light of experience, having seen how matters go.

Firstly, a word four counsel or those who are representing the party, solicitors or counsel. I do not mind whether you stand or sit when you are putting questions; but whatever you do, make sure that you are within a proper range of the microphones. We have a perfectly good sound system, so make sure you use it correctly.

Before I call the Lord Advocate, are there any preliminary points that any of the parties would like to raise at this stage?

There was no response.

LORD CULLEN: Very well. Lord Advocate?

THE LORD ADVOCATE: Sir, you will recall that at the Preliminary Hearing I made reference to my decision to grant an immunity from prosecution, and I wish to make my position clear on that matter. I wish to make it clear that anything which any witness says in evidence before the Inquiry will not be used in evidence against him or her in any criminal proceedings in Scotland, except in relation to any offence of perjury or against the course of justice.

Given the nature of the evidence which is likely to be given before the Inquiry, I consider it extremely unlikely that witnesses should have any concerns about self-incrimination; but I have found it appropriate in the public interest to give this undertaking/

undertaking in order to avoid any such difficulty arising.

Sir, as you will recall, the remit which you were given following the resolution by both Houses of Parliament was to enquire into the incident at Dunblane Primary School on Wednesday, l3th March, l996, which resulted in the death of l8 persons. Of those l8 persons l7 were murdered at the hand of Thomas Hamilton: their names are as follows:

Victoria Clydesdale, Emma Crozier, Melissa Currie, Charlotte Dunn, Kevin Hasell, Ross Irvine, David Kerr, Mhairi MacBeath, Susan Mayer, Brett McKinnon, Abigail McLennan, Emily Morton, Sophie North, John Petrie, Joanna Ross, Hannah Scott and Megan Turner.

Sir, in relation to each of these victims various Productions have been prepared and are included in these three red folders which I will present to you in a moment. They include in relation to each of these victims a pen picture of the victim concerned, certain detail of the various witnesses who had dealings with the victim and various other documents, including the post-mortem reports which were prepared following upon the tragedy which occurred. It is not the intention to lead any of the detail that is contained in these folders, out of respect for the privacy of the individual families concerned; but it is of course correct in the public interest that this full detail should be presented to you.

In relation to the eighteenth death, that of Hamilton himself, separate Productions have been created, and it is in the public interest that some of these will be discussed in detail as the Inquiry unfolds.

In addition, sir, another folder has been made up, including similar details, pen pictures and other information, medical information, relating to the other people who were in the gym when this tragedy occurred, and other people within the school who suffered injuries as a consequence of Hamilton's actings. Their names are as follows:

Aimie Adam, Coll Austin, Matthew Birnie, Mary Blake, Scott Crichton, Eileen Harrild, Steven Hopper, Robbie/

Robbie Hurst, Any Hutchinson, Ryan Liddell, Mark Mullan, Andrew O'Donnell, Victoria Porteous, Robert Purves, Benjamin Vallance and Stewart Weir.

As far as humanly possible, sir, the evidence will be led in a manner which avoids identifying the names of individual victims. It is I know the earnest wish of all of the relatives of those who died and of those who survived and their relatives and indeed of all of us who have been involved in preparing for this Inquiry that the privacy of those who have suffered so much as a consequence of this tragedy should be respected.

It is the earnest hope of myself as Lord Advocate and of all those who I have spoken to about this matter that if by any process anybody is able to identify the name of a particular victim, even though that name is not mentioned on the floor of the Inquiry, no mention of that name should be made in the media, out of respect for those who have suffered; and if inadvertently any name is mentioned I am sure we can rely on the support of the media in this matter, following the traditions which we have come to expect of them in the Courts in this land.

Sir, I do not think it is necessary for me to say any more at this stage, but I do formally present these four volumes as containing the information to which I have referred.

LORD CULLEN: Perhaps I could ask the parties whether they have any comment they want to make on the statement the Lord Advocate has made in relation to the method of dealing with information in relation to the individual victims.

There was no response.

LORD CULLEN: I have satisfied myself already that it is entirely appropriate the Inquiry should proceed to entertain evidence in this particular way, having regard to the wishes of the relatives whom I have had an opportunity to meet, and I entirely sympathise with the way the Lord Advocate has outlined in dealing with this particular aspect of the evidence which is for me to consider.

I would associate myself with the remarks he has made in regard to the media. I know I can rely on them to respect the wishes the relatives have so clearly and unanimously expressed.

THE LORD ADVOCATE: Sir, the first witness who will give oral evidence is James Lister.

JAMES LISTER (37), Sworn:

EXAMINED BY THE LORD ADVOCATE: I am a Police Constable with Strathclyde Police Force. I have l5 years' police service.

I think you are currently attached to the Strathclyde Police Air Support Unit in Glasgow? - That is correct, sir.

And in the course of your duties I think you regularly act as an observer within the Strathclyde Police helicopter, and take aerial photographs when asked to do so? - I do, sir, yes.

On Friday, 29th March of this year were you requested by Detective Chief Superintendent Ogg of Central Scotland Police to take a number of aerial photographs of Dunblane Primary School and the surrounding streets? - Yes, sir.

And later that day did you, accompanied by another officer, fly over the school and take with a camera a large number of photographs? - I did, sir, yes.

I want you to look please at four photographs. First of all Production Rl, which will be shown on the screen for the benefit of the rest of us. Do you have sight of that yourself? - I do, sir, yes.

This is a photograph taken from quite a height, which shows you the whole school, the playing ground and various of the surrounding streets? - That is correct, sir, yes.

Look please at R2. That is taken from a/

a slightly closer position, again showing the whole of the school, the various entrances to the school grounds and the playingfields? - Yes, sir.

R3, please. Again this is slightly closer in, showing most of the school building? - Yes, sir.

And finally R4. That is another close-up view of the school, again showing most of the school building, from a slightly different angle? - Yes, sir.

No cross-examination.

EILEEN HARRILD, (43), Sworn,

EXAMINED BY THE LORD ADVOCATE: I think that you are 43 years of age and you live in Dunblane, is that correct? - Yes.

I think that you are employed by the Local Education Authority as a physical education teacher? - Yes.

And in connection with this matter I think that you have provided a number of statements including one to the Procurator-Fiscal? - Yes.

Would I be right in understanding that you would prefer to have that statement in front of you as you are giving evidence this morning? - If it would be helpful.

LORD CULLEN: Yes, I am quite content with that. I take it you have had a chance to look at this before? - Yes, I have.

EXAMINATION CONTINUED BY THE LORD ADVOCATE: Now, Mrs. Harrild, does that statement record that you have been a teacher since 1973 and as a physical education teacher I think you worked at a number of schools in the area? - That is correct.

And these schools include Dunblane Primary School? - That is correct.

How often did your duties take you there? - Two and a half days a fortnight.

Which days are these? - Monday afternoons, Tuesdays all day and Wednesdays all day.

Am I right in understanding that you have been visiting Dunblane for the last four years or so? - That is correct.

And your duties include working with staff of the school to plan the physical education programme for the children, to assist class teachers and to teach individual classes in physical education? - That is correct.

I wonder if we could ask you to assist us with/

with the layout of Dunblane Primary School; what I propose to do is have placed on the monitor two photographs and hopefully together we can just work our way round the geography. I think you will appreciate that you are one of the first witnesses to give evidence and I want to be clear about the geography with you before we come to the particular event? - That is fine.

If you look first of all please at photograph R3; now, that is obviously an aerial view photograph which shows the two means by which vehicles can be driven into the school grounds, is that correct? - That is correct.

I understand the route from the bottom of the photographs comes from Doune Road? - That's right.

And then there is another route coming in from the top of the photograph? - Yes.

THE LORD ADVOCATE: Sorry, it may assist if I come over to where the equipment is and pointed myself.

LORD CULLEN: Certainly, if that is helpful.

EXAMINATION CONTINUED BY THE LORD ADVOCATE: Now, what I propose to do is to point to various parts of the school building and talk through the various parts of the building, the various routes in; am I right in understanding if you come in from Doune Road and park a car there the main or normal entrance into the school building would be through the doorway to which I am pointing at the moment? - Yes, that would be right.

As you go in that entrance and turn into this area that I am circling there, what is that? - That is the dining room.

That is a sort of open-plan area? - Yes.

Am I right in understanding that the Headmaster's Office is somewhere in that area? - That is right, yes.

His name is? - Mr. Taylor.

What/

What is the area I am pointing to now? - That is the assembly hall.

And this area here? - That is the gymnasium.

Could you assist us, please -- we have a plan which we can also look at in a moment which we will do but if you are in this open-plan area you walk through there and turn to your left to get into the hall, is that right? - You can walk through the dining hall into the assembly hall.

When you are in the assembly hall how do you get to where the gymnasium was? - You turn to your right and you have a corridor which takes you through a set of doors towards the changing area and the gym is to your right.

We see other buildings in the grounds, are these classrooms? - Yes, they are classrooms.

Which have been separate from the main school building? - Yes.

There, there, and there? - Yes.

And then the main block of classrooms? - Yes.

Could we look again at R4 which was one of the photographs we looked at earlier; this is another view of the school from a slightly different angle? - That is correct.

If we come in from Doune Road and park somewhere in this area here you would have to walk in there to go in the entrance we were referring to earlier? - Yes, that's right.

And looking at the building from this side that is the assembly hall, isn't that right? - Yes, that's right.

That is where the gym was? - Yes.

I think we can see that there is a small area as you come out the gym and you get a view of these classrooms here? -

That is correct.

And/

And the big classroom block over there? - Yes.

If we look next please at the large plan which is on the board; we will need to get the camera changed for that; perhaps I could ask you to come up to the board and we will do our best, if you stand on that side and we will go over this again for the benefit of those who are listening. Doune Road is on that side here? - Yes.

If you go in the entrance door you go into this open-plan dining hall area? - Yes, that is correct.

There we see Mr. Taylor's study off that? - Yes.

As you told us earlier you can walk straight through the dining room hall area into the assembly hall? - Yes.

And at the far end of the assembly hall from the dining hall is the stage area? - Yes.

I think you also told us along the side of the assembly hall there is a corridor area? - That is correct.

Am I right in thinking that that is not a solid wall between the corridor and the hall? - No, a barrier.

You can walk through, you go through some doors and if you carried straight on and turned to your left that takes you into the gymnasium? - Yes.

On your right as you go along this corridor there is a small corridor that goes off to the boys' changing room and the boys' toilet? - Yes.

There is a staff room? - Yes.

Is that the room you would use when you were working

in the school? - Yes.

And there is the girls' toilet? - Yes.

The/

The girls' changing room which has a shower room off it which you can only get into through the changing room? - Yes.

On the far side of the gymnasium there is a gym store? - Yes.

And I think fire doors coming out on one side of it? - Yes.

You can also see from this plan that at the far end of the gymnasium there is a door which opens out into this small area we were looking at in the photograph? - Yes.

And also the assembly hall itself appears marked on the plan as well? - Yes.

Does that fit in with your recollection of the layout? - Yes.

Now, if we can go back to the detail of your statement; I think the next paragraph confirms to us what we have already discussed -- as you go along this corridor leading along the side of the hall to the gymnasium we have got the boys' changing room and then the staff room and then the girls' changing rooms? - Yes, that is correct.

On the 13th of March of this year I think you left home about 20 to 9 in the morning with your own children and drove to Dunblane Primary School? That is correct.

That morning you would arrive about 10 to 9? - That is correct, yes.

Your own children attend the school itself? - Two of them do, yes.

That morning I think there was an assembly taking place in the hall, is that correct? - Yes, there was.

We will hear more of this in due course but I think the size of the hall is not large enough to accommodate the whole school for assembly? - That is correct.

So the practice is to split up the assemblies/

assemblies between different years? - That is correct.

On your arrival at the school I think you went directly to the gym area and, in particular, to your staff room? - Yes, that is correct.

Were you expecting the first class you had to teach to arrive about 9.30? - That is correct, 9.30.

This was a class which you understood to be attending the assembly? - Yes.

Whilst you were waiting for that class did you set up some equipment within the gymnasium? - I set up a lot of equipment that morning.

I am going to ask you to look at another Production we have which you may not have seen before but it may assist us in getting the layout of the gym as clearly as possible. Could we look at R8; it is the first sheet in that Production and if a piece of paper could be laid over the front box under the bottom of the corner of the Production; if that could be put up on the screen. Now, it is not in perfect focus but I think we see at the bottom left-hand side corner of the diagram there is a door? - Yes.

And that is a door which leads into the gym? - Yes.

As you go along the corridor and turn left that is the door into the gym? - Yes, that is the door into the gym.

Using that diagram can you indicate how you set up

the equipment in the gym; imagine you are standing at the door looking up into the diagram? - I went to the top of the gym and I set out two sets of ropes, I took out some sets of beams, one was set up very low for them to do some balancing work.

I am sorry to interrupt but could you move your microphone so it is between you and the monitor? - I set up two sets of ropes and took out some beams; that took quite a little while and I took out lots of mats and I had the ropes and that is/

is what you see at the top of the picture; underneath that I put several mats and I also put a bench and I started to take out smaller equipment to put at the side of the gym so that the bulk of the floor was clear, two-thirds of the floor area was empty. At the side of the gym there was mats and heavy equipment that the children would use later on.

Now, am I right in thinking that between 9 and 9.30 there was another member of staff, a Mrs. Wilson, who was present with two older children? - Yes.

But did they leave by 9.30? - Yes, they did.

And then a Mrs. Blake arrived? - Yes.

Who was she? - She is the supervisory assistant and I was surprised to see her; I had a few words with her before the class came in.

Did she explain to you why she wanted to be there that morning? - Yes.

What was the explanation? - She was there to help Mrs. Mayor at the school.

And/

And shortly thereafter, I think the primary class you were expecting arrived with their teacher, Mrs. Mayer? - Mrs. Mayer was usually very punctual. They arrived a couple of minutes after that morning, just slightly later than normal.

So are we talking about a couple of minutes after 9.30? - Yes.

Did they come into the gym immediately or did they wait outside? - They didn't come in immediately. They waited outside. They always lined up outside the door and we waited for the children to come in.

Did you then ask the class to come into the gym? - No; I spoke to them first and told them what they were going to be doing that morning. The wee ones always get very excited when they come in and see what was out, and I just went to calm them down before they came in and told them not to touch anything and just come in and find a space, that they weren't to go beyond the beams or the ropes at the top of the gym, so they were spaced out in the bottom two thirds of the gym.

Would I be right in thinking that in view of the age of the children, they changed for gym before they come anywhere near the gymnasium area? - Yes, they changed in the classroom.

And the door through which they come is a door with some glass in it so you can see through the glass? - It's a double door with glass.

You told us then that they came into the gymnasium and were asked to stand in the central area? - They were asked to stand in the space. There's a red circle on your diagram and they were spaced out throughout the gymnasium, but not beyond the top half.

So they were to be clear of the equipment in the free area? - Yes.

I think you spoke to Mrs. Mayer on her arrival; is that correct? - I spoke to Mrs. Mayer just as the class had arrived. I probaby did speak to her for a couple of seconds, and she explained that she was going to be going away that morning.

She was scheduled to attend a meeting? - Yes.

And was she to be relieved? - Yes.

And then I think you were really in a position to begin the gym class? - I did, yes.

With the primary class? - Mrs. Mayer had a diary with her which she put on the bench at the top of the gymnasium, and I went over to a little boy who was standing close to me near the wall and I took his glasses and put them on Mrs. Mayer's diary, and then I was ready to turn and start the class.

And am I correct in understanding that the diagram indicates in outline form there was at this stage three adults in the gymnasium and a total of 28 children? - That's right.

One child happened to be near the three adults, and the others were spread around the free area? - Yes.

At that point, did you become aware of somebody else coming into the gymnasium? - I turned, having spoken to Mrs. Mayer, just about to start the lesson, and I was aware of the doors being opened suddenly, yes.

And these are the doors leading from the corridor? - Yes.

And what was it that you saw? - A man came through the door, and it was quite normal for people to come into the gymnasium. Sometimes they would come in and give a message or ask for directions, but as soon as I turned and I saw this man, he had a woolly hat on and he had a gun in his hand extended, and he immediately began to shoot.

If we go over that slowly, first of all you noticed he had a woolly hat on? - He had a dark woolly hat and earmuffs over his ears, and a gun in his hand.

Do you know whether he was wearing glasses? - Yes, he was wearing glasses.

And/

And was it really just instantaneously that he started to shoot? - No; he took a couple of steps, and I was very close to him, and it was only a few feet, because I was about to ask him what he wanted, and looked and saw the gun, and he starting shooting.

And when were you conscious of being hit by any shots? - Immediately; I had both my arms up to protect myself, and he started to shoot indiscriminately and very quickly.

And I don't want to go into a great deal of detail about it, but I think you sustained a number of injuries about your arms; is that correct? - Yes, and my chest.

That having occurred, what did you do? - I was in a lot of shock. I couldn't quite comprehend what was happening. I turned away from the man and made towards the open store area. I stumbled towards the open store area and I then had my back to the man, and during this time he turned his attention to the children and the people in that bottom third of the gymnasium. The shooting didn't stop. It was continuous and rapid.

You have referred to the open store area. Is that round, if we look back at the plan, to the right-hand side? - Yes.

We see we have got -- no, it's still the same document please -- we have got "bench" along the bottom, then "rack"? - Yes.

And then the area to the right of that leads into this store, but there is no doorway? - No doorway; it is an open-plan store area.

So you went in that direction and you were conscious of the gun fire continuing? - Yes.

When you got into the store, which part of the store did you go to? - I got into the store area and was aware that -- I went to the far end of the store area.

And did anyone else join you? - Yes; I was aware that I was followed by some children, and Mrs. Blake also followed there. I was also aware/

aware that by the time they had arrived there, they had also been shot.

Sorry; could you say that again? - By the time they had arrived in the store area behind me, they had also been shot.

These were the children and Mrs. Blake? - And Mrs. Blake.

Am I correct in understanding that you remained in that store area until members of staff appeared on the scene? - Yes.

Now, can I ask you this -- are you able to give Lord Cullen any assistance as to how long you estimate the shooting lasted? - Yes; I am fairly certain it lasted between three and four minutes because I was very aware of what was going on, and while we were there, we were trying to do our best to keep the children quiet and protect ourselves, but we were unable to move any of the equipment to protect ourselves.

During that period of time, was the shooting continuous or were there breaks at all? - At the beginning it was very rapid and very continuous and I was aware of him moving around the gymnasium, and I was aware of where he was, and I know that at certain points he was at the very top of the gymnasium.

When you say you were aware of him moving around, were you able to see him or was it just the noise that you heard? - It was the noise and the location.

If we could go back to the detail of your statement please, I think in Paragraph 15 you make some reference to having lost your glasses; is that right? - Yes.

Did they fall off when you were moving? - When I was moving towards the store area, I had difficulty getting there and I stumbled and I lost them on the way.

And then the rest of that paragraph, I think you describe what happened as the children entered the gymnasium, and in particular tell us about/

about what efforts you and Mrs. Blake were doing to try and console the children, who were obviously screaming at this time? - The children were amazingly calm. They were very surprised and they were very very good when we tried to silence them. They immediately were very quiet. They just put their fingers to their lips and they were very quiet. I didn't want them to go back again into that area.

I think in Paragraph 16 of your statement, you inform us that you didn't actually see Mrs. Blake sustain injury, or Mrs. Mayer sustaining the fatal injury she suffered? - Because I was first shot and I had turned my back on them, I didn't see anybody being shot.

And then in Paragraph 17, you go on to give us a little detail about how there was a gap in the shooting; is that correct? - Yes, there was.

What you say was this -- "There was a gap in the shooting; it stopped briefly, then started again. It wasn't as continuous as it had been, nor as much or as quickly. I can't say how many more shots there were, then there was silence. There was no shooting or screaming"? - That's correct.

And then I think this paragraph goes on to tell us, as I think you have already mentioned, that other members of staff came to your assistance? - Yes. There was a period of time when everything seemed to be very quiet and it seemed to last a long time, but then eventually yes, they started moving into the gymnasium.

Are you able to put any estimate on the number of minutes between the shooting stopping and the arrival of the first member of staff? - I think possibly it was more towards the end of the shooting -- there was absolutely no noise in the gymnasium at all. The children were very very quiet, so there was no noise. It seemed like a long time, and then the shooting did stop.

And how much later was it before the first member of staff appeared? - I am sure it wasn't very long. I am sure it was very quickly, but it seemed a long time.

And/

And I think shortly thereafter, some of the local doctors appeared on the scene? - I think it was staff who came to help us, and within not too long a period, there were doctors on the scene.

I think you were then taken to hospital; is that correct? - That is correct, yes.

And was that the Stirling Royal Infirmary? - That is correct, yes.

Where you have been treated by a number of medical staff, including a Mr. Ritchie; is that right? - That's right.

With your permission, Mrs. Harrild, what I would propose to do at a later stage is to present to Lord Cullen a medical report dealing with the injuries, but not to discuss the detail with you today? - That's fine.

Are you quite happy with that? - Yes.

Now, I think it is quite clear the man who entered the gymnasium was one Thomas Hamilton. Had you ever seen him before? - I had never seen him before.

Had you heard mention of him before? - Yes, I had heard about him.

But you had no personal dealings? - I had no personal dealings with him at all.

Would I be correct in understanding that because of the fact you had children who attended at primary school, you had in the past received certain letters about Clubs which Mr. Hamilton ran? - I had received letters over many years from Mr. Hamilton, away back in the early 80's, and I had received one fairly recently, but my children never attended any of his Clubs.

That was one point I wish to be clear about -- as a matter of fact, none of your children ever attended any of the Clubs with which he was associated? - Never.

THE LORD ADVOCATE: The next witness will be Mrs. Mary Blake. Her evidence will be read to the Inquiry by Mr. Lake. It's from her precognition she prepared for the Procurator-Fiscal following upon a meeting with her some time ago. Thereafter the Inquiry will hear from Malcolm Chisholm.

MR. LAKE: This is the statement of Mary Edith MacKinnon Shearer or Blake, Supervisory Assistant, with an address in Dunblane, who is aged 5l years. "I reside with my husband and family. In around l985 I obtained employment with Central Regional Council as a Special Duty Attendant at Dunblane Primary School. This job entails assisting children in mainstream schooling who have special needs.

"On Wednesday, l3th March, l996 I left home for work as usual at about 8.50 a.m. I was due to start work at 9 a.m. I walked from my home to the school and entered the school from Doune Road. I walked through the Primary One, Two and Three playground, passing the main entrance on my right and turned right towards the staffroom. I arrived there just as the first bell was ringing, a few minutes before nine. I didn't see a white van as I walked through the playground.

"After arrival in the staffroom I walked up to the Primary One classroom, where I met Mrs. Mayer standing in the classroom door with her class lined up already dressed in their gym kit. Mrs. Mayer said they were going to assembly. I said to Mrs. Mayer that I would not be needed at assembly, and arranged to meet her at the gym at half-past 9.

"I went to the machine room and cut out some covers for the Primary One books. I was there for about ten minutes, and after that I went back to Mrs. Mayer's room, as I had remembered that I had left my handbag there. When I arrived there I saw Mrs. McLeod, and I told her that she would be at assembly. She had forgotten, and immediately took her class to assembly.

"I then returned to the machine room. I remember looking out of the machine room door as assembly was just finishing. It would be near enough 9.30 a.m. I went up to the gym, past the assembly/

assembly hall. The children were still there.
Assembly was finished, and the children were standing up and milling about. When I arrived at the gym, Mrs. Mayer's class was not there. Mrs. Harrild was standing just inside the gym door talking to Mrs. Wilson. Mrs. Wilson takes children to the gym some mornings between 9 and 9.30 a.m. She had two Primary Four boys with her. Mrs. Wilson is a Special Assistant like me. The two boys were still in the gym getting ready to leave. I spoke to Mrs. Wilson for a minute or two and then she and the boys left.

"That left me with Mrs. Harrild in the gym. Mrs. Mayer and her class arrived, and they all came in.

"I was sitting on a bench on the right as you come in the door, just a few feet away from it. Mrs. Mayer came in and sat down beside me. Mrs. Harrild had all the ropes and equipment out, and she took the children up to the top of the gym and told them they were not to touch the equipment, as it was for another lesson. Mrs. Harrild then told the children to run around the gym to warm up. I was keeping an eye on the child I was looking after. Mrs. Mayer told Mrs. Harrild that she wouldn't be staying for the class as she had a meeting, and the Assistant Head Teacher, Mr. McCombie, was coming down to the gym to take over her class for the rest of the morning. Mrs. Mayer was sitting nearer the door than me.

"My impression is that Mrs. Harrild called the children over and that they were standing generally in front of me and quite close to me. She was talking to the children. I remember I was standing up, and I heard a noise. It may have been a door opening or closing. I cannot say if it was a shot. I remember I looked towards the door. I saw a dark figure at the door. I think Mrs. Mayer was standing when he came in.

"Then I think Mrs. Mayer was on the floor. The children were screaming. The dark figure was just inside the door. He was wearing dark clothing and he had some sort of headgear on. I was then hit, and I remember my head hurting. I realised that something terrible was happening. I fell to the ground, and I could hear constant shooting/

shooting. I have a memory of him having both his hands up, but I don't know if he had a gun in both hands. He was pointing the gun all around and shooting constantly. I could hear the children screaming. it was so loud that the screams seemed to be inside my head. My head was hurting terribly. I don't remember being shot in the legs. I assume that is why I fell down, but I can't remember when I was hit on the legs.

"I don't remember how I got up. I remember being up. The children were running round hysterically, and some were on the ground. I can't recall seeing any of the injuries specifically, but I can recall blood was splattering everywhere.

"I noticed Mrs. Harrild in front of me, and she was making her way over to the store area on the same side but opposite side of the gym from the door. There is an area there like a small corridor. I could see that Mrs. Harrild was clutching her arm, and there were about four children in front of me and behind Mrs. Harrild. I ushered them forward, and as I turned the corner Mrs. Harrild was lying behind some mats.

"The children were still in front of me, and I think there were four or five of them.

"I was in pain from my head and legs. I thought this was the end. I thought if he came round the corner we would all be dead. One child kept saying 'What a bad man'. They all kept saying they were sore. One boy had a hole in his arm and was holding it. Another girl was injured, I can't recall where. I remember seeing other injuries, but I can't remember who they were on. One had a wound on his or her leg above the knee.

"I was trying to keep the children quiet, and I was shushing them. The shooting seemed to go on for ages. I could hear the children screaming, and the noise seemed to be in my head. I could feel blood running down my neck, and I had a great deal of pain in both legs. I was lying in a big puddle of blood. I kept thinking he was going to come round and get us, and I tried to pull one of the mats over us, but I was in too much pain and I couldn't. The kids were crouched down, and I was trying to cover them.

"The/

"The shooting stopped for a short time, and the children were wailing, and I heard a buzzing sound in my head. Then the shooting started again for a few seconds and then stopped again. I don't know how many more shots there were, but there weren't a lot more. I don't recall if any other children came round, but we could hear the children outside in the gym screaming and wailing.

"I remember asking Mrs. Harrild if she was all right, and she said 'He got me in the chest', but her arm was also injured. She kept holding her arm across her chest.

"We felt so helpless, as I couldn't do anything for the children as I couldn't move. I can't remember much after that other than that people came. I think the first to find us was Linda Stewart, who is a nursery teacher, who was in a terrible state, and she was saying 'What can I do?' but there was nothing she could do.

"Then Dr. Wright and Dr. Watson arrived with Dr. Susan McCallan. I am friendly with Susan McCallan. There were police there. I was so cold, and somebody gave me a wad of paper towels and held them to my head.

"What seemed a long time later, I was moved. They opened the fire doors to take us out. I was taken by ambulance to hospital.

"I didn't know the gunman had shot himself. I thought he might have escaped or surrendered.

"I was shot in the head and both legs.

"I can't really estimate the time when the gunman came in. I would say it was about ten minutes after I arrived at the gym. I don't know how long the shooting took.

"I have never seen the man who came into the gym before. Before this incident I had never met or even heard of Thomas Hamilton".

LORD CULLEN: Thank you, Mr. Lake. Is the statement signed by Mrs. Blake?

THE/

THE LORD ADVOCATE: I understand there is a signed copy available, which will be presented to you. Certain short passages have been deleted from it, where references were made to particular children.

LORD CULLEN: I understand.

THE LORD ADVOCATE: The next witness is Mr. Malcolm Chisholm, my lord.

MALCOLM RODGER CHISHOLM (52), Sworn:

EXAMINED BY THE LORD ADVOCATE: I think you were formerly a member of Strathclyde Police Force; is that correct? - Yes, I completed 30 years' police service.

And between l973 and June of 1994 were you attached to the Identification Branch of Strathclyde Police Force? - Yes, I was.

Following upon your retirement did you take up other employment? - Yes, I did.

Do you still hold that? - Yes, I do.

What is the nature of that employment? - I am now employed by Tayside Police Force as a Scenes of Crime Officer and also a Firearms Examiner.

Can I ask you to speak slightly nearer the microphone? Throughout your career both as a police officer and now as a Scenes of Crime Officer have you had a particular interest in and made a study of firearms and ammunition which is used in firearms? - Yes, I have.

And in connection with numerous enquiries have you carried out investigations seeking to link fired bullets and fired cartridge cases with specific weapons that may have been found or been associated with particular crimes? - On many occasions, yes.

Just/

Just in general, in very simple terms at this stage, can you outline for the benefit of the Inquiry the particular techniques one uses when one is trying to link a particular cartridge case and a particular bullet with a particular firearm? - Yes. When a gun is fired, obviously the cartridge is in the chamber. When the gun is fired the hammer drops and the firing pin strikes the base of the cartridge, bursts the primer, and this creates flame, which goes out into the main body of the cartridge, ignites the propellant, pressure builds up within the chamber, and this propels the bullet into the barrel of the gun. When it comes in physical contact with the rifling within the barrel the bullet gets churned or chewed up with the rifling as it goes along the barrel. If it is a self-loading weapon the cartridge is extracted, ejected, and this also makes marks on the case of the cartridge. So from the rifling marks on the bullet, from the extractor and ejector and firing pin, we can tie discharged residue with a firearm.

On Wednesday, l3th March of this year I think accompanied by a number of police officers you attended at Dunblane Primary School? - Yes, I did.

Approximately what time was it when you arrived? - Some time after half-past 11 in the morning.

And having been briefed to some extent about what you understood had occurred did you go into the school building and through the assembly hall into the gymnasium area? - Yes. I was met at the school by Chief Inspector Robertson, I believe his name was, who took us through the outer door of the gymnasium, where I was met by another officer, who appraised me of what had happened and what the condition was inside the gymnasium.

Could I invite you because of an anxiety on all parts to in some instances limit the evidence we wish to hear to keep your answers as short as possible, and if necessary we can ask a supplementary question? I am sure you are aware of the reasons why. Taking the matter shortly at this stage, did you then in co-operation with others, in particular Donald Scobie, begin a very detailed examination of the whole school area and what was to be found there? - Yes, I did.

And/

And that was an examination which was carried out in detail both on Wednesday, l3th March and Friday, l5th March? - That is correct, yes.

At the conclusion of that investigation and as a consequence of it did you prepare a number of Productions? - Yes.

I wonder if you could formally identify these at this stage. Could you look first of all at Production R7? Does that include towards the end of the binder a copy of a joint report which you and Mr. Scobie prepared? - Yes, it does.

Document R8. That is a series of diagrams of the gymnasium and surrounding areas; is that correct? - Yes, it is.

Production R9, a tool mark examination report? - Yes.

And Rl0, a striker mark examination report? - Yes.

Four books of photographs, Rll, R12, R13 and R14. These were photographs actually taken by Mr. Scobie as part of a joint investigation you and he were carrying out; is that correct? - Well, he accompanied my examination and photographed as requested, yes.

R11 is a book of photographs of the cloakroom area; is that correct? - Yes, it is.

R12 are a large number of photographs taken I think on the l5th, which was said to be the second physical examination of the school? - That is correct, yes.

R13 are photographs taken of the hut Classroom 7; is that right? - Yes.

And Rl4 photographs taken from outside the school building, showing certain parts of the playground and the playingfields and the outside areas of the school precincts? - Yes.

Could you finally look at R15 at this stage, a chart, and formally identify it at this stage? - Yes.

I/

I don't know that we need to show it on the screen at the moment, but that is a chart of the school area with certain annotations which you put on it; is that right? - That was completed by myself, yes.

Now, am I right in understanding that when you first entered the gymnasium there were a number of bodies of people whom you were informed were dead within the gymnasium? - Prior to my going into the gymnasium I was told that everyone in the gymnasium had been pronounced dead, yes.

And when you entered the gymnasium there were a number of bodies within it; is that correct? - Yes.

Now, in taking the evidence from you I do not wish you to make reference to any body other than the body of Thomas Hamilton. You understand the way I wish to approach it? - Yes.

When you first entered the gymnasium, this was from the doors leading from the corridor which leads from the assembly hall; is that correct? - Yes.

And after you had entered did you become aware of what looked like a large camera bag lying on the floor? - Yes, it was just inside the door of the gymnasium.

I think you then saw -- and we will come on to look in detail at this in due course -- various items of equipment associated with firearms, including magazines, spent cartridges and the like lying around; is that right? - Yes, the floor was strewn with them.

Did you then go up the side of the gymnasium to the far end from the point you had entered, and were you directed to the body of the man who was Thomas Hamilton? - Yes.

Could you look please at R8, if we could, please? This will be put upon the screen for you in the same way as before. This is the first page I want to look at. It is just for illustrative purposes. I appreciate this is showing the scene as it was understood to be before the/

the accident, but I just want to get the precise position. Could you use that to point out please where the body of Mr. Hamilton was? - Yes, it was at the top of the gymnasium, virtually in the centre and almost against the top wall. His head was facing towards the top wall.

What you have done is point out the area at the centre of the top wall as we look at that plan? - Yes.

Looking at that body, was it obvious to you that it showed what I think you have described in the statement you prepared as a classic gunshot exit wound to the top of the head without there being any noticeable entry wound? - That was the way I saw it, yes.

Again we will come to the detail of this in a moment or two: but as far as firearms and ammunition are concerned, what was it that you noticed at this stage as you recollect it? - From the moment I entered the gymnasium?

No, on looking at Hamilton's body? - In relation to the body I noticed that Hamilton had four holsters of the right-hand draw variety strapped round his waist. He had two pouches; one appeared over one shoulder and hung down and the other was over the other shoulder and hanging down. One had burst open, and I could see I think it was two magazines and loose .357 cartridges which had spilled on to the floor.

Yes? - On looking towards the body, toward what was obviously the top wall, to the left of the body I could see two firearms: one was a Smith and Wesson revolver with black customised hand-grips and the other was a Browning high power self-loading pistol, which appeared to have a magazine in place.

Yes? - A cursory examination showed that the revolver appeared to be full. Also, to the left of the body there was what we term ear muffs, which tutors use to deaden the noise of the gun being fired. They were lying on the floor. Also, there was a woolly-type hat which had damage to the top of it and also a pair of spectacles. To the right of the body there was another two firearms. One again was a Smith and Wesson revolver/

revolver and another Browning high powered, a different type from the one lying on the left-hand from the body.

Yes? - As regards this Browning high power, there was no magazine in position, and a cursory examination again of the revolver, which I remember was lying at a funny angle -- the butt propped up in the air against a bench -- it appeared to be fully loaded also.

Taking that in summary form to the left of Mr. Hamilton's body there were two guns, is that right? - Yes, there were.

And to the right of his body there were another two guns? - Yes, there were.

So we will come back to the detail of these in due course if we can but let us try to paint a picture of the outline at the moment. Am I right in thinking that at this stage nothing was touched by you, it was just a question of observing what was there to be seen? - That is correct, yes.

In due course photographs were being taken at the appropriate juncture by Mr. Scobie? - Not at this moment in time, no.

That came later. Did you then enquire of one of the police witnesses, I think, as to who might be the owner of what looked like a camera bag which was the bag seen near the door of the gymnasium? - Yes, it was rather a large case, it was quite obvious as we came into the gymnasium.

From the information available at that time did it appear to belong to Hamilton? - I was told it belonged to Hamilton, yes.

In view of what you have seen about what was being carried by Hamilton when you looked at his body and in view of the position and size of the camera back what suggestion did you make? - I suggested that it might be an idea to evacuate the building and also the body of Hamilton and the locked camera case, the position it was in, that it might be feasible to have the body and the camera case checked out for booby traps.

Was that suggestion taken up and an arrangement made for an examination to take place to exclude the possibility of explosives of any sort? - It was.

Whilst that was being carried out I think you then discussed with your colleagues, both Mr. Scobie and the police colleagues, the procedure you were going to follow in carrying out a detailed forensic examination of the gymnasium itself, is that right? - Yes, we did.

And/

And did that involve dividing the gymnasium up into a number of marked areas to which letters were allocated? - We decided due to the size of the gymnasium we would break it into 12 separate sections with the games equipment area being another section, if you like.

I think we will hear from Mr. Gould shortly, he arrived from the Ordnance Unit and declared that it was safe for the examination to continue and when the camera bag was opened it was found to contain more ammunition? - Yes.

Am I right in understanding that as a result of your detailed examination which you carried out on the Wednesday and the Friday and having regard to the various pieces of equipment -- guns, cartridge cases and spent bullets -- you recovered you were able to form a professional view as to the number of shots which were discharged and where Hamilton was when these shots were discharged? - Yes, I was.

What I would now like to do is to take you to the joint report and take certain information from you under reference to that report and then as we go through it give you an opportunity of explaining to the Inquiry what view you formed as to the position Hamilton was in when the various shots were discharged. Your report is R7 and I ask you to look at that again. The first seven pages of this report detail a large number of items -- certain hand gun magazines, rounds of ammunition, cartridges and the rest -- indicating what it was you took possession of and, in particular, the area where they were found, the part of the gymnasium or wherever, the body of Hamilton or wherever, is that correct? - That is correct.

I don't think it is necessary to go through that at this stage but the report sets out in considerable detail precisely what had been found, where it had been found and am I right in thinking that the photographs which were taken by Mr. Scobie illustrate what is set out in these pages? - Yes, indeed.

If we could move on to the foot of page 7 of the report, this deals with the individual guns, is that not correct? - That is correct.

I think the simplest way of taking this evidence from you would be just to ask you to read out paragraph by paragraph, beginning reading "The first item...."? - "The first item was a swing-out cylinder, six-chamber, single or double action, revolver of American manufacturer (Marcas Registradas - Smith and Wesson model 19-4) chambered for .357 Smith and Wesson, centre-fire, Magnum cartridges and bearing the serial number 48K8754. It was in very good outward condition and full working order. The gun was accompanied by five apparently live .357 Magnum centre-fire cartridges of American manufacture (Winchester), (each loaded with a semi-jacketted, soft-nosed, hollow point bullet and a fired cartridge case of the same make and calibre. This last case bore clearly defined mark of a firing pin impression in its primer)".

I think your report goes on to indicate that this gun, as with others, you subsequently carried out test shots for the purpose of your examination of the nature we have been discussing earlier? - Yes, a comparison.

Could you read out what you have to say about the second gun? - "The second item was a swing-out cylinder, six-chamber, single or double action revolver of American manufacture Marcas Registradas - Smith and Wesson model 19-7, chambered for .357 Smith and Wesson, centre-fire, Magnum cartridges and bearing the serial number BSR4422. It was in very good outward condition and full working order. The standard wooden handgrips had been substituted with customised rubber ones. The gun was accompanied by six apparently live .357 Magnum, centre-fire cartridges of American manufacture (Winchester) each loaded with a semi-jacketted, soft-nosed, hollow point bullet. Test shots were fired in the revolver."

Read on please to the third item? - "The third item was a self-loading magazine-fed pistol of Belgian manufacture (Fabrique Nationale - Herstal Browning hi-power) chambered for 9 mm Luger centre-fire cartridges and bearing the serial number 245PZ42837 (the letters PZ in the serial number denote the year of manufacture as being 1981). This was a custom-build, competition target pistol, having an extended barrel with a barrel weight fixed to the extended barrel cover for balance. This weight/

weight would appear to be missing and a custom-built foresight put in its place. The hammer spur had been removed and ground to a smooth finish. Due to its manufacturer as a competition pistol, the magazine safety had not been incorporated within the weapon with the result that gun could be fired without the magazine being in place. Normally in standard models, when the magazine is taken out a spring-loaded safety lever is forced out in the magazine well; this lever is linked to the trigger lever and forces it forward from beneath the tail of the sear-lever. Thus when the magazine is removed and a cartridge is left in the chamber, the pistol cannot be inadverently discharged and the magazine must be replaced before firing is possible. This type of weapon, when fully loaded, normally has a holding capacity of 14 shots -- 13 in the box-type magazine which fits into the butt-handle and one in the chamber. The gun was in good outward condition and when fitted with a magazine was found to be in full working order. Another feature of this type of competition gun is the minimum pressure on the trigger required to fire it (sensitised trigger fitted during manufacture). The gun was test-fired over several shots. Accompanying this pistol was an apparently live 9 mm Luger centre-fire cartridge of Swedish manufacture (Norma) fitted with a full metal jacket, semi-wadcutter type bullet, it was suitable for use with the pistol".

When you use the term "accompanying this pistol", what do you mean by that? - Well, I would take it that this cartridge had at some time been removed from this pistol and obviously it was part of the make-up or part of the label.

Finally you describe the fourth item and if you could read that out? - "The fourth item was a self-loading magazine-fed pistol of Belgian manufacture (Fabrique Nationale - Herstal Browning
hi-power) chambered for 9 mm Luger centre-fire cartridges and bearing the serial number 245PZ69756 (year of manufacture 1981). This was the standard model of the pistol and was fitted with the magazine safety device. Again, when fully loaded with the standard length box-type magazine it has a holding capacity of 14 -- 13 in the magazine and one in the chamber. The gun was in good outward condition, and fitted with a magazine was found to be in full working order. The gun was test-fired over several shots/

shots and accompanying the pistol was an apparently live 9 mm Luger centre-fire cartridge of Swedish manufacture (Norma) fitted with a full metal jacket, semi-wadcutter type bullet, it was suitable for use with the pistol described".

Can I ask you this, when rounds are discharged from these four weapons what happens to the cartridges? - In relation to the two revolvers, the empty cartridge cases would stay within the cylinder, they would have to be manually ejected and a fresh cartridge loaded and when a magazine is put in a self-loading pistol every time you fire the gun the cartridge case will be ejected from that gun and a fresh cartridge will be loaded and every time you press that trigger this will happen until the magazine is empty.

The two revolvers were the first and second of the guns you described? - Yes, they were.

These were the four weapons that you had yourself seen beside Hamilton's body on the 13th? - Yes, they were.

Now, we have reached page 9 of your joint report and it goes on to deal with items 15 to 13 consisting of 25 extended box-type magazines each capable of holding 20 x 9 mm cartridges and all intended for use with Browning hi-power pistols, including the two pistols described which was the fourth of the weapons you have described, is that right? - I think you said between 15 to 13, it is 5 to 13.

I beg your pardon? - Yes, that is what I found.

You go on to record that "This type of extra long magazine would give the pistol a holding capacity of 21 shots before loading was necessary. Each magazine was marked with a yellow sticker to the front and an orange sticker to the rear. This is not standard commercial practice and is quite obviously a ploy by the individual user to show what is the front and back for speed of magazine exchange. These stickers would appear to be held in place by Sellotape. Four of the magazines were empty, three were partially full and the remaining 18 were full."

And/

And your report then goes on to set outin tabular form details about these 25 magazines, and of the particular bullets that were to be found within those that were not emptied. Perhaps if we could take this part of your evidence in reasonably short form, the magazines were all found within the gymnasium; is that correct? - Yes, they were.

Some on the deceased; is that correct? - Yes.

Some in close proximity to the deceased, Hamilton? - Yes.

And others at different marked areas within the gymnasium? - That is correct, yes.

And at the foot of this table, as I understand it, it records there are a total of 25 magazines containing three different types of ammunition? - Three different types of -- it's the same 9 millimetre Luger ammunition with three different types of bullets.

66 of one type, the round nosed Norma, 243 of the semi-wad Norma, and 84 of the hollow point FC; is that right? - That is correct, yes.

Now, perhaps I could invite you to read on underneath the table? - "Of all the magazines containing ammunition, we noted that, with the exception of the one marked with an asterisk in the list, each was loaded in a uniform manner of cartridge sequence. The magazines were loaded in two different sequences of loading with the first four cartridges in the bottom of the magazine always being the hollow point type, followed by either 11 or 15 semi-wadcutter types and topped by either five or one round nosed type. This was further emphasised by the partially full magazines. The magazine, now marked with an asterisk in the list, had two semi-wadcutter types mixed in with the five round nosed types, i.e. two round nosed, two semi-wad, three round nosed and nine semi-wad. Apart from that still retained the split and total loading. The 21 loaded and partially loaded magazines contained a total of 393 apparently live, 9 millimetre Luger centre fire cartridges, all suitable for use with the two pistols described. They consisted of 66 full metal jacket, round nosed bullet/

bullet types of Swedish manufacture (Norma), 243 full metal jacket semi-wadcutter bullet types of Swedish manufacture (Norma) and 84 metal jacket, soft nosed, hollow point types of American manufacture (Federal)".

Can I ask you this, Mr. Chisholm -- have you ever come across on a previous investigation the situation where magazines were loaded in a manner similar to that you have described here, with a mixture of different types of bullet? - Certainly I have come across magazines loaded with different types. Obviously it's not easy for the criminal classes to get ammunition of the same type, but the way these magazines were loaded in a uniform manner, I have never encountered this in all my years.

Could we then move on to the top of the next page please, and read the first paragraph for us? - "The items labelled '6 cartridges', 'quantity of shells', 'box of cartridges', 'box of cartridges', and 'six rounds (ammunition)', totalled 230 apparently live rounds of .357 Magnum, centre-fire cartridges, all suitable for use with the two Smiths and Wesson revolvers previously described. They consisted of 112 rounds of American (Winchester) and 118 rounds of Swedish (Norma), each fitted with a semi-jacket, soft nosed, hollow point bullet".

Am I correct in understanding that this is ammunition which was designed for us in the first and second of the four weapons you have described? - Yes, they were.

And this was all, as your report earlier describes, found at different places within the gymnasium, some directly related to Hamilton, and some at other parts of the gymnasium? - Yes, I think the two boxes that came out of the camera case.

You were then -- your report then goes on to deal with spent casings or cartridge cases. Perhaps just read that out first of all and then I will ask you a couple of questions about that? - "The labelled items which contained the headings or part of heading "Spent casing (S)" or "Cartridge case (S)" were found to contained 105 fired 9 millimetre Luger, centre-fire cartridge cases, each containing/

containing the clearly defined mark of a firing pin impression in its primer. They consisted of 89 Swedish (Norma) and 16 American (Federal)".

Now, this is dealing with a total of 105 spent cartridges, if we can use that term, and where had they been recovered from, again putting it in general terms? - The majority of them had been recovered in the gymnasium, some in the passageway outside the gymnasium, on the stage of the assembly hall, and immediately outside the fire exit door of the gymnasium.

I wonder if at this stage please I could have put up on the screen Photograph R4? Now, I am sorry this is slightly dark, but do I understand -- that is much better, thank you very much -- that from this view of the assembly hall and the gymnasium, we see the small area on to which the fire doors from the gymnasium leads; is that right? - (No answer).

Do you see the bottom hut with the dark roof, just above the top corner of the roof, there is a small area? - I don't think you see the fire exit door there.

Mr. Bonomy will come across and help you point out the area. In fact, a better idea is if I ask you to look at R11 please, Photograph E, that is in one of the books of photographs, and perhaps, once we have found it, that could be put up on the screen so that everyone can see it? That is a close-up of the view that we were trying to point out from the aerial photograph? - Yes; I knew where the fire exit door was, but I couldn't see it.

Just wait a minute and it will be shown to us -- yes, that's it there? - Yes.

Now, the next few pages of your report goes on in considerable detail to consider your examination of various bullets and bullet fragments that were recovered during the course of the investigations, and I don't propose to go into this in detail at the moment because I will take the evidence in another way shortly, but would we be correct to proceed on the clear understanding that every effort was made as a result of extensive searches to recover, seek to recover every bullet, or/

or bullet fragment, that could be recovered? - Yes, we searched everywhere to try and recover everything.

Now, could I ask you to turn please to Page 13 of the report? That page tells us that as a result of the very detailed comparison exercises and investigations you carried out, that you and Mr. Scobie were able to confirm that the various bullets recovered had all been fired by one of the Browning pistols which you have described to us earlier; isn't that correct? - Yes.

Or the Browning pistol you described to us earlier, the first of the two? - (No answer).

Having established which pistol had fired the 105 cartridge cases we talked about earlier, did you then carry out some tests within the firing range at Tayside Police Headquarters in Dundee? - Yes, I did.

What were the purposes of these tests at the firing range? - The first test which we carried out was to find out how far the cartridge cases, and in what direction the cartridge cases would be ejected when they came out of the pistol.

And as a consequence of that test, or those tests, did you ascertain that it was ejected to the right at a 45 degree angle to the rear? - That is correct, yes.

And that there was sufficient power generated by the ejector within the gun to propel each fired cartridge a distance of between 15 to 20 ft.; is that right? - It was consistent, yes.

Did you also carry out tests to determine how quickly shots could be discharged from the weapon? - Yes, I did.

And your report records that using the Browning still in its cocked ready to fire position, a full magazine of 20 shots was fired off as quickly as possible. The time taken to accomplish this was 5.46 seconds; is that right? - That is correct, yes.

Using the same weapon and utilising the seven magazines used during the incident, with the relevant/

relevant number of cartridges in each, you and your colleague fired off a total of 105 rounds and ejected six magazines in the process, again for the purpose of seeking to determine how quickly that could be achieved? - That is also correct.

And the result of this test was that that exercise of firing off 105 rounds and ejecting six magazines could be accomplished in 50.4 seconds? - That is correct.

Did your inquiries then proceed to seek to offer to the police officers and the Procurator-Fiscal who were in charge of the investigation your professional opinion as to where shots had been fired from, and the number of shots that had been fired from particular positions? - Yes.

And/

And in seeking to form such an opinion you took account of full details of the articles that had been recovered, the bullets, the cartridges and everything else, your own physical examination of the gymnasium and the surrounding area and the detailed examination of the cartridges and bullets, and these tests I have just been describing? - Yes.

Did you also take account of the fact that of necessity there had been some movement within the gymnasium area involving the Emergency Services and others before you arrived on the scene and began recording what you found? - Yes.

Can I ask you to read on then from the top of page l4 of your report? - "If we were to add up the live 9mm rounds and fired 9mm cartridge cases we would find that in all they would total 50l rounds. We have 25 magazines each capable of taking 20 rounds, which would account for 500 of these rounds. The Browning pistol, Serial No. 245PZ69756, was recovered with a full magazine in place plus one round in the chamber. This would account for the extra round. However, if we were to accept that this gun held 2l rounds, it would be logical to accept that the Browning pistol, Serial No. 245PZ69756, would also have held 21 shots at the commencement of the incident. While this is technically true, it would not be feasible in relation to personal safety. As already stated in our description of this weapon, the hammer spur had been removed and that area smoothed down. This has made the hammer extremely awkward and almost physically impossible to cock in a safe manner, especially when we are expecting to have a live cartridge in the chamber. Realistically, to have a full magazine and one in the chamber the gun would have to be cocked and kept in the cocked position. When you consider the minimum pressure required on the "sensitised" trigger, it would not be feasible for the gun to be carried any distance in a holster, for personal safety especially".

Yes? - "It is our considered opinion that, when Hamilton arrived at the school, the Browning pistol, Serial No. 245PZ69756, only held a full magazine and did not have one in the chamber".

I wonder if I could break off there. I wonder/

wonder whether there might be slight confusion here. Am I right in understanding from what you tell us in the previous page of your report that it was the Browning pistol, Serial No. 245PZ42837, that was actually used to discharge the rounds? - Yes.

If we go back to page 8 of your report, in the third item, the third item is the Browning 245PZ42837; is that correct? - Yes.

That is the pistol that had certain alterations to it, if we could put it in these terms? - Yes. Obviously this is a mistake on my part.

I want to be quite clear about this. Going on to page l4, the first Browning you refer to is 425PZ69756, which is recovered with a full magazine plus one in the chamber; is that correct? - Yes.

But when you next refer to the Browning pistol, both in the sixth line and then further down just before we broke off, the reference number would be 245PZ42837? - Yes, that is correct.

You then go on to say "It is therefore logical to assume that all 9mm cartridges (501 in total) have been accounted for. Apart from the recovery of one fired .357 calibre cartridge and also a .357 calibre fired bullet, there does not appear to be any other issue affecting our conclusions that, when Hamilton arrived at the school he had in his possession 242 rounds of .37 Magnum cartridges, with both revolvers being fully loaded with six rounds apiece. If this is accepted, it would appear that when Hamilton arrived at the school he had at his disposal 743 rounds of ammunition, all magazines were fully loaded with 9mm ammunition, each self-loading pistol held a full magazine with one pistol having an extra round in the chamber, and each revolver being fully loaded with six times .357 rounds apiece"; is that right? - Yes, that is correct.

Now, your report then goes on to deal with the bullets which were recovered. I don't think it is necessary to go into the detail of this, but I think three paragraphs down your conclusion is "The end total unaccounted for would be at most l4 bullets/

bullets", and you suggest that these might be irrecoverable for a variety of reasons, and again I don't think it is necessary to dwell on that matter. In the next few paragraphs I think you give us a little detail about the ammunition itself. Perhaps you could read out from the paragraph beginning "The 'full metal jacket'"? - "The 'full metal jacket', i.e. round-nosed and semi-wadcutter are made for both military or target shooting where an expansion of the bullet is not desired. The hollow point, although also intended for target shootings, is a very popular hunting round in America".

Yes? - "The general idea is to weaken the front part of the bullet sufficiently to have it expand upon hitting a resilient surface. The Federal bullets achieve this through the soft, hollow nose mushrooming on hitting the target and causing the petal design of the forward section of jacket to fold back over the base. The design of the bullet is to stay in the target and do the maximum amount of damage (same principle as the 'dum-dum' bullet which was banned by the Geneva Convention)".

Can I just be clear about this? These are the three types of bullet you were describing from the ammunition recovered from the 25 magazines; is that correct? - That is three types of bullet, yes.

We had 60 round-nosed Norma, 247 semi-wadcutter Norma and 84 hollow point FC; is that right? - Yes.

As far as the first two of these, round-nosed Norma and semi-wadcutter Norma, are they suitable for target shooting? - Yes.

What about the third type, the hollow point FC? - Yes, they are also used for target shooting.

But it is also apparently used for hunting purposes in North America? - Not only hunting purposes, but most of the Services in America, the Police, for example, carry this type of ammunition, for obvious reasons.

I think at the top of page l5 you give us/

us some technical detail about bullets, that the round-nosed bullet weighs ll5 grains, has a muzzle velocity of ll5 ft. per second and a striking energy of 341 ft. pounds? - Yes.

The semi-wadcutter and hollow point bullets each weigh l24 grains. Both types of bullet have a muzzle velocity of ll40 ft. per second and a striking energy of 358 ft. pounds? - Yes.

All types have an extreme range in the region of l mile? - Yes.

Does that mean if you fire it out in the countryside in the open air at a certain angle it can go up to a mile in distance? - Not with the particular guns we are dealing with here. If it was firing in the Browning it would probably have a maximum range of probably l,000 yards. This type of ammunition is obviously used in other guns.

Now, can I take you back to Production R8, which is the series of diagrams? I think the first diagram you are being shown is on the third sheet of the Production, page No. l, which is Production R8. It might be helpful if we gave you a copy of that to have in front of you as well as the one that is going to be put up on the screen? - Thank you.

Now, am I correct in understanding that on this and the next few pages of this Production you and Mr. Scobie have sought to set out in diagrammatic form your professional opinions as to the number of rounds discharged from particular positions? - And directions, yes.

Yes: and this is described to us on pages l5 and l6 of the joint report we have just been going through? - Yes.

And this is expert evidence given by yourselves on the basis of your professional experience and your physical examination of the locus and what was recovered from the locus? - Yes.

But not on the basis of any discussions with any witnesses who were physically present at the time? - That is correct. It was from what I found/

found.

Now, what you say is this, first of all: "It would appear that in the sequence of events the first shot that was fired was the one to the floor of the stage"? - Yes.

If we look at this page -- I will get Mr. Lake to help us point things out as we go through, which will enable you to remain beside the microphone. If we look at position l, the figure shown on the stage of the assembly hall, and from that position there one shot was fired, and this ended up in the floor of the stage? - It went through the floor of the stage, yes.

And you continue in your report "It is debatable whether this shot was intended or if it went off by accident. If we took a guide from the fact that all holsters were of the right side draw type, it is logical to assume that Hamilton drew the Browning pistol with his right hand and retracted the slide and cocked the gun with his left hand. If the gun at this time was pointing to the floor, it is a natural action to turn the back of the gun with the left hand to grip the slide so that the ejector port faced away from the loader. If Hamilton was facing towards the door, leading from the stage into the hallway, the ejector port would be either facing the door or the wall at the back of the stage"? - Yes.

"If the gun was fired in this position, the ejected cartridge case would go up in the air slightly towards the left and in the direction of the door. This would account for the cartridge case being recovered on the floor of the stage near the wall and door"? - Yes.

"The next shot would appear to be into the wall of the toilet from the hallway outside the entrance to the gymnasium. There does not appear to us any logical explanation for this shot or whether it was intended or accidental"? - That is correct.

You then go on to say this: "It is likely Hamilton then went through the door into the gymnasium, which would appear to have been open. From the doorway and vicinity of the doorway he has fired/

fired off approximately 29 rounds, emptying a magazine and loading a fresh magazine in the process. These 29 rounds would appear to have been directed towards all parts of the gymnasium"? - Yes.

Just recapping on what we have discussed so far, your opinion is based upon where bullets were recovered, or cartridge cases were recovered and so on? - Yes.

He would then appear to have walked up the left side of the gymnasium to a point midway, where he has exhausted the second magazine in the process? - Yes.

It would appear he has fired another six shots while reaching this point? - Yes.

Then if we can move to the next sheet, please, which is page 2 in the Production, I will read this out for you. "From this position" -- that is position 4 -- "he has fired another eight rounds, mainly across the gymnasium", into an area which you describe, which was one of the areas that you marked off as you indicated earlier? - Yes.

I think, reading the matter shortly, whilst still in the general area of the middle of the gymnasium he would appear to have fired at least a further l6 rounds before moving to the top of the gymnasium? - Yes.

Can I ask that the Production be moved on to page 4, which is the figure at position 6? What you say at this point of your report is that after he had proceeded to the top of the gymnasium the sequence of events are in doubt as to their chronological order? - Yes.

Do I understand correctly from that that whilst you are able to express an opinion as to the number of shots that were fired and the direction in which those shots were fired it is not impossible for you to express any clear view as to the order in which the shots were fired? - That is correct.

In reference to this page, from the position which is marked 6, what you say is this: "From the top of the gymnasium he has fired off another/

another 30 rounds and also exhausted a further two magazines. He would appear to have changed magazines a further two times, only partially using the magazines in the process. At some time he has fired a shot from this position out through the window beside the fire exit door, whether by design or otherwise", and I think you see that on the next page of the Production, page 5, with the figure at position 7? - That is correct.

What you say about this -- perhaps I can read it again -- is "At some time he has fired a shot from this position out through the window beside the fire exit door, whether by design or otherwise. The breaking of the glass has obliterated his view, and he has then opened the fire exit door and started firing towards the cloakroom from the doorway"? - Yes.

Now, it would be helpful I think to look again at the photographs that we were examining earlier, Production ll. Could you look at Rll, photograph E? Have you got that? - Yes.

Now, we are looking, first of all, at

photograph E which shows this area to the outside of the fire exit; could you go back in the book of photographs B and could you please point out to us in that photograph where we see the cloakroom? - Yes.

It will be necessary for you to get up to do that? - The cloakroom is down here.

That is across the playground area, is that correct? - That is correct.

Whilst you are still there could you point out Classroom 7; that is one of the detached classroom buildings we have looked at in the overhead photographs? - Yes.

If you could go back to your seat, please. As you were telling us in the written report was that, in your opinion, after he had opened the fire exit door he started to fire towards the cloakroom from the doorway, that is right across the playground area that we see in the photograph on the screen; you say at least four shots were fired from this position before he stepped outside and continued to fire a further four shots towards the cloakroom and nine shots towards the classroom adjacent to the fire door? - Yes.

He had then re-entered the gymnasium and moved towards where there was a beam across the area A2 as you have described it; here he had then directed a large number of shots towards all parts of the gymnasium including the games equipment room, he would then appear to have ejected a partially full magazine from the pistol leaving one round still in the chamber; at that point he would be facing down the gymnasium near to the central upright beam in A2. We don't have obviously the door or the plan A2 marked on it but can you assist us where that was as far as the layout of the gymnasium was? - It is near the two mats -- if we look at any one of these beams running across the mat you can actually see the bar marked.

If we look at page 5 of R8 again, just point it out? - The bar goes across the middle of the mat or the beam as it is termed.

So/

So it is at that position facing down the gymnasium; is this towards the doors which he had entered originally? - Yes.

What you then go on to record in your statement describes what he did to himself and could I ask you just to read that out? - Is that page 16?

The top of page 16? - "He switched the pistol from his right hand and drew the Smith and Wesson revolver, serial number 48K8754, with his right hand. He had then placed the muzzle of this gun in his mouth, pointing upwards, and pulled the trigger. The fired bullet has exited the top of his head, impacted on the ceiling slightly behind him and dropped on to the floor in B(1). A fountain of blood has followed the bullet out of the hole in the top of his head and sprayed in virtually the same direction as the bullet on to the floor behind him. The force of the shot has thrown him in a backwards direction with the result that he has landed on his back in the position found. The recoil of the fired gun has resulted in it being torn from his grasp and landing on the floor of the gymnasium. He has managed to retain a grip on the pistol in his left hand. The solitary live cartridge, found on the floor, would appear to have been knocked out of a partially full magazine, on it being ejected from the pistol and hitting the floor."

Could I ask you to go back to the book of photographs, R11 please; I asked you earlier to point out where the cloakroom was and where Classroom 7 was? - Yes.

Both these areas would be the subject of detailed examination? - They were, yes.

And what signs of damage by gunfire was found? - As regards the cloakroom, the walls of the entrance on the right-hand side before you go into the inshot leading into the cloakroom, there was a bullet hole in this wall and on the outside fabric of the door, the window, the wood panels above and below these windows, there were bullet holes which had penetrated and gone through into the cloakroom. Obviously the bullets had been recovered from within the cloakroom and obviously the impact damage/

damage which resulted within the confines of the cloakroom. As regards hut No. 7 nine bullets had penetrated the outside wall and windows; the majority of these bullets had passed through the classroom and impacted on the windows overlooking the playground and the walls, door panels and had exited into the playground.

If we look at photograph E in this book of photographs, R11; this shows a view of the Classroom 7, is that right? - That is correct.

As I understand, from what you have told us the rounds discharged by Hamilton when he is standing outside the fire exit doors of the gymnasium had gone in the far side of that building as we look at it, most of them had crossed right across the classroom and were embedded on the wall on the nearside of the room? - Yes, nine bullets had entered the classroom, some of these bullets had obviously been absorbed by various articles just inside the window -- a book, an electric plug, a book binder -- but the majority of these bullets have passed through through the classroom, some exiting through the front window.

All these were recorded carefully by you and I understand that that photograph in these Productions show in close up where the various marks were to be seen and where the bullets were recovered? - Yes.

I think, am I right in understanding that you actually have the guns with you today? - Yes.

They are available for Lord Cullen to see if he wishes to do so? - Yes.

THE LORD ADVOCATE: Sir, I would not propose to physically produce them but they are available for examination.

LORD CULLEN: Do any of the parties want to see these Productions within the Inquiry itself?

None of the parties wished to see the guns.

LORD CULLEN: I may take the opportunity to look at them in due course.

CROSS/

CROSS-EXAMINED BY MR. CAMPBELL: Mr. Chisholm, earlier in your evidence you told us that you arrived at the gymnasium I think about 11.30 in the morning? - Yes.

And you also told us that there came a time when you were concerned about the possibility of booby traps and the like? - Yes.

Did I correctly understand that at that point or shortly after it the gymnasium was evacuated? - As soon as I made the request we exited the gymnasium.

Can you remember when it was that that happened, how long after your arrival? - Time wasn't of the essence; we got to the entrance to the gymnasium and we put on the necessary attire to go into the gymnasium. I observed, walked up the gymnasium -- 20 minutes -- say 12 o'clock.

Say round about 12? - I would say so.

A decision was taken to evacuate the building? - Probably round about 12 o'clock.

Then, we understand, of course, that checks were made and the all-clear as given; how long roughly did this process take? - I think Mr. Gould had to come from Edinburgh so that took time. I think we probably entered the gymnasium for the best part of an hour which gave us time to assess the rest of the school, so to speak; we were shown Classroom 7 and the cloakroom and also the cartridge cases lying outside the fire exit door. I think we obviously took time to have something to eat that was available at the time -- probably about two hours.

Two hours? - Possibly.

So what I am particularly interested in for present purposes is your best recollection of how long the process of checking took; in other words, how long until people could come back into the gymnasium? - (No answer).

If you don't know? - I can't honestly answer that -- it seemed ages.

Can/

Can I ask you a few questions relating to a certain passage in your joint report; at the foot of page 7 you describe the first item or the first weapon; you describe it as a swing-out cylinder, six-chamber, single or double action revolver; what are we to understand by a six-chamber, single or double action? - A weapon of that type, it is a revolver, it has a revolving cylinder which has six chambers with the result it can hold six cartridges and when you fire the gun the action on firing activates a pawl which will automatically turn the cylinder to bring a live cartridge into the hammer as you bring it over. Once you have fired that you will have a fired cartridge comes under the hammer so the next time you pull the trigger the pawl activates the cylinder action and..... When I say you pull the trigger in certain actions you have to pull back the hammer and then pull the trigger; in a double action you pull the trigger, as you pull the trigger this brings the hammer back.

What is the difference between a revolver and a pistol? - Well, a revolver has this cylinder; a pistol has, what we term, a magazine, whether it is in the butt, the side or the top it will have this magazine so that when you load a round into the chamber, cock the gun, when you fire the gun it will fire a bullet and on firing the bullet the power generated by the cartridge will fire your bullet; it will also stop backslide, if you like, and this will eject the fired cartridge case and in the process as it reaches as far back as it is going it will come forward again and as it comes forward you pick up a fresh cartridge and chamber it and in the process it will cock the weapon, it will leave the chamber in the cocked position.

Does that mean that with a pistol of that variety you can fire as many bullets as are in the magazine? - That is correct, yes.

Turning to page 8, having dealt with the second gun which you described, again a revolver, you again describe the third gun as a self-loading, magazine-fed pistol. By self-loading, magazine-fed, are we to understand the process which you have just described to me a moment ago? - Yes, that is correct.

Would/

Would this be described as an automatic weapon or a semi-automatic weapon, the revolver? - Well, if they are self-loading automatically that is when you press the trigger and you have the magazine in the gun, the pressure in the trigger will fire off all the bullets in the magazine to empty; with a self-loader obviously you have to keep pressing the trigger until it is fired.

Just pausing there, the particular pistols with which we are concerned here, each time the trigger was pulled one round of ammunition would be fired? - That is correct, yes.

And what are we to understand by a round of ammunition? - Firing off bullets, if you like.

One bullet? - One bullet, one cartridge case will be ejected.

So throughout your report when you refer to a round of ammunition are we to understand one bullet? - No, normally when I term a round it is a live cartridge; it is the terminology that is used, it is a live cartridge -- yes, it will be.

You have described the pistol used as a custom-built competition target pistol? - Yes.

Again can you elaborate on what we are to understand by that? - Yes, it is.....obviously the majority of these guns, Brownings are very popular with the Armed Forces and with certain police in America and Forces all over the world, it is one of the most sold guns, most used guns; obviously in the standard model which I have described we have models made purely for target shooting and this was one of these.

So when you refer to this gun as this type of competition gun, for example, towards the end of the main paragraph in the middle of page 8 of your report, what kind of competition are we to understand this gun would be used for? -

It is obviously target shooting. It's not a gun that you would take out into the forest and shoot birds and animals with. You could, but that's not what it was designed for. It's designed purely for the slightest touch on the trigger, to discharge a round of -- the less pressure you use on the trigger, the more steady the gun will be.

I think you describe in that paragraph that certain modifications had been carried out to this weapon which in effect increased the sensitivity of the trigger mechanism? - This is made by the manufacturer, yes.

And is that with a view to assisting the user, amongst other things perhaps, in the kind of competition that you have just been referring to? - It's all geared towards that, yes.

And why would that be helpful or necessary in the kind of competition that you have been referred to? - It's a higher degree of accuracy, if you like.

It's nothing to do with how many bullets you can discharge in a short period of time? - It's purely down to the balance of the gun and the accuracy of the gun.

Turning on to Page 13, you refer to certain tests which you carried out with a view to discovering how many shots could be fired from the Browning pistol, 42837, in a certain period of time. You indicate 20 shots in 5.46 seconds? - Yes.

And again, using the seven magazines, 105 rounds in 50.4 seconds? - That's what we found.

So in layman's terms perhaps, does that mean 105 bullets in 50.4 seconds? - That's correct, yes.

Pulling the trigger each time? - Every time the trigger was pulled, a bullet was discharged.

You were asked certain questions by the Lord Advocate relating to the type of ammunition which Hamilton had in his possession on the day, and you/

you drew a distinction between the metal-jacketed up bullets and the soft nosed bullets, which you pick again at the bottom of Page 4 of your report? - Yes.

You make reference to the particular design of the bullet which is designed to stay in the target, and as you put it, do the maximum amount of damage, and you told us that this was the same principle as the Dum-Dum bullet which was banned by the Geneva Convention? - Yes.

I take it the particular bullet which was used on the day, which was in Hamilton's possession on the day, is not banned by the Geneva Convention? - No.

Are you able to assist us, and please say if it is outwith your expertise, why it is that that particular type of bullet, the bullet in Hamilton's possession, is not covered by any ban along similar lines to the type of bullet banned by the Geneva Convention? - That, I can't say. I can't understand it myself. It is in general use in America. Most of the police forces in America use this type of bullet, obviously as man stoppers.

Why was the Dum-Dum bullet banned by the Geneva Convention? - It was to do with the War. It wasn't actually the Geneva Convention that brought it up. It was the Hague Conference at the turn of the century, but it was banned by the Geneva Convention. It was a 303 cartridge that was made in India, and obviously Dum-Dum was the arsenal in India where it was made, and what they did was they sectioned the front of the bullet so that when it did hit, it actually became two or three times the size. On striking, it made a bigger hole, and they reckoned this wasn't fair in war.

But are you telling us that you find it difficult to understand why the same principle should not apply to the type of bullet which Hamilton had in his possession? - If you were getting down to comparisons, a wad-cutter or a round nosed or a hollow point, they are all going to do the same if they hit in the right place.

I think finally, in the most general of terms, are we to understand that apart from the final/

final shot fired by Hamilton, that all of the other bullets were fired by one weapon? - By one gun, yes.

CROSS-EXAMINED BY MR. GIBB: Can you tell us how commonly owned these two particular kinds of revolver and pistol are, from your own personal knowledge? - I only get them in over the years from the criminal classes. I am not a member of any Gun Club, so I don't know how popular they are, but let's put it this way -- the Browning pistol features prominently in many of the cases that I have dealt with over the years. Maybe the Smith and Wesson revolver you occasionally get one in, but they are not as popular as the self-loading pistol.

RE-EXAMINED BY THE LORD ADVOCATE: Just one point which arises out of a point that was raised -- whether or not such weapons are used by the criminal classes, am I correct in understanding that according to current law, it is possible to obtain certificates which entitles you to acquire or possess these four firearms and all the ammunition that was recovered? - You would require firearm certificates, yes.

But it is possible to acquire certificates which entitles you to hold them legally? - Yes.

BY LORD CULLEN: Can I just ask you a few questions, if I may? At Page 8, referring to the third firearm, you pointed out that it had an extended barrel. Do you see that? - Yes.

What is the practical significance of the barrel being extended? - I think it is obviously to put weights on, so that it balances the gun. When you fire, there is less of an uplift or recoil.

Has it got anything to do with its performance in the sense of accuracy or distance over which it is effective, or anything of that sort? - It has nothing to do with distance, but accuracy, yes, that is what it is geared towards.

And the other question -- at Page 10, dealing with the different types of ammunition recovered, can you tell me what is meant by the term "semi-wadcutter"/

"semi-wadcutter"? - If we were to talk about a wadcutter itself, we would have a cartridge case with a flat nosed bullet laid across the edge of the cartridge case. The bullet is actually contained completely within the cartridge case. A semi-wadcutter, it is not quite -- it's not flat right across. It's conical shaped with a flat nose. Obviously round nosed is self-explanatory.

So that is a flat nosed piece of ammunition, is that right, as compared with the other types which are round nosed or hollow point? - Yes.

And in practice, do you know are all these used in target shooting? - Yes, they are.

DAVID JOHN GOULD (32), Sworn:

EXAMINED BY THE LORD ADVOCATE: Mr. Gould, is your full name David John Gould? - Yes.

Are you 32 years of age? - I am.

Are you an ammunition technician Class 1 with the Royal Logistic Corps of the Army? - Yes, I am.

I think you have completed some 15 years' Army service? - That is correct, yes.

And are you currently based with 521EDO Squadron at Craigiehall in South Queensferry? - It's actually 521EOD Squadron.

Does your job at Craigiehall involve you in carrying out bomb disposal duties throughout the whole of Scotland? - It does.

And from time to time, are you asked to carry out this duty by members of the civilian police forces? - Yes, I am.

On the 13th March of this year during the morning, did your duties take you to Glasgow? - They did, yes.

At/

At some time during the course of the day, were you instructed to attend Dunblane Primary School? - I was, yes.

Do you recall when you received those instructions? - I believe it was around about 14.30.

That is 2.30 in the afternoon? - Yes.

Did these instructions come from Army Headquarters in England? - Yes, they came from the Joint Services EOD Operation Centre, which is the National Bomb Disposal Centre down in Didcote in Oxfordshire.

On receipt of those instructions, did you travel to Dunblane Primary School? - Yes, I did.

Approximately what time did you arrive? - I believe it was round about 20 past 3 in the afternoon.

When you arrived there, did you meet a Senior Detective Officer, Detective Chief Superintendent Ogg? - I did, yes.

In general terms, did he brief you as to what was understood to have taken place within the gymnasium at the school? - Yes.

Was there concern expressed that there might be some explosives or suspect device either in a bag or on the body of a man known as Hamilton? - It was believed that there was a small possibility that this may have been the case.

What steps did you take to check whether this concern was well founded or not? - When I arrived in the gymnasium there were a lot of people obviously carrying out an investigation. I needed to, one, because of danger if there was a device, and also because I was using X-ray equipment that has its own hazards associated with it, it required me to move the people out of the gymnasium, and I then proceeded to carry out an examination of the bag, the body of Hamilton, and the firearms that he had used.

Before we come to the detail of what you actually/

actually did, when you say that there were other people within the gymnasium when you arrived, who were they? Were they police officers? - Yes, I believe so; forensic scientists and police officers.

So you requested that they physically remove themselves from the premises? - I did, yes.

And then, using techniques with which you were familiar, did you check the bag and the body of the man whom you understood to be Hamilton? - I did, yes.

Was anything found which was of any relevance to the issue of explosives or suspect devices? - No.

How long did it take you to form that conclusion? - It's difficult to say, but probably round about 15 or 20 minutes.

Were you then in a position to inform the Chief Superintendent that he and his officers could resume their investigation? - I did, yes.

Did you yourself have any dealings with four weapons that were to be seen in the gymnasium? - I did, yes. I asked -- amongst the things I was asked to clear as well as the bag and the body, were the weapons themselves, and I took X-rays of each of the four weapons to see whether there was anything unusual, or whether they had been booby-trapped themselves. They hadn't, and I then asked the police if they wished me to unload them and make them safe, which they indicated they did, and I then did that.

So with regard to all the weapons, you unloaded such cartridges as they contained? - Yes, and I indicated to the police this was exactly what I had done.

I think you were also asked to examine a vehicle which was parked within one of the playgrounds of the school? - I was.

Was that to the front of the school? - It was, yes.

Was/

Was the vehicle -- what type of vehicle was it, as you recall it? - Can I just refer to my notes?

Surely? - It was a white Ford Courier Popular 1.8D van.

Is that a van or a car? - It's a small van.

And was it parked near to a wall adjoining the playground? - I believe so, yes.

Was it also found to be clear of any explosive devices? - Yes.

It took you about 15 or 20 minutes to examine within the gymnasium? - Yes.

And/

And how long did you examine the car? - Probably a further l0 minutes.

Are you able to assist Lord Cullen about the time at which you completed the investigation you have been asked to undertake? - By the time I had finished, obviously I had to take my statement to the police, and by the time I had finished it was round about a quarter to 5.

That covers the time from your arrival and when you were briefed, your work in the gymnasium, your work in the car and the providing of a statement to the police? - Yes.

BY LORD CULLEN: When was it that you found there was nothing amiss in regard to your examination of the gym? - I didn't actually take up that time. Round about 20 minutes after I arrived. I arrived about l5.20, l0 minutes for a briefing from the police officer there and probably 20 minutes after that.

That would bring us to about half an hour after 20 past 3? - Yes.

CROSS-EXAMINED BY MR. CAMPBELL: You have told us you received your instructions to attend Dunblane at half-past 2 in the afternoon? - Yes.

Where were you at that time? - I was outside the Hilton Hotel in Glasgow.

And your instructions came from Didcot? - They did.

Can you help us as to why your instructions would come from Didcot? - Throughout the UK whenever the police invite a bomb disposal team to attend the National Reporting Centre at Didcot are the tasking force the police have to go through. Didcot ask the nearest available team. It would be at the option of Didcot, who would be aware of who was the nearest team and who could get there the quickest, and they would dispatch them.

It follows from that that you were the nearest team to Dunblane? - Yes.

We/

We have been told earlier this morning that concern about the possibility of a booby trap or something of that nature was first expressed at about midday, by a forensic scientist. Please tell us if you cannot help with this, but can you offer any explanation as to why your instructions were received by you some two and a half hours later? - I cannot comment on that. At around half-past 2 when I was tasked, as far as I am aware that was the first my National Centre at Didcot knew about it.

I take it you were the first bomb disposal officer on the scene, to your knowledge? - I was, yes.

And when you arrived people were in the gymnasium? - Yes, they were.

Did you carry out any check as to who these people were and why they were there? - I was escorted to the gym by a policeman, and the scene was explained to me, and the bag and the body that I was being asked to look at were pointed out to me. All of the other people in there I assume were all part of the investigation.

You yourself carried out no check as to who the people that were there were? - No.

Did you instruct that the gymnasium should be evacuated? - I did.

No further cross-examination.

LORD CULLEN: We shall now rise for lunch and resume about 5 to 2.

After an adjournment for lunch.

LORD CULLEN: Shall we begin again? Lord Advocate?

THE LORD ADVOCATE: My first witness is Professor Busuttil.

ANTHONY BUSUTTIL (58), Sworn:

EXAMINED BY THE LORD ADVOCATE: What are your professional qualifications? - Doctor of Medicine, Fellow of the Royal College of Pathologists, I hold the Diploma in Medical Jurisprudence and the Fellowship of the Royal Colleges of Physicians in Edinburgh and Glasgow.

I think you are Regius Professor of Forensic Medicine at the University of Edinburgh? - I am.

I think on the l3th March of this year you were asked to work with other consultant pathologists in carrying out the necessary post-mortem examinations following upon the tragedy at Dunblane Primary School? - I was.

Could you have before you please Productions R20 and R21? Feel free to make reference to any other notes you may have with you? - Yes.

R20 is a joint report prepared by yourself and a colleague; is that correct? - Yes.

Who is that? - Dr. Hosie Tevadia, a consultant pathologist at Stirling Royal Infirmary.

And R21, which you have also been given, is in two parts, both of which are entitled "Summary of Pathologists' Reports"? - That is correct.

Am I right in thinking that in the course of your considerable experience as a pathologist there have unfortunately been occasions where you have required to participate in post-mortem examinations of a number of bodies who have died in the one incident? - Yes, I have.

When such tragedies occur is it normal practice for the pathologists involved to have some discussions about the procedure which is to be followed before the work actually commences? - Yes, decisions are taken jointly together with the local people who are involved in the incident and colleagues who are also going to be working with you.

I/

I think in the course of the l3th March and following on into the early morning of the l4th March you worked with other colleagues and also closely with the Procurator-Fiscal at Stirling? - That is correct.

I think Production R20 tells us that after discussions involving Dr. Tevadia and the Procurator-Fiscal a decision was reached that it would be practicable to carry out the necessary examinations at the Royal Infirmary in Stirling? - Yes, having expected the facilities in conjunction with the Procurator-Fiscal and colleagues we felt this was a suitable place to carry out this investigation.

And what happened is that there were two teams of pathologists established, each consisting of two pathologists? - Yes.

You were in one team and Dr. Tevadia was in another? - That is correct.

You also had the assistance of the necessary support staff to assist in this difficult and delicate task? - Indeed.

After discussions with the Procurator-Fiscal was a decision reached that as far as examining the bodies of those who had been killed by Hamilton was concerned that the examination would be as limited as was possible? - That is correct.

And in particular a very definite decision was taken not to dissect the bodies in a way which might normally be done when someone suffers a violent death? - Absolutely.

And that applied to the children who were killed and to Mrs. Mayer? - That is correct.

As far as Hamilton is concerned, I think a different course of action was followed, and his body was subject to as detailed an examination as was possible? - Yes, a full post-mortem dissection was carried out on Hamilton.

Again in discussion with the Procurator-Fiscal, police officers and those who were assisting the relatives of the deceased at this very difficult time/

time I think arrangements were made for the bodies to be viewed and identified before your examination actually commenced? - That is correct.

And one objective clearly was that as far as those who had been killed by Hamilton were concerned the examination should be completed as quickly as practicable, death certificates issued and the body then released to the relatives for burial or cremation as they chose? - That is correct.

I think the work upon which you and your colleagues were engaged began at around 4 p.m. in the afternoon of the l3th March? - That is correct.

And continued through until 4.30 the following morning? - That is right.

In relation to each of the victims who were killed by Hamilton a joint report was prepared by the two pathologists who carried out the examination? - That's correct, yes.

Recording what was observed? - Externally, yes.

The results of X-ray examinations which were carried out? - Yes; each of the bodies was X-rayed prior to the external examination, and the X-rays were examined by us.

And expressing your professional opinion as to the cause of death? - Yes.

THE LORD ADVOCATE: These reports you will appreciate are included with the red volumes that I handed over this morning.

EXAMINATION CONTINUED BY THE LORD ADVOCATE: Now, I want to ask you only a very few questions indeed about the injuries sustained by those who died at the hands of Hamilton. Am I correct in understanding -- and this is looking at the totality of the examinations, including those conducted by yourself and those conducted by Dr. Tevadia -- that there was a range in the number of gunshot wounds that they had sustained? - That is correct.

Ranging/

Ranging from one up to seven? - That is right.

It follows from that obviously that the gun which we have already heard discharged all the wounds sustained by those victims was of a nature where one shot could prove fatal? - A shot to any of the body cavities would have proven fatal.

From the medical perspective were you able to support the view expressed by others that all the injuries had been sustained as a result of shots with the same type of weapon? - Yes, all the shots observed on all the bodies could have been produced by the same weapon. Different ammunition may have been used.

Am I also correct in understanding that there was a considerable variety of wounds, some of them fatal and some of them non-fatal, when looked at in isolation? - Yes, that is correct.

And it was impossible for you to tell from what precise distances particular shots had been fired? - It was not possible from an examination of the body to determine a range.

My understanding also is that your examinations disclosed no instances of a contact wound, when the gun had been in contact with a body when it was discharged? - None of the gunshot injuries were contact-type injuries.

One other matter I would like to take from you. I think you and your colleagues were able once the reports had been finalised to meet with those relatives who wished to discuss matters with you? - Yes, we made ourselves available, and I think with one exception all the relatives met us.

Now, can we turn next to deal with the question of the examination of Thomas Hamilton? Before I do that I should formally have taken from you that R21 -- and this will be obvious to his lordship -- sets out in summary form details of the particular examination? - Those are the summaries in relation to the cause of death of each individual person.

And so far as the l7 victims of Hamilton were/

were concerned, they are summaries of the larger, fuller reports that can be found elsewhere? - Yes.

I was asking you to look at R22, which is the post-mortem or autopsy report of Hamilton. Can you formally confirm that is a joint report by yourself and Dr. Tevadia? - It is indeed.

Could you also have before you please Productions R23, R24, R25 and R26? Now, I would like to go through the post-mortem report of Hamilton in some detail. It records his name, Thomas Watt Hamilton, his date of birth being given as the l0th May, l952, which made him 43 years of age on the l3th March; is that correct? - Yes.

His address as 7 Kent Road, Stirling? - That is correct.

The place of death is recorded as Dunblane Primary School, time pronounced dead l020 hrs. on l3th March, l996, this having been done by Dr. Kenneth Stewart, a police surgeon? - That is correct.

The time a person is pronounced dead I think is not necessarily the time he actually dies? - No, it is the time a doctor has confirmed the fact of death.

And it is recorded that the cause of death appearing on the death certificate is "gunshot injury", the certificate signed by Dr. Tevadia, the colleague who assisted you with this examination? - Yes.

And his examination was carried out as I understand it on the l4th? - Yes, it started at l.20 p.m. on the l4th.

I think if you look back at the protocol No. R20 there is a reference to an examination between 9.30 and l.20; is that Hamilton? - No.

Now, the second page of the report records those who were assisting at the autopsy who were present, including police officers, photographers, radiologists, and their names are all set out? - Yes.

The body we see from page 3 was identified/

identified to you by two members of Strathclyde Police Force to whom the deceased was known during life? - Central Police Force.

William Whyte and George Gauld? - That is correct.

It records that before you started the autopsy the hands of the deceased which had been bagged previously into clean bags were swabbed for firearms discharge residue? - Yes.

Done by police officers of the CID of Central Scotland Police? - Yes, in our presence.

Your report goes on to record that the body had been partially unclothed at the locus? - That's right.

In the mortuary various other items of clothing are removed and no doubt this was taken possession of and labelled by the police in the normal form? - That is correct.

Some of these items were bloodstained? - Yes, they were.

The next section of your report is headed "External Examination" and it is a physical description by you of what you saw on visual examination of the body? - That is correct, yes.

I think the only specific matter I wish to take from you is you record on the last sentence of that section that there were no external features of natural disease? - That is correct.

The next section deals with the post-mortem changes, the changes after his death, and I don't think we need to trouble with that. Could I ask you to read the following section which is headed "Recent Injuries"? - Yes, reading from the report, "On the left side of the head (temporo-pariteal area) 70 mm to the left of midline and
155 mm above the bridge of the nose there was a stellate irregularly rounded lacerated wound 40 mm
x 35 mm with radiating splits up to 1.5 mm in length extending from its edges."

You make reference to a photograph which I don't think we have but perhaps you would point to the area on your own head? - It is in this part of the head which I am pointing to here, the top of the head just a few inches above the ear.

The left ear? - Yes, the left ear. "Emerging from the wound are fragments of bone and brain/

brain tissue. The above injury is consistent with an exit wound. The head throughout showed gross deformity of its bony vault, more marked on the left side with disruption to the left eye socket causing sinking of the left socket and the surrounding facial bony tissues to well below the level of the right eye socket. The entry wound corresponding to this exit wound was located within the mouth where there is a large defect with total disruption of the upper jaw, the maxilla and hard palate". Do you wish me to carry on?

Yes? - "A post-mortem parchmented yellow based abrasion measuring 3 mm x 5 mm was seen in the region of the left hip, 130 mm below the anterior superior iliac spine and 230 mm from the midline."

So if we pause there, as far as the recent injuries were concerned, leaving aside the post-mortem matter you have just mentioned, they are limited to signs of gunshot wounds where the entry point had been located within the mouth and exit point the area in your head that you pointed to a moment ago? - Yes, that is correct.

Do you then pass to a detailed examination of the internal parts of the body? - Yes.

I don't think it is necessary to go through these in detail but as far as the head and neck are concerned when that was carried out were your findings really limited to what you would expect when a gunshot wound had been suffered in the manner which Hamilton had inflicted upon himself? - Yes, there was a track leading from the inside of the mouth to the exit wound of the skull and the tissues between the boney tissues and the brain tissue was damaged to the left of the track.

You then have a section headed "Cardiovascular System"? - Yes.

You make some reference under the sub-heading "Coronary Arteries" to some minor change but apart from that your findings were normal for a man of his age? - They were indeed.

The next heading is the "Respiratory System"; again I think there are minor matters mentioned/

mentioned in relation to both lungs being slightly congested but otherwise was it normal for a man of his age? - They were indeed.

The "Digestive System" is the next sub-heading; leaving aside the gunshot injury again was it normal? - Yes, it was completely normal.

The next sub-heading is "The Genito-Urinary System, Lymphatic System and Endocrine System", and again they are all normal with the exception of the gunshot wound? - Yes.

The next sub-heading is "Cranium and Nervous System"; what did you find there? - The brain obviously showed gross damage in relation to the track of the gunshot and this brain had to be retained to be examined after prolonged fixation in formalin.

We will deal with that but otherwise was there anything of any significance? - There was nothing.

The "Muscular Skeletal System", again nothing of any significance? - There was no abnormality.

Turning to the next page in accordance with the procedure you follow for carrying out a full autopsy, did you take a number of specimens for forensic examination? - Yes, we did.

And analysis? - Yes.

And we will turn to the results of these in a moment. The next paragraph was relating to radiology. This records the results of the X-ray of his body? - Yes, that's right.

And apart from confirming the damage caused by the bullet was there anything of note discovered? - There was nothing else of note.

We next turn to the heading "Brain Examination"; perhaps you could explain to Lord Cullen and those present what this disclosed? - The brain showed evidence that it had been damaged by a gunshot; there was a track extending from below upwards with extensive damage along that track and/

and bleeding along the track and in the membranes surrounding the brain at this particular point. The only other minor, very minor abnormality, was a small or tiny nodule which was present on the outer aspect of the brain and the lining of the brain which was probably present for several years and is of no consequence.

Over on the next page the report records the result of the histology and the examination that was carried out. I think you have already dealt with the normal findings in the brain and the small nodule you mentioned but otherwise again there was no abnormality? - Apart from the very minor inflammatory changes in the thyroid gland there was no significant abnormality.

You then go on to record first of all the opinion of the cause of death and that is recorded as being a gunshot injury? - Yes, that is correct.

And perhaps you could now read to us the commentary which follows on the last page of your report? - Yes, there are six points -- the first point, "The deceased was a healthy, well-built, middle aged caucasion male. 2. "There was no evidence of natural disease both with the naked eye and by microscopical examination and microscopically from the examination of representative specimens of the internal organs", nothing that would have taken account of his behavioural abnormalities. No. 3. There was no evidence of ongoing chronic intravenous drug abuse. No. 4. Death resulted from a single gunshot discharged within the mouth from a hand gun. This is a characteristic elective site for self-infliction of such an injury in persons committing suicide. 5. Death would have been instantaneous, 6 relates to the toxicology studies of blood specimens and other remains which I removed.

Could we just look at these documents which are other reports which will be given to you; first of all, R23 is a joint report by John Oliver and Hamilton Smith? - Yes.

Which deals with the analysis of samples of blood and urine from Hamilton which you have seen for yourself? - Yes.

Perhaps/

Perhaps you could read it out for us? - "The blood sample was analysed for alcohol, acidic drugs, basic drugs, benzodiazepine drugs, opiate drugs, paracetamol, LSD, cannabinoids, amphetamines, cocaine, buprenorphine, methadone and solvents; the urine sample was analysed for alcohol. All analysis gave negative results.

Putting that in layman's terms the analysis you carried out of the blood and urine samples with a great variety of drugs and alcohol was entirely negative? - That is correct.

And you pass to the next Production, R24, this is prepared by a Dr. Ian Dale, the Department of Forensic Medicine at the University of Glasgow?
- Yes.

It records that acting on the instructions of the Procurator-Fiscal at Stirling Dr. Dale examined a sample of liver labelled as having been taken from Thomas Hamilton and was analysed for lead content and the lead concentration was recorded as being 0.25 parts per million and this is within the normal range of lead concentration? - That is correct.

There was no abnormality there either? - There was no chronic lead poisoning.

Passing on to R25 which is in two parts; the part which deal with the results of the scientific analysis is a letter by Dr. Cowan of King's College, London, dated 3rd April, 1996 which appears to record that the sample of urine which had been given to them for urinary androgens and for the presence of synthetic anabolic steroids was examined using the procedures documented in the laboratory? - Yes, that is correct.

It records that the tests were negative both for synthetic anabolic steroids and for urinary androgens? - Yes.

Again reading the matter in layman's terms there is again no abnormality there? - There is no indication that this man had been taking synthetic anabolic steroids.

Finally look at a separate report, R26; there/

there is another report prepared by Dr. Dale relating to the examination of blood labelled as having been taken from Thomas Hamilton; it records findings in relation to copper and zinc and also indicates what the normal ranges for such chemicals are; what do we draw from these? - Again the level of copper and zinc from the sample of blood taken from Thomas Hamilton was within the normal range.

These are the reports which lie behind the sixth part of the commentary? - Yes, that is correct.

HOSIE TEVADIA, (59), Sworn,

EXAMINED BY THE LORD ADVOCATE: What are your professional qualifications? - M.B., Ch.B., F.R.C.Path., D.R.C.O.G.

I think you hold the post of Consultant Pathologist at Stirling Royal Infirmary? - Yes.

And during the day of the 13th of March of this year were you asked in co-operation with Professor Busuttil, the last witness, and other pathologists to work out a procedure for dealing with the post-mortem examination of those who had died at Dunblane Primary School earlier in the day? - Yes.

Could you look please at Productions R20 and 21; I think the first document, R20, sets out the procedure which yourself and Professor Busuttil evolved after discussion with interested parties including the Procurator-Fiscal? - Yes.

And I have to take formally from you because Professor Busuttil didn't conduct all the post-mortems of the 17 people who were killed by Hamilton at Dunblane Primary School that in relation to those who you examined with your colleague, Dr. Stewart, the procedure set out in this protocol was followed? - Yes.

And in particular the full reports were prepared on the basis of the external examinations that were carried out and X-ray examinations that were/

were carried out? - Yes.

R21 which you have I think still at the moment includes the summary of those post-mortems which you personally were involved in, is that correct? - Yes.

Could you also formally look at R22 and can you confirm that is a full and accurate report of the post-mortem examination of the body of Thomas Hamilton which you and Professor Busuttil carried out on the 14th of March? - Yes, that is correct.

JACK/

JACK BEATTIE (43), Sworn:

EXAMINED BY THE LORD ADVOCATE: Doctor, is your name Jack Beattie? - Yes.

I have to ask you how old you are? - 43.

And your professional qualifications? - M.B., Ch.B., F.R.C.P., D.C.H.

What post do you currently hold? - I am a consultant paediatrician at Stirling Royal Infirmary.

Could you have before you please Production R27? Do you recognise this document as one that has been prepared by you for the purposes of this Inquiry? - Yes, I do.

In the introduction, it says that it has been prepared at the request of the Procurator-Fiscal in relation to injuries sustained by those who survived the Dunblane incident. The details included are summaries of medical details, and if required, more specific information will be made available for the Inquiry? - Yes.

Could you read for us please the first paragraph after the heading "The Medical Response to the Incident"? - "At 09.48 hours on the 13th March 1996, the Accident & Emergency Department at Stirling Royal Infirmary NHS Trust received initial notification of a shooting incident at Dunblane. Within a few minutes, the full extent of the incident and the possibility of multiple child casualties or fatalities was known. A major incident was declared and the plan hospital response to such an event began.

Is Stirling Royal Infirmary a hospital which has the major incident plans available to deploy when a major incident occurs? - Yes; all hospitals by law or by organisation have to have such a plan.

Now, the site team which was assembled to go to the scene is recorded by you. It includes a number of doctors and a number of nurses; is that right? - Yes.

All/

All of whom are named? - (No answer).

It records that you went there in a police car and by ambulance, and that you arrived at Dunblane Primary School at approximately 10.15? - Yes.

On your arrival, were you guided by police officers and ambulance personnel who had already arrived, to the area of the school gymnasium? - Yes, we were.

Which you found to contain, as the report tells us, a large number of dead and injured children, and one dead adult? - Yes.

Is that the Mrs. Mayor that you are referring to? - Yes, it is.

Perhaps you could use your report to explain to Lord Cullen briefly the procedure you then followed? - Yes -- in these situations, the process is one which is termed triage, in which the first priority is to evaluate the number of casulties, those who are still alive, and to define those who are dead, and then to assist with the live casualties, who needs the immediate treatment at the site, who is beyond treatment on some occasions, and once we have assessed that initial evaluation, we then treat patients in a priority order, depending on their needs, and this also gives us the opportunity to decide who is fit for evacuation and what the sequence of evacuation might be.

Would I be correct in understanding that part of having a major incident plan involves training exercises to cope with situations where a procedure is required to be applied? - Yes, there are training episodes on a regular basis.

Your report then tells us that following this initial period of evaluation, or a period of initial evaluation, you became involved in the clinical care of the injured and also instructing other staff as to what they might do while you concentrated on those who were in the most serious critical condition? - Yes, that is correct.

Turning to the top of the page, your report records that the evacuation of patients began shortly/

shortly after your arrival at the scene; is that right? - Yes, that's right.

And then in tabulated form, there are details in relation to particular individuals, which we needn't go into? - Yes.

I think you yourself accompanied one of the critically injured children to hospital, together with another less seriously injured child? - Yes, that is correct.

You then went back to the school to be sure that no other senior medical support was required of you? - That is correct.

There were of course other medical colleagues at Stirling Royal Infirmary dealing with those patients as and when they arrived there? - Yes, that is correct.

Your report records that at the Royal Infirmary, the major accident plan had been activated, operating theatres at the hospital had been cleared of planned surgical cases, and that when the patients were transferred to the Accident & Emergency Department, they were handed over to the care of individual surgical and anaesthetic teams to carry on the treating of the patient concerned? - Yes, that is correct.

The next sentence of your report refers to a secondary triage process, but perhaps if you could just briefly explain what that is? - Yes; the secondary triage process is in some ways a repeat of the first process, but at hospital when patients are re-assessed, again to try and prioritise those needing immediate surgery from those who can wait, so it is a matter of trying to sort out the very serious from the less serious.

I think you received some support in this work from a medical team from the Royal Hospital for Sick Children in Glasgow, who attended; is that right? - That is correct.

Some of the injured were sent to Falkirk and District Royal Infirmary for care, and others, as the report makes clear, required to be transferred to the Sick Kids Hospital in Glasgow because/

because of the specialised treatment that was necessary? - That is correct.

I think in the next page of your report, you have a table setting out the details of how you categorise the degree of injury suffered, and they range from two who sustained no physical injury to those sustained very serious injuries indeed? - That is correct.

And the final pages of your report provide Lord Cullen with a little detail of individual patients, which I don't wish to go into, but can I take this from you -- those who sustained gunshot wounds, in some instances, it was limited to one wound, and in other instances, more; is that right? - Yes.

And individual gunshot wounds had in certain instances inflicted very very serious injuries on the patients concerned? - Yes. I would say that four of the children had potentially fatal wounds.

CROSS-EXAMINED BY MR. CAMPBELL: Just very briefly, if I may, and I don't want to go into any detail whatsoever on this, you told us that you arrived at the gymnasium approximately quarter past 10? - Uh-huh.

Having identified those children who were still alive, I think you tell us that some of them had minor injuries? - Yes.

Again, if I can stress without going into any detail, were some of those children able to identify themselves? - Yes. In fact, even the most ill child could tell me his name, so some of them were able to speak to me and identify themselves.

I take it your priority at that time would be to provide medical care? - Yes.

Rather than providing information to families? - Yes.

Just going back a little in time, is it accurate to indicate that while you were first informed of the incident at 09.48 hours, within a very short period of time, it was appreciated by you and/

and others that this was a very serious incident indeed? - Yes; we had a sequence of four meetings over two or three minutes.

And that again, just very briefly, so far as arrival at Stirling Royal Infirmary is concerned, from table one on the second page of your report? - Yes.

Do we understand that those children who were taken to the hospital all arrived round about 11 o'clock in the morning? I think it ranges from quarter to 10 to 10 past 11? - Yes.

No re-examination.

THE LORD ADVOCATE: Sir, the next Production in chronological order is R28, a report prepared by Mr. Ritchie, dealing with the injuries sustained by Mrs. Harrild. Following on that matter, which I explored with her this morning, I wish only to tender that report; I see no need to go into the detail of it or to call Mr. Ritchie.

LORD CULLEN: Very well.

THE LORD ADVOCATE: Sir, the next report again in chronological order is R29, which falls to be spoken to by Michael Smith. You asked this morning, sir, for a signed copy of Mary Blake's statement, and I have it now.

MICHAEL FLEMING SMITH (50), Sworn:

EXAMINED BY THE LORD ADVOCATE: What are your professional qualifications? - Bachelor of Medicine and Surgery at the University of Edinburgh, as well as a Master of Surgery at that University. I am a Fellow of the Royal College of Surgeons of Edinburgh, and I am a Master of Arts at Edinburgh University.

What post do you currently hold? - I am a consultant neurologist at Stirling Royal Infirmary NHS Trust.

Can you look at Production R29, please? Do you recognise that as a medical report which you prepared on a patient, Mary Blake? - No, this isn't about Mary Blake. I have my own copy, which has not got a number.

LORD CULLEN: If the witness has got a copy let him please use his own.

EXAMINATION CONTINUED BY THE LORD ADVOCATE: This is a report signed by yourself running to three pages; is that correct? - Yes, that is correct.

With Mrs. Blake's name, date of birth and/

and address on the top of it? - Yes.

I don't wish to go into a great deal of detail about this, but in outline are you able to tell us from that how many gunshot wounds Mrs. Blake sustained? - She sustained four gunshot wounds.

And again in very general terms, on which parts of her body were these inflicted? - One on the scalp, one on the left anterior thigh and two on the right anterior thigh.

I think as we may have heard from her statement this morning, she required a number of operations to be carried out; is that right? - Yes, it would be reasonable practice with this sort of wound to make an incision in the wound and to leave it open and then later to go back to do a delayed primary suture. She was in theatre on two occasions.

I think you have seen Mrs. Blake on a number of occasions since March? - Indeed I have.

From a purely surgical and physical point of view are you optimistic she will make a good recovery? - That is the case; I have no reason to think otherwise.

No cross-examination.

EDWARD GOLDIE (56), Sworn:

EXAMINED BY THE LORD ADVOCATE: I am an officer in the Central Scotland Police Force stationed at Dunblane Police Office. I have l7 years' police service.

Were you working in Dunblane Police Office on the morning of the l3th March of this year? - That is correct, sir.

Do you recall receiving a message from Police Headquarters over your personal radio about some incident occurring at Dunblane Primary School? - That is correct.

Do/

Do you recall what time that was? - Roughly about quarter to 10.

What do you recall of the message as it came to you at that time? - The message was that there was a man within the school grounds with a gun.

I think you were at the time in the company of another officer, Police Constable Sneddon? - That is correct, sir.

On receipt of this message what did you decide to do? - We left the office and headed towards the school.

Before you left the office was there a telephone call received by Constable Sneddon? - Yes.

Who was that from? - Sergeant Collins in the Control Room.

Was this about the same matter? - Yes.

How long would it have taken you to leave the office from the time the message was first received over your personal radio? - About five minutes.

As long as that? - It could be slightly less.

How long would it take to drive from Dunblane Police Office to the school? - I would say it would take about five minutes, normally.

I wonder if we could look at some overhead photographs we have got. Could you look at Rl? Do you recognise that view? - I take it that is the primary school in the centre of the field, yes, sir.

It might be better if we looked at a closer photograph, R3? - Yes, sir.

That is a closer view of the school, showing the entry from Doune Road at the bottom of the photograph and another vehicular entry at the top? - Yes, sir.

Which/

Which entry did you use? - The one on the bottom side.

When you drove in -- you were in a police vehicle; is that right? - Yes, sir, that is correct.

When you drove in where did you go to? - We drove up the entrance to the school near the bottom picture. There were two cars there. We checked the interiors of the vehicles on driving in, and there was no one there. We continued on until just to the small car park at the front of the school.

As you drove in you looked to your right to see if you could see anybody around the playingfield area? - Yes.

You saw no one there? - There was no one there.

Did you then carry round on the roadway to your left behind this row of small trees into the small car park area where we see a blue car parked? - Yes.

We have heard from a previous witness that that leads from the main entrance into the school building? - Yes.

Are you able to give us your best estimation as to the time it was when you got there? - I would say about 9.50 we got there, roughly.

On entering the school did you meet anybody? - I assumed it was a teacher who met us at the front door; it was a woman with grey hair.

A female adult you met? - Yes.

Some time thereafter other police officers I think arrived; is that right? - Yes, after we had been to the gym.

Are you able to give us any assistance as to the time by which other officers had arrived, or were you so concerned about what you were observing that you were not in a position to do so? - It seemed quite a while, but it could only have been/

been a short time before officers did arrive.

No cross-examination.

LESLIE CAMPBELL GOW HAIRE (38), Sworn:

EXAMINED BY THE LORD ADVOCATE: I am employed as an ambulance technician by the Scottish Ambulance Service, based at Callander.

Were you on duty on the morning of Wednesday, l3th March of this year in Callander? - Yes, sir, that is correct.

Some time in the earlier part of the morning did you receive a telephone call from the Ambulance Centre in Motherwell about Dunblane Primary School? - Yes, sir.

Can you recall when that message came to you? - 9.44.

Could you look please at what I hope is Production R30, a handwritten note? Do you recognise that piece of paper? - Yes.

Who prepared it? - I got the times from my log sheet, which times I have passed on to my controller, then I put the times on my log sheet.

When ambulance men are going about their duties they require to record the times when they receive messages, when they arrive at scenes of accidents, when they go to hospitals and so forth; is that correct? - Yes, that is correct.

Do I understand you have taken from the records which are kept in connection with this matter various times relative to what you did that day? - That is correct.

We see the first entry is when you were dispatched from Callander at 9.44? - That is correct, sir.

Was that in response to a message from your Central Control relating to sone incident involving/

involving a shooting of children at Dunblane Primary School? - That is correct.

The route from Callander to Dunblane takes you through the Village of Doune and into Doune Road and Dunblane itself? - Yes, sir.

Was it from that road that you entered into the primary school? - Yes, sir.

The sheet informs us that you arrived there at 9.57? - That is correct.

What does the next entry mean "Called major incident l0.0l approximately"? - That is to inform the Control that what we have appeared to be a major incident.

That is a message sent by you to your Control confirming that you were at the scene, that this was a genuine report and it was a major incident? - I arrived on the scene at 9.57, and after we made our assessment I came back out to the ambulance and radio-ed for some back-up.

Now, I don't want you to give us any details about any of the patients you dealt with that morning as far as to who they were or what injuries they sustained; but I think the sheet goes on to record that you left the scene, the school, at l0.l5 with one patient and arrived at the Royal Infirmary in Stirling at l0.25? - That is correct.

You then headed back to the school a few minutes later, getting back there at l0.37? - That is correct, sir.

Then you did a second trip from the school with a patient, leaving at l0.49 and arriving 10 minutes later at l0.59? - Yes, sir.

And at this stage you took Sister Hyslop to the school; is that right? - Yes, she escorted us down with the second patient with Dr. Stewart, and she requested to go back up to the scene.

The there seems to have been a final trip back to the hospital with certain medical staff, Dr. Beattie, Sister Hyslop and others? - Yes, sir, that is correct.

No cross-examination.

THE/

THE LORD ADVOCATE: Sir, Mr. Lake will now read the statement of George Anderson.

MR. LAKE: This is the statement of George Anderson, British Telecom engineer, 32 years old.

"I am employed by British Telecom as a telephone engineer. My main function is to repair faults on customer telephones.

"On Thursday, l4th March, l996 I called at Doune Road, Dunblane, to carry out repairs as several complaints had been received from residents that their telephones were not operating.

"About 9.l5 that day I was at the Exchange and established that the faults were underground.

"About 9.45 a.m. the same date I arrived at Doune Road near to the new Tesco shop. Examination of the lines there revealed that the fault led to the line pole DP31 situated within the grounds of Dunblane Primary School at the rear of Rokeby House, Doune Road, Dunblane.

"On gaining access to this pole, about l0.45 a.m. on Thursday, l4th March, l996 I established that the fault was going back from the pole to the underground cable. I went to the junction at Doune Road near to the school, but I could not identify the lines. I returned to the pole and was listening on an amplifier to hear the tones. The tone was connected to a line on the pole.

"I was standing on the ground at this point and I glanced down to the bottom of the pole. I then saw that the cable going into the ground at the back of the pole had been cut.

"I stopped work and informed the police". That is a signed statement.

THE LORD ADVOCATE: Sir, the next witness is Michael Baxter, who will speak to Productions l6, l7 and l8.

MICHAEL BAXTER (40), Sworn:

EXAMINED BY THE LORD ADVOCATE: Are you employed as a forensic scientist? - Yes, I am.

Is that at the Police Forensic Science Laboratory, Tayside Police Headquarters in Dundee? - Yes; I am head of the laboratory.

What are your professional qualifications? - I have a Bachelor of Science Degree in Molecular Biology, and I am a Chartered Biologist and a Member of the Institute of Biology by Examination by Chemistry.

Could you look at Productions R16, Rl7 and Rl8? - Yes.

Do you recognise these three joint reports as having been prepared in the laboratory of which you are in charge? - Yes.

The first report is prepared by you and a colleague, the second by yourself and the same colleague and the third by two other colleagues; is that right? - That is correct.

Can I just briefly take from you what the contents of these reports are; the first report, R16, deals with the examination of blood samples taken from Thomas Hamilton, is that correct? - Yes.

The second report deals with the examination of a quantity of boys' swimming trunks which bear to have been found in bags in the front bedroom of 7 Kent Road, Stirling, on the 20th of March, 1996? - Yes.

What the report says is this -- "The above items were examined and found to comprise of a large yellow plastic container with a red cap with PAINS-WESSEX SCHERMULY written on the outside, and a rope handle. On opening the container, thirty-seven pairs of children's swimming trunks were found lying loose, followed by a Littlewoods bag containing a further fifteen pairs of children's swimming trunks. There was another Littlewoods bag with eleven pairs of swimming trunks, at the base of the container. A number of the sixty-three pairs of swimming trunks had one or both of the labels removed but by comparison with those where labels were still present, the wearer age range was mainly 8 to 10 with some at 7 to 8, 8 to 9 and 9 to 10 years. The eleven pairs of swiming trunks found in the second Littlewood bag, were generally stained with a white substance. Part of this white substance was analsysed and found to be a paint-like substance. All sixty-three pairs of swimming trunks were further examined, and nothing further of significance was found."? - Yes.

When you say they were further examined, can you give Lord Cullen and those present an indication of what sort of substances you were looking for? - Yes, any obvious bloodstains or signs of the presence of semen; all presumptive tests for the presence of semen gave negative results.

Can you recall whether these swimming trunks gave the impression of being used or were they in a new condition? - No, there were two Littlewoods bags of swimming trunks and inside them at the top of the container were some new swimming trunks and the other bag of swimming trunks seemed to be fairly old, the ones towards the top looked more/

more recent.

Did they all show some signs of being straight out of the wrapper? - I wouldn't say that -- some of them looked fairly new but quite a number of the labels had been removed.

Now, finally can we look briefly at R18; this is a report prepared by other colleagues but in the context of this Inquiry we can take the evidence from you. The purpose of this report is to deal with the examination of various bloodstains found on the clothing of Thomas Hamilton when his body was recovered, is that right? - Yes.

And what the report concludes, having dealt with DNA profiling, the results of various tests that were carried out was that there is no indication that the bloodstaining on the clothing of Thomas Hamilton came from anyone other than himself, is that right? - That is correct.

As far as the number of specific stains that were found are concerned there was a very strong indication that the blood had come from Hamilton, is that right? - Yes, the majority of these stains.

In a fewer number there was a moderate indication that the blood came from Thomas Hamilton? - Yes.

We don't need to go into the details of these obviously but the results indicate a strong probability that the blood came from Hamilton, but more importantly, it gave you no indication whatsoever that the blood came from anybody else? - That is correct.

CROSS-EXAMINED BY MR. CAMPBELL: Just one matter if I may -- look again at R17 on your report concerning the swimming trunks? - Yes.

You make no mention there of the colour of swimming trunks? - That is correct, yes.

Could you tell us anything about the colour? - Yes, the majority of swimming trunks were mainly black but there were other colours including red and blue and green, multi-coloured green,/

green, red and blue as well and the majority were black with a white or red motif on them.

JOHN OGG, (49), Sworn,

EXAMINED BY MR. BONOMY: Are you a Detective Chief Superintendent with Central Scotland Police? - Yes, I am.

How long have you been in the police? - 30 years.

How much of your service has been with Central Scotland Police? - All my service.

What is the area that your police force covers? - Central Region -- well, what was Central Region.

Is that still the position since the reorganisation of the local authority? - Yes, it is.

So Dunblane, both before the incident and since the incident, falls within the jurisdiction of Central Scotland Police? - Yes, it does.

Could you give us just a very brief description of Dunblane itself; first of all, can you tell me what the population is roughly of the City of Dunblane? - It is about 8,000.

Is the town industrial or is it a town which may be referred to as a dormitory town? - A dormitory town.

The people in Dunblane work generally where? - In Glasgow or Edinburgh or Stirling, they tend to commute.

A number will work locally? - Yes.

Is Dunblane a place that is easily accessible from most of the Central Belt of Scotland? - Yes, it is, it has a good motorway link.

I think it also is linked regularly by trains/

trains from both Glasgow and Edinburgh? - Yes, it has a regular train service.

Since the reorganisation of the local authority into which jurisdiction does it now fall? - Stirling.

And before the reorganisation which authorities were responsible for Dunblane? - Central Region and Stirling District Council.

As at the 13th March this year how many schools were there in Dunblane? - There was Dunblane High School, Dunblane Primary School, and also Queen Victoria School.

Is there a further primary school planned or being built in the area? - That's right.

When was it that you first learned of the events at the primary school? - About 9.40, 9.45 that morning.

Were were you? - I was in my office at Police Headquarters.

How did you find out? - One of my officers came and told me that there was a suggestion that there had been a shooting incident at the primary school.

What was your immediate reaction to that? - I asked him to get more information, he came back minutes later and said that he thought there were fatalities involved and I then travelled to the school.

When did you get there? - About 5 past 10, perhaps 10 past 10.

There was already a police presence there by that time? - Yes, there was.

As a result of these investigations you have made have you established at what time the police presence first got there? - About 9.50.

Have you been able to establish when the police were first alerted to the incident? - 9.41.

And/

And has that been done by reference to telephone records? - It was.

Now, can you just confirm that time, have you got the exact time of that in your mind? - 9.41 the phone call was made.

Once you got there what were your responsibilities? - The Chief Constable appointed me as senior investigating officer.

And throughout this enquiry have you retained the position of senior investigating officer? - Yes, I have.

I take it that various aspects of the whole enquiry have been delegated to other officers? - They were.

In due course we will hear from a number of individual officers who have investigated certain aspects of the enquiry? - Yes, that is correct.

And so far as the incident itself is concerned I am going to ask you a number of questions about the results of the police investigation and I am going to ask you to summarise the results in so far as we have not heard this from witnesses this morning or will not hear them from witnesses yet to come but there are other areas in which you have been involved, is that right? - I have been involved in the whole enquiry.

So you will be required to come back later to deal with certain other elements of the investigation. I want to start just now by looking at some of the details immediately before and during the incident itself and I think you have compiled your own statement in the form of a report setting out the information that you have managed to put together from various Forces? - Yes.

If you could have that in front of you and could you first of all turn to the second page of it; at the very foot of that page you refer to a sighting of a man answering Hamilton's description by a witness at about 9.30 a.m.? - The is correct.

But I think just before that there was a sighting by

another lady, a Mrs. Newbiggings? - That/

That is correct, at the rear of the school.

Now, you will be given a copy of Mrs. Newbiggings' statement and if you could have that in front of you and you will see that is a signed statement from her and if you look at the first page does she confirm at the end of the third paragraph that she was at the school at about 9.28? - She does.

And that she drove there by the Cawder Road entrance? - Yes.

Now, if we could have the photograph on the screen, R3 I think; do we see there that there are two entrances to the school top and bottom of the photograph and the Cawder one is the top one? - That is correct.

And I think after that at the foot of the second page of your statement you confirm a sighting by Mrs. McMillan? - I do.

And that is from the other entrance to the school, is that right? - That is correct.

And she saw at that stage a white van with a man bearing the description of Hamilton, similar to the white van at the top entrance seen approaching the school from the road at the bottom as we see it in that photograph? - Yes.

I think that Mrs. McMillan also confirms that the van turned left from Doune Road into the road leading into the school? - It did.

And therefore it came from the left-hand side of that photograph as we look at it? - That is correct.

Can I take it that from the Cawder Road entrance road to the one off Doune Road you can drive up going virtually in a circle? - That is correct.

And that that journey would just take a matter of two or three minutes? - That is correct.

I think also Mrs. Hamilton's statement told/

told you that the driver was driving very slowly? - That is correct.

We have just had read to us a statement by Mr. Anderson, a British Telecom engineer, about the cutting of a wire, a telephone wire; can you tell us from that photograph where it was? - It was at the top of the telegraph pole -- there is a vehicle parked almost directly under it in the photograph.

I think as we look at that photograph it is against a sort of fence or a hedge, is that right? - That is correct.

Where is the hole? - There are two vehicles -- it is the blue vehicle, I think it is blue.

You can see a hole dimly in the photograph? - Yes.

There's a vehicle right beside it? - That is correct.

Perhaps if you just went over to the image so you can stick a pen on the hole; I think the Tayside forensic scientist lab. was able to confirm that the pliers which were recovered from the scene and were in Hamilton's possession had actually cut the wire? - That is correct.

Were you able to establish what the wire related to? - It was the telephone supply to the houses surrounding the school, not in the school itself.

So the cutting of the wire had no effect on the telephone communication at the school? - None.

Could I ask you now just again very briefly to have Mrs. McMillan's statement in front of you and to go to page 3 of that. This is the statement of Mrs. Audrey McMillan. Could you go to page 3 of that and read paragraph 16? - "This man was out of his van at this point and looked directly at us. He walked round the side of the van, the driver's side, and opened both rear doors. I then noticed him lean into the van, I couldn't see his head but I could see his legs under the door."

Go/

Go to paragraph 18 now, the first one over the page? - "He was inside the van for a second and he turned round with his back to me and laid down a silvery grey plastic sheet that he unfolded on the ground; it looked as if it was a tool wrap which had objects in it because there was lumps but I couldn't say what it was."

Just stop there -- so we have him by 9.30 in that area where the hole is unwrapping something that may contain tools? - That is correct.

Which had come from the van? - That is correct.

Now, moving on, I think you have done your best on the basis of all the information available to estimate the time at which the first shot was fired? - That is correct.

What/

What is your conclusion about that? -

About 9.37.

And why do you reach that conclusion? - The Headmaster, Mr. Taylor, was on the telephone. The itemised calling shows that that call was made at 9.38 and 52 seconds, just shortly before 9.39. The phone call to the police was at 9.31 and that's when a witness came in and told the Headmaster to contact the police, that someone was in the school with a gun. The ballistics evidence indicated that the shots that were fired could be discharged in 10.2 seconds, so it is working from these calculations.

I think the ballistics information was it could be discharged in 50 seconds? - Sorry -- 50.2 seconds.

But what we do have is a fixed time for Mr. Taylor's telephone call to a colleague at 9.38 and 51 seconds? - That is correct.

And that is confirmed by telephone record? - It is.

And we have the call to the police by Mr. Taylor, a 999 call? - It wasn't a treble 9 call.

From the school at 9.41? - Yes, but it wasn't treble 9. It was an ordinary call.

An ordinary call at 9.41? - (No answer).

So by 9.41, someone has alerted you to the fact that shooting is taking place in the school? - That is correct.

Now, the 50.2 seconds we have heard evidence about already. That's the time it would take to discharge 105 shots, shooting constantly without interruption? - That is correct.

If I can take you to Page 4, we have heard some evidence of the order of events today already, but your information confirms that Mrs. Harrild was the first person shot? - That is correct.

That probably Mrs. Mayer and then Mrs. Blake were shot; is that right? - That is correct.

We have also heard of the spraying of shots around the gymnasium, and then further shooting from various points which we have seen on diagrams, and throughout that time, the magazines were being changed? - That is correct.

And magazines were found around the gymnasium? - That is correct.

But if I can take you now to Page 5 at the top, I think you can tell us something about the events affecting a pupil, who was a pupil in one of the primary seven classes? - That is correct.

Now, it is important to retain the privacy of the various witnesses involved who are youngsters in particular, and it is important that when you give an account of this, that it is on the basis that this is simply a child involved without giving us any names. Can you tell the Tribunal what exactly happened in relation to the child who left the primary seven class? - He walked up the side of the gym, that is the south side of the gym.

Can you tell us from the photograph which side that is? - He left the classroom here and walked up this way here and round to this classroom here.

Now, in the course of the taking the route from the primary seven huts along the gymnasium and then down the right-hand side of the gymnasium as we look at it, did he observe anything happening? - He saw Hamilton in the first position when he entered the gymnasium and then he also saw him in the middle of the gymnasium discharging shots. Hamilton, it would appear, noticed him, and discharged a shot in his direction, and he was injured by breaking glass.

Where roughly was he when he was shot at by Hamilton? - He must have been in this area here.

So he is going down the right-hand side of the gymnasium at that stage as we look at it? - As/

As we look at it, yes.

And I think there is a hole in the window consistent with the bullet that sent glass in the direction of the pupil? - That is correct.

Now, I think your investigation leads you to the conclusion that Hamilton, after being near the entrance to the gymnasium and then further up the gymnasium, also fired shots at the top end of the gymnasium? - That is correct.

Both back down the way and also out in the direction of other buildings? - That is correct.

And that he actually went outside? - He did.

Are you able to work out from what you have gathered from eye-witnesses, along with the ballistics information, roughly the order of these events? - Yes.

What can you tell us about that? - From the time he entered the gym?

Well, I think we know that he sprayed something like 29 shots around the gymnasium and that he was halfway up the gymnasium and directed shots in a certain direction. Once he gets towards the top end, can you tell us something of his actions? - After he dispersed the firearm in the middle of the gymnasium, he then walked in a semi-circle and discharged more shots there. He then moved up nearer the top of the gymnasium and discharged a shot through the window at the east side of the gymnasium down towards the library entrance. He then discharged -- he opened the fire escape doors and discharged four shots from within the gymnasium out towards the library.

When you say the library, do you mean across to the main building? - That is correct.

The two-storey building? - That is correct.

So he is shooting more or less straight across? - Uh-huh.

Yes;/

Yes; carry on? - He fires four shots from within the gymnasium in that direction and then he steps out of the fire escape door and discharges another four shots from there. He then turns his attention to the primary seven hut at the right-hand side of the fire escape and fires nine shots into that.

If you look now at Photograph R4 please? There, we are looking at the gymnasium from a rather different direction and we can see a part of the sort of platform you walk out on to if you emerge from the fire escape? - That is correct.

That is where he went and started shooting across at the entrance to the main building and also at the primary seven hut? - That is correct.

And we can see in that photograph just how close the primary seven hut is? - It's very close.

That is Mrs. Gordon's class, I think? - That is correct.

Which was in the first part of the hut; how many shots were discharged in there? - Nine.

No child was injured there? - No.

What action did Mrs. Gordon take? - Mrs. Gordon noticed him in the gymnasium firing his firearm, and she told her class to get down on the floor, which is very fortunate, because one of the bullet holes was through the back of the chair.

I think a number of bullets were actually recovered from that particular classroom? - That is correct. Four exited from the windows at the opposite end of the classroom.

Now, at the main building, however, there was some injury? - That's right.

And one of the teaching staff there sustained injury? - That's right. She was walking along the corridor.

Who was that? - Mrs. Tweddle.

Was/

Was she on the upper or the lower level? - Lower level.

And which part of the body was she struck on? - A glancing blow to the head.

Could you perhaps look at R11, which is a book of photographs, and at Photograph B? If we could have that please on the imager? Now, there, do we see on the right the primary seven class? - That is correct.

Straight ahead, the entrance way, the sort of alcove entrance way at which some of the shots were directed? - That is correct.

That is where one of the members of staff was struck? - She was in the corridor, yes.

And do we see also the fence along the side of the raised paved area, on to which Hamilton emerged through the emergency fire doors to fire these shots? - That is correct, at the bottom left-hand of the picture.

Just before all this happened, a class had gone from one of the other parts of that hut across to the main building to an art room? - That is correct.

A pupil was sent back? - He was.

What happened to him? - He saw Hamilton at the door, at the fire exit door of the gym discharing his firearm. He saw him level the gun in his general direction, but he wasn't injured.

The gun was pointed at him? - That is correct.

He was simply going back a message that he had been instructed to go by one of the teachers? - He was going to get scissors, I think it was.

Now, does the evidence that you have seen suggest to you when Hamilton went back into the gymnasium, he fired some more shots? - It's thought he fired five or six shots when he returned to the gym.

Could you look now please at R8, and just/

just have this in front of you and not on the imager please, and would you look at Page 3 of that? - Yes.

I think that earlier in your evidence, you did mention a series of shots fired in a semi-circle? - That is correct.

And does this diagram portray that? - Yes.

And is it clear also from your investigation that some of the shots fired at this stage resulted in bullets being embedded in the floor? - That is correct.

Now, one of the members of staff from whom you have information, I think, is Mr. Scott; is that right? - That is correct.

Could you have now his statement in front of you? Is that the statement of David Duke Scott, a student teacher from Dunblane? - It is.

Now, what were his movements around the time this was happening? - He was in the art class when this was happening and witnessed Hamilton shooting.

Was he able to see into the gymnasium? - Yes.

I think, so far as Hamilton's own position is concerned, any time he describes his arms, they are actually pointing out the way in front of him in a sort of shooting position? - That is correct.

And I think if you go to Paragraph 19, he says that after he went back into the gymnasium from the paved area outside, he fired the gun about six times? - That is correct.

And that was a very quick sensation, with only a second between firing? - Yes.

You were not aware whether he was firing at anyone there, because you couldn't see anyone in the room at that point? - Yes.

Could you read paragraph 20? - "....there was a lapse of time of about five seconds. He took one pace backwards and he lowered the gun. He appeared to make some form of motion with his hand in his clothing; I don't know what he did with his clothing. Then he turned the gun on himself, close to his face, holding the gun in his right hand. I couldn't see if he put the gun into his mouth or just his face. I couldn't say if it was the same gun I seen him with earlier or a different gun. I then heard a shot. The man's head went slowly backwards with a jolt, his knees folded and he landed on the floor on his back."

If I could take you on to page 7 of your own statement, I think you are able to establish that it was Mr. Scott who was able to relay information to other members of staff that the gunman, Hamilton, had shot himself? - That is correct.

Now, the exact sequence of events thereafter we will probably hear more from other witnesses about: but I think towards the bottom of that page you confirm that another member of staff, Mrs. Eddington, telephoned Ambulance Control at 9.43? - That is correct.

And that coincides with the information in the ambulance log? - That is correct.

And we have heard from Mr. Haire earlier that the first ambulance arrived at 9.57? - That is correct.

One of the men to go into the gymnasium fairly shortly after the incident was over was Mr. Currie, the janitor? - Yes.

He was not the only one, but I think you got some information from his evidence and that of others about where guns might have been at that stage? - That is correct.

Can/

Can you tell me what you have been able to establish about the guns themselves and where they were at that point? - One gun was in his hand, another was in the holster. Mr. Currie removed or kicked one of the guns out of his hand and removed the other one and put it across. When the police arrived, however, there were four guns on the floor. We never managed to trace anyone who spoke to moving the fourth gun.

I am going to ask you now to look briefly at another photograph.

MR. BONOMY: Sir, it may be you should just have a quick glance at photograph R19. I think there is only one photograph there. It may be disturbing to some people, but I doubt if it really is in the circumstances of the case. I propose to put it in the imager.

LORD CULLEN: I have no objection to doing that, Mr. Bonomy.

MR. BONOMY: Thank you sir.

EXAMINATION CONTINUED BY MR. BONONY: You will see that is the photograph of the top end of the gymnasium? - That is correct.

With the body of Thomas Hamilton where it has already been described to us as being? - Yes.

Do you know when that photograph was taken? - Yes, that was taken by a police photographer probably some time after 11 o'clock that morning.

That is before the guns were made safe by the Bomb Disposal Officer? - Yes.

Because there is no sign of the ammunition he removed from the guns? - That is correct.

We see four guns in the photograph? - Yes.

Can you confirm to me that the one on the left, marked "Gun 3", the Smith and Wesson, is the one he shot himself with? - That is correct.

And/

And "Gun 4", the Browning, was the one used to do all the damage? - Yes, that is correct.

And we see at the far end towards the windows the other two guns together? - Yes.

That was the other Browning and the Smith and Wesson that were never used? - Yes, that is correct.

Are these in the positions as the police found them? - That is correct.

I think just to complete the picture inside the gymnasium for formal purposes and so that Lord Cullen is fully advised of matters would you look please at R8? Can you confirm to me that that shows the resultant positions of various people in the gymnasium, when the police arrived on the scene? - Did you say page 2?

It is the second diagram, headed "Gymnasium After Incident"? - Yes.

It has got a circle where Hamilton was at the top? - That is correct.

Does that show the positions of the various victims in the gymnasium when the police arrived on the scene? - No, it shows the position of the victims that we co-related would in all probability be immediately after the shooting.

In other words, activity taking place before the police got on the scene would have altered this picture? - That is correct.

Now, I think that many of the staff of the school were then involved in a whole variety of activities to try and bring assistance and comfort to the people who had been injured? - That is correct.

I want to turn away now a bit from the events in themselves, the actual shooting, to the immediate aftermath. As a result of the message to you or telling you that there was a shooting in the school were steps taken to alert armed police officers? - Yes.

What/

What was done about that? - An Armed Response Team was brought together and arrived at Dunblane Police Office at 10.10.

Where would they have come from? - They were on-duty officers coming from Headquarters.

In a situation like this, an emergency situation like this, would it be a scratch team? - It would be a holding team who would attend first.

And that would be the trained officers who happened to be immediately available on duty to go to this locus? - They would attend at the Armoury first to draw their firearms, to be issued with their firearms, and then go to the locus.

When did they get to Dunblane Police Office? - About 10.10.

By that time did you realise their assistance was pointless? - That is correct.

And were they stood down? - Yes, they were.

Are there formal steps of any kind that have to be taken to declare a major incident like this as falling into a significant category? - That is correct.

What steps are taken? - Stirling Royal Infirmary or the nearest hospitals are informed that the Emergency Services are declaring a major incident.

Whose decision is that? - In that instance it was the Chief Constable's.

By that time he has been alerted? - He was at the locus at the time. He attended the locus at the same time as I did: that would be just before 10 past 10.

At what time did you declare it a major incident? - 10 past 10.

Is it always a police decision? - No, depending on the circumstances it could be the ambulance or the medical staff, but in most instances/

instances I have been at it is a police decision.

I think there was a pretty quick response from the local doctors? - That is correct.

How quickly were they on the scene? - I think they were there just after 10 o'clock, 5 past 10.

That included doctors and nurses from the Dunblane Health Centre? - That is correct.

I think you had a very prompt attendance by a doctor from Doune and one from Callander? - That is correct.

Now, it was the job of someone obviously to certify life extinct in respect of each of the deceased victims? - That is correct.

And can I take it it is no surprise to find a time later than 10.10 on a death certificate, since that reflects the time at which the doctor actually makes the pronouncement? - That is correct.

Can you tell us when the first medical team from Stirling Royal Infirmary arrived? - I think it was 10.15.

And they were followed by other teams from the same hospital? - That is correct.

Did you also have a team from Falkirk, or was the patient simply taken to Falkirk? - No, a team attended from Falkirk, and arrived there about 10.35.

Two members of the Procurator-Fiscal's staff I think were notified because of the deaths? - That is correct.

How quickly were they on the scene? - They arrived at 10.40.

Now, can you give Lord Cullen just a very general impression of the problems you faced at that stage? - The problems in respect of.....?

What you were going to do with a very large/

large number of casualties on your hands who were confirmed dead, and obviously a whole host of problems. Can you give us a rough idea of how you began to cope with all the problems that must be solved? - We set up an office. The priority of course was to get the injured off to hospital. The first thing we did was put a cordon round the school. The next priority was to get the injured away to hospital, then to try and identify the deceased, and then institute enquiries, which would be followed by the appointment of Production Officers, setting up an administrative system and so on.

Now, certainly by 10.20 can I take it it is clear that there are a number of dead persons in the gymnasium? - That is correct.

How long did it take after that to remove all the injured? - The last of the injured was removed from the gymnasium by 11 a.m.

Of the people who were removed from the gymnasium, all but one actually survived? - That is correct.

If I could take the question then of identification of the various victims that were in the gymnasium, how did you begin to go about that exercise? - We were relying on the school staff. Unfortunately the one school teacher who knew the class, Mrs. Mayor, was amongst the fatalities. There was an added difficulty with the register, that it had not been completed that morning; so we were not sure who all were in the class at that particular time.

When did you establish who was absent? - Just before 11 o'clock it was suggested to us there was a possibility that two of the pupils were absent, so we despatched officers with instructions to approach with caution, because we didn't know if these were the two that were absent. It transpired that these two children were absent from school that day.

If you go to page 10 of your statement I think you set out in the bottom third or so the names of teachers who tried to assist in identifying children? - That is correct.

That/

That must have been a difficult job for anyone, a harrowing experience for anyone? - Regrettably so.

How were the teachers able to cope with that? - They did extremely well. The head teacher and his staff, the teachers who were involved, did an absolutely unbelievable job, because of the circumstances, which were extremely distressing.

I think some of the teachers may have had previous dealings with some of the children; is that right? - Yes.

Some of the nursery teachers? - Yes, it was the nursery teachers that were being used.

Can you tell us about any particular problems that arose in identifying who exactly were the victims in the gym? - Yes. At one stage we were relying on labels on clothing, one particular child had a name tag on which didn't relate to anybody in the gym. We also had a victim identified as dead in the gym and also at Stirling Royal Infirmary.

Were there school record cards referred to? - Yes. Again, unfortunately one of the victims in the gymnasium did not have a school record card. It wasn't until we reverted to the school roll that we realised that this girl was in attendance at the school.

Apart from one pupil, therefore, there were cards with names of the pupils that were in the particular class? - That is correct.

Do you remember whether these records cards had photographs of the children on them? - I don't think they had. We obtained a school photograph, but it was of little help.

Again in very general terms I would like you to tell Lord Cullen what help you think a photograph can be in circumstances like this? - On that particular day?

Yes? - It would have been of little or no use.

Dr./

Dr. Beattie told us today that the children who were injured were largely and perhaps all I think able to give their own names to anyone who asked: if a doctor wanted to know, the children could say who they were. Is that your experience? - No. We had extreme difficulty that morning with communications between our Casualty Bureau and the locus. There was only one telephone into the school, which was virtually engaged, I think by anxious parents.

That was not a very clever question. Did you yourself have any direct dealings with any of the injured children? - No.

And I take it police officers largely would not be the ones communicating with the children? - No: Paramedics and doctors were.

So when you were trying to establish who the injured children are some of your communications in that connection would be with the location of the children once removed to hospital? - Yes, that is correct.

Did you have any difficulty communicating with the hospital? - Tremendous difficulty.

Can you tell us what these difficulties were? - There was only one telephone into the school. It was virtually continuously engaged, by anxious parents phoning in or the media phoning the school. We reverted to Cellnet phones. Unfortunately again, the Cell became completely blocked, again I think because the media had descended very quickly on the locus and were using up the Cellnet.

That is a mobile phone? - Yes.

So you couldn't make any use of it? - No, I couldn't make contact.

Now, I assume that the normal police communication systems do not rely on the mobile phone network? - No: the radio system not at all. That was an option open to us, but we chose not to use it, because all the information that would have been coming across was extremely sensitive, and obviously there was a very strong possibility/

possibility that scanners would be used to pick up these radio messages.

How was it you went about finding out who the children were that were in hospital? - Eventually staccato fashion we managed to get through on the Cellnet phone, and we got two or three names at a time.

Do your police force engage in exercises in which disasters of one form or another are simulated with a view to seeing how you might cope with them? - Yes.

Did these exercises involve anything like this? - Nothing at all -- we have never had an exercise involving a man shooting; it is usually train crash disasters or suchlike.

In something in a building like this in a town where a large number of people can congregate quickly? - No, we have never had an incident like that.

So were the sort of problems you encountered with communications problems you were encountering for the first time? - Yes, on that scale. We suffer the same problems every time we have a major crime in a rural area, it takes two or three hours, sometimes longer than that, to get additional phones in.

When was it then that you were in a position to be sure of the identity of all the victims? - About 1.15, between 1.15 and 1.30.

In the later part of that period, between say 10.15 and 1.15, we are talking about three hours or so, in that latter part of that period were you still looking for information about a number of children or was it just the odd one that was outstanding? - A number of children we were looking for information -- we were reasonably satisfied that we had identification almost complete at 12.04; we had information from the hospital that there was another victim or that there was a victim who was in the hospital who had actually been identified as being in the gymnasium.

Now, as a result of this did you make any particular decision about how and when the news of the death or injury would be conveyed to parents or close relatives of the victims? - As soon as we got information about the injured we started to convey that information which was before the parents of the deceased had been informed..... The decision made or my decision at that time we should be 100 per cent sure that we have all the children identified for fear of informing the wrong parents.

I/

I think there is some anxiety on the part of some people and the parents who were involved here and these are parents of injured children rather than children who died that perhaps more could have been done to match up the injured children with their parents a bit more quickly? - In retrospect it was a decision we made at the time although some of the injured children were away to the hospital before police resources arrived in any strength. We felt it was insensitive to note the children's names as they were going to the hospital but in retrospect perhaps we should have done that.

There was the odd situation here where perhaps a relative who wasn't as close a relative as a parent or another relative was learning of the injury and being present in the hospital earlier than the parent because they were amongst groups who were still at the school. Now, can you explain how that happened on this occasion? - Yes, the relative must have gone to the hospital and got the information there whereas unfortunately, as I said, we were having great difficulty getting information at all from the hospital to the locus.

What arrangements were made for the parents of the Primary 1 Class at Dunblane Primary School when they arrived? - I believe they were taken to a separate house and eventually they were brought to the staff room in the school.

Did someone else deal with that end of it? - Superintendent Holden.

We will hear from him in due course? - Yes.

Now, when it got to 1.15, 1.30, and you knew who the victims were did you then establish a system for communicating information to the close relatives of the victims? - That is correct.

What was that? - We had a family liaison team made up of two police officers and a social worker to inform relatives and to remain with the relatives throughout the enquiry.

Roughly what time would these teams make contact with the families that they had to communicate the information to? - Between 1.30 and 2.30.

And/

And was there a separate team for every family? - I think some of the injured shared a family liaison officer but there was certainly one to every deceased family.

Adjourned until tomorrow.

.....

SECOND DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

THURSDAY, 30th MAY, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayer (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.J. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Glasgow, for the Scottish Police Federation.

.....

I N D E X.

	Page.
JOHN OGG, Recalled,	
Examination continued by Mr. Bonomy....	4
Cross-examined by Miss Dunlop.....	14
Cross-examined by Mr. Gibb.....	20
Cross-examined by Mr. Taylor.....	21
Cross-examined by Mr. Steven.....	26
RONALD GEORGE TAYLOR,	
Examined by Mr. Bonomy.....	28
Cross-examined by Miss Dunlop.....	59
Cross-examined by Mr. Gibb.....	60
Cross-examined by Mr. Taylor.....	61
Cross-examined by Mr. Steven.....	61
Re-examined by Mr. Bonomy.....	62
AGNES AWLSON,	
Examined by Mr. Bonomy.....	63
Cross-examined by Mr. Gibb.....	72
JOSEPH HOLDEN,	
Examined by the Lord Advocate.....	72
AGNES WATT,	
Examined by the Lord Advocate.....	82
SHEILA SUTHERLAND,	
Examined by the Lord Advocate.....	90
JOSEPH HOLDEN, (Recalled),	
Examination continued by The Lord Advocate.....	98
Cross-examined by Miss Dunlop.....	124
Cross-examined by Mr. Gibb.....	130
Cross-examined by Mr. Taylor.....	130
PAUL HUGHES,	
Examined by the Lord Advocate.....	133

THURSDAY, 30th MAY, 1996.

SECOND DAY.

10.05 a.m.

JOHN OGG, (Recalled),

EXAMINATION CONTINUED BY MR. BONOMY: At the end of yesterday we were dealing with the way close relatives were informed of the events as far as affecting their families. Just to complete the picture, can you tell me first of all whether you feel that the police in general in Central Scotland have learned from the problems which arose in that particular connection? - Yes, I would say we have.

Are there any particular lessons you can tell us that have been learned or anything that you feel might affect the way that you deal with such a situation in the future? - I think if the same thing or something similar happened we would note the names of the injured as they went away. I would say also that communications could be improved by using radios.

In this particular instance was there an officer in charge of communication? - No. Chief Superintendent Moffat is responsible for communications in the Force.

Was he assigned to particular duties at this Inquiry that day? - Yes, he was dealing with matters at Headquarters.

What about on the spot? Is there anything to be said for having someone in charge of communications on the spot? - Quite honestly I don't think it would have helped.

Now, there are a couple of things I want to clarify from yesterday. We heard some evidence of the cutting of the telephone wires affecting the surrounding houses, at a pole? - That is correct.

Now, can you confirm for me that the white van in which Hamilton arrived was actually parked right at that pole? - Yes.

And/

And that was a van, registration number M394 KBO? - That is correct.

Now, as the morning progressed how many Central Scotland police officers were involved in the investigation in the course of the day? - The actual investigation of the incident?

Yes? - Both?

I think we could divide it into stages. On the actual day handling the emergency how many police officers were involved? - I would say there would be over a hundred.

From later that day and over subsequent days when you were investigating the circumstances? - About 65.

And up until now how many have continued to be involved? - At this present moment about 20 officers as of today are involved in the investigation. That 65, however, was only reduced last week.

Going back to the day itself, in the immediate aftermath, from 10.15 onwards, what were the up to one hundred officers doing? - They were employed in cordon, at the locus, taking statements, at the hospital, at the mortuary and at Headquarters.

Were some officers involved in actually dealing with the removal of bodies from the gymnasium? - Yes.

And assisting with the injured being taken to hospital? - Yes.

Now, did you also oversee a search of Thomas Hamilton's house? - I did.

At what address? - 7 Kent Road

Is that in Stirling? - Yes.

In the course of the search in his house was any camera equipment found? - I think it was.

Was it of a very minor nature? - Yes.

No/

No indication of a camera business operating at that stage from the house? - No.

Were there further magazines for ammunition found in the house? - Yes.

Could you look at the book of photographs, PHOB25, photograph 17? Have you got that? - Yes.

Where was that photograph taken? - In Thomas Hamilton's house.

Was that during a search by the police after these events? - That is right.

What part of the house are we looking at here? - That is the lounge.

What are we seeing there? - Cases of bullets, some cartridges, some sticky tape. He had taped magazines with sticky tape for quick loading, with different coloured tape at the back and front.

Where were the pliers actually found? - They were found in his bag in the gymnasium.

Do you know how many more rounds of ammunition were found in the house? - I can't recollect.

Another officer will be able to confirm that for us? - Yes.

We can see there there are boxes in a metal box. Do these contain ammunition? - Yes.

I think in the course of your further enquiries into this you learned that a number of letters had been sent by Thomas Hamilton in the days immediately before the 13th March? - That is correct.

One of these was sent to Buckingham Palace? - That is correct.

Could you look at Production D88? Now, is that a communication that was recovered from Buckingham Palace? - It is.

Is it dated 7th March, 1996? - It is.

With/
With a number of items attached to it?
- That is correct.

Which are also letters? - Yes.

Is there an envelope with it? - No, we did not recover the envelope.

So the envelope was not recovered. Can I take it your enquiries did not establish exactly when this was received at Buckingham Palace? - No.

It is addressed to "For the Attention of Her Majesty the Queen"? - That is correct.

Now, if the first page of that could be put on the imager can you confirm that it comes from 7 Kent Road, Stirling? - It does.

With the phone number? - Yes.

And it is addressed to "Your Majesty"? - Yes.

Can you read the beginning of it? - "I understand you are Patron of the Scout Association, and in that capacity I would like to make you aware of my long-standing complaint against the Scout Association".

Read on to the next paragraph, please? - "Over 20 years ago, as a young man of about 20 years of age, after my time as a Venture Scout, I was asked to become a Scout Leader, which I did with enthusiasm and in a fair and competent manner. I was at that time, however, somewhat disillusioned with the general management which existed in this District at that time. After a period of a year, I was offered a better position by District Commissioner J. Don within the Association in Mr. Don's nearby District of Hillfoots, which I accepted. However, my transfer was refused by Scottish Scout Headquarters without any explanation. D.C. Don approached my previous D.C., Mr. R. Deuchars, and as a result of this reported in confidence to me that Mr. R. Deuchars was attempting to have me branded as a pervert. When Mr. Don demanded justification of this, Mr. Deuchars' only response was that I was 'friendly' with the boys. Mr. Don remarked that a Scout Leader was supposed to be/

be friendly with the boys, and as a conclusion Mr. Don reported to me that he had nothing on me but he may cause me considerable damage if unchecked."

Does it then go on "In what I consider to be a breach of natural justice, Mr. R. Deuchars then submitted a confidential report on me in line with the Policy Organisation and Rules of the Association. I know that no child has ever made any complaint of a sinister or sexual nature against me, but D.C. Deuchars, together with the A.D.C. Mr. Samuels and the G.S.L. Mr. McKenzie, visited and interviewed every child in my old Group, including especially everyone who had been a member and left. Nothing of a sinister nature came to light. However, in a bid to justify his actions, Mr. McKenzie reported that Mr. Deuchars had sought to create innuendos about me with the statement: 'Why is he so enthusiastic? Think about it'. Mr. J. Don referred to jealousy as the likely cause."? - That is correct.

Can you read the next paragraph? - "My attempts to approach Scottish Scout Headquarters were ignored, and I could get nowhere, since I was blocked from all angles. I was unable to get any response as to whether or not I was blacklisted or informed about details of the confidential report by Mr. Deuchars. As time passed numerous and various reports were received that Mr. Deuchars was passing information within the District Scout area that I was a pervert, which was passed to the public in an underhand manner".

I think if we go over the page, it says "Over the past 20 years of youth work this has caused me untold damage, including Council, Police and Social Work investigations where they had acted as a direct result of information received in absolute confidence from officials of the Scout Association. Any subsequent investigation was instigated on a whim and without proper complaint, cause or justification. For the purpose of the police complaints procedure, the investigative skills of the police are put into reverse. It seems to be a tactic of the police during any investigation to spread innuendos to as many people as possible and in such a way as to cause maximum damage, and then when their investigation comes to nothing they do nothing about retracting their accusations./

accusations. This has probably been the most damaging of all on the part of the Police and Council."; Is that how the paragraph reads? - Yes.

Can you read the rest of the letter? - "I have been involved with the Organisation of Boys Sports Clubs for over 20 years, and the rumours circulates by officials of the Scout Association have now reached epidemic proportions across Central Region. As well as my personal distress and loss of public standing, this situation has also resulted in loss of my business and ability to earn a living. Indeed, I cannot even walk the streets for fear of embarrassing ridicule".

Yes? - "All of this and more has been caused by the mal-administration of the Scout Association and their denial of natural justice and duty of care. To some Scout Officials it was simply a ruse to oust a rival Group".

Yes? - "I turn to you as a last resort, and am appealing for some kind of intervention in the hope that I may be able to gain my self-esteem in society. I am, Your Obedient Servant, Thomas W. Hamilton."

That is a letter complaining about the actions of the Scout Association, the police and local authorities? - That is correct.

Do you know whether any similar letter had ever previously been sent? - I don't think there was. We never discovered any.

Can you give us your best estimate of the time when this would have been received at Buckingham Palace? - It would probably be over the weekend of the 9th/10th.

Now, it was copied I think to a number of people? - That is correct.

To the best of your recollection can you tell me who they were? - The Secretary of State, I think it was sent to Bannockburn Primary School, Dunblane Primary School, Detective Sergeant Moffat of the Child Protection Unit, the Family Unit in the police, the Scotsman, the Daily Record -- there were others, but I can't recollect.

Are you able to tell us when they had received their copies? - I think most of the newspapers received them on the 13th March.

The day of the incident? - Yes.

We will hear some evidence about when Dunblane Primary School received their letter. Now, attached to the letter you quoted there were a number of other documents. Is the first of these a copy of a letter headed "Boys' Sports Club Group Committee", dated 24th March, 1993 and sent to Michael Forsyth, M.P., at the House of Commons? - Yes.

Is the heading of that "Juvenile Crime"? - It is.

Is it commenting on the horrific murder of Jamie Bulger? - It is.

10.20 a.m.

Again is this a letter complaining about police incompetence? - It is.

And is it the police only that are complained about in this particular one? - It seems to be Central Scotland Police being obsessed with child abuse.

I think it complains also about some of the parents who have made complaints about it? - Yes.

And some of these complaints related to taking photographs? - That is correct.

And it is referring to Clubs in Dunfermline? - Yes.

Did a copy of that accompany other letters that were sent to the media and to other locations? - I don't think so.

I think the next attachment is a letter dated the 18th August, 1995 again from 7 Kent Road, this time addressed to "Dear Parents"? - Yes.

This time mentioning the Scouts, is that right? - Yes.

The Dunblane area? - Yes.

And mentions taking boys from Stirling to Dunblane Rifle Club? - Yes, that is correct.

And mentioning the problem assosicated with camps held at Dunblane High School? - Yes, that is correct.

There is a bit written at the bottom of that letter, on the bottom of the second page which we see on the imager, Page 2 of the letter "Dear Parents", the 18th August, 1995, I think there is a bit "Dear Mr. Forsyth"? - Yes.

"Prior to October, 1983 70 Dunblane boys attended the Dunblane Club weekly, now there are five of which only one attended the 1995 course/camp. Others are bussed in from other areas to/

to attempt to make up the numbers. Thomas W. Hamilton 11/2/96"; does that appear to be the other letter which is added on to it on the 11th February 1996 to be sent to Mr. Forsyth? - That is correct.

And then was there a copy attached of a letter of 26th January, 1996 to Dr. Robert Ball, Education Convener of Central Regional Council? - Yes.

And then is there a letter dated the 26th March, 1996 from a firm of solicitors? - That is correct.

Sent to Mr. Hamilton which had been copied to be attached to this? - Yes.

Was that to do with his failure to get Legal Aid in connection with a dispute he was raising? - That is correct.

Do you know what the dispute was he wanted to take to law? - I think it was a disagreement he had with the District Council and he wanted Legal Aid to pursue it.

And then is the last item attached to the letter to the Queen one from the "Boys Sports Clubs Group Committee" dated the 28th June, 1993, a circular "Dear Parents" and headed "1993 residential sports training course"? - Yes.

And that is advertising the course and its cost and where it will be? - That is correct.

We have heard already of the analysis or the examination by forensic scientists of swimming trunks which were recovered from Mr. Hamilton's house; now, you oversaw at the search which recovered this? - Yes, that is correct.

There were, I think, 63 pairs of trunks? - There were.

Can you tell us the breakdown in colour? - They were mainly black, I think some blue, a few blue and two or three pairs of red.

These are the questions I have to ask you subject to one thing and this is a matter which obviously/

obviously great consideration has been given to before deciding whether this question ought to be properly asked in the public interest. I want to ask you about certain conclusions you have drawn about the way in which Thomas Hamilton behaved in the gymnasium. I think you have access to all the statements of eye-witnesses and also to the ballistics and forensic science reports? - Yes, that is correct.

I think you have yourself drawn the conclusion that in the gymnasium there was a group of children who either had been disabled by the firing of the gun or who themselves had been thrown to the floor over whom Hamilton stood and fired his gun? - That is correct.

From a distance which must have simply been the height of his hand above the children? - That is correct.

The only other thing I want to ask you is whether the statements you have read and all the evidence you have considered has enabled you to determine at what point in the school he actually entered? - I think that he entered by the door at the north west end of the school beside the boys' toilets.

Can you go round to the diagram there and the camera will pick up the diagram in the area you want to point to; if we can go back a bit so we can get a better overall view; that is the door which was formerly at the end of the cupboard walkway into the school? - That is correct.

I take it there is no evidence that says clearly that is the way he entered? - No.

And that is a conclusion drawn by you from all the evidence? - That is right, most likely because the traffic was very heavy in the area of the main entrance.

You think he was more likely to be seen coming in if he came in the main entrance? - Yes.

And no one actually saw him enter? - No.

I/

I think if we look at a photograph for the moment which is R3, again that can be shown on the imager and if you could just point to the entrance on that photograph for us? - Here.

There are other possibilities I think, one of which is the main entrance, is that right? - That is correct.

Just point to that please? - Here.

I think there are doorways into the Assembly Hall from the other side, is that right? - There are two emergency fire escape doors.

Can you get in from the outside through these? - It is doubtful because the janitor claimed in his statement that these doors were locked, you can only make an exit from these doors.

BY LORD CULLEN: Just one matter before you go on, perhaps you could explain to me how he would get from the parked position of the van to the door beside the boys' toilet so we can be quite clear what the possible routes were? - The van was parked about here, he went up here, down here and down there and in that door.

That is indicating going round to the west, it must be? - Yes.

It would be west and swinging round and going east and coming to that entrance? - Yes.

Where that corridor meets a large part of the building? - Yes, that's right.

CROSS-EXAMINED BY MISS DUNLOP: I would like to ask you some questions about the communication with families on the day; I do recognise that these questions are being posed in hindsight and I hope you accept I am not suggesting that people didn't do their best. You have told us that parents began arriving at the school quite quickly, presumably news was spreading through the community and indeed there was information through the broastcast media very quickly also? - Yes, that is correct.

So parents were coming to the school knowing/

knowing that something terrible had happened but not exactly what or to whom? - That is correct.

Can I take it that you will have been anxious to assure that the time spent by the parents waiting for news of their own child was as short as possible? - That is correct.

Now, you have told us yesterday of your plans in the aftermath and you said that you wanted to have the injured children taken to hospital, then place a cordon round the school, identify the deceased and then institute your inquiry which involved appointing production officers and setting up an administration system; can you tell me where in that sequence informing relatives fitted in? - That was an equal priority with identifying the deceased, we wanted to identify them first before we informed the relatives.

So that would come before the stage you described about appointing production officers and setting up the administration system? - No, that was all happening at the same time but that was a priority, it would certainly come above that but there were many things happening simultaneously.

We know that the parents of children in Mrs. Mayer's class knew that this was the class affected and were taken firstly to a private house? - That is correct.

And were up to the school around lunch time? - Yes.

I think that that was in a mini-bus? - I believe so.

Once they were in the school they were taken to the staff room? - I believe so.

Did you personally go to speak to the parents either in the private house or in the staff room? - No, Superintendent Holden was dealing with that.

Once the parents were in the staff room it is correct that they were taken out of the staff room by the names of their children being called out?/

out? - I believe so.

The order of events was that the injured children's parents were taken out first? - That is correct because we had.....ultimately we were getting the identities of the injured children, information regarding that so we could identify them.

Yesterday we heard Dr. Beattie said that even the most seriously injured child could give his own name? - Yes.

Were you aware of that? - Yes.

Now, can I take it that you do accept that the surviving children wanted to see the parents? - Yes.

And also that the priority for parents of an injured child was to be with that child? - Yes.

We know, because you have told us, that the names of the children leaving in the ambulance were not retained; can I take it you accept that that meant that the process of reuniting the parents with the injured children took around three hours? - Yes.

If parents were arriving at the school shortly after 10 the process of telling the parents of injured children.....? - I think the children.....it was just after 12 we started to tell them when we had that information but there was a delay, yes.

If, in fact, there was a suggestion that some of the parents of the injured children were not told until after 1'clock about what had happened to their children then it would be about three hours? - That is correct.

And that, in the circumstances, is quite a delay? - It is.

Turning to the bereaved parents is it your understanding that they were taken from the staff room one family at a time? - I think they were/

were taken out in groups of three or four.

The families.....? - The families of the deceased.

Yes? - Yes.

Could you be mistaken about that? - Superintendent Holden was dealing with this.

That is something we can ask him? - Yes.

Now, the timings you gave for that process, could you be wrong about that, would that have been rather later than you suggested yesterday? - No, I think information came from the liaison officers, that was the source of my information.

Might it be the case that, in fact, there was still parents waiting to be told by half-past 3? - I don't think so.

Well, might you be wrong about that? - I am only going from the information that has been given to me, Superintendent Holden was dealing with that and that certainly from the victim profile we drew up and from the information, that is where I took my information from, 2.30 was the last.

Well, you suggest that Superintendent Holden would be in a better position to explain about the times? - He will know firsthand.

But if parents were to say that some of them were not told until around 3.30 you are personally not in a position to contradict that? - No.

So at that stage it follows that some parents had been waiting for around five hours for news? - I find that difficult to believe.

I think if that is correct it does follow, does it not? - It does follow.

Do you know if some of the parents in the staff room had other small children with them to look after? - Yes.

Obviously/

Obviously that would pose particular difficulties for them? - Yes, it would.

You told us yesterday that at the scene the Chief Constable was present as indeed were you as a senior officer? - Yes.

If during the period of hours when the parents were waiting for news, if they asked for a senior officer to go and speak to them and were told that no one was available can you explain why that was if you and the Chief Constable were present? - No, I can't explain that but as I say Superintendent Holden was dealing with that aspect.

Did anyone come to you and ask that you go and speak? - No.

You described yesterday the setting up of liaison teams for each family? - That is correct.

And in the case of parents of a child who had died that team included two police officers and a Social Worker? - That is correct.

So those individuals were briefed concerning what had occured prior to the parents being told? - Yes.

Is that part of your contingency plan for a disaster such as this, that others should be told before the relatives of those involved or was that something that was simply decided on that particular day? - That was something that was decided on that day and reason was to provide a better service to the parents.

Do you accept that that fact also of others knowing before the particular families might cause distress to some families? - If it did I can assure you it was the exact converse, the reason it was done; it would be so there would be a professional social worker along with a police officer when the parents were informed.

You were asked by Mr. Bonomy if you would be looking at some aspects of the matter in retrospect? - Yes.

Is that something that you would be prepared to look at? - Yes.

If I could just turn very briefly to one other matter; you spoke of items that had been found in Hamilton's home? - Yes.

I simply wonder if you found a typewriter or a word processor? - No, there was nothing at all like that.

Are you able to explain by what means these typewritten letters were produced? - Yes, they were done at the University.

Was there somebody who did them? - Hamilton took them up to the University and had them word processed.

Cross-examined

CROSS/

10.40 a.m.

CROSS-EXAMINED BY MR. GIBB: Mr. Ogg, as you know, I represent, among others, Mr. Mayer and his family. Can you take it from me that Mr. Mayer's daughter Esther went to Stirling Royal Infirmary about 12 noon and heard about 12.30 someone asking about children in Mrs. Mayer's class, and that she thereafter immediately went to the school and arrived about l o'clock. She was I understand put into the staffroom with the parents, but I understand that her father, Mr. Mayer, arrived at much the same time but was put into the library on his own, and was left in the library for some half an hour before he threatened that he would go out to the media to try to find out what was happening, before the police officer who was at the door reluctantly conceded that the worst case scenario had occurred. Have you any information to contradict that information I am giving you? - Yes. My information is that when Mr. Mayer arrived at the school he demanded to know what had happened to his wife, and the officer concerned was D.S. Moffat, and he told him virtually as soon as he arrived at the scene. That is my information -- and he asked for the use of a phone and was given the use of a phone.

I have to say that my information is Mr. Mayer sat in the library for about half an hour before he was told anything. Now, obviously this may be subject to evidence from elsewhere, but only at half-past l after he had got it out of the officer there that his wife had died, he spent an hour trying to contact Esther, who was in fact only a few yards away from him in the staffroom -- thinking she was still at Stirling Royal Infirmary? - I'm not aware of that.

And he used a phone in the library? - He certainly used a phone.

And indeed it was only at quarter to 3 that Esther and Mr. Mayer met each other when she was brought through to the library and met her father? - I don't know about that.

Whatever is the position about the children -- and I accept the validity of the difficulty you had -- there was no difficulty, was there/

there, in indicating both to Esther and to Mr. Mayer virtually on their immediate arrival that their mother had died? - There should have been none.

And indeed that doesn't appear to have been done, if the information I have is correct? - If the information you have is correct then that would be the case, but as I say my information is D.S. Moffat told Mr. Mayer immediately he arrived.

Can I suggest that perhaps one thing that could be looked at in this dreadful situation which occurred -- and I accept entirely that you were in a very difficult situation that day -- is that in tragedies such as this a senior officer should immediately be appointed to be the sole line of communication with any people who arrive who may be involved in the tragedy, either as near relatives of the deceased or injured? - We did that that day. Superintendent Holden -- that was his function.

Well, why was it then Superintendent Holden didn't apparently meet with Mr. Mayer, as far as I am aware, at all? - I don't know.

You will appreciate Mr. Mayer and his daughter's concern about the lack of communication? - I do.

And again can I simply endorse what Miss Dunlop suggested to you, that lessons may be learned from this dreadful tragedy about communication? - Yes. We accept that fully.

No cross-examination by Mr. Jones.

CROSS-EXAMINED BY MR. TAYLOR: I wonder if you could remind us what your principal concern was on the l3th March in relation to giving information to the parents? - We wanted to ensure obviously that the information was l00 per cent accurate. We felt we were in a dilemma if we made a mistake and gave out the wrong information. That was heightened just after 12 o'clock when we learned that one of the deceased who was in the Infirmary had been identified as being in the gymnasium as well -- and that caused us great concern.

Just/

Just taking up that point, what steps did you take upon learning about the confusion from the hospital? - We then had to re-identify, so to speak, each of the deceased.

You would be informed of the identity of the child in the hospital, and you would have believed that there was a child of the same name in the gym. Were there any specific steps which you were able to take in relation to carrying out that identification process? - That information came via the incident caravan -- simply the identity of the child or the believed identity of the child in the hospital. We then tried -- as I say, communications were failing at that time on the phone side. We tried to contact officers at the hospital to find out what the identification was at the hospital. I think we had three phone calls and eventually we found it was from a name label in the shoe of the child at the hospital. Unfortunately, as I said earlier in my evidence, we had identifications made -- sorry, we had clothing with name labels which didn't refer to any child in the gym. So we couldn't be l00 per cent certain. So again we had to go back to the staff and ask them to go round the bodies again and try to trace the marks with the class records, to identify all the dead children.

You mentioned there the staff having to go round the bodies again. In fact, how often did you require some members of staff to go round the bodies? - I am sure they went round -- different members of staff, because the staff were breaking down -- understandably so. They did a tremendous job, absolutely unbelievable job, but they were breaking down, and we had to give them breaks in between going to look at the bodies.

Apart from the effect on the staff was there noticeable effect on your police officers attending? - Yes, a great deal of police officers -- it was an absolutely unbelievable situation, and I saw police officers crying.

Now, you told us yesterday that you thought that it would have been insensitive to note the children's names as they were going to the hospital -- and the reference for that, Sir, is page ll4. I wonder if you could just elaborate a little/

little bit on that piece of your evidence? - My thought was that the primary concern was to get the injured children to hospital as quickly as possible, because some of the children were very seriously injured -- to receive treatment and hopefully save their lives. And I felt it would be insensitive for a police officer to be standing by noting their names as they went. In retrospect, had we known what we now know in hindsight, that there was going to be great difficulty in communications -- had we known then, we would definitely have done that and taken any responsibility for the insensitivity; because in the end of the day we would have been able to inform the parents much more quickly.

I take it in the gymnasium those attending to the children would be carrying out medical processes; is that right? - That is correct.

I wonder if you could have a look at Document Production R27? I wonder if you could have a look at the first page of that document, and without actually reading it out, because of the sensitive nature of the information contained in the document, could you have a look at the last paragraph on the first page and let us know if that is the sort of processes which were being carried out on the l3th? - That is exactly what was happening.

And did you form the view at the time that it would have been inappropriate for the police officers to have interjected with any specific questions? - Very much so.

You referred a few moments ago, and indeed yesterday, to the difficulty which there was in communicating with the hospital, and this morning you talked about encrypted radio. Can you tell us just a little about what that involves? - We do have encrypted radio in the Force, but unfortunately it is very short range -- but it is available. And basically it means that if anyone scans in they can't hear messages being passed because they are coded.

I take it from the answer to that last question that the range was insufficient to enable communication between Stirling and Dunblane? - That/

That is right. We have a few sets which are used for surveillance purposes, but they are short range.

What steps did you take to facilitate communication between Dunblane and Stirling on the l3th? - We tried to use the land line available. The incident caravan was brought to the location reasonably quickly, but again we hadn't mobile phones and normal radio communication -- so we relied mainly on land phones.

And did you make any attempt to increase the number of land lines available? - We did that immediately by contacting BT at Headquarters. The first additional phone line into the school I recollect was about 3 o'clock in the afternoon, but the request was made immediately.

Now, you mentioned yesterday that in other major incidents there has been a delay in obtaining the land lines. Would it be fair to say that on other occasions the media interest has not been so high and that Cellnet facility has been available to you? - That is correct.

Before I leave the topic of encrypted radio, to your knowledge is long-range encrypted radio available in other Forces? - The Scottish Crime Squad have it. I am not aware of any other Scottish Force that has it, but some English Forces may have it.

This morning you referred to the constitution of the liaison teams, and I appreciate that was an area where Superintendent Holden can perhaps help us the most. Can you tell the Inquiry what the thinking behind the constitution of the liaison teams was? - As I said earlier, it was to make the parents -- to reduce the problem as far as informing the parents was concerned. It really was born out of the concept we had for child protection issues, where investigations are done by two agencies, the Police and Social Work together -- specially trained officers from the Social Work Department and specially trained police officers who are jointly trained. And that is where the concept came from, and as far as possible the police officers used and the social workers were child protection trained officers. So it was hopefully to be tactful in understanding the situation that we developed/

developed the teams. The additional police officer was on the understanding that the parents would identify the body to the police and then the police would identify the bodies to the pathologists, and so again it would decrease the trauma.

And you took the view I take it from your evidence that the breaking of the news to the parents would be better achieved if those breaking the news had a briefing before doing so? - That is correct, but it was not only to break the news. The idea behind these teams was to give continuing counsel and comfort, and a point of contact to these families.

And have these teams remained in place up to the present time? - Some of the teams are with the families today and yesterday, and will continue to be with them.

We heard some evidence yesterday that certain advice had been given that the gymnasium should be evacuated because of the concern that Mr. Hamilton's body might have been booby-trapped in some way? - That is correct. I can't remember. I think it was either the ballistics officer or Dr. Tevadia, the pathologist, who suggested something I hadn't thought of, that the body may be booby-trapped. That was about 12 o'clock. But I made a conscious decision then that the MOD, or the Bomb Disposal, normally ask us to evacuate if we have any suspicious devices -- I made a conscious decision that the body had been in position for about two hours at that time, the witness Currie had kicked away guns and so on. So my instructions were the forensic team and police officers shouldn't go near Hamilton's body, it should be treated as a sterile area, but that we should carry on with the process of identification, because I felt there was an element of risk, and I felt any delay -- that had to be balanced against any delay that would have occurred as far as identification was concerned.

Now, a number of comments have been made about the police handling of the conveying of information to the parents in the course of the Inquiry. Have you been aware of these complaints before? - No.

When did you first become aware of them/

them? - Just in the last two or three days.

And what, if any, steps have you taken since being informed of these complaints? - We offered to meet with the families to explain our position and the difficulties we faced that day.

And was the offer of that meeting, to your knowledge, accepted? - No.

CROSS-EXAMINED BY MR. STEPHEN: Yesterday you said that the call which Mr. Taylor had made to report the incident was an ordinary call and not a 999 call? - That is correct.

I think the reference is page 98 of yesterday's notes. Do you know for sure that it was indeed an ordinary call or could it perhaps have been a 999 call? - No, I am almost l00 per cent certain, because it came into our switchboard and not into our control room, and all 999 calls come into the control room.

And is there any log of that? - Yes, we checked on that.

Could I ask you to look at Production R28, in particular the second page of that? This is headed up "Major Incident at Dunblane Primary School Log, l3th March, l996"? - That is right.

Could you read the first entry from that? - That is a 999 call to the Ambulance Service, which I think was made by Mrs. Eadington or Mrs. Awlson.

That wouldn't be a reference to Mr. Taylor's call? - No. That was a telephone call that was made to the Ambulance Service.

If I could refer you to one other matter discussed yesterday and today, that is with regard to the identification of the injured children who were removed from the school? If I understand your evidence you accept you thought it was inappropriate for police officers to seek identification of the children as they were being taken out of the school? - That is correct.

Do you know if anyone else may have sought/

sought to identify these children before they left for the hospital? - No, I am not aware of anybody doing that.

Is it possible that someone may have done that? - I don't think so. It would have made our task much easier. That first hour was chaotic, as you can well imagine, with injured children being removed and being treated at the locus.

No re-examination.

BY LORD CULLEN: Just one matter. You have expressed the view that lessons can be learned from what happened on the l3th March. Am I right in thinking that these lessons would eventually be expressed in the form of some written procedure, in the event of such an emergency in the future? - That is correct.

Has that process already been carried out, or is it still to be done? - The Inquiry is still ongoing -- I haven't had an opportunity yet.

And who would have the responsibility for reducing such matters to writing? - I would imagine it would be our Force Executive.

The Force Executive? - Yes.

11.00 a.m.

MR. BONOMY: Sir, the next witness is Ronald George Taylor.

RONALD GEORGE TAYLOR, (46), Sworn,

EXAMINED BY MR. BONOMY: Are you the head teacher of Dunblane Primary School? - I am.

How long have you been in that job? - I have been head teacher at Dunblane Primary School since August, 1993.

I would like to ask you a little about the school itself first of all. I think you should look at the 13th March, 1996. Can you tell us something about the size of the school? - On 13th March, 1996 the school roll was approximately 640 pupils.

How does that compare with other primary schools in the country? - I think it makes us one of the largest primary schools in the country. I know of two other similar sized schools.

How is the population of the school divided? - It is divided into 20 classes.

How many teachers are there? - There are approximately 20 teachers in the school.

How many auxiliary staff do you have? - We have 10 auxiliary staff, and we have cleaning staff.

Now, I think there is a management structure within the school? - Yes.

You are the head teacher. Can you tell us something about the level below you? - There is a Depute Head Teacher, Mrs. Eadington.

What other staffing positions of authority are there? - There are two assistant head teachers.

Who were they? - Mrs. Awlson and Mr. McCombie.

I show you photograph R3. That shows the school/

school as it was on the 13th March? - Yes, it does.

There is a main teaching block which is largely to the upper left-hand side of that photograph? - That is correct.

How many separate huts do you have? - There are five -- I am sorry, six -- separated hutted units, four of which we use as classrooms, the fifth one which is used as the kids' room and the sixth one a music room.

Is there a link between the school, the assembly hall and the gymnasium? - Yes.

On the far side of the building on the left-hand side there is something which stretches out. Is that a hut or is that attached to the main building? - To the rear of the building?

Yes? - That is a hut. Can I go to the photograph?

Yes, please? - Are you referring to this area here?

Yes? - That is the staff room, which is connected to the main building.

By its very nature it must have a lot of doors? - Yes, indeed.

The huts, for example: do they just have one door or do any of them have more than one door? - Most of the huts have two doors, not counting fire exits.

Taking the main T-shaped building, including the gymnasium and the hall, how many ways are there in? I don't mean ways that you can come out. If we could confine ourselves to ways in for the moment? - To the best of my knowledge there are six.

Can you point them out? - The main entrance, this entrance here, there is an entrance in this corner here.

That is at the junction between the link and/

and the main building? - That is correct.

On the far side from the main entrance? - Yes. There is a door here which allows access.

That is further along, up the photograph, on the main building? - Yes, and two entrances on either side of the staff room block.

In addition to these are there ways out that you cannot get in by, or could not get in by? - Yes.

Where are they? - There are two in the nursery area here.

That is on the very left-hand end of the main building? - That is correct: and one along here.

Near one of the other entrances you showed us? - And two off the main hall.

Are these on the far side of the main hall as we look at it? - Yes, indeed.

Can you definitely not get into any of these, or could you definitely not on the 13th March? - That is my impression.

Are these push-bar doors? - Yes.

So you could escape, but you couldn't get in? - Yes.

Is that always the case? - One of these doors is often used as an entrance at lunch time for the pupils who are in the Primary 7 hut here.

Was it the case in March that it was used as an entrance? - Yes, but at lunch time.

Knowing what you know of the whole events, without going into the details, how do you think Thomas Hamilton got in? - I am convinced the police report is correct and that Hamilton entered by this entrance here.

Why do you think that? - Because of the busyness/

busyness of the front central foyer area, and the arrival of parents to the nursery, and there were several parents still in the nursery at that time. I am quite convinced if he had come in the main entrance we would have seen him.

So we can exclude the two exit doors, can we? - Yes, we can.

What was the normal starting time in March for the school? - 9.

For everybody? - The staff's starting time is earlier than that, and most staff arrive even earlier.

But for the pupils? - 9 o'clock.

There is a nursery somewhere? - Yes.

In the main building? - Yes.

What is the starting time for the nursery? - 9.30.

There was clear reference yesterday to some evidence gathered by the police from people on the two roads into the school and coming to the nursery at 9.30. That would explain why there was traffic to the school at that time? - Yes.

Did you have regular assemblies? - Yes.

Can you tell us the sequence of these? - The assemblies take place at the moment on a Wednesday morning, but they are rotational, because we cannot get all the children into the hall at the one time, so we rotate them. On one Wednesday there would be the infants' assembly, which is Primaries 1, 2, 3 and 4, followed by a senior assembly, Primaries 5, 6 and 7. These dates would be rotated in relation to when was the best time for the assembly. On one Wednesday there would be the infants' assembly, that is Primaries 1, 2 and 3, then an assembly for Primaries 4, 5 and 6, and a senior assembly for Primary 7. These dates would be rotated in relation to when was the best time for these assemblies.

How long do the assemblies last? - They vary./

vary. The infants' assembly is often shorter, because the children have a shorter attention span, and the senior assembly often has prize-givings, awards, etc., so it often lasts longer.

On that particular morning, 13th March, I think it was to be an infants' assembly? - Yes.

Lasting from when to when? - 10 past 9 to half past 9.

Which classes attended? - All classes in Primaries 1, 2 and 3.

What were the total number of pupils roughly that morning? - Approximately 250.

How many members of staff? - There would be ten members of staff approximately, including myself.

Would they go into it? - Yes.

Including the Minister? - Yes, indeed.

Yourself and how many? - All nine class teachers plus Mrs. Eadington.

You have heard the suggestion -- well, it was more than a suggestion -- here that the first shot fired was into the stage floor of the assembly hall? - Yes.

Can you tell us exactly when assembly finished that morning? - Approximately 9.30.

So once that finishes how long does it take to evacuate the children? - It doesn't take too long; just a few minutes. The children all exit from the same door as previously with their teachers back to the classrooms.

From what we have heard we are talking about a seven minute spell from 9.30 to 9.37, when the shooting actually started. How much of that spell would be occupied by children going to their classes? - Three or four minuted, I would say.

If this had been a senior assembly, when would it normally have finished? - As I said, it varied./

varied. It would normally have finished about 9.40, perhaps even later. The senior assembly the week before lasted an hour.

Even on an average basis it would have finished after the shooting started? - Correct.

Did you ever meet Thomas Hamilton? - I met him on one occasion.

When was that? - I'm not terribly certain when it was, it was approximately 18 months ago.

Before you met him had you heard about him? - Yes, I had.

How did you come to learn of him? - I learned about him from a number of staff and from one or two parents.

What sort of things did you learn initially? - Initially I learned that he conducted a boys' club based in Dunblane High School, and that there were some concerns about the club itself.

Who expressed concerns to you? - I can recall two parents in particular who expressed concern to me about inappropriate clothing, as I recollect it, and about Hamilton taking photographs.

Do you remember what the inappropriate clothing was? - I would be guessing, but I think it was swimming trunks.

That is a vague recollection? - That is a vague recollection.

And the other complaint was that photographs had been taken of the children? - That is right.

Was there any suggestion that these were indecent? - There was a suggestion that these were inappropriate.

What were the circumstances of your meeting him? - Previously several leaflets had arrived in an A5 format, which gave details about the/

the clubs, and these I had to bin. Subsequently Hamilton came to the school, and I met him in the foyer of the school, and he handed me a further 40 to 50 such leaflets. He asked me to distribute them.

Yes? - He also complained about members of staff who had been driving parents away from his boys' club, and would I perhaps disabuse them of the idea that he was a pervert.

When you binned the first lot, was that instantly they came in, or was it after finding out some more information? - It was probably after finding out some more information.

When you got them in did you go and ask? - Yes, I remember discussing with Mrs. Eadington. Following that I decided to bin them. My understanding is that leaflets had arrived in the school prior to my becoming the head teacher, and that they were also binned.

Is what to do with leaflets like that a decision for the head teacher? - Yes.

Would it be appropriate on occasions to consult the Education Department Headquarters? - Yes, sometimes Headquarters alert one to activities which were perhaps inappropriate, but I don't recall them doing that on this occasion. The staff however were adamant that that had been the practice in the past.

Did you express views prior to meeting Hamilton to parents or members of staff about what should be their attitude if he approached them? - Yes. Some parents asked me about the boys' club, and I said I had heard a number of allegations, but I was unsure about them. However, I concluded from what I had heard that I would not send my own children to the club, and they thanked me for that.

When Hamilton met you and asked you to disabuse staff of the rumours about him did you say anything to him? - I was very neutral.

What did you do with the second lot of leaflets? - I binned them also.

Now,/

Now, to be absolutely clear about the location of clubs, do you remember where the club was that he was trying to circulate material about? - Dunblane High School.

Were there ever any clubs to your knowledge from what you have gathered -- I know you had only been there a relatively short time -- were there ever any clubs of his run in Dunblane Primary School? - To my knowledge, no.

Did Hamilton ever have any role to play in the activity of Dunblane Primary School? - No.

After all this had happened did you ever hear anything further from him? - There were a number of letters which arrived at the school.

What were these? - These were photocopied letters circulated to various people and addressed to various people.

Do you remember who they were addressed to? - To Michael Forsyth, I recall, the Secretary of State.

Any other names that you remember? - Yes, I think I recall one of them was addressed to Councillor Ball.

Could you look please at Production R30, which also has on the back DDH361? Could you look at that first of all? Is that a letter dated 26th January, 1996? - It is.

To Councillor Ball? - Yes.

From 7 Kent Road, Stirling? - Yes.

MR. BONOMY: Sir, if you have not got a copy of that you will find it attached to the one I referred to earlier.

EXAMINATION CONTINUED BY MR. BONOMY: Now, does that look like the letter that you received? - It does.

Does the timing match? - I am sorry?

Does the date match the time when you recollect/

recollect the letter coming in? - I think it does.

That is the end of January, 1996; is that right? - Yes.

I think it complains about gossip in Bannockburn Primary School? - It does.

And later in the first paragraph it says "At Dunblane Primary School, where teachers have contaminated all of the older boys with this poison, even former cleaners and dinner ladies have been told by teachers at school that I am a pervert"? - Yes.

Does it go on "There have been reports at many schools about boys being rounded up by staff and even warnings given to entire schools by head teachers during assembly"? - Yes.

It goes on in the second page "I have no criminal record, nor have I ever been accused of sexual child abuse by any child, and I am not a pervert"? - Yes.

"I have always run my clubs in a fair, proper and competent manner and ensured that no child or parent has any proper or legitimate complaint. Nevertheless, this defamation coming from the respected source of local primary school staff has caused untold problems everywhere within the Region and beyond"? - Yes.

11.20 p.m.

I think that he contributes in the next

paragraph the origin of this when schools became involved in 1983 when an official of the Education Department telephoned numerous schools to warn Headteachers about him? - Yes.

Now, you remember receiving the letter in these terms, do you? - Yes, I do.

I think he then also towards the end of that last paragraph mentions a Dunblane Scout Official, David Vass and talks of his malicious work and he goes on to talk about Mr. R. Deuchars as being at a complete loss to know what all this is about? - That is what it says.

Now, we heard evidence this morning about a letter to the Queen; did you ever see that? - I did.

When did you see a copy of that letter? - I recall that letter arriving on the morning of the 12th March.

Was it that letter only or did it have this attached to it? - As I recall it was that letter only.

Would you look then at the letter which was D88 that I think we saw earlier and tell me if that is the same letter that you received? - Yes, I think that is the same letter.

What did you do with it? - I read it, I recalled discussing it in the secretary's office with a member of staff, I handed it to Mr. Convery, my Assistant Headteacher.

Is that the last you saw of it? - Yes.

Do you know if the police recovered your copy? - I don't think they recovered this particular letter.

It went where it belonged perhaps? - I think so.

Is it possible that the letter arrived on/

on the 11th rather than the 12th or are you fairly confident of your recollection that it was the 12th? - Fairly confident.

If I could turn to Wednesday, the 13th, what time did you actually arrive at the school? - I arrived at the school at 8.15 as I do most mornings.

Any sign of a white van? - None.

Where did you go to when you arrived? - I went to the office area beside the dining room area and into my own room and into the secretary's room.

Through the main entrance, I take it? - Through the main entrance.

By that time have all the entrances to the school been opened up? - Yes.

Who was responsible for that? - The janitor.

Well, even before he arrives are there people who have to open part of the school? - Yes, the cleaners arrive earlier.

You have experience of other schools indeed working with the Education Authority? - Yes.

For how long as a teacher? - Coming up 22 years, 19 years as a Headteacher.

Is it then common practice that the janitor has that primary responsibility? - Yes, it is.

Who was responsible in March for locking up at night? - The janitor is the security man who checks and locks up at night.

Do the cleaners come in at night as well as the morning? - Yes.

Are they working at night after he has left? - No, he comes back in the evening because of school lets.

He/

He then physically checks? - Yes.

Were there many school lets in March? - The usual number, I am not sure.

Every night? - Almost every night.

Till how late? - 9.30.

And the janitor's job is to lock up? - Yes.

Now, were you in your office from then until 9? - My own office and the secretary's office.

After the pupils began to arrive what were your movements? - I welcomed the School Chaplin, Mr. Pringles, spent some time with him and moved into the main hall.

Was there a hold up in starting assembly? - On that morning there was a minor holdup.

What was the reason for that? - One or two of the classes were a little late in arriving for assembly.

Did you participate in the assembly? - As normal I would introduce the assembly, I would welcome the children to the assembly and hand over to the Chaplin who would normally conduct the assembly.

Did you stay or leave? - No, stayed.

When it was finished where did you go? - To my office area.

Did you have to see Mr. Pringles off the premises? - Yes, I would normally spend a moment or two with the Chaplin prior to his leaving.

Is that what actually happened? - To the best of my recellection, yes.

You then went back to your own office? - Back to Mrs. Topping's office, the secretary's office.

You/

You got a message? - Yes.

What was that? - That a phone call had been received which I had to return.

Did you return? - I went to my own room and returned that call.

This has been timed, that is a call to Mr. Livingston? - Yes.

9.38 something? - Yes.

Is that consistent with your own personal recollection? - Yes, it is.

Were you looking outside when you were making the call? - I was seated at my desk.

Does that face out the window, away from the window? - The window is to my right.

Have you any recollection of looking outside? - Not in the early stages of that phone call.

In which direction does the window from your office look? - It looks on to the playground opposite.

That is in the U-shaped area we can see towards the top of the photograph? - That is correct.

During that call did you realise something wasn't right in the school? - During that call I began to hear some noises.

What were the nature of the noises you heard? - It sounded at first like indistinct bangs.

What did you think at first they came from? - At first I thought they came from the area towards the right of the school, that U-shaped area.

And what was your first reaction or first thought what might be causing the noises? - My first reaction was that builders must be in the school and I remember being slightly irritated because I hadn't been informed that builders were expected.

What happened then? - I continued my conversation and the bangs seemed to be louder and closer.

Did you at that stage then continue with the conversation with Mr. Livingston until something else happened? - That is correct.

What was the next event? - The next event was that Mrs. Awlson arrived at my door, she arrived.....

What was strange about her arriving? - She arrived in a crouched position and she said words to the effect that "There is a man in the school with a gun" and she shouted to me to get down.

What did you do? - From the look in her eyes I realised immediately that something was seriously amiss and I cut off my call to Mr. Livingston.

What did you do then? - I then dialled 999.

There has been some evidence about who you dialled at that point and there is no doubt it was the police; are you clear in your mind it was a 999 call? - In my own mind I am quite clear about that because I have never dialled a 999 call before and I didn't have the number of the local police station to dial.

Did you dial immediately? - Immediately.

Do you remember what you said? - Yes, I said words to the effect that there was a report that someone had a gun and I made the inane comment it might be someone firing off blanks.

Do you know why you said something about blanks? - I don't know, I have never heard a gun report before.

Was that call of any significant length? - It seemed to me to be a lengthy call, that is my impression -- I was becoming quite irritated because I wanted to go and see what was happening.

Was/

Was clarification being sought from the other end? - I seem to remember hearing the number read back to me.

Your phone number? - Yes.

When the call ended what did you do? - I left my room and went into the dining area and to my right I saw Mrs. Awlson attending to Mrs. Tweddle.

Was she already injured? - She appeared to be injured.

Now, did you get any information at that point about where this was happening? - Yes, Mrs. Awlson referred to the gym, it was the gym.

By that time did you realise it was the gym or was there still uncertainty in your mind? - Until that moment there was uncertainty in my mind.

Can we just be clear about the layout now of the area we are talking about and can we come to that diagram on the wall or on the board which will be shown and can we look at the side of the Assembly Hall. Now, there are what looks like steps there and then a passageway along the side of the Assembly Hall? - Yes.

Can you see into the Assembly Hall from there? - Yes, you can, it is a raised walkway and there are pillars.

Were you on that at all? - Yes, after I had got the message from Mrs. Awlson that it was the gym I went round from the dining room area to the double-doors here; at that point I remember telling the kitchen staff that they had better get back into the kitchen because we were unsure what was happening; I continued from here on to the corridor and it was at that point I was aware that Mr. Scott had joined me.

Mr. Scott was a student teacher? - Yes.

Where did he come from? - I wasn't sure at that time.

Where did you go from there? - Together/

Together we went along the raised walkway towards the gym.

Was there anyone else around that area as you ran along? - No.

Was there any noise coming from the gym by then? - I didn't hear any noise until I arrived at the gym door.

Was there still a noise? - I didn't hear any noise until I arrived at the gym door.

I am concerned about the banging noises? - No, I heard no further banging noises.

When you got to the gym door I take it there were still no banging noises? - There were still no banging noises.

So the shooting was over? - Yes, the shooting was over, Mr. Scott had told me at that point that he had shot himself.

He had seen that? - He had seen that.

Can you give us a rough estimate of the time lapse from when you first heard these noises when you were outside and the time Mr. Scott told you that he had shot himself? - About three minutes.

You can sit down now, Mr. Taylor. Did you open the door to the gym? - One of the side doors to the gym is badly hinged and is often half open, I don't recall if it was fully open or not; I burst into the gym.

Now, what faced you when you went into the gym? - It was a scene of unimaginable carnage, it was one's worst nightmare.

Smell? - Yes, the area seemed to be thick with a bluish smoke and the smell of cordite was quite strong.

From where you were could you see right to the end of the gymnasium? - Yes, one can.

From this point I am really concerned to know/

know what people did rather than what they saw and perhaps you could help me first of all by telling me what was your instant reaction or what did you do first of all? - The first thing I did was I noticed there was a group of children to the right-hand side of the gym who were crying and who were obviously less injured perhaps than others; I asked Mr. Scott to attend to these and remove them from the gym.

Was he able to do that? - I left him to do that.

But later on I think you discovered he had done it? - Yes.

Where did he take the children to? - He took them to the area just outside the gym, the corridor area just outside the gym.

Where did you go? - I ran back to the office area and shouted to someone to phone for ambulances.

And somebody did? - Yes, somebody did.

Who was that? - To the best of my knowledge it was Mrs. Eadington.

Where did you go from there? - I went back to the gym and I remember asking for other adults to come and attend there, to come and help, particularly the kitchen staff who had re-emerged from the kitchen.

Initially when you went back into the room what was your attention drawn to? - The children.

Did you take any action in relation to any child before Mr. Currie drew your attention to focus on Thomas Hamilton? - No, I was moving through the gym and trying to ascertain what was happening and I became aware that Mr. Currie was to my left.

What happened then? - We both continued to move through the gym and it was at that point I noticed Hamilton at the top of the gym, he seemed to be moved; John, Mr. Currie, was further down/

down the gym than I was and I noticed there was a gun lying on the floor beside Hamilton and I asked Mr. Currie to kick the gun away.

May that gun have been in his hand, in fact? - My impression was that it was on the floor.

What did Mr. Currie to? - He kicked the gun which I recall spinning towards him and ending beside a bench in that area.

That would be away from Hamilton's left-hand side? - Yes.

Did you see Mr. Currie do anything else? - Yes, we noticed that Hamilton had a gun in his hand, it is my impression it was his left hand and Mr. Currie removed the gun and threw it to the floor to Hamilton's left.

A similar direction to the first gun? - No, the first gun spun to the right-hand side of the gym as we look at it; this gun was towards the fire door side.

And I think someone else came into the gym at that point? - A voice behind us shouted words to the effect "Leave the gun alone" and I became aware there was an off duty police officer had arrived.

Did other staff come into the gym? - Yes, soon thereafter Mr. McCombie arrived in the gym, three of the kitchen staff were there and Mr. Scott was attending to the children outside.

I don't think it is necessary for the purpose of this Inquiry to ask you what you did in relation to any of the children or what happened while you were doing so but can I just ask you to confirm in general terms that you did try to give help to some of the injured children? - Yes.

Were you aware of police officers arriving? - Yes, I recall the arrival of the two first police officers on the scene.

That would be uniformed officers? - Yes, they were.

Did/

Did that seem long after the incident? - It actually didn't seem very long.

Were you aware of other members of staff trying to do the same thing as you were to help the children? - Yes, I was.

How did the staff cope with that? - This was very difficult; the children outside were being comforted by Mr. Scott and Mrs. Garland and some of the kitchen staff, they were doing a magnificent job, some others were in the gym itself trying to attend to the more seriously injured children; the staff and I just did what we could, they were quite magnificent.

Were you aware of injured teachers? - I became aware at one point; I hadn't looked into the store area of the gym so I moved into that area whereupon I found Mrs. Harrild lying on the floor and Mrs. Blake beside her.

Was anyone giving attention to them? - At that moment, no.

ll.40 a.m.

Did help arrive from other staff members? - Soon thereafter I understand that other staff members arrived. I was unable to do very much. I spoke to both teachers and tried to reassure Mrs. Harrild that help was on its way, and Mrs. Blake seemed to me to be attending to her.

Mrs. Blake was giving some assistance to Mrs. Harrild? - Yes.

But both were significantly disabled at that stage? - Yes.

Were you aware of Ambulance staff arriving? - Yes. The emergency services began to arrive.

Now, how can you thereafter remember what happened in detail? Can you remember much? - I have some vivid memories, but the order of events is a little unclear.

Did you also provide, along with other members of the staff, assistance to the paramedics and doctors who arrived? - Yes.

Someone did something about covering the windows? - Yes. During this time a number of men who were strangers to me -- I assumed they were police officers -- with Mr. Currie, had obtained some material which I think had come from the stage, curtains on the stage, and used this to cover the windows on the gym.

Were you involved at any stage with the officers who were in charge of the scene, Mr. Ogg and Mr. Holden, that is police officers? - Yes, but not at that point.

And when did you first meet them? - When the Ambulance service and the doctors had arrived in numbers, I went back to the office area in the school and met Mr. Ogg at that stage.

Your job was really over in the gym, at least? - Yes.

Well, part of your job? - Yes.

Have/

Have you any idea what time it was when you were discussing how to proceed with Mr. Ogg and Mr. Holden? - I am really not sure of the time that was.

What sort of decisions did you make at that stage? - The next priority at that stage was identification, and we realised then the difficulty that that would give us because of the scene in the gym and because of the fact that the class teacher was not available to us.

You give the impression that attention was focusing on identification very quickly? - No, some time had passed till this point -- some children had already been transported to hospital.

I am trying to understand your position as best I can. An important or difficult job of confirming that certain children were dead had to be done, and were you present when that was actually being done by the doctor who confirmed that each child was dead? - No.

I take it that too had been done, however, by the time you were discussing things with the police? - I assume so, yes. There was considerable chaos and confusion.

But you knew that the question of identification had to be dealt with? - Yes.

Who said that? Who was the person who said "We have to turn our attention to this"? - I think it was Chief Superintendent Ogg.

What did you think you ought to do then? - The only thing to do was to get members of the staff who may be able to help us, and take them to the gym -- they included the nursery staff that had some of these children the previous year, and Mrs. Eadington who was Deputy Headmistress with responsibility for the infant classes.

Were you personally familiar with any of the children? - I was familiar with the faces but not familiar with their names. I was aware of the names of some of them.

And had you yourself been able to put any/

any names to faces that you saw? - Yes.

And was that a limited number of children? - That is a limited number of children.

Can you tell me then, who were the staff -- the names of the staff you relied on principally to assist in this exercise? - Mrs. Eadington, Mrs. Stewart -- the two Mrs. Stewarts, the nursery teacher and nursery nurse, and Mrs. Isles, another nursery teacher.

Had all the children been through the nursery? - No.

Was there a police officer assigned to take charge of this duty as well, do you remember? - A sergeant.

Is Tatnell the name? - Yes, a Sgt. Tatnell attached himself to me and was of some assistance, some considerable assistance to me. I am unsure if he was assigned to do that.

But he was there? - Yes.

Can you tell the Inquiry the difficulties that you experienced when you actually tried to do this job? - It was a most harrowing time for the staff involved. We had to take staff in and out of the gym on several occasions. It was a very traumatic experience for us.

And at that stage you are relying on eye-witness identification? - Yes.

Did you have to try to move to other ways of ensuring that you were accurately identifying children? - Well, at a fairly early stage I got from the files the record cards of the children involved, and we tried to use them to help us.

Had the register been marked? - The register had not been marked that morning.

So did you know whether any children were absent? - No, we had to rely on the police to confirm that two children were absent that day.

So/

So that was a job the police had to do? - Yes.

And was it common that the register wasn't marked before the assembly? - I am not certain, but the unfortunate coincidence on this occasion of a Primary I class going immediately to the gym, immediately from the assembly area, and having to change prior to going down to the gym, was a factor.

And that could well have been the normal practice, could it? - Yes.

Education is the priority of the school, but we now know that there are other very significant issues which may even be greater priorities. Do you have a view now about the significance of marking the register before anything happens in the school? - Yes. Of course, as I say, under normal circumstances that would have been the case, but the coincidence of these two events was unusual -- because of the rotational nature of the assembly.

Do you think if there were photographs of the children with the children's record card, it would assist at all in a situation like this? - I think in a situation like this it would have been of limited assistance.

Photographs were obtained at some stage in the process? - We provided the police with a class photograph.

I suppose a class photograph can always be kept ready to hand? - Yes.

And photographs taken individually of the children? - Normal practice would be that on alternative years, a photographer would come to the school and take family and individual photographs.

If it was your decision now, would you have individual photographs on the record card? - I would have an individual photograph within the record card. The photographs we occasionally get put on record cards are too small to be of any use.

So you would have larger-sized photographs/

photographs? - I would.

I suppose it is important that they are kept up-to-date, because young children no doubt change more quickly than most of us? - Yes, indeed. I have already asked that the school photographer undertakes this next session.

Was your task hampered at all by the fact that a number of children had been taken off to hospital very quickly? - Yes it was.

I suppose that, taken with the uncertainty about who was absent, would create one difficulty? - It did.

Was there any confusion that you were aware of in the identity of any of the children in the gym? - In what sense?

Well, was there uncertainty that any identification was accurate that you were aware of? - We were uncertain about identities because of the situation I have described. I wasn't aware of anything specific.

Did you make use of clothing and names on clothing at all to try to help? - Yes, it helped, but I felt because of the gym clothing that they were wearing that I should re-enter the gym and check particularly one group of children, the name tags on the back of the shorts.

Can you tell us now whether any of them were wearing clothing with the name tag of another child? - I can't testify to that. I was made aware that was the case.

In the course of the day or on a later occasion? - Later on in the day.

Were you aware of the problem that one child was identified in two different places? - Not at that time.

But you learned again later? - Yes.

Was that later the same day? - I think it was later the same day.

Was/

Was there a child in relation to whom there was no record card? - Yes, there was.

And that was because she was a very recent arrival? - That is correct. The record cards had not arrived.

Did that cause any difficulty? - That caused a little more confusion. The police were concerned that no record card was there.

Did you yourself have to leave the gym on a number of occasions and go back in? - Yes.

And even after you had done this did you have to assist further in the actual marking somewhere on the floor of the gym of the identity of the various children? - No. By that stage we felt we had almost come to an end of our usefulness. That one last task was carried out by nursery staff and Mrs. Eadington.

But you didn't go back into the gym to do that? - No.

We have heard quite a lot today, and later on yesterday, about telephones. How many telephone lines had the school? - Officially there was one telephone line to the school, which was Central Region policy, I understand. We had a second line put into the library, which we used for Internet purposes.

And could that line be used for ordinary calls? - Yes.

It could be? - Yes.

And was it used that day? - It was used that day.

In the children's record cards there would be a contact name, address and telephone number, should the parent be uncontactable in an emergency? - That is correct.

And in relation to all the children was there such a contact? - I am uncertain as to that, but it would be normal practice.

That/

That is the general position? - Yes.

And presumably the way you communicate is by telephone? - Yes, that is right.

That system no doubt works if one child in an emergency has to be taken home, or indeed even perhaps a class in an ordinary emergency need to be taken home. How did it work on this day? - The police had taken over the issue of telephones, and it was a matter for them, but it was clearly a huge disadvantage to only have access to two outside lines at that point. I was aware, however, of some considerable activity by BT engineers, who were busy installing outside lines.

I don't suppose you know of any instant answer to this problem? - More telephone lines in schools, which we have at present.

How many do you have now? - I think, because we have an outside telephone line to every classroom in the school and various other areas, we have somewhere in the region of 45 lines now.

So there is now a line to every class? - There is.

Is that a situation unique to your school? - I think it is.

And is that because of the events there? - Yes.

BY LORD CULLEN: And can I ask, is that through a central switchboard, or is that separate lines, or what do you mean? - Separate lines.

EXAMINATION CONTINUED BY MR. BONOMY: Now, we have heard evidence that an attempt was made to cut off your phone line, which didn't work? - Yes.

I suppose on any number of future occasions the same attempt could be made. Would you see any advantage in having a mobile or Cellnet phone in the school? - Yes, indeed. The senior staff in the school currently have mobile phones too.

Is/

Is that something which has been introduced since l3th March? - Yes.

Security of the school I suppose can be looked at under a number of headings. There is the physical security of the building at night when you leave. Were you happy that that was adequate prior to this incident? - Yes.

But then there is the question of visitors to the school. Can I ask you first of all if anything has changed since l3th March? - Yes, we have a visitor badge entry system.

Prior to l3th March did you have any particular arrangements in place for visitors? - Visitors were encouraged to report to the Secretary's Office.

How were they encouraged to do this? - This is normal practice in all schools. I can't recall if the signs requesting parents to do that were still in evidence, but they were there at some stage.

Picture someone arriving with leaflets he wants the teacher to distribute -- prior to l3th March how did he know where to go? - The front entrance looks directly on to the Secretary's Office, with a small badge.

So it is made obvious in your school? - Relatively.

Now what do you do? - Now, because there is an entry badge system, signing in and signing out.

And is that done at the Secretary's Office? - It is done immediately inside the front door.

And is there someone there attending to that? - At the moment there is.

Who is that? - We have a community policeman, P.C. Stark in attendance at the school all the time.

Do you think, in the long run, it is a good/

good idea to have a policeman at the door of every school? - No, it is not.

So what is going to happen once the initial circumstances die down? - Obviously the security of all schools will be reviewed, but in our school we have a new security system being implemented at the moment which will eventually cause a single entry access door.

And when that happens will there be somebody at the door? - Hopefully there will be a bell system, with a redesigned office area so that the office staff can overview the front door to check on the identity of everybody who arrives.

So by signs people can be directed to the one entrance? - Yes.

At the entrance there can be a sign saying that you ring a bell? - Yes.

When the bell rings someone can answer? - Yes.

And attend to the person who wishes to come into the school, find out why he is there, and give him a badge if he is to be permitted entry? - That is correct.

Is that something that you now consider to be essential? - I think in our position, my answer is yes.

Do you think that it is essential in all schools? - I can't answer for all schools, but I would certainly recommend that this system be actively pursued.

Do you think it detracts from the atmosphere that we hope to have in primary schools? - It may do, but there are greater considerations than that.

Well, is it impossible really to ask you about how, having someone at the door, or a system like this would apply, or be felt, in a school which hadn't suffered, and continues to suffer, in the way yours does? - I think all schools throughout the land suffered from what happened here.

But/

But do you think it is right to look at Dunblane, see what is necessary there, and apply that all over? - It may well be that the experience that we gain with our security system could be made available to all schools.

Are there any other security arrangements being installed in the school? - We have a camera system at the moment.

Covering/

12 noon

Covering where? - It covers the majority of the school grounds, particularly the entrance doorway.

Where are the viewing screens? - In the janitor's office.

Is there someone manning them throughout the school day? - No. As I understand it it is a specialised system, and the pictures are beamed directly into Police Headquarters.

Are there further security arrangements being installed at the moment? - Yes; the locking systems which I mentioned earlier, and also as part of that the emergency doors are linked into a buzzer system so that if the emergency doors are opened inadvertently the janitor would be alerted.

Now, I take it you have continued to have playtimes? - Yes.

And children go outside? - That is correct.

Do you see that as an essential and necessary part of the school day? - Yes, indeed.

I suppose the camera system would give some reassurance while the children are outside? - Yes. They also have playground supervisors; but an extended camera system would be very useful.

Who are the playground supervisors? - Parent helpers.

How many do you have? - We have five currently.

Prior to the 13th March did you have parent helpers? - Yes.

Do you know whether parents who take on these responsibilities or have the opportunity to do so are vetted or checked in any way? - Yes. These are parent helpers who are employed by the local Education Authority.

Do you know whether the local Education Authority/

Authority do anything to check their background?
- I think their criminal backgrounds are checked.

Do you have personal knowledge of whether the check is wider than simply a criminal record? - I wouldn't know.

Even before the 13th March do you know if there was any check even on criminal records? - Yes, I think there was.

To be absolutely clear about the use of the telephones, before the police took over responsibility or control for the phone lines was there any opportunity to use the phone to contact parents of the class you knew had been involved in this? - There would have been some opportunity in the early stages, but very quickly the phone became very busy.

Do you know if anyone did actually phone any of the contact numbers? - I don't think so, but I am not sure.

Is there a fax in the school? - Only subsequent to March 13th.

What was the reason for introducing it? - To increase the communications system. It was just part of the system that was installed.

It is to improve communications, I take it in connection with safety? - In connection with all communications.

I take it one way of improving the communication with parents in a class like this would be to get information to the Education Authority and ask someone with a lot of phone lines to do something about it? - Yes.

That is always assuming they have not turned up outside the school? - That is correct.

But introducing such a system, where do you contact the Education Authority, would at least spread the load and increase the opportunity for communication? - It would.

CROSS/

CROSS-EXAMINED BY MISS DUNLOP: If I could just ask you one or two brief questions about identification. You referred to names of clothing, and you were specifically asked about a child wearing clothing which had a different name? - Yes.

Do you know if that was in fact the name of an opposite sex sibling? - I am sorry, I don't know.

In so far as the child for whom there was no record card is concerned, is it in fact the case that that child had begun school with the other members of the class the previous August? - I am not certain about when the child had joined the class.

If I could suggest to you that the child began school with all the other children you would not be in a position to contradict that? - That is correct.

But for some reason her record card has not been filled out? - That would be most unusual.

Finally in relation to identification, were you aware of one set of parents of an absent child phoning in early on to make clear their child was at home safe? - No, I was not aware of that.

Turning to school security, you obviously have a number of years' experience, and indeed I think you stated you had some 19 years as a teacher. Is your new system like anything you have ever seen in any other school? - No.

Finally, if I could ask you for some information about Dunblane, how many schools are there in Dunblane? - In Dunblane at the moment we are the largest primary school. There is an Episcopalian school, St. Mary's, and just outside Dunblane is a small rural school called Kirkton Primary School, and there is also Queen Victoria's School.

So within Dunblane itself there are four schools; is that correct? - Yes.

CROSS-EXAMINED BY MR. GIBB: It might be helpful if you express any view you might have on the question of vetting of those who participate in after-school lets. Do you take any part in perusing any applications received for evening lets in your school? - No. Let applications are sent directly to the Region. These are applications for the use of the building outwith school hours, which is quite different from after-school, extra curricular activities in which I would be involved.

Have you any view as a member of the education profession as to whether there are any steps which could be taken to vet those who are involved with children in evening lets? - Obviously I think the system needs to be tightened up considerably with regard to any adult who has any contact with children.

I think there is a fairly stringent vetting procedure in relation to teachers; they all need to be members of the General Teaching Council? - Yes.

I think you indicated your playground supervisors are also checked? - Yes.

And you have a statutory requirement to provide supervisors in the playground? - Yes.

Is there a Scottish Criminal Records Office check done on other members of your staff, as far as you are aware? - Yes, indeed.

Do you consider it appropriate that a SCOR check should be done on anyone involved in evening lets or anyone involved with children? - I think anyone involved with children, whether in schools or on our premises, should be subject to such checks.

Is it your view that those involved in church activities, whether Sunday activities or Cubs or Scouts, should be vetted? - Yes.

Do you think it is also appropriate that where evening lets are involved that the local school should be asked for any view as to whether the let is suitable or not? - Yes.

I think that did not happen before? - That/

That does happen on occasions.

CROSS-EXAMINED BY MR. TAYLOR: Are you able to recollect the time when the school records cards were produced on the morning of the 13th? - I am quite unspecific about when that would be, but it wasn't very much later, after the Emergency Services had arrived in numbers.

You say when they arrived in numbers. I think the first of the Emergency Services was arriving round about 10 o'clock; is that correct? - Yes.

Are you able to say roughly how long after that.....? - It could have been half an hour after that: at 10.30-ish.

If I could now turn to the topic of school security, would it be fair to say that some schools will be located in built-up areas and other schools will be located in fairly open country environments? - Yes.

And we also have schools who will vary considerably from the small country school to the large City Centre school? - Yes.

That will involve different sizes of school rolls, and also it will involve different geographical regions? - That is correct.

Could it be the case that a security provision for one school might be inappropriate as a security provision for another school? - Specific systems may well be inappropriate, yes.

Does it follow from that that in order to arrive at a constructive view as to what ought to be the security provision in any school it requires each one to be examined and assessed individually?
- I think that would be appropriate. I would also imagine that the authorities would wish to consult fairly widely about the position of individual schools.

CROSS-EXAMINED BY MR. STEVEN: Can you tell me what if any instruction was given to you, or guidance, by the Region in relation to matters of security prior to the 13th March of this year? - I/

I can recall no such guidance.

Do you think you should have had some form of guidance from the Region or their successors? - Yes, indeed; and that is beginning to happen.

Can you tell me briefly what the position of the school was on the 13th in relation to the people visiting the school, or if someone was found wandering in the school? - The normal practice would be that any adults on the school staff would approach the stranger and try to determine what the purpose of them being there was. It is very difficult with a large school. It is one of the duties that the janitor for example has.

Moving on, do you think there is anything you or your staff might have done or would have done differently on the day which would have given more assistance to the injured children? - I think the staff that day in relation to the children did absolutely everything that they could, even beyond all expectations, and we have taken considerable comfort from the fact that any that survived did survive.

Lastly, can you tell us how the children and the staff are now getting on with it? - The children have shown resilience and are getting on very well, and so are the staff; but it is very difficult and continues to be difficult.

RE-EXAMINED BY MR. BONOMY: You were asked about the record card that was not there. Can you tell me what the system is for ensuring that we do get record cards for children who are transferred from somewhere else? - In normal circumstances contact is made with the Authority to request that cards are forwarded. The length of time this usually takes varies.

And that is done by school staff, a secretary? - Yes.

And it would be I suppose up to her to follow it up if there was no response? - Yes. The problem is that the response varies considerably from one Authority to another.

MR. BONOMY: Sir, the next witness is Agnes Awlson.

<u>AGNES</u>/

AGNES AWLSON, (47), Sworn,

EXAMINED BY MR. BONOMY: I think you are one of the Assistant Head Teachers at Dunblane Primary School? - That is correct.

And you held that position on the 13th March of this year? - Yes.

Now, you have been at the school a while, I think; is that correct? - Yes, since 1988.

Have you been the assistant head teacher throughout that period? - I have, yes.

So you transferred into that post? - Yes.

On the 13th March when did you arrive at the school? - About quarter past 8.

Just as usual? - Yes.

Assistant head teachers have administrative duties? - Yes.

Class teaching responsibilities as well? -This year I have a class as well as being assistant head teacher, yes.

Do you teach all the time? - Four days out of five.

Did you have a class that day? - Yes, I did.

Between 8.15 and 9 were you in the classroom or somewhere else? - After I arrived for work I usually check my mail, say good morning and then go to my classroom, and that is what I did.

Where is your classroom? - It is one of the three Primary 7 mobile huts.

We have got the photograph still on the screen. That is the white hut with the grey roof, between the main building and another dark-roofed hut towards the top of the photograph? - Yes.

And yours is the middle of three classes there?/

there? - Yes.

I think you had someone else walking along with you? - I had a student teacher, Mr. David Scott, working with me.

Your class wasn't involved with assembly? - No.

But somewhere after 9 o'clock they were going somewhere else? - At 9.30 they were booked into the art room for an art lesson. Mr. Scott was going to take them.

Where is the art room? - In the main building, opposite the Primary 7 huts.

Going back to the photograph, you would leave the middle of the hut and go more or less straight across the photograph itself to the join between the main building and the gate that is used to gain entrance to the administration.....? - Yes. There is one door that is always left open, what we call the library door; the other door is the fire exit, so it is more or less like that.

It is more or less at that angle shown in the photograph? - Yes.

And that is where your class would have to troop up to? - Yes.

Did you part company with them at some stage? - I was behind them. Mr. Scott had gone ahead, and I was locking the doors.

Did the children go straight across? - No, they were lined up, and I instructed them to walk across, that I would be behind them.

12.20 p.m.

Had somebody forgot something? - Well, I reached the library door and one of the boys in my class had been sent back by Mr. Scott to fetch a pair of scissors from the classroom.

Did you have to go back in again? - No, I just said to him "You know where they are, the top drawer, just go and get them".

Did he have to take the keys? - No, it is the cupboard door which has my handbag that I locked, not the classroom door.

Did you carry on into the main building? - Just after I had spoken to this boy I heard noises and I was alerted.....I didn't know what they were, very sharp noises.

Were you still in the playground? - We were still in the playground.

Midway between the two? - No, almost on the veranda just before going into the library door.

So you were more or less at the main building? - Yes.

And you heard what sort of noises? - A sharp metallic noise, several of them.

Can you give us your best approximation of the time? - Well, my RE class finished at 9.30, the art room was booked from 9.30; I kept the class back a few minutes and then instructed them to cross the playground so within five minutes, five or six minutes I would think.

So 9.30 is a fairly accurate stab at the time when this all started? - Yes.

When you heard the noises what did you do? - I looked towards the direction from which the noises were coming, I heard other noises after that, very faintly screaming noises, and then the metallic noises started again.

Did you know approximately where they were/

were coming from? - I knew it was coming from the region of the gymnasium.

So having worked out where they were, having heard not only the metallic noises but the sound of children -- --? - Yes.

What did you do? - I went through into the libary door, through the school and straight up towards the gymnasium.

Were you on that stepped walkway along the side of the hall? - Yes.

That is the same road as Mr. Taylor eventually takes? - Yes.

How far did you go? - Almost to the swing-doors at the end of that raised walkway, they were open and that is also.....I didn't go as far as the gym doors.

What did you do when you got to that point? - The noises were still going on and I saw what I thought were cartridges lying outside the gym doors and I realised something dreadful was happening and I turned to raise the alarm.

You had realised obviously by that time there was shooting? - Yes.

Is that the point at which you realised there was shooting? - Before that I remember feeling irritated and angry that workmen should be causing some alarm to the children; I was going to investigate that; it wasn't until I actually drew near to the gymnasium I realised it was something much worse.

When you were at the swing-doors and stopped was this banging still going on? - Yes.

What did you then do? - I turned and went back to Mr. Taylor's office very quickly to raise the alarm.

Now, he described you as being crouched down when you went into his gym? - Yes.

Was there any particular reason for that?/

that? - I thought whoever was doing this, I didn't know if it was one person or what, I thought they may have been threatening the safety of everyone else in the school.

You thought he may be behind you? - Yes.

What did you do when you got to Mr. Taylor's office? - I went in and said.....I can't remember the exact words, that someone had a gun and get help.

What did Mr. Taylor do? - He was on the telephone, he looked up and immediately put the telephone down and lifted it again.

Were there still noises at that stage? - I can't recall.

Did you then leave Mr. Taylor's office? - Yes.

Where did you go? - I went out into the corridor and I looked to my right and saw Mrs. Tweddle lying on the floor.

Was she conscious? - She was.

Did she look injured? - Yes.

What sign was there of injury? - She was lying on her back and her hand was behind her head and there was a lot of blood.

Were there any children around? - One of the other members of staff was just going through one of the other doors with her class and I called to her to get her children on to the ground and to hide in the corner.

What did you do about the member of staff who was injured? - I went into the janitor's room, got some paper towels; she didn't want to move her hand from behind her head and I placed some towels under there and comforted her.

How long were you with her? - Two or three minutes.

Where/

Where did you go from there? - I realised that Mrs. Tweddle was not going to lose consciousness, she was talking and another member of staff came and took over and I went up to the gym.

Before you got to the gym did you meet somebody coming back the way? - Mr. Taylor was coming out of the gym; he said to me "Have you been in there" but I said "It's all right".

Did you go in at that point? - Yes.

You would see the same sight as he would? - Yes, some of the injured children had already been removed and were in the corridor as I approached the gym.

When you went into the gym what did you try to do? - I tried to help the children who were injured, establish the kind of injury, tried to remember my First Aid training to make sure all the children who were injured were able to breath and stayed to comfort as much as I could.

Was it immediately obvious to you that some of the children were dead? - Not immediately -- as I approached some of the children Mr. Currie, the janitor, said to me "You can't help them, Mrs. Awlson, they're gone".

And then did you realise that some of them were actually dead? - Yes.

Is it also right to say that immediately you went into the gym you were aware that there were certain deceased persons immediately inside the gym? - Yes.

Now, there were children that you could help? - Yes.

Can I take it that is how you spent the time immediately after going into the gym? - Yes, that is correct.

And indeed your contact was with a number of children? - Yes.

Were you aware of other people other than teachers arriving to provide help? - Yes.

Who/

Who were you first aware of? - I think I am aware of some policeman but I didn't speak to anyone and then I was aware of the local practice doctors arriving because I know one of them and then the Paramedics arrived.

And by that time were there also other teachers in the gym giving assistance? - I only remember Mr. Currie and one other member of staff but I know there were others.

Now, so far as the later work is concerned, this is the job of identifying victims -- were you directly involved in that? - No.

Were you involved in giving support to the teachers who were there? - No.

And it was determined that you really couldn't be of practical assistance because there were professional people there what did you then turn your attention to? - I left the gym and went into the Assembly Hall where some of the injured children.....where all of the injured children were being removed to and assisted there until they were taken away.

Did you also stay with Linda Stewart for a period? - Briefly -- Linda was in the gym and she had been asked to stay behind to identify....to help identify the children and I stayed with her, yes.

Can I turn to the situation facing the children in the other classes of which you had one? - Yes.

What attention was then paid to your own class? - My class was with Mr. Scott and Mr. Scott, having witnessed Hamilton commit suicide, asked one of the other teachers to take care of my class while he came downstairs; I didn't know that at the time.

Did you have any further contact with your own class in the course of the morning? - No.

So what were your duties thereafter? - I assisted with reuniting parents with their children; it was difficult because of the layout of the school, it really had to be teachers who knew where/

where the classrooms were to go and get the children.

Could you tell me a little more about how this was done? - Parents were allowed into the corridor at the nursery.

These are parents of children in classes not involved in the incident? - Yes.

They are allowed into the corridor at the nursery? - Yes, and they gave their names and the names of the children and the classes of the children to the police.

Just before we go any further, if we see the diagram -- can you point out to us where the nursery corridor is that the parents came into; if you point to it then the operator will home in on the right part (witness indicates).

So you are pointing to the area which is really adjacent to the main entrance to the school? - Yes.

And that is the corridor there, is it, and we see the word "nursery"? - Two nurseries and the corridor was there.

Where were the parents assembled? - In this area here.

That is in the corridor? - Yes.

That is the point at which you tried to unite pupils with parents? - Yes.

Could you go back to your seat, thank you. So this exercise is undertaken in relation to all the pupils who are in all the other classes unaffected? - Yes.

Can I take it that the pupils had to stay there until the parents came for them? - The pupils had to stay in their classrooms until the parents came for them.

Were you involved in that area, taking the names of the patients and arranging for the children to be collected? - Yes.

Did/

Did you collect them yourself? - Yes.

So you would go to whatever class a child was in because of your knowledge of the school and bring that child to meet the parents? - That is correct.

Now, how long did that all go on for? - I could only do it for a short time because I felt as though I was going to.....I needed to sit down so what I did was I went to some of the older classes and I asked a member of staff to assist.

So other staff became involved in the job you had been doing up until that point? - Yes.

Now, can I take it that this job took a long time? - I am not sure.

You don't know how.....? - I don't know how long it took.

Obviously it depended on word getting to the parents to get to the school? - Yes.

And we did hear something about communication difficulties, difficulty with communicating with parents? - Yes.

Now, Mrs. Awlson, just to be sure that I covered all the ground, can I ask you whether there is anything that you want to say about the security arrangements either at the time for visitors or that have now been introduced? - I feel reassured at the system that is being introduced and the way that visitors are met and have to wear badges, that helps me a great deal because in the past when I have not had a class it has been part of my job to ask if I can help anyone that I don't recognise in the school so now I know that they are recognised as visitors and have badges.

Now there is no doubt that no one should expect to be recognised unless they have a badge? - Yes.

There are obviously additional measures in force when somebody has entered and so on and that must give you a feeling of added security? - It does.

Do/

Do you think the camera system is of benefit? - Yes, it is quite clear.

CROSS-EXAMINED BY MR. GIBB: Just briefly as someone who has been involved in education for years have you formed any view as to the appropriateness or otherwise of the vetting of people involved with children outwith normal schooling activities? - Yes, I think it should be done.....I wasn't really aware it wasn't done in the past but I am aware of that now and I would expect it to be done for anyone who is working with children.

JOSEPH HOLDEN (42), Sworn:

EXAMINED BY THE LORD ADVOCATE: You are a Police Superintendent with Central Scotland Police? - Yes.

How many years police service do you have? - 23 years.

I think you are presently based at a police station in Stirling? - Yes, I am a local unit commander.

At this stage of the Inquiry I want to ask you questions about your involvement with the events of Wednesday, the 13th March? - Yes.

Am I right in understanding that that morning you were on duty within Police Headquarters in Stirling? - Yes, I was.

At what time did you become aware that there had been a shooting incident at Dunblane Primary School? - About 10 to 10.

How soon did you decide to go to Dunblane? - Within minutes of that time -- I quickly spoke to Chief Superintendent Matchett who directed me to be the senior operational representative or uniformed representative to go to the school.

Who gave you that instruction? - Chief Superintendent Matchett who is my direct superior.

And/

And apart from being directed to being the senior uniformed officer there did he give you any other instructions on what you were to do when you got there? - No, I was just to make my way there and take command of what was appropriate on my arrival there and we had very little information about how serious the incident was.

What time was it you arrived at the school? - About 10 past 10.

By that time had other police officers arrived? - Yes, I entered the gymnasium from the store room and I immediately saw Detective Chief Superintendent Ogg and Superintendent Winning within the gymnasium.

And/

12.40 p.m.

And they and other officers I think were dealing with the situation within the gymnasium? - Yes, they were.

And did you have any discussion with Mr. Ogg and his colleague as to what role you would play? - Not at that moment. I made my decision at that time that my responsibility was to secure the school and the exterior of the school.

And did this involve establishing some form of cordon? - Yes. Very quickly we tried to establish a cordon -- certainly within the next five or l0 minutes -- a cordon around the perimeter of the school grounds, as well as an inner cordon on the four outer corners of the school building.

I wonder if you could look please at some photographs? Perhaps we could look first of all at Rl, which I think is one which shows an overhead view from some distance? - Yes.

You recognise that view? - Yes I do.

Can you indicate to us where you established the outer of the two cordons you referred to -- you can go to the imager and with a pencil or pen indicate it to us? - The first cordon -- what manpower we had, we utilised, and I took the decision that we would immediately have someone on the four corners, which basically would cover the inner entries to the school. With the manpower left I was trying to establish a cordon which would take in that type of area. That wasn't clearly established for something like l0 or l5 minutes, on the arrival of more officers, because it was quite an extensive cordon, and our priority at that time was to try and have a line-of-sight cordon.....

If we could go over that step by step, I think you have told us first about the inner cordon, and that involved establishing officers at the four corners of the blocks of the school building; is that right? - Yes. It was to cover the four corners, and to also try to cover the four basic entries that I knew about at that time.

What was the purpose of that cordon? - Very/

Very quickly we had a crowd gathering here of possibly parents, possibly relatives, possibly other onlookers; and we also were having the first arrival of media as early as l0.30, l0.25.

So you are pointing at this stage to Doune Road, and the entrance into the school building from Doune Road? - Yes. That was becoming the natural collection point for people arriving at the school. Now, the inner cordon is at the four corners of the school buildings. Where did you seek to establish the outer cordon? - Having sent officers to these four corners what I intended to do was to bring the cordon out towards the outer entrances of these pathways, and then to cover that garden there -- I didn't successfully achieve that. Chief Superintendent Matchett, the officer I mentioned earlier, arrived l0 to l5 minutes later, and he took over that responsibility with the arrival of reinforcements from uniformed officers.

So when the outer cordon was eventually established, as I understand it, it was at the street entrances to the pathways leading to the school building; is that right? - Yes, but as I was aware, there was two pathways where I am pointing, and also two pathways on these corners, towards the south of the school.

But as far as Doune Road entrance or exit was concerned, then, how far up could parents and relatives, and anybody else, get before they came face-to-face with the cordon? - In the very early stages I believe my recollection is that they were actually -- persons had reached almost just short of the janitor's house; but when we quickly established the cordon, it moved back to the actual entrance from Doune Road.

Perhaps you could resume your seat. It is not an uncommon phenomenon that when a tragic incident occurs, such as a train crash, the collapse of scaffolding, an incident at a football ground, or something of that nature, people tend to congregate, for a variety of reasons, many of them perfectly bona fide -- they are concerned that some of their loved ones may be involved. Does the Central Scotland Police have any form of written instructions or protocol which officers are expected to/

to follow when coping with this aspect of the incident, namely the management of the large number of people and members of the public who tend to congregate? - There is no distinct written protocol. Each incident would be seen as different -- particularly the type of incident we were dealing with that morning. It would be the responsibility of I, as senior officer who was trying to achieve that type of control, to brief the officers involved and assure myself that they were aware of how to deal with these people. A lot of these people became very necessary to us -- not just parents or relatives, but there were a lot of people coming to help. We had midwives and nurses and people arriving from health clinics. So it was important that we were able to -- "vet" would be too strong a word -- but to be able to pick out those people who were coming forward to give assistance, who could be of assistance to us.

So as I understand it the procedure followed by your Force is that the senior officer there, based upon his general training and experience, requires to set up the procedures there and then? - Yes.

And that the officers that are present, who are either sent to assist him, or requested by him, come to assist him and set up a procedure which sets up this cordon and allows people who are to be admitted through this cordon -- whether they be medical people or whatever, but to keep out other people who have a legitimate interest to be around, but who have no requirement to go through the cordon? - Yes. It is very important.

Do we understand correctly then from what you have told us that following upon this outer cordon being set up there was a constant traffic of people coming whose identity had to be clarified and then allowed through to assist with what was going on? - Yes. In the very early stages there was traffic of people coming through because that was people who were arriving to assist, all sorts of people. There was a fairly dense crowd very quickly.

That was the next matter I was going to ask you about. I think you mentioned some time before half-past l0 not only had parents and relatives/

relatives and some of the children turned up, but there appeared to be members of the media as well? - Yes.

By l0.30, which is some 20 minutes or so after you arrived, how large a crowd do you estimate had congregated in the general location of the Doune Road entrance? - My recollection -- I would estimate somewhere between 200 and 300 people were there about l0.30.

And would it follow therefore that people such as the ambulance and the police cars and medical staff's cars who had to get in and out had to negotiate their way through this large crowd? - Yes.

People, we stress, who had every right to be there, and perfectly understandable reasons for being there? - Yes.

We will come back to the detail of this in a moment, but can you point out to us please the house which I think was used at one stage during the course of your work? - I eventually used two houses, but the first house that I used was this house here on the east side of the drive.

And the second house? - The second house was the white house immediately opposite on the west side of the drive.

And were these arrangements made by the occupiers being approached and asked if they would make their premises available? - Yes. I spoke to both occupants personally.

Well, we will come on to the detail of that in a moment. Now, can you recall when it was that you became aware of the identity of the class that was involved in this tragedy? - I am vague in my recollection whether it was before I first went down at l0.30 or just minutes later -- somewhere about l0.30 to l0.40.

And by this stage there was this large crowd congregated there? - Yes.

By this stage you would appreciate that it was your responsibility to deal with the parents of/

of the children in that class? - Yes. I was given the responsibility of that.

And also the relatives of any adults who may have been injured in any way? - Yes.

And I assume also the parents and relatives of any other children that might in some way have been injured, whether physically or otherwise, as a result of what had happened? - Yes, that is right, and also in the very initial stages I was also responsible for these other parents and relatives of pupils who were in here, and for the remainder of the school.

Yes. Well, that is another point which we could maybe just deal with now. In addition there was the problem that in this very large primary school there were a large number of other classes and a large number of children who were physically within the building, apparently physically safe, but whose parents were outside in increasing numbers, unaware precisely what had happened? - Yes, that is correct.

Now, we know as a matter of fact that the school kept record cards with certain details of individual children's or parents' contact telephone numbers. What was your understanding that morning as to whether any use was being made of such documentary material with a view to contacting the parents in Mrs. Mayer's class? - I was aware that within the temporary incident office that Detective Chief Superintendent Ogg had set up, that these were the primary sources of reference early on in the incident. I observed these types of documents within that office and in the office of Mr. Taylor, and there was conversation and reference to these documents.

So you knew that they physically existed? - Yes.

But were you aware whether any use was being made of the information within them to contact the parents by positively phoning them or sending officers round or anything of that sort? - Not at that stage. They were being used, but during my observations there was inherent difficulties with using the cards in combination with the class register/

register, which hadn't been used that morning. It seemed to me that difficulties were being experienced that the officers involved didn't know who was all within the class that morning at half-past 9.

Yes, but was the purpose of the officers using them at that time to assist in identifying those who had been killed and injured? - Yes.

Was that the sole purpose, or were they also being used for the purpose of trying to contact the families.....? - No. The decision, as it appeared to me, was that the cards, the records, were being used to identify those deceased and injured.

Yes. So you were faced with the practical problem of this increasing number of parents and relatives, some of whom would certainly include the parents of the children in Mrs. Mayer's class, and others would include the parents of children in other classes? - Yes, that is correct.

Now, faced with that situation, what steps did you take to identify, and if appropriate -- I was going to use the word "segregate". That is possibly the wrong word to use. But what steps did you take to take to one side those who were the parents of children in Mrs. Mayer's class? - I saw that as my first task, and I confirmed personally with Detective Chief Superintendent Ogg that it was Class l/13, and that it was Mrs. Mayer's class. And these were the pieces of information that I would use to first of all try to separate those parents from the mass of parents. I then arranged for the first house that I indicated to be used to put the mass of parents and relatives, parents or guardians of children who were at the school, to be placed within the grounds of the house, and within the house itself, because there was ever-increasing states of distress ongoing at that point, and some of the people within the crowd required water, they required to be in a place indoors. So I secured that house and I asked the police cordon to envelop that house within the perimeter cordon, so in effect we pushed the cordon out to get those people within the cordon, and secure within the cordon from people outside.

So/

So if we can just try and be quite clear about this, the first house you used was the one to the left of the driveway as we look down the photograph? - Yes.

And as I understand it you used the grounds of the house and the house itself? - Yes.

And parents and relatives -- anyone who had a legitimate interest in caring for and being responsible for children were invited into these grounds and into the house; is that right? - Yes, that is correct.

Can you tell us at what time approximately that was done? - It would be shortly after l0.30 that we first used that house.

And this invitation I understand was extended without any distinction between the parents of Mrs. Mayer's class and the rest of the parents? - That is correct.

And I think you also said that you simultaneously made arrangements for the police cordon to include the grounds of that house? - Yes.

That would mean, though, that those who did not fall to be invited into the grounds, the normal onlookers or members of the media, were not far away -- just over the wall? - Yes, some 20 yards away.

And all of this must have been an extremely distressful business for all the parents involved at this stage? - Yes, it was very intense.

Because not only were they aware that some sort of incident had occurred, they were extremely uncertain as to whether their particular child or children were involved? - Yes.

And this was all taking place in the public gaze, with members of the public and the media, perfectly understandably, taking a very close interest in what was going on? - Yes.

THE LORD ADVOCATE: Sir, this might be a/

a convenient time.

LORD CULLEN: Yes. We will adjourn now till l0 to 2.

THE LORD ADVOCATE: Before we break off, could I raise one matter? I have discussed this informally with my learned friends -- but subject to your permission, Sir. I would wish to deal immediately after lunch with the evidence of Agnes Watt, who will be in attendance then. It would involve interrupting the Superintendent's evidence, but I understand there to be no objection to that.

LORD CULLEN: I am quite content that should happen.

1.55 p.m After an adjournment for lunch.

AGNES WATT, (64), Sworn,

EXAMINED BY THE LORD ADVOCATE: Do you stay at an address in Raploch in Stirling? - Yes.

I think you live alone at that address? - What? No.

Do you live there with someone? - No, I live on my own.

Have you stayed in your present house for a number of years? - Yes.

Am I correct in understanding you were born in Glasgow? - That is right.

And following upon your birth you were adopted by James Hamilton and Mrs. Kathleen Hamilton? - That is right.

Your mother, Mrs. Kathleen Hamilton, died some ten years ago, but I think your father, James Hamilton, is still alive; is that correct? - Yes.

And does he live locally to you? - Yes.

In 1950 did you marry a man by the name of Thomas Watt? - Yes.

Shortly after your son's birth I think you and your husband separated; is that correct? - Yes, that is right.

And you never lived with him again? - No.

Upon you and your husband separating did you go back to stay with your parents at their then address? - Yes.

I think you decided to support yourself and your son, and did this involve your going out to work whilst your own mother looked after your son?
- Yes.

After a period of time, a year or so, I think/

think a family decision was reached that your own parents would adopt your son and effectively take over the care of him? - Yes, that is right.

And was it at that time that he took on the surname of Hamilton? - Yes.

A few years later, by which time your son was around eight or nine years of age, did the whole family move to the Stirling area? - Yes.

I think whilst your own parents remained there permanently, occasionally you worked away from Stirling, in local hotels in the Region? - Yes.

In the fullness of time did your son find out that you in fact were his natural mother? - Yes.

And that his grandparents had in fact adopted him? - Yes.

When your son left school what did he do? - He worked in the Council.

In what sort of job? - What do you call it? Architect.

In the Architects' Department? - Yes.

Was there also a time when he was involved in running a woodcraft shop in Stirling? - Yes.

Am I correct in understanding that you remained in fairly regular contact with your son right up until the date of his death? - Yes.

And over the years, even when you were working away from Stirling you and he still remained in touch with each other? - Yes.

Do you recall how long ago it was when your son found his own accommodation in which to stay? - He stayed with my father and my father left and went somewhere else to stay. He was staying there himself at 7 Kent Road.

So for a while he stayed with your father, James Hamilton? - Yes.

But/

But then your father went off to other accommodation, leaving your son in the address in Kent Road? - Yes.

In the last few years of his life how regularly would it have been that you saw your son? - Oh, quite often.

As often as once a week or more often than that? - Maybe twice a week: and then he always phoned me at night to see I was all right or was at home.

Did he phone you each night? - Every night.

Every night you spoke on the phone? - Yes.

Did he come and visit you from time to time? - Yes.

Did you visit his house? - At first, but not.....

Not latterly? - No.

I take it you met him by chance in the street from time to time? - No, he would phone me to meet him, and we used to go for a meal.

Now, can I ask you a few questions about things over the last year or two? What did you understand to be your son's source of income over the last two years; was he working, as far as you were aware? - No, when he gave up the shop he was buying and selling cameras.

After he gave up the shop he was involved in buying and selling cameras? - Yes.

Did he make any money out of that, as far as you were concerned? - Yes.

That gave him some income? - Yes.

Did he have any other sources of income, as far as you understood? - No.

Do you know whether he was in receipt of Social/

Social Security Benefit of any sort? - I don't know.

Was he ever in a position to give you money from time to time? - Yes.

How often did that occur? - Every time he had a wee sale of cameras he used to come and give me something.

What sort of sums are we talking about? - £50.

If he sold some cameras and made a bit of a profit he might on occasions give you up to £50? - Yes.

How did he go about buying and selling cameras? Did he operate a shop, did he do it by advertising or mail order? - I couldn't tell you.

In the years up until the time of his death what impression did you form as to whether he was able to make ends meet or whether he was short of money? - I used to give him money if he was short.

What sort of amounts of money would you give him? - About £30 or something.

How often would that be? - Not very often; about twice.

So there were a very few occasions when you were able to give him something? - Yes.

Was this after he complained about being short of money? - Yes.

Were you aware whether or not he had any debt due to anybody? - No.

What about friends that he had? In recent years did he ever appear to have girlfriends or lady friends? - He had a girlfriend, but she got too serious, and he didn't want to know.

How long ago was that? - Oh, that was a long time ago.

In/

In recent years was there any friendship with members of the opposite sex? - I couldn't tell you.

You were unaware of any? - Yes.

I think we understand he had some involvement with boys' clubs? - Yes.

What did you understand that to involve? - He just said he was going to a club. I didn't know anything about clubs.

Do you know how often he went there? - No.
Or where the clubs were? - No.

We know as a matter of fact that he owned a number of guns and ammunition. Were you aware he had an interest in guns? - Yes.

Over how many years was that? - Oh, it was a long time. I didn't know he still had them.

Had you ever seen these weapons? - Once.

Where was that? - In his house.

In recent years do you know whether he went to gun clubs or shooting ranges to shoot? - Yes, he said -- he usually said he was going to a rifle club.

So he talked about going to rifle clubs on occasions? - Just once. I didn't know if he was still going or not.

Over the years up until the time of his death did you and he have any serious arguments or disagreements about anything? - No.

A number of years ago was there some problem involving telephone calls which you had received from your son? - Yes.

How many years ago was that? - That was a good few years ago. You see, I am a diabetic, and he said there was an ambulance coming for me to take me to -- oh, where is that place again?

A/

A hospital of some sort? - Yes.

Whereabouts is the hospital? - Inverness.

How many years ago are we talking about? Two or three years ago, or more than that? - About four years ago.

How many of these phone calls were there? - I think there were just two.

Were you upset about the phone calls at that time? - Yes.

But I think any problems associated with them blew over; is that right? - Yes.

I have asked you about whether he had any lady friends. What about male friends? Did you ever see him in the company of other men? - There was one used to come to his house, James Gillespie.

Was he the only one you were aware of, or were there others? - I don't know of any.

In the last few weeks of his life did you notice anything unusual about your son? - No.

Was he talking about anything different from what he normally talked about? - No.

Did he come and visit you any less frequently than he used to do? - He always came.

So he kept coming as normal? - Yes.

Did he telephone you as normal too? - Yes.

During these last few weeks did he make any mention of any debts that were due by him? - No.

We know he sent a number of letters to people over the years. Were you aware of that at that time? - No.

In the last few weeks of his life did he mention anything about letters to the Queen, to the Secretary/

Secretary of State or anything in that connection? - No.

Did he make any complaint about the Local Authority or headmasters or the Scouts or anything of that nature? - No, he never mentioned anything.

Now, I want to ask you a few questions about the few days leading up to the date of his death. We know he killed himself on Wednesday, 13th March. Do you recall him coming to see you on the previous Sunday? - No, he came on the Tuesday.

Had you seen him on the Monday? - Aye, down the town.

You had met him in the town? - Yes.

Was this by arrangement or by chance? - By chance that time.

What did he tell you about what he was doing that day? - He never said. Oh, on the Monday he said he was going to the University.

Did you know why he was going to the University? - No.

And then you said on the Tuesday he came to see you; isn't that right? - Yes.

What time of day was that at? -
6 o'clock. No, about 2, because he went away at 6.

During the course of the afternoon? - Yes.

Was he at your house for a number of hours? - Yes.

What did he do when he was there? - He had a bath and something to eat, then he sat and blethered, then went away.

Was it his practice sometimes to have a bath at your house? - Yes, because he didn't like a shower.

It would not be uncommon for him to have something to eat either at your house? - No.

During this "blether" as you have described it, what do you remember you talked about? - My father.

Was your son upset or annoyed in any way at talking about your father? - No.

After he left that night did you talk to him again on the telephone? - No. It was me that phoned him.

So you talked when you phoned him? - No. I couldn't get anybody. The police were there at the time. He usually phones me when he goes away. I was wondering why I didn't get a phone call. I waited till the Wednesday, and when I phoned the police were there.

Your phone call was not till the next day? - Yes.

And by the time you phoned his house the police were involved in the situation? - Yes.

2.15 p.m.

I asked you about what he had been saying about his grandfather on the Tuesday afternoon and as I understand it it was a perfectly normal conversation at that time? - Yes.

In the past had there been any difficulty between your son and your own father? - Yes, they didn't get on.

In general terms what was the cause of the disagreement? - I can't tell you, I don't know, they just kept arguing; you see, my Daddy drinks and he used to come in and Tommy would be in his bed and he used to wake him up and start arguing with him.

Were the arguments between your son and your own father the reason why your father moved out to his own house? - I couldn't tell you whether that was it.

BY LORD CULLEN: Can you tell me how many years ago it was when your father moved out, very roughly? - I can't remember, sorry.

SHEILA SUTHERLAND, Sworn:

EXAMINED BY THE LORD ADVOCATE: I think you reside at an address in Stirling, is that right? - Yes.

And are you a friend of Mrs. Agnes Watt? - That is correct.

Have you been a friend of hers for a number of years? - Yes, I have, for 10 years.

During that time did you meet her own son, Thomas Hamilton? - Yes.

How frequently would you see him? - About once a week, something like that, not very often.

What did you understand Mr. Hamilton to do for a living over the last few years? - I thought he was just unemployed but apparently he was selling/

selling cameras and buying them and things like that, running boys clubs -- that is all I knew of him.

We will come to the boys clubs in a minute; as far as his income was concerned do I understand correctly that he was basically unemployed but he had some income from buying and selling cameras? - Yes.

During your conversation with him what impression did you get as to whether he had enough money to live on or whether he was short of money or what? - No, he sometimes borrowed money from his mother but not very often.

Did he ever complain to you about being hard up? - No, sometimes he would say "I am a bit short this week but I will manage".

Did he ever complain to you about having debts which he couldn't pay? - No.

Did you get any impression as to how much money he made from buying and selling cameras? - No.

Now, you mentioned about boys clubs? - Yes.

What did you understand about Mr. Hamilton, as far as running boys clubs was concerned? - He said it was more or less to keep boys off the streets and for something to do.

Was this something he did every week? - Yes.

Whereabouts were these clubs? - I thought they were just in Stirling but apparently he was all over.

Did he ever make any complaints to you about how people in authority such as the police or local authorities reacted to his involvement in boys clubs? - No, never.

We have learned already in this Inquiry that he wrote a number of letters about boys clubs and his involvement with them? - Yes.

Were/

Were you aware of that? - No, neither Mrs. Watt or I knew anything about that.

Did you ever see him in the company of other friends that he had? - Just that James Gillespie, that was the only one.

How often was he in Mr. Gillespie's company? - I only saw him about two or three times.

Did he ever talk about anyone other than Mr. Gillespie as being a friend of his? - No.

In recent years did he run a motorcar? - No, he used to hire a van when he needed one.

He was able to drive? - Yes.

And occasionally he hired a motor van? - Yes.

But otherwise he just used public transport? - That is correct.

A number of years ago do you remember some problem involving Mrs. Watt and her son about telephone calls? - Yes.

What do you recall about that? - Well, to me it seemed as though it was more or less schoolboy humour.

What did you understand had been going on? - I thought it was rather silly.

What had the son been doing? - Well, he had discovered she was diabetic and he phoned her.....he called a friend to phone her and tell her that she was going up to a clinic in Inverness but I just told her that couldn't happen because the clinic is here.

Was this something that had upset Mrs. Watt? - Yes, it is, very much so.

Was it at that time that there was a disagreement between the mother and the son? - Yes.

Did/

Did that blow over? - Yes, it did.

In the last two or three years of his life how would you describe the relationship between Mr. Hamilton and Mrs. Watt? - Very good.

From what you could see was there any difficulty between them? - No.

Did you know Mrs. Watt's own father, James Hamilton? - Yes, I knew him.

Did you ever seen him in recent years in the company with Thomas Hamilton? - No, never.

What sort of relationship did you understand they enjoyed? - Very bad.

What was the cause of the problem? - The father's drinking.

Now, a further matter I want to ask you about is the question of Thomas Hamilton's ownership of guns? - Yes.

Were you aware that he owned a number of guns? - I knew he had four rifles, I have seen them in his house but I didn't know about any other guns; he had licences for these.

For how long had you know he had a number of rifles? - Two or three years anyway.

How many times had you seen them? - Only the once.

In his house? - In his house, yes.

And where in his house were they? - They were kept in a sort of locker like an Army foot locker and chained up and padlocked and kept in a cupboard.

How did you come to see them on that occasion, did you ask to see them? - No, we were talking about one of my neighbour's having an air-rifle to shoot pigeons and he said "I have got a rifle" and he took us into show us it.

And apart from that occasion were you ever/

ever with him when he talked about guns and ammunition? - No, we didn't even know he belonged to a gun club.

In the last few months of his life you continued to see him approximately once a week? - Yes, just every now and again; sometimes we used to meet him up the town.

Did you notice any change in him over this period of time? - No.

Did he appear to be angry about anything? - No.

Or upset about anything? - No, a complete mystery.

Did he complain about local authorities or members of Parliament or anything of that nature? - No, never at any time.

Mr. Lake, Advocate, for the Crown read Mr. James Hamilton's statement to the Inquiry.

"I am 87 years of age, widowed and reside alone at the above address. I am a retired Heating/Ventilation Engineer. Thomas Hamilton is my grandson, although my late wife Katherine and I adopted him in 1952 as our son. My wife Katherine and I were married in Glasgow in 1927 and at that time we stayed in various digs in the East End. In 1928 my wife and I legally adopted a baby girl, Agnes, and we moved to a house in London Road, Parkhead. During the War I rented a house at Mordant Street, Bridgeton. When the War ended I rented a house at 37 Bellrock Street, Cranhill, Glasgow. My daughter Agnes married Thomas Watt on 8th December 1950 and they moved into a house in Lily Street, around the corner from Bellrock Street. Thomas Watt was employed as a corporation bus driver at the time. Thomas Hamilton was born on 4th October 1952 and shortly after this Agnes and Thomas Watt were divorced. As a condition of the divorce my wife Katherine and I adopted Thomas and he and Agnes moved in with us at 37 Bellrock Street, Cranhill./

Cranhill. Thomas first attended primary school in Glasgow. On 10th May 1963 my family, that is my wife Katherine, Agnes and Thomas Hamilton moved into a house at 11 Upper Bridge Street, Stirling which I had purchased. When we moved to Stirling Thomas initially attended the Territorial School in Cowane Street then moved to Riverside Secondary School. There was never any problems with him at school either from a truancy or behavioural position. Thomas left school when he was 15 years old in 1967. He began working in the draughtsman/architects office or Stirling County Council where he remained for about three years. On 29th January 1968 we moved to a house at 24 Queen Street, Stirling which I had bought. I subsequently sold 11 Upper Bridge Street, Stirling on 14th March, 1968. Again it was myself, my wife Katherine, Agnes and Thomas. In 1970 Thomas, then 18 years old, purchased premises in Cowane Street, Stirling and opened a do-it-yourself shop. The shop was known as "Wood Craft". I cannot remember Thomas having any major medical problems, he was never in hospital, he only had the usual children's illnesses. He was a member of the Boys Brigade, I think he was in the company which met at the Old Baptist Church at the top of Station Road. This was when he was at school, but I do not think he was a member long. I did not know that he was a member of the Scouts. I do remember that he was a member of the Rifle Club which met in a hut in Irvine Place, Stirling, when he was 16 years old, again he was not a member long, the hall was pulled down shortly after he joined. I never bought him any firearms, air pistols, rifles or the like. I never saw any firearms in the house. On 1st May 1994 we moved into a house at 39 Forth Crescent, Riverside which I had bought, I sold the house at 24 Queen Street, Stirling on 24th June, 1974. It was whilst we were staying in Forth Crescent that my wife Katherine told Thomas that Agnes was his natural mother and that we had a adopted him, until then Thomas had thought of Agnes as his sister. In fact after he had been told he still treated Agnes as his sister. Agnes moved out of Forth Crescent, Riverside, having got a house of her own, she moved in there on the 11th March 1985. This left myself, my wife Katherine and Thomas staying in the house. The reason I had bought this house was because my wife Katherine and developed angina and the house was on the flat and was easier for her to get about. She was in a wheelchair by that time. In 1987 I think/

think it was about 16th February, I sold the house at 39 Forth

Crescent, Stirling and was allocated a house at 7 Kent Road, Stirling. The reason I sold the house was that my wife's condition had deteriorated and she was confined to a wheelchair and 7 Kent Road, Stirling, was on the ground floor and had a wheelchair access ramp. We moved into 7 Kent Road on 15th February, 1987. The tenancy of 7 Kent Road Stirling was in my name. My wife Katherine died on the 24th August 1987 at Stirling Royal Infirmary. On 6th June 1988 I signed a joint tenancy of 7 Kent Road, Stirling with Thomas. I was never aware of Thomas being a Scout Leader, I never saw him with a uniform and he never mentioned it in the house. In all the time that I lived with Thomas I never once saw him with any guns in the house, I never knew that he had any. Thomas always had his own bedroom. I was aware that Thomas was involved in running boys clubs and he spent all his time with the Clubs, he started running the Clubs shortly after he sold his shop in Cowane Street. I think that was the reason he sold the shop, it was too much like work and interfered with his other commitments. I had no involvement with his shop at all. Thomas was always a very calm person, certainly in the house, there were never any moods, tempers. He never showed any violence at home, he never raised his hands to me at any time. I never knew Thomas to ever have a girlfriend, he never went out socialising, never went dancing or out drinking. I do not think he ever drank and he never smoked. He had his own friends to visit at Kent Road, but I never took any interest, I do not know who they were. When they came they would either go into Thomas' bedroom or into the living room and I would go to my bedroom. On 24th August 1992 I moved out of Kent Road and into sheltered housing accommodation. The reason I moved out was that Thomas began to take over the whole house, he moved all my personal possessions and items of furniture into my bedroom, some pictures I had on the wall and my telephone and other personal items. I just could not be bothered with it all and went to Stirling District Council and they arranged for me to move. I did occasionally see Thomas in the street in Stirling or in the Thistle Centre, but we just ignored each other and walked on, I never stopped to speak with him. In all the time Thomas stayed with me I never once had anyone, either from groups or organisations, nor individuals come to the door/

door with any complaints about Thomas' behaviour or concerns about

the Clubs. About 1.30 p.m. on Wednesday, 13th March 1996 I heard about the shooting incident at Dunblane Primary School. I was sitting the Thistle Centre, Stirling, just amongst a group of other elderly men when one of them mentioned it. It was only when I went home about 3.00 p.m. that day and two reporters were at the door and began asking questions about Thomas and looking for photographs, that it dawned on me that Thomas was the person responsible".

2.35 p.m.

JOSEPH HOLDEN,

EXAMINATION CONTINUED BY THE LORD ADVOCATE: I wonder if we could please have back on the imager the photograph we were looking at this morning. I think it was Rl? Mr. Holden, when we broke off before lunch we were discussing the situation whereby at your request the parents and the relatives and carers for the schoolchildren, in a large group, had been invited to go into the grounds of the house to the left of the entrance? - Yes.

And by so doing detach themselves from the other members of the public and the members of the media who were out in Doune Road? - Yes, that is correct.

Can you just remind us of approximately when this took place? - That was occurring approximately about l0.30, l0.35.

Can you just remind us whether by that stage you were aware that it was Mrs. Mayer's class that was involved? - Yes, I was aware.

When you invited the parents to move into the grounds did you give them any indication as to which class was involved? - No, I did not, not at that time.

Was that a deliberate decision on your part? - Yes.

And could you explain to us why, at that stage, you treated them as an omnibus group? - Yes. There was two main reasons for my judgment at that time. One was that I would confirm, first of all, that information that I had received, that it was Mrs. Mayer's class and (2) that I had nowhere that I could secure or put the parents of Mrs. Mayer's class having made that announcement; because it was such an obviously emotional, plus disturbing news, that I was going to give them, that I had foreseen that I would have to have some place to put them and to cater for their distress, even more so than what was occurring in that first house.

Tell/

Tell me this, how many officers did you have physically available to you in that house at that time? - There was quite a number. There was at least two of Inspector rank and certainly several uniform constables available at that point.

At this stage members of the media would perfectly understandably be pressing for information to be given to them? - Yes, I believe so.

Who was responsible for dealing with these requests? - Certainly at l0.30 or l0.35 I was not aware of any designated officer at that point, but to be fair I was immersed in the problem I had at that time.

Do you, however, have some recollection of members of the media clamouring for information in this general area? - Yes. I was aware of photographers taking photographs from Doune Road towards the crowd that were within the house and without the house, and I was aware of other journalists there.

In the fullness of time was a particular officer or officers delegated responsibility for dealing with the Press? - Yes, quite quickly after that.

And when they were carrying out this job where did they do it? - I think eventually as the morning went on, perhaps towards lunchtime, Victoria Halls in Dunblane was used. Precisely when that development took place I do not know. I was also aware prior to that the gathering in Doune Road had been briefed by Detective Inspector Mather, and quite soon thereafter Chief Inspector Munn from Strathclyde.

I may be wrong here. I am relying on my own recollection, but I have some memory of senior officers and possibly also the Chief Constable being interviewed by members of the media at this junction around lunch time that day? - I know he was interviewed quite early on in the day. I was not aware of where that had occurred.

Now, when you invited the large group to go into the garden grounds of this first house, at that stage did you give any indication as to whether or/

or not there had been fatalities? - No, I did not.

Were you aware at that stage there had been fatalities? - I had been within the gym and I had been informed that there were fatalities within Class l/l3. I was not sure of my information -- that had been the first burst of the information I had got within quite a frenzied incident room some 20 minutes before.

So was it a conscious decision on your part not to mention fatalities at that stage? - Yes it was.

And can you explain why you took that decision? - Principally because I didn't want to mention Class l/l3, and I didn't want to give out information that I wasn't sure about. And I took the decision to tell those persons that a serious incident had taken place and that I would leave the house, confirm what information I could, and return as soon as possible.

After you had got them all into the grounds -- I take it they all wouldn't get into the house? - No.

So you had to speak to some of them outside; is that right? - Yes.

With members of the public and the Press over the garden wall? - Yes.

Did you explain to them who you were? - Yes, identified myself, because I was in plainclothes at the time.

As a superintendent? - A superintendent, yes.

And did you indicate to them you would go up to the school for further information? - yes, and I would be their contact.

You made mention of some police inspectors, two police inspectors? - Yes.

Were they in uniform or in civilian clothing? - Yes. Everyone else was in uniform that/

that had a specific function that day. I wasn't. I was in normal dress.

What about the Inspectors? Did they remain down in this garden ground till you returned? - Yes, they did.

At this stage was any consideration given to moving the outer cordon further out, so to speak -- by moving it further along Doune Road in both directions? - I am not sure about that, because I had moved from being responsible for the cordon, having handed that function to Chief Superintendent Matchett, to becoming responsible for the parents. But I am aware that the cordon -- rather than the cordon, traffic control, was becoming necessary in Doune Road from what I observed from the house.

So that part of your responsibility is passed to another officer? - Yes.

Now, having returned to the school did you see Mr. Ogg again? - Yes. I went to the room in the foyer.

And when you spoke with him again was there any further discussion about the identification of Mrs. Mayer's class as being the class involved? - Yes. I asked the specific question could I have it confirmed that it was Mrs. Mayer's class, and it was Class l of l3.

Was there then some discussion as to whether the parents of these children should be informed of that fact? - Yes.

And what was the upshot of that discussion? - It was agreed that I should go back and separate Class l/l3 parents or relatives, and to move them to a house, or some other premises that they could be cared for whilst we catalogued who was there, and whilst identification processes were ongoing -- which had just about commenced when I entered the incident room, which would be just before I think about quarter to ll or l0 to ll.

So by the time you were effectively authorised by Mr. Ogg to separate out the parents of Mrs. Mayer's class from the other parents? - Yes.

You/

You were aware that the process of identifying the victims was under way? - Yes.

But was clearly not completed? - Not at all. It had only just started, was my impression when I entered the room.

You talk about having another house or a building. Was that then identified by you? - Yes. I left the school and made my way to what I saw as an appropriate building on the opposite side of the track.

And you got permission from the occupiers of that, to use that? - Yes.

Who was responsible for inviting or arranging for the parents of Mrs. Mayer's class to move from one set of grounds to the other? - I took that responsibility, and went back into the first premises, and I addressed those gathered outside from the steps of the house, and I also repeated the same address within the lounge of the house -- quite a large room within the house -- in which I informed those present that the children affected by the incident were those in Class l/l3, Mrs. Mayer's class.

This was obviously another extremely stressful moment for the parents concerned? - Yes, very much so.

And without in any sense wanting to identify any criticisms or anything at this stage, the fact of the matter was that this was having to take place partly in the open air, with a large number of people in the garden, strangers out in the street and members of the media looking on? - Yes.

At this stage did you make any mention of fatalities? - No. I made a judgment that I wouldn't do that until I had the parents of the children in Class l/l3 within the confines of the second house.

So that was another conscious decision by you? - Yes.

And then was it necessary for the relatives concerned to move across the entrance road into/

into the grounds of the other house? - Yes, with the assistance of the officers that were there.

And all of this having to take place under the eye of the media, which was increasing in number by the moment; is that right? - Yes, it did.

With the benefit of hindsight, clearly there might have been some scope for moving the Press back a bit? - Yes. I couldn't say "No" to that, but I think that the cordon did the best possible, and that the Press were only partially on the road at the time. My announcement, for what it was worth, wasn't a shouted announcement. We were very much aware of that problem at that point.

Yes. I am just trying -- I am not seeking to point out criticisms or argue them, or defend them? - No.

I am just trying to examine possibilities. Clearly one thing that might be worth looking at in the future is that in a situation where the relatives of some form of incident or tragedy have to have distressing information conveyed to them, one matter the police might bear in mind is the need to keep onlookers, whether they be members of the public or the media, sufficiently far away as not to impinge on those who are directly affected? - Yes, absolutely.

Now, can you assist us please as to approximately what time it was that you managed to move the parents and relatives of Mrs. Mayer's class into the second of the two houses? - Yes. I think that was about ll a.m. or thereabouts, approximately -- perhaps just after ll.

Were you yourself physically present when this transfer was taking place? - Yes. I accompanied the parents because I wanted to give them further information once inside the house.

It would be practicable to get them all inside the house? - Yes. It was a large house.

And that would get them out of the immediate vision of those who were out in the street? - Yes it did.

Before/

Before we come to deal with that aspect of the matter, can we just deal briefly with those parents who remained in the first house and in the first grounds. Did you yourself have any continuing involvement with them? - Within my address, when I had announced the Class l/l3 information, I addressed the rest of the parents but I think to be frank -- I think it was lost in all the confusion after my announcement of Class l/l3 -- was that we would come back and inform those parents of when their children would be available to them and where their children were within the school.

And when you say it was lost -- the understandable anguish that occurred when you dealt with Mrs. Mayer's class? - Yes.

Had the effect of making it less easy for others to take in what was being said? - Yes, and also there was quite a noise as well.

And thereafter, dealing with this larger group, if we could, was a procedure set up whereby individual children within the school would be re-united with their parents and carers who were in the first house? - Yes. That process was started later on that morning, and came under the command of Chief Superintendent Matchett.

Do you, from your own knowledge, know how long it took to complete? - It was quite a lengthy exercise. I observed the process that was ongoing while I was doing my other duties, and it would be a very rough estimation, but I am of the mind that it took some two or three hours.

But you yourself had no direct involvement? - No.

Well, if we could return to the much more important group, namely the parents of Mrs. Mayer's class, and for the purpose of taking in more detail the evidence that I would like to take? We are now inside the second house. You are there with other police officers? - Yes.

And all of the parents of Mrs. Mayer's class that you had spoken to had come with you? - Yes.

Did/

Did you by that stage know whether you had the parents of all the children who had been in the class that day? - No, I did not.

You didn't know one way or another? - No.

What did you feel it appropriate to tell them at that stage? - I felt it appropriate that I tell them what I knew at that point, and what that was was that a shooting incident -- a man had entered -- sorry, I think I said a person -- I am not sure -- a man or a person had entered the gymnasium and had discharged a firearm and that there had been fatalities and injured -- seriously injured.

Did you at that stage know how many children had been murdered? - No.

You knew that some children were dead? - Yes.

And that at least some of the other children were injured, some of them very seriously injured? - Yes.

Were you aware whether any of the children were uninjured at all? - No.

So your state of knowledge was that some were killed and some were injured, in certain instances very seriously? - Yes.

On that being said to the parents, did any of them appear to have any information as to the number of children who might be dead? - Yes. A man, or a male person, which I assume was a father, immediately said that he questioned -- or he asked me to say that there was 12 dead, 12 deceased. And I asked him "How do you know that?" and he told me that a radio broadcast -- either he had heard or he had been told that a radio broadcast had numbered the dead as being 12.

Now, what sort of time are we talking about for this? - I think we are talking about ll.l5 a.m., or ll.l0 a.m.

Do you yourself know as a matter of fact when/

when information was given to the media about the number of fatalities? - I don't.

Do you have any knowledge as to whether as a matter of fact the radio and television were by ll.l5 or ll.30 broadcasting numbers as to who might have been killed? - No, I couldn't say that.

Looking back on the situation with which everyone had to cope that morning -- the parents, the police officers and those who were asked to assist -- did it make matters any more difficult for all those involved that the members of the media may have been in the position to broadcast details of numbers killed and injured before the relatives of those who had been killed and injured were being informed of what had happened? - Yes. I mean, I was quite shocked at the statement made by what I assume was a father; and it certainly didn't make my job -- I didn't know that information. That information could have been correct, and I didn't want to deny it. I just didn't know that information, so it did make my job much more difficult at that point.

We may touch on this later -- in fact, we will touch on this later on as we go through the events of the next few hours -- but certainly from my understanding of the situation there is no doubt that statements were being given to the media about fatalities before individual families were finally informed. Does that accord with your understanding? -

2.55 p.m.

It seemed to be, that morning -- that was the first instance that I experienced.

I want to be quite clear of this, out of fairness to all concerned. There must be an issue which requires to be addressed as to whether it assists those responsible for bringing news to the individually affected families whether they do that before any formal statements are given to the media? - Yes. I felt quite heavy that I was the person responsible for giving the information to these parents, and very early on that morning an announcement like that affected my credibility with the parents about whether I was giving them the information I knew at that point.

Now, having told the parents what you have described did you then inform them that you intended to go back up to the school to endeavour to obtain more information? - Yes, I did.

Clearly if there was to be a senior officer responsible for giving information to the parents that day you were that individual? - Yes.

You had been instructed to assume that responsibility, you had done so, and you had made clear to the parents that you were the senior officer who would be dealing with them? - Yes.

There were however other officers on the premises with you? - Yes.

Do you remember who they were? - At the point of address I think Detective Sergeant Allan Moffat was within the hallway, and I think Inspector Ross was outside the house.

Still dealing with the time you were at the house, were any other people allowed admittance to that house, by which I mean Ministers, doctors, nurses, or whatever? - Personally I was aware of two other midwives or nurses in uniform who were inside the house. I was very soon thereafter aware of Clergy having arrived, and I think one doctor had arrived.

This is in the house itself? - In the second/

second house, yes.

You told me a short while ago that when you first got to the second house you were unaware whether you had all the parents concerned or at least a representative of each family unit with you? - Yes.

Were any steps taken by you to try and clarify that matter? - Yes.

What did you do? - I asked Detective Sergeant Allan Moffat to note who was within the house, which was a difficult task, from the information I had just given them. This took some time, but he later reported to me that all of the parents pertaining to Class 1 -- we couldn't say all the parents were there, because we still had a problem with identification, as the morning went on, of the deceased.

What are Sergeant Moffat's normal duties? - He's in charge of what we term the Family Unit, which is child protection investigations, sexual offence investigations. This is very much a unit of seven people who work in conjunction with the Social Work Department and have special training for sensitive type operations and investigations.

So Sergeant Moffat at least has particular experience in dealing with families and children in difficult situations? - Yes.

Immediately under you who would be the next senior officer? - Inspector Ross, who was the man detailed as I left the house to go to the school to keep the house secure and keep intruders out.

And all the time outside, apart from the ever-increasing group of people who were gathering there would be ambulances going back and forth, police cars and various other vehicles? - Very much so.

Now, having left this second house did you go back up to the school again? - Yes.

Are you able to assist us as to approximately what time you had reached by then? - I think we were just short of half past 11, approximately.

Did/

Did you meet up there again with Mr. Ogg and with the headmaster and others? - It probably is not as simple as that. When I entered the school I became involved with at least two distressed people within the doors of the main school, who stopped me in my tracks for a few minutes, then I entered the incident command in pursuit of the information.

When you say two other distressed persons, do you mean adults? - Yes.

By that time had the process of trying to identify those killed been going on for some time? - Yes.

And we have heard certain difficulties about that, which I don't think we need to dwell on with you. Am I right in thinking you yourself played no physical part in the identification process? - No.

Now, I may be wrong, but I think we have already heard evidence that by 11.30 all the surviving victims had left by ambulance for the Stirling Royal Infirmary? - Yes. From my knowledge of the enquiries and from being involved since then, the evacuation had finished by 11.

Now, would it be fair to say that by this stage because of the practical problems which were being experienced in identifying those who had been murdered the factual situation was that some of the victims were identified, but others were not? - Yes.

This is the position as at approximately 11.30? - Yes.

Now, as a matter of fact it was some time later before any of the parents of Mrs. Mayor's class were informed that their individual child had been murdered? - Yes.

Was any consideration given by you and others at that time as to whether to inform parents individually, as and when you could, or alternatively wait until all the identifications were certain and then begin the process of informing? - I had two concerns at that point, both/

both of which I put to Detective Chief Superintendent Ogg. One was that if we were having problems in identification how were we getting on from the casualty viewpoint with regard to the injured. We discussed that at that point. Both were very problematic at that time, because we were not getting anything back from the Casualty Bureau, and identification of the deceased was so shaky that it was not of the standard that I would have gone back to the parents at that point with.

Yes? - So there were two concerns I was looking at and that he was looking at as well.

Perhaps we could recap on a point we discussed earlier today with Mr. Ogg. As a matter of fact, no details were taken of the identity of the surviving victims as they left in an ambulance? - I am not aware of that having happened.

Clearly if that had been done that would have assisted? - Yes, if we had been definite about any of these persons leaving we could have gone back to the house and got the.....

I am not for a moment suggesting that would have been a complete solution, but if as each ambulance left a record had been kept of who the victim was understood to be, and the factual basis of that understanding -- namely whether the child himself had said "I am Donald McKay" or whatever name, or whether it was "This is believed to be Donald McKay" -- that would have assisted in solving the problem you faced? - It would have.

So the practical problem you had is that as I understand it there were a number of deceased victims at the school, some of whose identities were uncertain; is that right? - Yes.

There were a number of surviving victims at the hospital; is that right? - Yes.

And one deceased victim at the hospital?
- Not until about midday were we informed about the deceased victim at the hospital.

But there was some uncertainty about the identities of some of the surviving victims? - There were two problems: (1) we were not getting any/

any information back from the hospital; and (2) was the uncertainty of the identification of bodies within the gym, which was throwing doubt on the total identification.

And the problem was being aggravated by the communications problem we have had explained to us? - Yes.

I just want to be clear about this so that all those who have an interest can understand the position. Am I correct in believing that even in a situation where you were quite satisfied that a particular victim who had died was correctly identified, there was a conscious decision not to inform the parents of that child until the whole identification process was complete? - To the extent that the seemingly positive identification -- doubt was being thrown on that because of the problems that were being experienced by the attempts to identify the remaining victims.

I will see if I can understand that. Because there was doubt about some identifications you were treating that as casting a doubt, a measure of doubt, on all of them? - Yes. From my observation, that was quite right.

Now, leaving aside the problems you faced in identifying the victims, you then had to evolve a procedure for actually informing individual family units of the particular tragedy that had befallen them? - That was probably my next problem. My first problem that was facing me at that time, just about half past 11, towards 12 o'clock, was the fact that I had a number of parents in the house, time was marching on and I didn't have any information for giving to them. I felt very strongly that we should at least display to them that they were our first priority, and it was at that point that we asked that we bring these parents up and put them within the school.

So were arrangements then evolved to bring this group of parents up from the second of the houses into part of the school? - Yes. I found someone I think was a member of staff there -- I can't recollect who it was -- and the staff room was identified because of the facilities within it, plus there was a separate entrance from a corridor just before/

before the staff room, which was convenient for a discreet entry to the school.

Which part of the school is the staff room in? Can you point it out on the photograph we have got? - I think it is that one there.

So would it be possible to bring them round the side of the building? - Yes. From there there were two passenger transport vehicles from the Ambulance Service drove up and came round and parked here.

If you could just resume your seat, please. Now, what time was this transfer effected? - I think just before 12 or just after 12.

And you say two ambulance transport vehicles were used? - Yes.

Were these vehicles able to get into the grounds of the house? - I am not sure. I wasn't present at the house at that point. Inspector Ross was seeing to that. There was no reason why they could not have.

And to some extent at least this exercise was taking place in the view of those out in the street, members of the public and members of the media? - Yes.

Now, you say you were not present when this took place? - No.

Why was that? - It was because I briefed Inspector Ross and I briefed Inspector Cairns, who assisted him in this task, and I felt it was more important that I be in the incident room, trying to get the information which the parents required.

What time would it be by the time this transfer was completed? - Very roughly I think about half past 12 or after half past 12.

By that stage was there some genuine uncertainty about identification? - Yes. By about 12 to 12.30 we were getting intermittent identification of injured at the hospital coming through in perhaps three's and four's.

Did/

Did you yourself go to the staff room? - No, I didn't enter the staff room. I was in the corridor outside the staff room.

Why did you not go into the staff room? - I had no further information to give the parents at that point, and it was only minutes before information started to come through and we started the process of extracting the parents of injured children, whom we informed, and I spoke to them in a room adjacent to the staff room.

Well, we will come on to the detail of that in a moment. When you first went to the vicinity of the staff room it would be some time at 12.30 or afterwards; is that right? - It may just have been earlier than that.

Some time around 12.30? - Yes.

At that stage there was some continuing uncertainty as to the names of the victims who had died? - Yes.

The parents inside the staff room were at that stage unaware whether their children had been killed or seriously injured? - That is correct.

They were obviously more than anxious for information? - Yes.

Can I ask you, Superintendent, so that we all understand this. At that stage were any steps taken to inform the parents within the staff room that there was this continuing uncertainty about the identities of those who had been killed and those who had survived? - I did not specifically instruct that, and I did not do it myself. I took the view that I should be trying to get that information, and I was within the incident room doing that. I was successful in getting that with regard to the injured.

3.15

You appreciate, as I am sure you do, that the role that I am performing in this Inquiry is to explore the facts, I am not interested in making a specific criticism one way or another, I am just acting in the public interest for the benefit of everyone trying to get at what happened that day and what people were thinking that day? - Yes.

I am sure on the basis of your experience you will appreciate that but the fact of the matter is that from about 12.30 there was this group of parents within the room who were uncertain whether their child was dead or alive and you were aware that there was that uncertainty? - Yes.

And you knew that despite the intensive efforts of police officers, teachers and others there were practical problems in identifying victims? - Yes.

What I want to ask you about is why the problems that medical and other staff were experiencing in identifying victims wasn't conveyed in general terms to the parents as an explanation for the delay which was undoubtedly building up? - There are two comments I would make -- one was we felt that with every minute that went by we would get information that we could go and gives these parents; the second being that, rightly or wrongly in hindsight it wasn't felt appropriate or of any help to go in and say while the uncertainty continued; a mixture of these two things were what was in my mind, certainly.

Now, we know as a matter of fact that the liaison groups were set up to deal with informing the bereaved? - Yes.

And the parents of those who were seriously injured? - Yes.

And these liaison groups included a mix of police officers and social workers? - Yes.

And around what time were these groups drawn together? - We started to look at that task in running in tandem as an intermittent identification of injured children coming in from the/

the hospital; it would be somewhere prior or just previously to 12.30 or just after; in tandem we started to then have that identification of who the deceased children might be coming in or a positive list of fatalities and we should make the appropriate arrangements for that; the briefing I had been given by Detective Chief Superintendent Ogg was to create these teams of two police officers and one social worker for each family and when we had a list of the family we could allocate the family to a family support team or a liaison team.

Was it your responsibility for sending to the school the necessary police and social work personnel to constitute these teams? - All during that morning there had been police officers sent to the school recording duties and social workers had been sent as part of the major incident procedure; in actual fact we were able to create teams from the numbers that were within the school to a large extent.

So both Police Headquarters and Social Work Headquarters sent along sufficient personnel to constitute I think a three-man team for each family? - Yes, to a large extent we were able to create these teams from personnel at the scene.

After these teams had been gathered together were they briefed by you? - Yes.

What was the nature of the briefing that was given? - It was very very brief because at that point we knew who the fatalities were and that it was a priority to get the teams to the respective families to the identified rooms within the school where the news could be broken to them.

I want to be clear about this; were the liaison teams purely for the families of those who died or were they also for those who were injured for those who had died at that time; it wasn't until later on in the day that there was a creation of a separate team, in fact, some of our deceased liaison officers became involved with the survivors, the injured parties as well.

As a matter of fact who was informed first -- the parents of the surviving victims or the parents of the deceased? - The parents of the survivors./

survivors.

Again I ask you if you could explain to Lord Cullen and all of us why that approach was followed? - I had approached the incident command team and Detective Chief Superintendent Ogg and said I felt that if the deceased identification wasn't forthcoming that we should be tackling it or we should try tackling it from the survivor side of it; at that point in time which was about 12 o'clock there was no identification of any surviving from the hospital because of the communication difficulties; nearer to half-past 12 it started to come in from the hospital confirming the names of the injured children and it was decided that because we had that information quite properly that these parents should be told immediately.

And as a matter of fact how was that achieved? - It achieved by myself going to the staff room but not going into it and asking the policewoman who was within the room to ask for the families to come out by name and they were asked out in the order that we were getting them back from the hospital in blocks of three or four; they came out and I spoke to them within the adjacent room where I was only able to tell them that there child was alive but was injured and in most occasions within Stirling Royal Infirmary; there was one child who was at Yorkhill.

Were any arrangements laid in place for conveying parents concerned to the hospital? - Yes, it was as quick as I was speaking to them a car or an ambulance was driven to the door next to the staff room and parents concerned were taken to the appropriate hospital.

And did people go with them? - I think so but I am not sure about that; the priority was that they were driven; if it was a police car it would be a police officer, if it was an ambulance I would reckon it was only ambulance personnel that were with them.

Now, one comment which was raised this morning when Mr. Ogg was giving his evidence was that at certain parts during that day those who were the parents of the bereaved were seeking information from a senior officer and were not able to get it; as/

as a matter of fact having spoken to the parents in the second of the two houses -- --? - Yes.

It was some appreciable or considerable time later before you saw them again, is that right? - Yes.

You have explained your reasons for the approach you followed but I take it that you would understand the complaints that they might perceive if they were being denied access to a senior officer? - Yes, the senior officer who identified himself to them earlier on, yes.

Would I be right in understanding that if that is the perception and if that is the criticism that was made you and your senior colleagues would be quite prepared to think through the ramifications of the approach you personally followed in this part of that day's activities to see whether an alternative approach might be of benefit? - Yes, we would and I have.

Now, the process of informing the relatives or the parents of the injured children can't have taken terribly long? - No, it was very quick; in saying that perhaps 20 minutes, half an hour.

Now, there is a question I ought to have asked a while ago and my apologies to all concerned for not having done so; what dealings did you have with the relatives of Mrs. Mayer that day? - None, I didn't see Mr. Mayer at all.

As a matter of fact what is your understanding as to who dealt with Mr. Mayer and other members of the family that day? - I recollect it because it was in the process that we were trying to put together that day because Mr. Mayer arrived from outwith the locality having been away from the region and arrived at the school and was spoken to or was received by Detective Sergeant Moffat again who had moved up from the house to the school.

So is it your understanding that it was Mr. Moffat who dealt with Mr. Mayer? - Yes.

Anything/

Anything you know about how Mr. Mayer was dealt with comes second-hand from Mr. Moffat? - Yes.

Well, I think my lord is aware that Mr. Moffat is to give evidence in due course so I won't ask Mr. Holden any more questions on that matter. Could we go back to the staff room please; could you give us an approximate time by which all the parents of the injured children had left the staff room and set off in the various pieces of transport to where they were going? - I think it was between.....if it wasn't 12.30 it would be about 12.45 I think.

Now, there have been some questions raised today about the timing at which the parents of the deceased children were informed of the particular deaths that had occurred; during that day were you yourself making any notes of the times as you went along? - Yes, I was taking notes of the times but it wasn't what I would have called a record of it; what I did was brief these officers who were going to undertake breaking the news to the parents so that they should also have in their statement including the arrival time and they should not the time of notification when they brought the news to the parents.

Just to be clear about this, as I understand it you took a few notes during the course of the day? - Yes.

But not in any sense a full record? - Not at all.

But do I understand as part of your briefing of the liaison teams was that they were informed they would have to provide statements in which they should record, amongst other things, times? - Yes.

Now, am I right in understanding that in preparing to give evidence today you have checked on the timings set out in the various statements prepared by others? - Yes, the statements by liaison officers and parents.

Is your understanding of the time scale within which the parents of the deceased children were/

were informed to some extent at least coloured by what you have seen in these statements? - Yes.

Doing your best to look back to the day itself can you assist Lord Cullen and us all as to your best estimate as to the time at which the process of informing the parents of the deceased children began? - From looking at the records and from my recollection and specifically more dependent on the records or the statements the first notification was at 1.45 and the last notification, although we believe it was incorrect, was at 3.00 p.m. and was more likely to have been at 2.30 p.m.

Just take it step by step, I think before we do this can I ask you a few general questions; I take it in the course of a very difficult day, particularly for the parents involved, this must be the most emotional time for everybody? - Yes, very much so.

Looking at the records the times, as I understand it, run from somewhere -- is it 1.45? - Yes, there is an area of time which we think is an error as well which is 1.30.

Let us take it factually and let's see if we can establish what the factual position is; the records created by those who were asked to prepare statements ran between 1.30 and 3 o'clock? - Yes.

You believe that the first time was an error as being a quarter of an hour too early? - Yes.

Can I ask you why you hold that view? - Yes, because I believe I was briefing the officers and the teams at that time and that the manner or method of leaving the briefing to go and break the news because we had to have three or four teams at any one time going to the staff room and the first batch of times was at 1.45 and 1.30, I believe, is wrong.

So it is because they went in batches -- --? - Yes.

That you think that the isolated incident of 1.30 might be an error? - Yes, because I/

I do believe I was briefing them at that point.

At the other end of the time scale there is one at 3 o'clock? - Yes.

And why do you hold the view that that might be an error? - Because the officer involved said that he went with a liaison officer who he identified from another team in this batch and that batch was at 2.30.

Well, understanding the reasons you have given why you consider there might be an error in these timings the fact of the matter is that there are records created by those involved which describe this exercise as lasting from 1.30 to 3 o'clock? - Yes.

I don't want to go on to any unnecessary distressing evidence but did it take a few minutes for each family for this procedure to be gone through before steps were taken to move on from the place where they were informed of this tragic news? - It varied -- as I observed I wasn't within the room, the separate room, when the news was being broken but some families remained for quite a while and some families wanted to leave immediately, some wanted to leave with the officers or the team that was with them and some wanted to leave without them, there was a complete variety.

I am quite sure we all understand that people react differently in such difficult and tragic situations but when you say some wished to remain for an appreciable period of time what are you talking about -- 10, 20 minutes, longer? - No, perhaps about 10 or 20 minutes.

Now, it may be very difficult for you to do so but if you could leave out of your mind for the moment what you have read in the records and look back to your recollection of that day, what is your best recollection of the time scale over which this very difficult exercise was carried out? - I think I was briefing at 1.30, towards 1.45, so if you were depending on my recollection 1.45 seems to be the earliest for the first notification, that is my honest recollection, I don't think it was that far out from there on.

3.35 p.m.

EXAMINATION CONTINUED BY THE LORD ADVOCATE: Now, another matter which was very understandably raised earlier today was the fact that some of those who were waiting for news of their child in Mrs. Mayer's class had other children, as I understand it, with them during the difficult hours they had to wait. Were you aware of that? - My recollection is that there were children -- children of perhaps teenage, or 12-year olds, that is my recollection.

Older children? - I think so.

You have told us about midwives and possibly a doctor getting access to the house. What about the staffroom? Were professionals you were in a position to assist given access to the staffroom as well? - I am sure that nurses, and the midwives, accompanied them to the room. I am aware, although I can't positively say, that a doctor was with them; and the reason I say that was that I had a conversation with Dr. Cathcart in the corridor, and it certainly was the intent that doctors would be within the room; but I honestly couldn't say that they were in there.

What about members of the clergy? Were you aware of any of them being around? - I am aware that the clergy were within the house, and I think there was at least one clergy within the staffroom.

From your point of view would there have been any reason for a member of the clergy being excluded from the staffroom? - Only if those within didn't wish it.

Yes, yes -- but you were unaware of any problem one way or another about that? - No, I wasn't aware.

If individual children who were injured had been identified, by whatever means, before they left to go to hospital -- a process which as I understand it was completed by about ll o'clock -- would it have been practicable for the parents of the child concerned to go with them in the ambulance/

ambulance, do you think? - Had the child been identified, and had the parents been identified, I would see no reason for it not to have occurred, but it would have been very difficult to have achieved that task in the circumstances that were ongoing.

Well, I may be wrong, but by ll o'clock you were really not in a position to identify those who were in Mrs. Mayer's class? - No.

Let alone individual parents of that class group, were you? - No. I am sorry, I thought you were asking the question if the child had been identified and the parents had been identified?

Yes -- you would need to have identified both the parents and the child? - Yes.

But even if the child had been identified as the ambulance made to leave the school grounds, let us say at quarter to ll, by that stage you were not in a position to identify the parents? - No, because we hadn't separated them from the larger group at that point.

But if on the other hand you had known the identity of the injured children as they left to go to hospital, the probabilities are that you could have reunited parents and child sooner than was in fact achieved? - Yes.

So that would be one clear practical benefit of a procedure which endeavoured to identify injured parties, whether adults or children, when they leave the scene of a tragedy or an accident? - I think, with respect, simply put -- because we would have had a problem with identifying what was a life-threatening injury at that point, and any few seconds' delay would have had ramifications -- but yes.

Well, I am not suggesting it is a complete solution, but certainly something worth looking at? - Yes.

Now, just two final matters. Undoubtedly there were serious problems experienced that day in the identifying of those who were dead, in particular, and also those who were injured. Would/

Would I be right in assuming that not only Central Scotland Police, but other police forces in Scotland will seek to learn what lessons they can as to how to solve the practical problems that were faced that day? - Yes. That is certainly one of the strengths of the police service, that they will learn, and that they do look at real life incidents and see if matters can be learned from the process.

I think Lord Cullen, and those of us who practice in the Courts, will be aware that, although there are individual police forces within Scotland, they co-operate on a large number of matters to do with training and planning and looking at current issues and difficulties? - Yes, particularly in the major incident field.

Another major problem that was faced that day was the question of communication. We have had the suggestions of the need to have further land lines in places like schools, greater availability of mobile phones at situations where incidents or accidents may occur. From your perspective of what happened that day, and on the basis of your experience, do you have any idea as to what might be done to overcome communication problems of the nature that you all experienced? - I think certainly as a senior investigating officer in the Inquiry -- or as depute investigating officer -- I have discussed with the senior investigating officer the fact that it was frustrating that we didn't have a radio communication channel which was secure that we could have utilised with any land lines and Cellnets -- the digital Cellnet, certainly. We could have gone on to a secure radio, UHF or VHF channels. That is not in our possession. There are very few of them in the country because of the large expense, but it is certainly something if we had had a secure radio channel, we would have got on a lot better.

Normally I think we would expect police officers to use encrypted radios, secure radios, purely in connection with criminal investigations where one was anxious not to have criminals listening into the police radio traffic? - Yes.

But does it follow from what you are saying that there is another very distinct use, namely in situations such as this after a major incident/

incident or accident, where there is a need for urgent transfer of information, but also a need to keep that confidential until full public statements can be made? - Yes, absolutely.

Because it is, as a matter of fact, perfectly possible for a bona fide radio ham to listen in to police messages? - Yes. It is even more common -- every day of every week there is scanning by various people, and one of the problems we have is the Press and media can do that too.

CROSS-EXAMINED BY MISS DUNLOP:
Superintendent, could I ask you firstly about the possibility that some parents -- parents of children in Mrs. Mayer's class were directed not to the private house when they arrived, but to the Westlands Hotel. Do you know anything of that? - I am not aware of any parents going into the Westlands Hotel, but I am aware of the existence of the Westlands Hotel. For a period that morning it was being used as some sort of reception centre. I am not aware of that happening, but if it did, in the confusion of things, it may have happened.

So if it did happen, it was something that wasn't meant to happen? - Certainly.

You told us that your initial responsibility related to erecting a cordon round the school? - Yes.

You were relieved of that responsibility and given the responsibility of conveying information to parents; is that correct? - For the care and control of the parents, yes.

And you recollect that that was around l0.40 or l0.45? - It could have been even earlier.

Well, until your being given that responsibility no one else had been specifically asked to take care of that? - Not that I am aware of.

So this question of whether the names of children being taken from the scene in ambulances should be ascertained -- that is not a decision that you took -- you wouldn't decide whether that should or should not happen? - No.

And/

And you are not aware of anybody with prior responsibilities, who might have taken that decision? - No.

So there was no question at least as far as you are concerned of you actually making a decision not to take that course? - No. I would say that was not within my remit at that point.

Now, you also told us of the position you found yourself in when a father had information which he had gleaned from the radio, but you were unable to confirm or deny his information? - That is correct.

Presumably the response that you were not able to confirm or deny was that the parent concerned would not be happy with that response? - I am quite sure he thought himself that I knew things I was not prepared to tell him.

So in fact even then there were complaints being made by parents about communication; is that correct? - No -- well, it was a statement he made to me -- "Has 12 children been killed?"

But the parents presumably were not satisfied with your response? - No, I wouldn't say that.

Well, have you not been aware for some time that the parents were not satisfied with the responses that were given to them on that day? - No, not for some time.

Well, when did you first hear this? - I was informed two days ago, I think -- was it Tuesday or Monday of this week; and I saw a document with I think it is eight points on it, and that was the first time I was aware.

Well, you spoke earlier of having a sense of your credibility with the parents being adversely affected. Does that not mean that there was tension about your inability to give information? - Absolutely, yes.

Now, you were asked about whether a senior officer could have spoken to parents when they/

they asked that such a person should be available, and you said that you would think about it, in retrospect, think about that point, and that you had thought about that point in retrospect. Can I take it from that answer that you would treat that matter differently if you were faced with it again? - No, what I meant by that is that, as any person would do, I went over in my own mind those actions that day and the judgments I had to make that day. And one of the concerns that I had was that period of time that those parents were in the staffroom and I wasn't able to gain information that I could have passed to them, or I could have translated that inability to them. I have thought about it several times, or a number of times, and I can't think how I could have.

Perhaps if you could accept that I am not seeking to lay personal criticism upon you, and if you could simply tell me if you accept for the parents to be asking for a senior officer to come and speak to them, and for that request not to be granted, is not satisfactory? - I was not aware of that request.

But please simply consider if that had happened, it would not be satisfactory, would it? - Of course not. If that request had been made and it had been denied that would have been terrible, yes.

Now, once the parents were in the staffroom in the school, you said you had a recollection that among the group there were some older children? - Yes.

Did you know that there was, for example, a very small baby, and that there was also a toddler? - N o.

You have no recollection that that group included some very small children? - No.

Who had their own requirements at that stage? - I was not aware of that, no.

As far as timings are concerned, if we could deal firstly with the conveying of information to the parents of injured children, the parents for example who required to be taken to Yorkhill -- they were/

were taken in a police car; is that right? - Yes.

And if I suggest to you that that was in fact in a police car with a siren and blue light, does that accord with your recollection, or is that something you don't know about? - No, I do know about that, because I spoke to the driver and told him to bring his car there, and my recollection was that it was a marked police vehicle.

So that was something that was done at great speed? - Yes.

Now, how long do you think it would take to get from the scene to Yorkhill under those conditions? - Very quickly, I would think.

About half an hour? - I think probably at the most.

Half an hour at the most? - I would have thought so.

So if there is information that parents arrived at Yorkhill only around 2 o'clock, then that would mean the parents of injured children, at least who were going to Yorkhill, were leaving about half-past l? - Yes.

And you have confirmed to us that the time between the parents being given the information that their child was injured and their departure for Yorkhill Hospital was very slight indeed? - Yes, according to my recollection, yes.

Now, as far as the conveying of information to the parents who were bereaved is concerned, the times which you have quoted are extracted by you from records made by other people; is that correct? - Yes.

Presumably you have no way of knowing whether the timings were written down after the event, or by whom the entries were made? - The officer who submitted the statement would be the person responsible for the accuracy of the times, and I would expect officers to note times as things are happening.

Given the particular circumstances, however/

however, there could be some margin of error presumably in the records made? - Yes.

Indeed your own sense was that l.45 as the earliest time would be too early? - l.30 -- and l.45 would be a shade short of my recollection.

3.55 p.m.

Your own recollection, without looking at the records, might mean it was nearer 2 o'clock? - Yes.

And that is when the parents were taken privately to rooms to be given information? - Yes.

How many rooms were available for that purpose? - I think there were a maximum of 17 rooms available.

And there were obviously as you have told us different periods of time spent by individual families after they had heard the news? - Yes, I am aware of that, because I was in the corridors and I saw people leave, I saw officers approach and saying they were having to go and make phone calls for people, and people seemed to be leaving between those margins of time.

And it is correct, is it not, that the families were asked to leave the staff room on an individual basis: it was done one at a time? - To an extent. Because we had the information we wanted to get it to them quickly, but it would have been an impossibility for 15, 16 or 17 officers to go to the room at the one time, so we tried to arrange it that perhaps two or three at a time. I would guess on the practicalities of it that one would move into the room, then another one would follow.

If the position is that there was still a family waiting for information at about half past 3 -- that is their recollection -- then given the circumstances on the day, relying to some extent on their recollection, you would personally not be in a position to contradict that? - No, I wasn't there then.

When did you leave? - I left about 3 o'clock. I had been given other duties.

Finally, in connection with the issuing of general guidelines to the Central Scotland Police, you said there were no guidelines dealing with information to relatives; is that correct? - My recollection of that is that I said in relation to a written protocol there was a reference, but that was in/

in relation to cordon duty.

Perhaps I could just confirm with you. The question which I have noted is that you were asked whether Central Scotland Police had a protocol which officers would be expected to follow regarding the management of those selected at an incident. You said no, but you were referring to cordon duties specifically? - To control of those people and cordon duty.

In so far as communications to relatives is concerned, is there any guidance note or any written protocol? - There is general guidance to the Force. There is also the training that every officer would get in his early training period in the first few years of his service. Beyond that I would say no.

Does the training include instructions to keep the time when people are left wondering what has happened as brief as possible? - I am not aware of any protocol or guidance along those lines.

CROSS-EXAMINED BY MR. GIBB: I know the Lord Advocate has asked you if you had any dealings with Mr. Mayor, and you said no. Did anyone report to you Mr. Mayor's arrival at the school? - They didn't report to me. They briefed me later on in the afternoon, or it could have been the next day. It was D.S. Moffat.

Were you aware of Esther Mayor's arrival at the school? - No.

Could I simply comment to you that her recollection is that she was taken to join her father at quarter to 3 from the staff room, and at that point there were still a significant number of parents in the staff room? - I can't comment on that.

CROSS-EXAMINED BY MR. TAYLOR: Can you tell us a little bit about the logistics which were involved in setting up the liaison teams? - Yes. The brief that I got from Detective Chief Superintendent Ogg was to create such a thing, and that two police officers and a social worker should comprise a team.

Yes?/

Yes? - One of the police officers should be chosen with experience not in that type of work, perhaps, but if they had experience in the Family Unit or child protection type of work, that we should strike for that. To a large extent we managed to do that.

Yes? - Where we didn't manage to do that we certainly picked the lead officer in the team for his or her experience or ability to deal with that particular type of task.

Yes? - We then had to develop how we were going to tackle that task. (a) These officers and social workers knew very little about what had happened that morning, so a briefing was necessary, but it had to be a shortened briefing. We tried to create 17 teams, but that required 34 officers plus 17 social workers. We then, because we wanted rather than to break the news one at a time or if we had two rooms two at a time, we decided we would do it simultaneously as best we could. We had to find 17 rooms within the school.

Yes? - There was a particular problem for our liaison team, that when they went to accept or to take their family we had a very simple difficulty in making sure our liaison teams could make their way to the particular designated room, which wasn't a great difficulty but it slowed us down a bit.

How did you overcome that difficulty? - We got hold of two members of staff and one police officer who had had a quick tour of the school, and these rooms had been identified to him. Unfortunately we were slowed down a bit by one of the school staff being unable to carry on with the task, because he had been involved in the incident all day. That is no criticism of him. That is how we managed to do it. We went in three or four groups, with three guides as it were for most of the process.

Now, you have indicated from looking at the records available to you that the last relative of a deceased child was seen at 2.30 p.m.? - Yes.

Was there anything in the records which you looked at to suggest that the last time was as late/

late as 3.30, which has just been suggested to you? - Not at all. 3. p.m. was the latest time that was mentioned.

Reference has been made to the need to take one of the children to Yorkhill, and subsequently the parents of that child were also taken to Yorkhill. Do you know from looking at the records in your role as investigating officer when the parents reached Yorkhill? - I don't know.

At the time when you separated the parents from the group outside the school and took them to the first house I think you indicated you were aware that the class involved was Class 1/13; is that right? - Yes.

Were you aware at that time of any children from another class had been involved in the incident? - No. I had very scant information at perhaps what was the busiest time of that incident that that was the class involved.

Was your understanding at that time that there was a possibility that there could have been children from another class involved? - Yes. I wasn't sure of the information.

Did that factor come into play at all in not separating the parents of the children in Class 1/13 from the other parents? - I was happy in my mind nearer 11 a.m. that morning, when I made my second visit to the temporary command room and spoke to Detective Chief Inspector Ogg and asked him these questions, and he confirmed that to me.

And it was after that that you took the parents of the children in Class 1/13 to the second of the houses you have identified? - Yes.

Now, you were asked by the Lord Advocate if it would have been prudent to indicate to the parents of the class there was some difficulty in identifying the children. If you had given such an indication to them have you considered what sort of response you might have obtained from them? - I have considered it. Actually I don't know what kind of response I would have got. I was more conscious of the fact that I couldn't give them the information, and that the questions I was being asked,/

asked, the answers I would have given them would not have been suitable and would not have satisfied them. I honestly didn't see this as a comfort factor of my appearing in that room for a very few seconds. It would very quickly have disappeared, and probably they would have turned on me, because I couldn't necessarily explain.

If there had been a suggestion from the parents that they might have assisted in the identification, would that have been appropriate in your opinion? - In my opinion, not at all.

You have told us that there were a number of Inspectors who were delegated by you to be with the parents? - Yes.

At what stage was it that they first took up such duties? - At the stage when we moved from the first house to the second house and then throughout the move to the staff room until the liaison officers took over their duties.

We have heard reference being made to a number of Inspectors. Perhaps you could tell us who they were? - Inspector Ross, Inspector Cairns, halfway through the move or between the second house and the staff room, and Detective Sergeant Allan Moffat.

Was there an Inspector Rose involved at some point? - Inspector Rose was involved in the initial stage of moving from the first house to the second house. He had a specific area of responsibility in securing the entrance to the school from Doune Road, which obviously enveloped the second house.

In your terminology does the rank of Inspector come into the category of senior officer? - Yes.

No further cross-examination.
No re-examination.

PAUL HUGHES, (35), Sworn,

EXAMINED BY THE LORD ADVOCATE: I am a Chief Inspector in Central Scotland Police. I
have/

have 16 years' police service.

I think you have been responsible for compiling a report into the financial situation of James Watt Hamilton? - That is correct.

Can you have a copy of this document in front of you, please, which I think has got the Production number R32: do you have that? - Yes.

Am I correct in understanding that although this report bears to be prepared by you it merely summarises a considerable amount of investigatory work carried out by officers of Central Scotland Police? - That is correct.

That involves production of a multitude of police statements and financial vouchers of one sort or another? - That is correct.

The purpose has been to present to the Inquiry in as clear a form as possible what was known about Hamilton's financial position in recent years? - That is correct.

On page 1 of the document I think you record that Hamilton held a number of bank accounts, and then you go on to say "This report will show that Hamilton was in financial difficulties, but despite this he obtained a Debenham's account and a Barclaycard account during the latter part of 1993, and that he continued to use both of these accounts heavily during mid-1995 and up until early March of this year"; is that correct? - Yes, that is correct.

And in your next paragraph you expressed that the limited movement within the other bank accounts and the heavy use of the Barclaycard and Debenham's card were a good indication that Hamilton relied on the credit cards for everyday living? - Yes.

The first account you mention is the Trustee Savings account, which has been closed for some time; is that right? - Yes.

You then deal with an account he held with the Royal Bank of Scotland at their branch in Stirling? - Yes.

I/

I think, reading the matter shortly, he had two accounts, one which at the date of his death had a very small credit balance in it of £4; is that correct? - Yes.

And the other was overdrawn to the extent of some £3299.50? - I think if I may direct you to page 27 of my report, in cumulo Mr. Hamilton was withdrawn to the extent of some £3511. That was a combination of figures between an overdraft he had at the Bank of Scotland and one at the Royal Bank of Scotland. He in fact re-financed a loan in July, 1995, which reduced the overdraft in the Royal Bank of Scotland account to some £900, but he still had £2924.07 within the Royal Bank of Scotland on the re-finance arrangement, which had to be taken into consideration. It was not strictly an overdraft: the re-finance arrangement was for the purpose of reducing the overdraft.

4.l5 p.m.

I can understand that but I see in the very last paragraph of page 2 a reference to the l4th February l996 -- should that be the previous year? - Yes, that is an error I wanted to point out, it should be l995.

The Royal Bank account was overdrawn? - Yes.

And we then see in the next page that he had an account with the Bank of Scotland, again at a branch in Stirling and that too was overdrawn? - Yes.

And then moving to page 4 we see that he had an account with the Clydesdale Bank, is that right? - That is correct.

And what was the state of play with that deposit account at the time of this death? - It had a balance of 3 pence.

So as far as the bank accounts are concerned he was significantly overdrawn at the time of his death? - That is correct.

Page 5, we deal with the Barclaycard position and you go on to detail how this was issued to him in September last year and I think you and your colleagues have conducted a very detailed examination on the use of that Barclaycard in the time leading up to the date of his death, isn't that right? - That is correct.

Amongst other things he seemed to use it regularly for shopping at supermarkets? - That is correct.

What was the financial position with regards to the Barclaycard at the date of his death? - The limit on the Barclaycard had been reached, £l500, by the 8th March l996.

He was withdrawn there as well? - Yes.

I don't think that we need to go through the next few pages in any detail but you have illustrated/

illustrated various types of purchases by the use of the Barclaycard and some were mail order transactions involving firearms-related equipment?
- That is correct.

You then set out full details of that for us? - Yes.

You have also assisted in identifying the purchase of the pliers which were used to cut the telephone wires? - Yes.

Which were purchased in January l996? - Yes, that is correct.

You have been able to assist in some of his travel with British Rail in the weeks leading up to his death? - That is correct.

And a place in Bishopbriggs where he frequently had a meal on occasions where he had visited his boys' club? - Yes.

And the next page you go through a great variety of purchases, some to do with his interest in photography and the rest? - Yes.

Could we turn to page l5 which deals with a Debenham account; this had been opened on the 27th November last year and again you carried out, with the assistance of the company concerned, efforts to try and establish what he bought and how much he spent? - That is correct.

They include a fairly large number of items of gents clothing, the sort of things one might buy in a Debenham's store? - Yes.

What was the state of that account at the date of his death? - Withdrawn on debit to the tune of £737.74.

I think you also have carried out an investigation as to what sort of income he had? - Yes.

Did you ascertain from the local authority that he was in receipt of Housing Benefit in connection with his dwellinghouse he rented at 7 Kent Road, Stirling? - That is correct.

I think you made a detailed investigation of the properties he used to own many years ago including one which he sold in Stirling away back in l985 for the sum of £30,000, is that right? - That is correct.

And he also appeared, away back in the early l980s, to have owned a boat which was destroyed in a fire, for which he received insurance funds of £24,668? - Yes.

I take it you found no trace of him having any capital invested in any bank or building society? - None.

At the time of his death? - None.

I think in the early '90s there appeared to be some difficulty with unpaid Tax and National Insurance, is that correct? - Yes, that is correct.

That was vouched by a letter which was found in his house? - Yes.

But there was no recent information about that? - No, none.

As far as the receipt of benefit was concerned apart from the Housing Benefit what was the position? - He was on Income Support up until November, l993 but that ceased after he was reported to the Department of Health and Social Security for running a business from his home and claiming Unemployment Benefit; no further payments were made after that time.

Just to be clear about this, was his business to do with purchase and sale of item of photographic equipment? - Yes.

Prior to l993 he was in receipt of benefit but that ceased because he had some income from buying and selling cameras? - Yes, that's right.

I think your enquiries also disclosed that he borrowed from a finance company some monies in l994 with a view to financing his camera business, is that correct? - Yes, that is correct.

And/

And what was the state of play about that loan as at the date of his death? - The second loan that he took out in January, l994 had a balance of some £l500 and that was added to a third loan he took from the first finance company which commenced in l995; at the time of his death the combined debt in relation to these loans was some £2350, I believe.

Although he had been making repayment to the finance company concerned there was still substantial money due there as well? - Yes, that is correct.

In general terms what impression did you form as to the success or otherwise of his business in buying and selling cameras? - It certainly appeared that he was obtaining finance to purchase equipment which he was selling on, whether or not he was making any profit in regard to that I haven't been able to establish but I certainly don't think it was a great deal of income he was making from that pursuit.

Did your enquiries also establish that he was in arrears to the former Regional Council in relation to Council Tax? - Yes, that is correct.

And they were involved in certain legal proceedings against him? - Yes.

And early this year did he make a further application to the finance company which had loaned him money in connection with the camera business for an additional loan of £3,000 but that application was refused? - Yes, that is correct.

I think you also made enquiries about the utility accounts such as electricity, gas and British Telecom and found them to be, by and large, in order? - That is correct.

Now, the next section of your report deals with accounts which were maintained in connection with this boys' clubs activity; again a great deal of detail was examined by you; can you just, for the purpose of us all, summarise what the position was with regard to that? - Yes, Hamilton began copied detail accounts on the 2nd May l988; he started off the account showing a deficit of the sum/

sum of £2663; basically it was difficult to know the accuracy of these accounts because there is no method of testing how accurate the deficit was when the accounts began in l988; however, we analysed these accounts between l988 and l996 and each year he suffered substantial losses, if the accounts are accurate which in cumulo to the sum of £15,907, that appears to be the total altogether.

If the account was accurate there would appear to be a drain on his financial resources from that activity as well? - Yes, that is correct.

Then if we pass to page 28 of your report where I think you seek to summarise the position; you really say that Hamilton was undoubtedly in severe financial difficulties, his total assets and bank accounts and the like amounting to 3 pence while he was overdrawn in cumulo to £3,500, he had unpaid loans of £3,250, he owed the Royal Bank also £3,000 and then you summarise various other debts that you have already described and you describe him as having an overall debt of in excess of £ll,000 plus the deficit on his boys' club of £l5,000? - Yes, that is correct.

Apart from such money he made from his photographic equipment and such limited income as the boys' club account disclosed could you find any other source of income he had? - None at all.

And as you say at the top of the next page his financial predicament was worsening by the existence of a Sheriff's Warrant in connection with a Council Tax debt and the threat of seizure of any monies and effects in connection with that matter? - That is correct.

Adjourned until tomorrow.

.....

THIRD DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

FRIDAY, 31st MAY, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayer (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Glasgow, for the Scottish Police Federation.

.....

I N D E X.

Page.

KAREN JOAN GILLIES,
Examined by Mr. Bonomy..... 6

Two Statements read by Mr. Lake..... 9

STEPHEN CONNELL,
Examined by Mr. Bonomy..... 11

ROBERT GOUTHER,
Examined by Mr. Bonomy..... 11

GRAHAM KATE,
Examined by Mr. Bonomy..... 12

FRANK ALFRED GORDON,
Examined by Mr. Bonomy..... 14

ALLAN ARTHUR JEFFREY,
Examined by Mr. Bonomy..... 16

ROBERT JOHN TOGNERI,
Examined by Mr. Bonomy..... 21

GRACE JONES OGILVIE,
Examined by Mr. Bonomy..... 23

DAVID MacDONALD,
Examined by Mr. Bonomy..... 31

WILLIAM MacDONALD,
Examined by Mr. Bonomy..... 47

IAN McDIARMID,
Examined by Mr. Bonomy..... 54

ANDREW LAWLESS,
Examined by Mr. Bonomy..... 57

Statement of Roger Peter Charles Allston..... 61

DAVID NOLAN,
Examined by Mr. Bonomy..... 64

GARY HYDE,
Examined by Mr. Bonomy..... 69

I N D E X (Cont'd).

	Page.
ROBERT LINDSAY SPEIRS,	
Examined by Mr. Bonomy.....	73
GEORGE HARRY STADEN,	
Examined by Mr. Bonomy.....	80
Cross-examined by Miss Dunlop.....	83
JANET NEIL,	
Examined by Mr. Bonomy.....	84
Cross-examined by Miss Dunlop.....	93
Cross-examined by Mr. Jones.....	94
JAMES O'HANLON GILLESPIE,	
Examined by Mr. Bonomy.....	94
Cross-examined by Miss Dunlop.....	102
JOHN ALEXANDER CAMERON MOFFAT,	
Examined by Mr. Bonomy.....	103
Cross-examined by Miss Dunlop.....	121
Cross-examined by Mr. Gibb.....	121
Cross-examined by Mr. Taylor.....	122
Re-examined by Mr. Bonomy.....	124
JOHN SMITH BAIRD WILSON,	
Examined by Mr. Bonomy.....	126
Cross-examined by Mr. Gibb.....	132

_____

FRIDAY, 3lst MAY, 1996.

THIRD DAY.

KAREN JOAN GILLIES (35), Sworn:

EXAMINED BY MR. BONOMY: I think you work as a receptionist for Findlay Guy Van Hire in Stirling? - I do.

And your duties include concluding agreements for the rental of vans for the company? - Yes.

I think on Monday, llth March, you were at your work as usual? - Yes.

And that someone, either in the late morning or early afternoon, came in to see about hiring a van? - Yes.

What is your recollection of that visit? - On that particular day I am fairly certain I was actually on the phone at the time so it wasn't me who dealt with the customer, although I was aware he was there.

Did you notice anything about him at the time? - Nothing particularly, no, because I was holding a conversation with someone on the phone. I am sure it was actually a mechanic who dealt with the customer. I had an ear on the phone and an ear on what was being said because it is my job and I wanted to hear what he was telling the customer, the correct details.

And did he go and come back the following day? - Yes.

Roughly what time? - Slightly before 3 o'clock.

And did you deal with him the following day? - Yes.

What was the subject of your conversation with him then? - Just purely about hiring the van. He/

He knew exactly what he was there for because he received the details of hire the day before, so he could tell me exactly what he wanted.

What did he say he was wanting? - To hire a small van for one day.

Would you look please at Production ME7? Is that the rental agreement that was completed for the vehicle? - Yes, it is.

Who rented the vehicle? - Mr. Hamilton.

He signed what name? - Thomas W. Hamilton.

And what is the address on the form? - 7 Kent Road, Braehead, Stirling FK7.

What was the vehicle? - A Ford Courier.

Colour? - White.

Is the registration number on the form accurate? - No.

What was the registration number of the vehicle which he got? - N394 KVO.

How long did he take the vehicle for, or what was he entitled to have it for? - For a 24-hour hire.

Roughly what time was that he was hiring on the 12th March? - He left our grounds at approximately 3 p.m.

How did he pay for it? - He left a cheque as a deposit.

How much for? - £50.

I think that cheque is still here and is produced? - Yes.

Did he pay anything else? - No, just purely he left a deposit. We calculate the cost of the vehicle hire at the end of the hire and the customer/

customer then pays and his deposit is returned to him.

Did he, however, say anything about paying for it in advance? - Yes, he wished to pay the hire of the van at the time over and above the deposit. I explained that it is very difficult to do because we couldn't calculate if he would bring it back fuelled up or that he would exceed his l00 miles, so therefore it may go above the £31.

Did you tell him not to pay at that stage? - Not to pay to his return.

Do you ever ask people about why they want to hire vans? - No, not normally, unless they have difficulty in deciding what size of vehicle they want, and then I ask why they want it and we can decide what is best for them.

I take it from what you have seen in the Press and so on you know that it was the same person as the Thomas Hamilton who is the subject of this Inquiry? - Yes.

Did you notice anything in particular about his manner or demeanour on these two occasions when you saw him, and particularly on the occasion when you spoke to him? - On the second occasion, yes.

What did you observe? - He unnerved me quite a bit.

Why? - The way he spoke mainly. He spoke very slowly, very clearly, precisely, but with no emotion or expression, or -- there was just nothing, nothing in there. You couldn't have held a conversation with him.

Had you ever met him before? - No, apart from the previous day.

No cross-examination.

MR. BONOMY: Sir, you should have a list of witnesses which is a provisional list and on it there are numbers for the witnesses. There are two witnesses, 21 and 22, in respect of whom it is proposed that a statement should now be read. One of these witnesses is a young child whose age will be/

be given in the context of the statement and the other is his father. It is not proposed to reveal the identity of either of these witnesses in the course of the reading of their statements. If that could be done with your approval, sir, I would in that context invite Mr. Lake then to read first of all the statement of the child followed by the statement of the father.

LORD CULLEN: Do parties have any comments on that proposal which is quite acceptable as far as I am concerned?

No response.

MR. LAKE: This is the statement of the child who resides in Dunblane. I am nine years old and stay with my Mum and Dad and little brother. I go to Dunblane Primary School.

For about three or four years I have gone to a boys' club in Dunblane High School. This club was on a Thursday night between 6 and 8 and a man called Mr. Hamilton ran it. He was sometimes helped by a man called Ian. We did gymnastics, football and other games.

The last time I went to the club was the Thursday before the incident at the school. Mr. Hamilton was there. It was just the Dunblane boys that were there, there were about six of us. We did the usual games. We had to do quite a lot of gymnastics. I was playing football that night. In the middle of football, Mr. Hamilton took me out and sat me on a bench to speak to me. He asked me the way to the gym and the way to the hall. He asked what time certain classes went to the gym and the main way into the school. He asked directions about once he was in the main hall, how to get to the gym and where the stage was. He asked how to get to the assembly hall, and I told him to turn right after the main entrance. He said what day do all the people go on the stage to do the play. I didn't know and he said to ask the P7s to find out. He asked if the younger children, like the Primary Is to 4s, go to the assembly at a different time to the Primary 5s to 7s. I told him that the assembly was on a Wednesday morning and the younger ones went after us. He asked me what time did assembly start and gym, I said 9.30 for assembly. I didn't tell him the time for gym. I think Stuart Morris said it was/

was 9.00. He wanted me to ask the P7s but I didn't.

The other question was something to do with the gym fire exit. I think it was how many fire exits there were to get out of the gym. Mr. Hamilton asked me these questions every single week. He had been asking me these questions for a long time, about two years. He didn't ask me any more questions and said I could go back to playing football.

The statement of the child's father is as follows. He resides in Dunblane and is aged 43 years. I am married and reside with my wife and two sons aged 9 and 7. For around two years my eldest son has attended a boys' club held at Dunblane High School. The club ran on a Thursday night between 6 p.m. and 8 p.m. and was supervised by a man by the name of Thomas Hamilton. I had spoken to Hamilton a few times and was satisfied in my opinion that he was capable of running the club and looking after my child. I have heard that he had been drummed out of the Scouts. But when I did make tentative enquiries, no one could come up with anything specific. I monitored the club quite closely and popped in sometimes and I was satisfied it was being run properly. I still had mild reservations about him. However, my son did continue to attend.

My son knew Hamilton very well and found it hard to accept that he had been involved in the shooting. His initial reaction to hearing the name of the gunman was "It can't be Mr. Hamilton, he was a nice guy."

After the incident my son was not particularly communicative, he was a little bit on the quiet side. He saw a paper on the table, on the Friday after the shooting and stabbed at a picture of Hamilton with his fingers and said "Jerk".

Shortly after that he said "I don't know if it's important, Daddy, but Mr. Hamilton has asked me things about the Primary School." I asked, what sort of things, and he said he had asked which way to go for certain areas of the school, such as assembly, and which way did you turn for the assembly hall. When I asked him when he asked questions/

questions about directions he said he did that every week. I said it was surely not every week and he said, "Well, for quite a while". He mentioned the gym but I didn't press him. I discontinued questioning him. I decided not to push him any further and to leave the questioning to the police. I said I thought we should tell the police and if they thought it was important they might want to speak to him.

I contacted the Incident Room and explained the situation. It was some time later that the police spoke to me and arranged to speak to my son. They spoke to him the day after me and took a statement from him. He said that he had told Hamilton that assembly went from 9.00 to 9.30 to l0 o'clock".

STEPHEN CONNELL (38), Sworn:

EXAMINED BY MR. BONOMY: Are you a Constable with Central Scotland Police? - Yes, that is correct.

Normally in the Underwater Search Unit based at Headquarters? - Yes.

How long have you been in the police? - l6 years.

I think among your duties in this investigation, one was to take part in a search of Thomas Hamilton's home at 7 Kent Road, Stirling? - That is correct.

And that search was done, at least your part of it, on Wednesday, 20th March? - That is correct.

In the course of the search did you find a railway ticket? - A railway ticket was found.

Would you look please at DHE46. Is that the ticket? - That would appear to be the ticket.

Where was it found? - It was found within Mr. Hamilton's jacket in the living room.

No cross-examination.

ROBERT/

10.20 a.m.

ROBERT GOUTHER (37), Sworn:

EXAMINED BY MR. BONOMY: Are you a clerical officer with British Rail? - Yes.

Based in Stirling? - Yes.

Could you look please at a Production which is No. DHE 46? Can I take it you have seen that before? - Yes.

What is it? - It is a sprinter ticket, a train ticket.

Which route does it relate to? - Dunblane to Stirling.

Now, can you tell from that ticket where it was purchased? - Yes.

Where? - On the train at 11.55.

And that would be 11.55 on which date? - 12th March.

And that is a train from Dunblane to Stirling? - It is.

Is there a train that goes from Dunblane to Stirling that would be doing the journey about 11.55 on the 12th March? - There is.

Do you know whether that train was on time? - I do.

And was it? - It was.

No cross-examination.

GRAHAM KATE (26), Sworn:

EXAMINED BY MR. BONOMY: I am still an acting Detective Constable with Central Police. I have been a police officer for five and a half years.

Now/

Now, I think that one of the items which you at one stage handled in the course of this Inquiry was an audio cassette tape recording of a telephone call? - Yes.

And that was given to you by a sergeant in the course of the investigation? - Yes.

Now, what did that audio recording relate to? - I was told by the sergeant that it related to a treble 9 call received at the control room -- by Mr. Taylor.

That is a call from Mr. Taylor? - Yes.

So that was actually a recording made which the police do have of the call Mr. Taylor made to the police on the 999 Emergency Service system? - That is what I was informed, yes.

The other matter I want to ask you about is some research you did into video tape recordings that show the movement of people in streets and roads around Stirling? - Yes.

Now, what work did you do on that? - We were instructed to view certain video tapes held at the CCTV Video Room at Stirling Police Office, in an attempt to try to trace the movements of individuals.

Were you looking in part of that exercise for the movements of a white van? - Yes.

Registration number M394 KBO? - Yes.

Now, in the video recordings that you have observed for the morning of the 13th March are you able to say something about the movements of what looked like that van? - Yes.

What can you tell us? - I believe it was at 9.12, one of the cameras showed a white van fitting the description of that vehicle approaching the Boroughmuir roundabout from Boroughmuir Road.

If that is right and the vehicle was travelling at average speed towards Dunblane how long would it take to get to Dunblane? - I am not sure myself. I know a timed run was made.

Do/

Do you know what time was take on the timed run? - I am sorry, I don't know.

Just roughly from your own experience, what time would you expect that journey to take? - I would say from there, perhaps about 15 minutes.

And can I take it that from the road that the van was seen on it could in fact get on to the road to Dunblane? - Yes, that is correct.

No cross-examination.

FRANK ALFRED GORDON (54), Sworn:

EXAMINED BY MR. BONOMY: I own premises in Stirling known as the Stirling Racquet & Trophy Centre.

Did you know Thomas Hamilton? - Yes.

For how long did you know him? - Well, I have known him really for 20 years.

Was there another member of his family that you originally new? - Yes, his grandfather.

Did Mr. Hamilton from time to time do business with you? - Yes.

And what was that? - He got trophies and medals for Boys Clubs.

Did he do that regularly? - Yes.

Can you give us a rough estimate of the extent to which he did business with you? - Well, monthly -- sometimes more. He used to buy medals, trophies, and get photocopying done.

Did you have the facility for photocopying? - Yes.

On a monthly basis did he buy a number of medals and trophies? - Yes, he would buy everything from 30 medals at a

time. Sometimes he would/

would buy maybe a couple of hundred pounds for one person, just for for an individual alone.

On Saturday the 9th March did Mr. Hamilton visit the shop? - Yes.

Is that the last time you actually saw him? - No. I saw him on the Monday. He came in on the Saturday and said "I need another two medals", but he said "I will come in on Monday and get them", and he came in on Monday morning and got them.

Well, was it Monday? - We were a bit confused at the time. The staff thought it was Tuesday, and I thought it was Monday.

What is your best recollection now? - I think it was Monday.

And did he get the medal from you? - Yes.

What was it for? - Football.

Do you know -- just answer this yes or no -- do you know was to get it? - No. He never got them engraved or anything.

Did he ever get them engraved? - He got the cup engraved when he got the cup about a year ago. That was for somebody in Dunfermline I think.

Now, did you have any casual conversation with him on the Monday morning when he collected the medal? - Not really, no.

Was it you he dealt with? - Yes.

Did you speak to him about anything apart from handing over the medal and taking the money? - No.

Nothing at all? - No.

Can you tell me anything about his spirit or his mood at that time? - He acted pretty normal. He talked very slow anyway, and never sort of looked you in the eye, but he was pretty normal/

normal that morning.

Did he say anything about a photograph in a trophy magazine that you remember? - Oh yes, he did, looking back he did -- there was a photo magazine on the counter and he said "That is good photography". I recall that now.

So it would be fair to say he did in fact have some casual conversation with you? - Yes, I remember now he did mention the photography, because he was a keen photographer. He mentioned the quality of the photography on that magazine.

Did he seem any different from normal? - No.

No cross-examination.

ALLAN ARTHUR JEFFREY (62), Sworn:

EXAMINED BY MR. BONOMY: I am the Reference Librarian at Stirling Library.

You knew Thomas Hamilton? - I did.

How long did you know him? - Perhaps five or six years. I really can't put a date on it.

When did you first get to know him? - Coming into the library -- although I was aware of his existence, having seen him when he lived in the Riverside, but I had never spoken to him.

So five or six years ago you spoke to him? - He came into the library.

And thereafter did you speak to him from time to time? - He came into the library and he would speak to me, and of course I would speak back.

And where his visits to the library frequent? - It varied. There would be periods of time he would come, but I would say fairly frequent, irregular.

And/

And can you tell us what you know please of the purpose of these visits? - It was for photocopying. He had a lot of correspondence regarding this Clubs that he ran. He photocopied publicity material for them -- letters to parents, letters and forms of application, to have the approval to the boys going to camps, and his responsibility for them during the camp. He also had letters from Viewforth and Randolphfield -- that is the Education and the Police -- where he would photocopy the letters he received and also his replies to these bodies.

Now, he would presumably know where the photocopier was and would be able to go and use it freely without assistance from you; is that right? - He would, but since he was running off multiple copies he quite often got the key to bypass the coin machine, and he would settle up at the end.

Now, did your conversations go beyond the formalities necessary to organise the photocopying? - Well, when he was waiting on them running off he would say -- he would speak of the nature of the stuff he was doing and that type of thing, yes.

And what sort of thing did he tell you about? - He spoke of his difficulty getting leases of halls for his Clubs, and this was the nature of the letters to and from -- his replies to Viewforth. He also had had some difficulty with the police. He had had visits from the police at his camp at Loch Lomond, and the correspondence -- he seemed to come over as an injured party, and always he seemed to be justifying his running of the Clubs and camps and justifying, or rather refuting any allegations that were held against him.

But you were getting one side of the story, obviously? - Very much.

And therefore no one can invite you to try to judge the issue? - No, sorry.

But all I am trying to get from you is just the nature of these conversations. Now, they concerned disputes he had with, you say, Viewforth
-- that is Central Region? - Central Region Education.

The/

The Education Department? - Yes.

He mentioned them? - Yes.

And the police -- he felt victimised by the police? - I would say so. He felt it was unjust, what was alleged against him.

Did he ever say anything about the parents of the boys at the Boys Clubs doing or saying things that he felt were victimising him? - He did say that there was a tendency for sometimes a boy or two boys being dissatisfied with the camps, say the feeding or something of this nature, and this was the complaint.

Did he ever go as far with you as to suggest, or tell you in fact, that people were making claims that he was a pervert of some kind? Did he ever say anything about that? - No, I wouldn't say so distinctly as that. He did say that the police on one occasion had said "So you like taking photographs of small boys", you know, "partly dressed". That was one occasion. But he did show me a number of the photographs he had taken, and it seemed they were boys -- for instance one of them was in a boat, and up each side of the sides there were lads in swimming costumes and....

Life jackets? - Yes, life jackets. They were all dressed, and the photographs that he did show me seemed to indicate that the boys were enjoying the camp, and he used these for publicity. He used these in the Clubs to pin on notice boards in order to promote the Club or the activities that the boys were involved in.

Now, apart from authorities and parents, did he get into tangles, perhaps of his own making, from time to time with commercial companies? - I don't recall him saying about a commercial company.

Does the name Cameron Equipment mean anything to you? - Not at all. I understood all the equipment he had belonged to the Club, although I think he did say when I mentioned the cost of it all that the tents were hired.

He/

10.40 a.m.

He never said anything to you perhaps about complaining to a company about stuff not being up to standard and getting some benefit out of doing that? - No.

So far as these copyings are concerned, on any one occasion how many copies might he make of his publicity material? - It would be well over a hundred. It would depend. If he was sending letters out in order to attract membership he would run quite a lot.

Do you remember the highest number he ever did at once? - He did speak on one occasion of seeking to do blanket coverage in Dunblane, refuting some rumours that had been spread about him, regarding him. He was quite annoyed.

Do you remember how many of these he did? - I think he said 500 of that. I don't know if he did the 500 but he said that was his intention and he did run off some, that was for sure.

Do you remember roughly when that was? - It might have been a year ago. I haven't got much to hang dates on on account of the fact I am always in the same place. There is nothing to relate it to other than his visit.

Were there times he talked of successes with the clubs? - Yes, on one occasion one boy did very well on something. I think it was football. This lad's photograph was in the papers with a text and he photocopied that. He saw it as good publicity.

Were there occasions when he was pleased with the response in a particular area to his advertisements for members? - He did say on one occasion he had enough for two clubs. That was over towards Dunfermline. He did say that he was happy with the result.

Were you ever in his house? - Never.

Were you ever invited? - I was invited on several occasions. This arose.....he would stop you often in the street. He would stop many people in/

in the street and he did see me in the area once and asked me if I lived down where he lived and I said no and he said "I saw you down there" and I said "Yes, I was visiting my mother".

But there was no occasion you actually went to his house? - No.

When was the last time you saw him? - The last time I saw him was Monday the 11th.

About what time? - Between 10 and quarter past. Maybe about 10 past 10.

Was that in the library? - That was in the library, yes.

Why had he come there? - To do some photocopying.

Was he able to do that? - No, he was not able to do that because the photocopier was out of order and I told him so.

When he learned that what did he do? - He said to me that he would come back regarding the photocopying but since he was here he would address some envelopes.

And did he do that? - He did that.

Did you see who he was addressing the envelopes to? - I didn't, no.

Were there many? - Not a lot. I was quite busy, although the library was not very full and I didn't see it.

Was he any different from normal? - Not at all. I did say to him "You are in early this morning" and he said yes, he agreed, but he didn't make me any the wiser, not for example taking the originals out to photocopy them, hence there was no discussion of what was in them or who they were to.

So is the answer that he was just his normal self? - Very much his normal self. Speaking slowly and as always seeming to be very much in command of the situation that he was in.

No cross-examination.

ROBERT/

ROBERT JOHN TOGNERI, (57), Sworn,

EXAMINED BY MR. BONOMY: Are you a retired school teacher? - I am.

And do you live in Stirling? - I do.

I think you knew Thomas Hamilton years ago? - Over 30 years ago.

In what connection? - He was a member of the Stirling Chess Club.

He would be in his teens at that time? - Pardon?

He would be a teenager at that time? - Yes, he was.

Was he in the club for long? - As far as I remember, three or four years.

Keen? - Yes, he was keen.

Did you thereafter continue to be a member of the club? - Yes, from then on.

But he was no longer there? - No. The late 1960s he left.

In the years since, almost 30 years since, have you met him at all? - A few times. Say half a dozen times in those years.

Where would you meet him? - In the town.

Did you speak to him from time to time? - Yes.

Can you remember anything now of the subjects of conversation? - He would talk about his boys' club and his interest in photography.

Were the conversations generally positive or were there feelings of victimisation and depression? - Certainly victimisation. He felt he was hard done by. He was always complaining against authority.

Did he mention any particular authorities?/

authorities? - No. The police perhaps but nobody in particular.

The police, though, were mentioned, were they? - Yes.

When was the last time you met him? - Monday the 11th, two days before the event.

At roughly what time? - I don't know exactly but it was about 11 o'clock in the morning.

Did he indicate where he had just been when you met him? - No, but I met him at the Stirling Post Office, the GPO.

Is that near the library at all? - Fairly near. Five minutes walk away.

Did you speak to him on that occasion? - Yes.

Did you actually walk a distance together? - We walked from the Post Office to the Thistle Centre.

Do you remember what the conversation was about? - Well, I asked him how his numbers were going at the boys' clubs and he said that the numbers were down. He sounded very unhappy.

Anything else you remember? - He was wearing a blue anorak and his cap with the earmuffs.

Anything about his demeanour, his general state, that you noticed? - Round-faced, slow voice and he was a wee bit low, a wee bit unhappy that day. Subdued. He wasn't as talkative as usual.

Did he make what you thought was a strange suggestion? - Yes, when I think about it he asked me if I would like a coffee or a meal.

Had he done that before? - Yes, previously he had asked me for a coffee and once I had gone for a coffee with him.

And did you accept the offer on this occasion? - No, I had shopping to do.

How/

How long then was it you were actually in his company? - Say five minutes.

No cross-examination.

GRACE JONES OGILVIE (63), Sworn,

EXAMINED BY MR. BONOMY: Are you a retired shop assistant? - Yes.

And I think that you live at 11 Kent Road in Stirling? - Yes.

Now, that would make you a neighbour of Thomas Hamilton? - Yes.

Can you tell us the relationship between the two houses, how close they were? - 1, 2, 3 and 4 and that is me and that was Mr. Hamilton.

So he was bottom left and you are top right? - Top right.

When did he first move to that address roughly? - I think it may be seven or eight years ago. I'm not too sure.

But you were already there? - I was there, yes.

And at that time were what you would understand to be his mother and father also in the house? - Yes.

The lady who was known as his sister but was actually his mother, was she there as well? - No, she didn't stay there.

Did you ever see her? - Yes, I did see her.

How frequently was she a visitor initially? - I would have said maybe once a week.

When did you find out the true relationship of the members of the family? - After this incident happened.

Now, I think Mrs. Hamilton, senior died about/

about a couple of years after the family moved to 7 Kent Road? - I think so, yes.

And were you then aware of Mr. Hamilton, senior moving out? - No, I didn't know he had moved out but I was told later.

And were you aware then that Thomas Hamilton was living in the house on his own? - Well, when I had been told, yes.

Roughly when was that? When did you know that? - Well, I would say maybe about five or six years ago.

Now, during the intervening period until now, or until the 13th of March, were there many visitors to the house? - Yes.

Can you tell me something of who these visitors were? - Well, mostly STV.

That is an STV van or car? - Yes, a car.

A car with STV on it? - Yes.

And this is a private visitor as you would understand it who happened to have such a car? - Yes. The police.

How frequently were the police there? - Well, maybe once or twice a month but quite often the police car was down.

Anyone else? - There was a landscape gardener came.

What was his name? - James Gillespie.

Did you know him? - No.

How did you learn his name? - It was on his van.

At any stage while Mr. Hamilton lived there did you know anything of what he did for a living? - Well, I did know that he did boys' camps.

Is that all you ever knew of what he had actually/

actually done for a living? - Well, that's all I knew about, yes.

How did you know about the boys' camps? - He told me.

How frequently did you have talks, conversations, with him? - Not a lot but one or two conversations I had with him. Out the back in the garden or on the road.

If you met in the street would you acknowledge each other? - If I was on the same side as him, yes, but if I was on the other side, no.

Would you stop in the street or would it be very rarely you would actually have occasion to stop and speak to him? - No, I wouldn't stop and speak to him.

So that on the occasions when there was some conversation between you, who was it that started the conversaton off? - It was him and I nearly jumped out of my skin.

Can you remember the first time that happened? - Well, if I was maybe out the back hanging out my washing, he was there. I never heard him coming but he was there and he would speak and I just got a fright and I would talk but then I just left him.

Did he ever do anything that you saw that either upset you or caused you any anxiety? - Well, he didn't really upset me but he asked me into his house and I was caught unawares and I went into his house but I was most uneasy. That sort of upsetting.

Was it just one occasion you were inside the house? - One occasion, yes.

Apart from that, and I will come back to that in a minute, there was not anything else you were aware of going on in the area which caused you any concern? - Just the way he went about. He was a sort of odd character. The way he walked and spoke.

Tell/

Tell me something about the way he walked? - He sort of crept. He was very head down and sort of crept along.

What about the way he spoke? - He was very proper and soft spoken.

He has been described as a slow, deliberate speaker? - Yes.

Was there any sign in the activity around his house that he had an interest in boys' clubs? - Oh, yes.

What were the signs? - Well, he used to get a van from Central Region and he told me it was for camps on Loch Lomondside or at Queen Victoria School and he used to have big boards and he would take them down the back and paint them white. That was for flooring at the camps for the boys to sleep on.

Did you learn anything about whether he charged very much for these camps? - Yes.

Did you learn that from him? - Yes, I did.

What did he tell you about that? - £70 or £80 per week.

When you saw a van around the house, did you see boys there as well? - Once.

What age were they? - Well, I would have said between maybe six and 10 years of age.

What were they doing? - Well, they were in the van and he would put in big rolls, bales, of toilet rolls and washing up liquid but the boys would be in the van or running round the van. They were never in his house.

Tell me about the circumstances in which he invited you into the house? - Well, I was coming home one night round about 9 and he was at his front door looking up towards Annfield and he had a sort of telescopic thing in his hand and he was look at Annfield through it and he saw me coming and he just said "Mrs. Ogilvie, can I have a word?" and/

and I said "Well, what is it, Tommy?". "Just a minute" he said and his front door was open and he didn't go to shut it. He walked in in front of me and I walked in behind him and into his sitting room and he asked me to sit down. Well, I did sit down.

Roughly when was this? - Well, it was the summer time. I can't remember if it was last summer or the summer before. It wasn't any earlier than that.

When you sat down what happened? - He asked me to look at a video.

What was on the video? - Small boys.

How long did it last? - Well, he fast-forwarded it and stopped it and let it go for a bit and then he would fast-forward it again and let it go for a good bit. That is what he did all the time and he was very proud because he said "These are my boys". That is what he said. I sort of had my back to him and I was looking out the window more often than I was looking at the video.

How long do you reckon it lasted, showing you this video? - The bit that he showed me, well, I think about 40 minutes.

And can you tell me what you saw on the video? - Just small boys.

Doing what? - Well, they were walking along or maybe running. I can't remember if they were jumping over a wooden horse. I can't remember that but I think there was one bit that there was that on it but I'm not too sure. But they just seemed to be marching in lines, the boys.

Did they approach the camera at any stage? - Well, they turned their head towards the camera.

As they walked past the camera? - Yes.

So they would come right up to it more or less and look at it and walk past? - No, they were walking to the camera, the video, they were walking but they were never looking straight singly. It was just as if they were in a line and they were photographed as they were walking up. They didn't look/

look straight into the video.

Were there close-ups of their faces? - No, I would have said maybe from the waist up.

Did you actually see the boys from the top? - In one or two parts, yes.

How were they dressed? - They had very small shiny bathing pants on.

Colour? - Black.

All of them? - Yes.

Were they all dressed the same way? - Yes.

Throughout the whole video? - Yes.

Could you tell whether there was only one occasion that was being filmed or there was more than one occasion on the video? - I would have just said one occasion.

And so far as these boys were concerned, can you help me about their ages? - Again I would have said seven to ten years of age.

Apart from the video did Mr. Hamilton show you something else? - He did.

What was that? - He didn't take it out and show me. It was a box that was more or less at my feet. It was like a box on a ship, an old box with rope handles. He opened it and there was a lot of frames in it, picture frames. There was no pictures I don't think but he just opened it and he took out one picture of one boy and said he was his favourite or his star pupil or something to that effect but I just glanced at it because I was uneasy.

ll a.m.

What was that boy wearing? - He was just from here up -- bare skin.

No clothing on his upper body? - No.

What was it that you felt uneasy about? - I didn't think I should have been looking at that video. I wasn't really interested in the video.

Apart from that, can you say whether there was anything improper, apparently improper or indecent about it? - I wouldn't say it was indecent, but I didn't like it. I was just uncomfortable.

Was there any what may be described as strange activities you observed out in the back garden? - Beg pardon?

Did you observe any strange activities on Mr. Hamilton's part out in your back garden area? - Yes, fires.

How frequently? - Maybe twice a month.

During what period? - About six months.

When was that? - Prior to this incident.

About six months ago? - Yes.

How many times did you observe fires? - Altogether I think I saw about a dozen.

Did you see what Mr. Hamilton was burning? - No, I didn't. I smelt it.

What did you smell? - Well, when I lived at home with my mother she had a knife -- well, it was a sort of spatula -- and it was in the frying pan, and the handle of the teapot was the same, and the gas was on, and sometimes it would burn and you would smell it. Well, it was that smell -- like Bakelite, because I came through from my living room and I could smell it in the hall and I would say, "That's him at that fire again". I banged/

banged the windows to let him know I knew because he was sitting in full view because there was these security lights at the back and when someone walks past they light. Well, he sat on a chair and fuelled these fires.

Can you say anything about what was being burned? - No, I only saw boxes.

Were they cardboard boxes? - Yes, it was egg boxes, that size of box.

Could you tell whether there was anything in the box? - Oh, yes, there was stuff in it, yes.

You are clear about that? - Yes.

When you were in the house did you see any photographs on the walls of his house? - Well, the first time I saw photographs on his walls was his living room when I went past the house and he put the light on, and I saw them on the back wall, but when I went into his house they had been taken off the living room and they were in the front bedroom. The door was slightly ajar when I went in and I saw them on the wall of the front bedroom.

What were they pictures of? - Boys, small boys.

What were they wearing? - Bathing pants.

The same as the video? - The same as the video.

When was the last time you saw Mr. Hamilton? - The Friday before this incident.

That would be the 8th March? - Yes.

About what time? - 8 o'clock at night.

Whereabouts did you see him? - Coming down my path to go and visit a neighbour when he spoke -- I didn't see him, but he was coming along the side of the hedge on the main part of the road, and I said to him -- I got a fright again because the hedge is quite high -- I said, "Could you not whistle/

whistle when you come?" and he says, "Did I give you a fright?" and I said "Yes". Well, I walked along the road with him and he was talking about ghosts.

Was he talking about where he had, talking about a particular place when he was talking about ghosts? - Yes.

Whereabouts? - Upper Bridge Street, the big house, his mother and father had a big house when he was small.

Was he carrying anything? - Carrying anything, yes.

What was he carrying? - Letters. He told me what he was carrying.

Did he tell you what the letters were for? - No.

Did you see how many he had? - Well, I didn't actually look at them. I saw them, there was quite a few, but I mean, it could have been a book in an envelope. I didn't really pay particular attention.

What size of envelopes were they? - (Indicates 6 inches).

A square shape? - No, like that.

6 inches long, about 3 or 4 inches deep? - 4 or 5.

Apart from talking about ghosts, which you have told us about, was there anything about his manner or his appearance that appeared unusual on that last occasion? - No, he was just the same.

Anything unusual for him? - No, just his usual creeping about.

No cross-examination.

DAVID MacDONALD (28), Sworn:

EXAMINED BY MR. BONOMY: Do you work as a financial adviser? - Yes.

And do you live in Aberdeen? - Yes.

Have you been in Aberdeen for about six years? - Yes, just about that.

Before living in Aberdeen did you live n this area? - Yes.

In which town in particular? - Stirling.

Was that with your own family? - Yes.

Did you know Thomas Hamilton? - Yes.

When did you first get to know him? - Round about l980.

When was your first encounter with him? - First of all I was really with my father, and we went down to the Woodcraft shop with my Dad to buy various woodcraft.

Did he have a shop called Woodcraft? - Yes, it was Woodcraft Cowane.

That was in Cowane Street, Stirling? - Yes.

And this is about l98l or so? - About l980.

And you were there with your father? - Yes.

At that stage were you still -- you would still be at school. Which school did you go to? - St. Modan's High School.

Did you ever go to any of Mr. Hamilton's boys' clubs? - Yes, I was a member.

When? - Just about that period.

Where was the club you went to? - It was/

was a club up at the Borestone.

What is the Borestone? - An area of St. Ninian's, on the north side of Stirling.

When you say the Borestone -- were there premises there? - It was a school actually, Borestone High School.

It was not a Primary School, it is a High School? - I'm not sure now.

For how long did you attend that club? - Maybe l8 months.

Did you go to any summer camps that were organised? - Yes.

Where did you go to camp? - It was up at Balmaha.

Roughly when was that? - It would have been in that period.

We are talking about the very beginning of the '80s? - Yes.

Summer time? - Summer.

How long were you there? - Two weeks.

Was that a tented camp? - Tented, yes. It was on the islands actually.

Off Balmaha? - Yes.

Do you know the name of the island? - No.

How did you get on at the camp? - What do you mean?

How did you get on with Mr. Hamilton? - Okay, yes. There were no problems.

No problems with Mr. Hamilton? - No.

Did you go to more than one camp? - Just the one camp.

Was/

Was there any particular reason why you did not go to more? - Well, I had other interests as well. I did a lot of other types of sport and so on.

Did you ever, throughout this period from then up until now, did you ever hear stories or rumours about Mr. Hamilton's behaviour with boys? - Well, I know during the camp there was one child -- I can't remember his name -- Tom Hamilton didn't like very much, and the child left early, and I think the parents had a sort of grievance with Mr. Hamilton about that.

Do you know why the child left early? - No. I think Tom maybe picked on him or he just didn't get on too well. I don't know the reason.

But going back to the question, it was really the whole period -- I appreciate you referring to an actual time -- but I was thinking of the whole period right up to now, did you at any stage hear stories that were really rumours about his behaviour towards youngsters? - Yes, there was a rumour that went about that he was a bit weird but it didn't seem to come to anything. No one seemed to know what that was based on.

You can be weird in a number of ways. Do you know in relation to what it was suggested he was weird? - No.

So you really never heard what may be described as firm rumours about specific types of behaviour? - No.

Did you end up for a period working with Mr. Hamilton? - Yes, I worked casually in his woodcraft shop for about a year or something.

Did your father actually buy stuff from him to do his own DIY work? - Yes, along with a lot of other people.

I appreciate that, but your father would be a customer? - Yes.

Was there any particular day of the week you worked in the shop? - Yes, a Saturday morning I worked in the shop.

For how long did you do that? - Just about over a year I would say.

Why did you stop? - Mr. Hamilton -- he actually used to sell a lot of DIY equipment and then he started moving into kitchens, and there was a shop next door that sold kitchens, and he had no further use for me. He employed a few other people to instal kitchens for him and didn't have any use for me after that.

We are talking about what, l982 roughly? - Well, l98l I would suppose, about August-September.

During the period you worked for him what age would you be? - About 12.

Did he do anything improper to you? - No, not at all.

Was there any hint of something that perhaps should be avoided? - No. I wouldn't have continued to work there if I thought there was something strange.

After you stopped working there did you still see him regularly or did you just never come across him for a while? - Well, thee was a period when I never saw Mr. Hamilton for maybe four years.

When was the next time you saw him? - I went to University in l984 -- probably didn't see him for four or five years.

When did you next see him? - Probably it would be at the University.

What was he doing at the University? - He used to get -- he always used to carry this black case, and he used to get typing done.

And someone up there did it for him? - Yes.

You mean at the University? - Yes.

That would be the reason he was there? - Yes.

Did/

Did you enjoy having a conversation with him? - He was quite an intelligent man. He did seem a little eccentric in the sense that he did speak very slowly but, yes, he was interesting enough to speak to.

When was it you moved to Aberdeen? - l990 I think it was, l99l.

Did he keep in touch with you there? - Yes.

Was there any particular reason why he did that? - Well, he was unemployed and what he used to do was sell and buy camera equipment, and he used to phone me and tell me about various deals he had done with his cameras.

Had you an interest in photography? - Yes, it was quite interesting.

Did you do any deals with him? - Deals, no.

Did he phone quite a lot? - He did phone me quite frequently, yes, and eventually it got a bit wearing having so many phone calls.

What did you do? - He used to phone usually after 9 o'clock.

In the evening? - In the evening, because that's when his clubs finished, and it got to the stage he was becoming a little bit of a pest so I actually left -- I got my Mum and Dad if they were phoning me I got them to ring a couple of times and ring off and then.....

You would answer it? - I would answer the phone, yes, because with Tom, when he did phone, he could be on for quite a long time.

So from l990 right up to l996 did he continue to keep in touch with you? - Yes.

And how frequently during that period did he speak to you on the phone? - It was maybe a couple of times a week, something like that.

What were these conversations generally about/

about? - It was usually about cameras he was buying. He seemed to start off this business with buying and selling, and I think it was Canons or Minoltas, and eventually he moved on to Hassleblad which was a more selective type of camera and they were worth a lot more money buying and selling.

Sorry.....? - He made quite a lot of money.

That's what he told you? - Yes.

During that time did you also see him from time to time? - Yes.

Did he appear to have money about him? - I'm not sure.

Was there any way you could judge whether he actually had any money? - No. He used to wear the same blue jacket all the time and quite a sort of crumpled sort of shirt.

Did these conversations extend from photography into other subjects? - No, it was mainly photography.

Well, did he never express grievances which he had to you? - Yes.

Was that in the context of these conversations? - Yes. He expressed a grievance about the police, and I think what happened was the police had gone to one of the camps and confiscated various equipment that he was working with.

11.20

That was photographic equipment? - Yes.

And did he have any other grievance that you talked to him about? - Well, he felt that he was being victimised.

By whom? - By the public.

The public? - The public.

Was he more specific than that? - It was really to do with his Clubs. He felt that the public, you know, had some sort of rumour about him that was stopping him from continuing his Clubs.

And did he say whether his Clubs were being adversely affected by that? - Yes.

Did he say how? - Sorry, what do you mean?

Well, did he say what was happening to his Clubs as a result? - The attendance numbers were dropping.

So that is one side. Did he ever say anything about not being able to get facilities, premises to hold them in? - He never mentioned that to me.

Just that the numbers were dropping? - The numbers were dropping.

Did that sort of feeling of victimisation take up much of the conversation? - Not really. It was quite a small part. I found it hard going. I didn't find it that useful to talk about. It was really the cameras I spoke about.

He mentioned the police and he mentioned the public? - Yes.

Did he say anything about people in Dunblane at all in any of these conversations? - Yes. It was mainly Dunblane these Clubs were, so he could have felt that is where he was being victimised./

victimised.

He didn't say so in so many words, but you drew that conclusion? - Well, I drew the conclusion that was the area.

Did he ever mention the Scouting Association in that connection? - No, he did mention that he had been in the Scouts, but he didn't follow it up.

Have you ever been in his house? - Yes.

How frequently were you a visitor? - Very infrequently -- maybe three or four -- three times a year.

When were you last in the house? - It would have been about Christmas.

1995? - 1995.

And when you went to the house what happened generally? - Just watched TV.

And discussion of cameras and so on at the house? - Yes. He would have a collection of cameras which he would bring out.

Cheap, expensive? - Expensive.

And a lot of them? - No, not a lot of them. There were maybe three or four.

Can you give me an example of an expensive piece of equipment he would have? - He had various like lenses -- zoom lenses, which were quite large.

Was he specialising in any particular make? - Hassleblad, initially, I think it was.

Is Hassleblad an expensive type of equipment? - Yes.

And what are its specialist features? - Of a Hassleblad camera?

Yes. Anything particular about it? Is/

Is it lense quality or is it something else? - Well, the one feature of a Hassleblad I believe is that the lense can be more expensive than the actual body.

And apart from cameras did you see the work of his camera at all? - Yes.

And how keen a photographer was Mr. Hamilton? - He seemed a very keen photographer.

Now, did he specialise in photographing anything or any people in particular? - Well, he seemed to specialise -- in fact, it seemed almost all about boys in the Clubs.

Did he display these? - Yes, yes.

Whereabouts? - There was photographs all over the wall, and he also had photographs in albums.

Did these photographs have any common features in them? - They were mainly in a gym -- young kids, maybe six/seven years old. All they had on was black swimming trunks.

Swimming trunks, all of them? - Yes.

Mainly, anyway? - Yes.

Did the photographs disturb you at all? - I didn't really like them. I don't think it was necessary for kids just to wear trunks -- possibly if they had on shorts and T-shirts, that it would have been better.

Did you ever ask him about that? - Yes.

And what was his explanation? - He just said it was natural to do it that way.

Did you ever see any video film he had shot? - Yes.

Did he actually have video equipment that he showed you, in the house? - He had a video machine, but this might have been two or three years ago.

That/

That is a video camera? - He had a video camera, yes, and he also had a video machine, but it was about two or three years ago.

In December did he have a video camera or a video machine? - No -- not that I saw anyway. I didn't see it in the room.

Do you remember if he had any video equipment by the time you saw him in December? - If he had it was very little.

Did you get the impression he was having any financial difficulties? - I would say that regarding camera equipment there was certainly a winding-down, there was a lot less buying and selling.

Is there anything else you can tell the Inquiry about his interest in photography or the nature of any photographs you saw that might be relevant to Lord Cullen's search for information? - No. I know that he also, apart from photography -- he also did some freelance work as well, somewhere in Glasgow.

That would be on a commercial basis? - Yes.

Can I turn now to guns? Did you know he had an interest in guns? - Well, when I was in his Club he had an interest in guns then, but I didn't realise that he still had that interest now.

Back at the beginning of the 1980's did the Club have a name? - The Rovers -- The Rovers Sports Club.

And how did you learn of his interest in guns at that time? - Well, the main Club was in Borestone, but occasionally he would take us to Dunblane to the gun club there and we would fire air guns.

And were these rifles or pistols? - I think there was a mixture of both.

And what did you fire at? - Just targets, round targets.

What/

What age were you? - I must have been 12.

Was there a crowd of you? - Yes.

What was the variation in ages? - Well, they varied from very young -- maybe five or six, up to 13 or 14.

And did they all go shooting? - Yes.

And so far as organisation and discipline were concerned in the shooting exercise, can you tell us something about that? - Very organised.

Did you ever feel in danger when you were shooting? - No, never.

And how was Mr. Hamilton for discipline? - Very very strict.

And did that apply when he was organising shooting as well? - Yes.

Did you ever see anything, any weapon, other than an air weapon? - Yes. He had .22 guns, real guns, which were very old guns I think from the War.

.22 pistol or rifle? - Rifle.

Did he have one or more than one? - More than one, maybe half a dozen.

Were they his? - I don't know. They may have belonged to the Club.

But you have no recollection of a .22 pistol at all, just a rifle? - No, I have no recollection of a handgun, no.

Just a rifle? - Yes.

And more than one rifle? - Yes.

And you say up to six, do you? - Possibly, yes.

And where did you see them? - In the Club./

Club.

Where did you see them? - In the Club.

Did he have to take them to the Club or were they perhaps based on the Club premises? - Based on the Club premises.

Now, were these used in your presence? - Yes.

By whom? - By Mr. Hamilton and the other members of the Club.

Did you fire a .22? - Yes.

How frequently were these visits to the Club when weapons other than air weapons were used? - I would say it was mainly air guns that were used -- may once every two or three weeks -- less frequently with the actual bullets.

So with weapons other than air weapons did you use them more than once? - Personally? Myself?

Yes? - Yes.

So roughly on how many occasions do you tell us that you actually used them? - Three or four times.

During the period you have known Hamilton, were you aware of him having any sexual relationship, either hetero or homosexual? - None at all.

Now, I think recently Mr. Hamilton had some dealings with your father? - Yes.

What was that about? - My father was installing or looking to install a kitchen in his house, and with Tom being a previous kitchen specialist, he offered his services to help install, or select a kitchen.

Now, early in March were you out of the country? - Yes.

And when did you return? - It was on the Monday previous to the incident.

That/

That is Monday the 11th March? - Yes.

Did you go back to Aberdeen? - Yes.

Do you have an answering machine? - I do.

Did you check it when you got back? - Yes.

Were there any calls from Mr. Hamilton? - Yes.

How many were there? - I think two.

Were there any messages left? - Just to say that Tom had called, no message.

And the following evening, that is Tuesday 12th March, was there also a message on your machine? - Yes.

And what was the nature of that? - Again just to say Tom had called.

Did you do anything about that? - When I returned from work I phoned him back.

So was that in the evening after the Clubs would be over, if he had a Club? - I think it was after 8 o'clock, yes.

How long did you speak to him for? - I am not very sure, but I would think less than an hour.

A long conversation, obviously? - Fairly long.

I mean, when you say "less than an hour" do you mean approaching an hour? - Yes.

Now, what was this conversation about? - It was about the kitchen that he was installing for my father.

Did it extend beyond the kitchen? - He had said -- for a while he had said that he was quite a lonely person, and that it wasn't good to be alone for all your life; which I thought was a bit strange./

strange.

Was that something he hadn't touched on in past conversation? - He had touched on it before.

Was it different this time? - Not any different, no.

Did you react to that part of it? - Yes. I said to him that, I mean that, you know, it is possible for anyone to be lonely at some point in their life, so it is not a big deal.

Did you give him any encouragement and tell him what he should do? - No.

Did you ask him about his business at all? - I did ask about the cameras.

And what did he say? - He didn't seem as interested any more in the equipment. I felt over the last few months there had been a winding-down of the cameras. He didn't seem to be selling as much.

Now, did he keep the conversation going, or was it you that.....? - It just started to fizzle out.

I am sorry? - It just started to go quite flat, so I said it was getting late.

And that is when you got to the end of the conversation? - Yes.

But during most of the hour, or up to an hour that you spoke, was he fluent in his conversation? - I think he was talking slower -- slowing down.

Was there anything that cheered him up at all in the course of the conversation? - The thought of maybe doing the kitchen work.

That was the thing he had an interest in? - Yes.

Would you say that he was noticeably different from usual on that particular conversation?/

conversation? - No, no.

Over the last six months or so had you noticed any change in his attitude to things in general? - He did seem -- again related to the cameras, he did seem less enthusiastic about his camera business.

Was there any change in his tone or his attitude towards his grievances? - He had had these grievances for quite a long time, and when he spoke to me about them I found it quite disinteresting, and he did tend to just stop talking about it.

Over the six months before the incident did he talk at all about Dunblane? - Dunblane? Not in particular, no.

Did he talk at all about parents of boys, and any problems he felt he was having from them? - Yes.

And you have mentioned guns in the early 1980's. Did you ever see guns in his house? - No.

Did you know he had a continuing interest in guns? - I did notice -- he used to have various magazines in his house, but I did notice there was one magazine which was called Sporting Life, or something, which had a shotgun on the front, so I assumed that was a gun magazine.

But in the six months before the incident how often do you reckon you were in his house? - Maybe three times.

And any sign from either conversation, or what you saw, that he had any interest in shooting? - No.

Had you any reason to think he still had guns? - No.

No cross-examination.

WILLIAM MacDONALD (56), Sworn:

EXAMINED BY MR. BONOMY: I live in Invernessshire. I am a retired police officer.

You I think knew Thomas Hamilton for a number of years? - Yes, approximately 15 -- round about 1981.

How did you first get to know him? - When he opened his Woodcraft shop in Stirling, and it was about the only one in Stirling at that time. There was no B & Q at that time and suchlike. It was well-known.

Did you have an interest in do-it-yourself? - Yes.

And were you a customer of the shop? - I was indeed.

Over/

11.40 a.m.

Over what period did Mr. Hamilton have that shop? - On recollection I think he had it for about six years or so. I think it closed down in 1986 if I remember.

Do you know anything of the circumstances which brought it to an end? - Not really, no.

He never said anything to you about that? - No.

While you were dealing with the shop was it, as far as you were concerned, a reasonably good shop? - Yes, it was a very well equipped shop.

Did it appear as though it was a popular place? - Yes, it was popular.

So it would be for at least a period a successful business? - Yes, I would say so.

Did Hamilton know what he was about in the business of selling that type of material? - Yes, I would say that he was very well up on it, yes.

Now, you I think developed an acquaintanceship as it were beyond simply being a customer with Hamilton. Is that a fair way of putting it? - An acquaintanceship, yes.

Did he contact you for example outwith the shop? - Not much, no.

Occasionally? - Occasionally I would say, yes.

Was there anything in particular that would cause him for example to phone you or visit you? - No, the only times he visited in that time would be possibly transporting materials and suchlike. I am talking about wooden panelling and suchlike that I had ordered.

That is a delivery? - A delivery, yes.

So did your contact initially not really go beyond the relationship between customer and shop? - Yes, that is correct.

Now,/

Now, he had a boat I think? - Yes, he had a boat on Loch Lomond.

Were you ever on it? - Once, yes.

Could that be described as going beyond the sort of customer/shopkeeper relationship? - Possibly, yes. I think I recollect in this instance he had delivered material one evening and he mentioned the boat to us.

And did you and your wife go on the boat? - Yes, and there was also a couple of friends I believe at that time.

Where was it kept? - It was kept at Balmaha at Loch Lomond.

What kind of boat was it? - It as a cabin cruiser. I think it was round about 27 feet in length and an onboard engine.

What became of it? - I think he sold it. He obviously sold it. I think, yes.

You didn't know anything about it being destroyed at all? - He had one after that that went on fire.

This one was sold and he got another one? - Yes.

And then the later one went on fire? - Yes.

Is that something you just heard about from him? - I just heard about that, yes.

Now, can I take it that the end of the shop meant that you didn't see Mr. Hamilton for a while? - I didn't see him possibly until maybe..... or remain in contact with him until maybe 1990 or so.

And who contacted whom on that occasion? - It was him that happened to meet my mother who was down here on holiday at the time and he gave her a lift home.

And did your mother live near to him? - No,/

No, my mother was down on holiday with me at that time and he obviously recognised her in the town and gave her a lift down the road.

And did you speak to him on that occasion? - Yes, I did.

Was there something concerning him? - No.

Nothing that he told you that was a cause of concern at that time? - Not that particular day but I did meet him one day in the town afterwards.

And was that when he told you about something that was concerning him? - He did mention he was getting a bit of harassment with Region about school letting and suchlike for his boys' clubs and I did mention to him at that particular time that he would be better forgetting his boys' clubs and doing something worthwhile as he was quite a talented person.

In what respect was he talented? - Well, he had a lot of knowledge in relation to building and he had his cameras etc. and he seemed to have quite a lot of knowledge and I thought it was wasted with what he was doing.

When you first met him did he already have an interest in photography? Back in 1980? - No, I can't recollect at that stage.

When were you first aware of the interest in photography? - It would be in 1990.

Would it be right that the first time you met him again was actually around 1989 and one of the things he was concerned about was the involvement of the police in a camp he had been running at Loch Lomond? - I did hear about that.

Did he tell you about it? - He possibly would have told me but he knew.....when I advised him at that time to forget his boys' clubs and suchlike, he never ever spoke about boys' clubs etc. to me again, from that time on. I wasn't interested in them in the first place.

Now,/

Now, after you had come across him again, did he maintain regular contact with you? - Not really because I retired in 1991 and although I still come down to Stirling and I have contacts in Stirling, for the last five years I have been mainly up north. I come down in the winter time, round about November.

So if I had a statement that says "In the following period he would phone my house regularly, on average once every six weeks or so", is that wrong? - No, I never heard from John (sic) Hamilton. I saw him round about Christmas or New Year time in the town. I never heard from him until I met him about a fortnight before this incident.

I will come to that in a moment but back in 1989 and 1990 did he have contact with you on a fairly regular basis? - Not fairly regularly but he would on occasions phone all of a sudden, and then you wouldn't hear from him for quite a while.

I take it you had regular contact with your son during that period? - Yes. Oh, yes.

That is David MacDonald? - David.

Were you aware that Hamilton was keeping in touch with him? - Yes, he was phoning quite often to David. Certainly more so than me.

That's fine. So you met him again in what, February of this year? - It would have been. Yes, it would be February.

And where was it you met him? - I met him outside the Thistle Centre.

And did he seem any different at that stage from what you had known in the past? - Not really, no.

I think you were actually doing something to the house? - Yes, my wife and I were intending to fit a new kitchen.

Is that in the house in Stirling? - Yes.

And did Mr. Hamilton give you some help? - Yes./

Yes. Well, he gave me some advice on doing it and in that

particular fortnight prior he was phoning quite a bit and his concern was kitchens and measurements and telling me the best places to buy materials and so on.

So did that go on right up until what, the 11th of March? Up until the 12th of March? - Yes, the 12th.

He still had contact? - Yes, indeed he had.

Did any of his conversations on the phone extend beyond kitchens at all? - No.

Now, on the 12th of March, in the morning, did he phone you at your home? - Yes.

And did he give you advice then about the size of units that you should be ordering for your kitchen? - Yes, I felt it was a little bit odd because he did mention.....he was very concise and I felt very up on kitchens etc. but he did suggest a 1000 unit than a 600 unit to me which would knock the whole context of the kitchen out and I thought that as a bit unusual for him. He is quite a deep thinker.

Did he say anything, though, apart from talking about the kitchen? - No, he was only on very briefly and I had a lot to do apart from the kitchen.

Was there anything in the conversation or in the fortnight or so, perhaps even a bit more than the fortnight, that you had been speaking to him again that would give you any hint that something like what he did was likely to happen? - Oh, none whatsoever. No.

Did he mention guns at all to you between February and March? - No, but he knew I wasn't fond of guns anyway and he would never mention guns to me.

Did you know he had an interest in guns? - Yes, I did.

How did you know that? - Because he mentioned/

mentioned it to me early on in our acquaintanceship.

Your son went to a boys' club of his back in the early

1980s? - Yes, he did.

Were you ever concerned about the fact that he was at one of Mr. Hamilton's clubs? - No, I wasn't concerned at that time.

Were you a Central Scotland Police officer? - I was.

Over what period were you with Central Scotland Police? - From 1960 to 1991. 31 years.

During that period were you aware of rumours about Hamilton's behaviour towards boys? - Yes, latterly.

Roughly when did you first learn of this? - I think something developed but I can't honestly say.....would it be in 1991? There was one incident where Strathclyde Police had something at a cinema at Balloch. I heard about that.

So you heard about something in Balloch in 1991? - That would be about then.

Was that the first that you had heard anything adverse like that about him? - Yes, I would say so. Yes, I didn't have contact with him or anything concerning him maybe from 1986 to 1990.

Let's go back to 1980. Between 1980 and 1991 where were you actually serving as a police officer? - I was in the Traffic Department.

Where is that based? - Police Headquarters.

I am trying to establish what the extent of common police knowledge might have been about his general activities. Can you tell me anything you knew prior to 1991? Let's leave that one aside. Anything you had heard even in the form of rumour about Hamilton's behaviour towards children? - No, not really.

No cross-examination.

IAN McDIARMID, (33), Sworn,

EXAMINED BY MR. BONOMY: Are you a police photographer with Central Scotland Police? - Yes.

Based at Headquarters in Stirling? - Yes.

How long have you been a police photographer? - Eight years.

Now, I think that you took a large number of photographs in connection with this enquiry? - Yes.

Could you look first of all please at Production PHO E28. Now, are these photographs that you took? - Yes.

Are they of a motor car? - Yes.

Can we have this first one on the imager please? A motor van rather. What is we see there? - It is a Ford motor van.

Registration number? - M394 KBO.

Where did you take the photograph? - That was at Police Headquarters in Stirling.

Can you now look please at photographs PHO E25. Now, are these photographs that you took? - Yes.

At 7 Kent Road? - Yes.

And did you take them again on Wednesday the 13th of March, 1996? - Yes.

We better have this I think on the imager. If we could have the first one please. Is that the outside of the house? - Yes.

If you look at the third one please. Is that the back of the house? - Yes.

Now, I think you also went inside, is that correct? - Yes.

Would you look at 6 now, please. Is that the/

the kitchen as you found it? - Yes.

And 7 I think gives us another view of the kitchen? - Yes.

Would you also look at 8 which I think is also the kitchen? - Yes.

Now, would you look please at 9 and tell us what we see there? - That is a view from the kitchen looking towards the rear bedroom.

If you look now please at No. 13. What is that a view of? - That is a view within that room.

What is on the walls? - It appeared to be targets, shooting targets.

Had they been shot at? - Yes.

Are they clipped in some way and then hung up? - Yes.

Are there any marks of where bullets have penetrated on these targets? - Yes.

Each one, except one, has a red centre? - Yes.

Had these just been drawn on the targets? - I don't know.

They all seem different in size, is that right? - Yes.

Now, can you look now at 15. Where was that taken? - That was in the same room.

And do we see there boxes with ammunition in them? - Yes.

Now, would you go please to No. 18. What do we see in that photograph? - That was a photograph of a cupboard which was within the same room and appeared to be a pile of photographs.

Were there any photographs displayed on the walls of the house at all? - Not that I can recall.

Now,/

Now, would you look please at No. 21. Where is that? - That was within a cupboard in the hallway.

Now, there is a metal cabinet there? - Yes.

What is that? - I think it was a gun cabinet.

Was it empty when you saw it? - Yes.

If you look now at 22. What is that? - That is a view from the hallway looking towards a room to the front of the house.

It has got wardrobe space in it with clothing hanging, is that right? - Yes.

And a lot of stuff just lying about? - Yes.

Was there a bed in that room? - Yes, there was.

12 noon

Have a look at No. 23. I think you will be able to see the edge of the bed and the rest of the state of that room? - Yes.

Could you look now please at 25? Is that the living room? - Yes.

And there is a briefcase open? - Yes.

And paper, some sort of magazine open on the floor. It may be a television or radio magazine. Otherwise, nothing unusual about that room? - No.

If you look at the next picture, 26, you will see there is in fact a television opposite the chair? - Yes.

No. 28, do you see a close-up of the contents of the case? - Yes.

And there is a letter there? - Yes.

Can you tell me who it is to? - It was addressed to The Queen.

Have a look at No. 30. What is that? - That is a view of a telephone directory.

Where was that? - On a table in front of the television.

If we go to 3l do we have a close-up of it? - Yes.

The significance of the close up? - It had the address of Dunblane Primary School.

The phone number and the address? - Yes.

You took a number of other photographs but I don't think I need ask you about these. Thank you very much, Mr. McDiarmid.

No cross-examination.

ANDREW/

ANDREW LAWLESS (36), Sworn:

EXAMINED BY MR. BONOMY: Are you a Detective Sergeant with Central Scotland Police? - Yes.

Are you based at Stirling? - Yes.

How many years' police service? - l4 years' police service.

I think part of your duties in connection with the Inquiry was to search at 7 Kent Road? - Yes, that is correct.

I think you did that on the afternoon of l3th March? - Yes, I did.

I think from the house you took a number of items and some of your colleagues took a number of items? - Yes, that is correct.

Now we have seen from the photographs that there was in the house ammunition? - That is correct.

Can you tell me how much ammunition was in the house? - Yes, I can.

What was there? - The ammunition was contained within four metal strong boxes and the ammunition in total was over a thousand rounds of ammunition.

Was that 280 rounds of .357? - That is correct.

7l5 rounds of 9mm? - That is correct.

And ll rounds of .38 Special? - That is correct.

I think you also recovered in the course of your investigations the medical records of Mr. Hamilton from Dr. Hanley? - My colleague Detective Constable Simpson recovered the medical records.

You have seen them? - Yes.

Could you look please at Dl/H/3? The number/

number is also DANT/13. Are these the medical records that you got from Dr. Hanley? - Yes, they are.

Can you confirm that they show the attendances at the doctor between l959 and about l970 which all dealt with minor complaints and a number of them in particular for minor skin complaints? - Yes, that is correct.

And then there is another couple of these in the 70s, l972 and l973, December l972 and February l973, again minor skin complaints? - Yes.

And then '74, some treatment for indigestion? - Yes.

And from then until l993 there is no sign of contact with doctors or hospitals at all? - Yes, that is correct.

I think that on the l6th March, l993 there is an attendance by Mr. Hamilton recorded at the Accident and Emergency Department of Stirling Royal Infirmary? - Yes.

And that was an X-ray for some strained ankle? - Yes, that is correct.

All he got was a support bandage? - Yes.

Can you confirm that that is the only evidence there is of attendances on any doctor after l974? - Yes, I can.

And Dr. Hanley has confirmed that that is his knowledge as well? - That is correct.

If I can go back with you particularly to the search of the house. Can you confirm that you also removed a number of certificates from the house? - Yes, I did.

Did these include birth and adoption certificates and so on? - Yes.

I think you also removed certificates that related to education? - Yes, I did.

Could/

Could you look please at DANT/5 which is also D3/H/l? Did you remove that? - Yes.

Is that a school certificate of Thomas Hamilton from Riverside Secondary School? - Yes.

Does that relate to an intensive four-year course on technical subjects? - Yes.

And does it talk about two City and Guilds courses? - Yes.

One for mechanical engineering and craft practice and secondly carpentry and joinery? - Yes.

I think he successfully, apparently successfully completed the first year of each of these? - Yes, he has.

Would you look please at DANT/7 which is also D4/H/l. What is that? - That is results from the Royal Society of Arts at Stirling Riverside Secondary School issued to Thomas Hamilton then staying at 24 Queen Street, Stirling, the subject being English Language.

What is the date on that -- no date? - There is no date.

But I think you have got a series on that for l968? - Yes.

MR. BONOMY: That should be D5/H/1, sir.

EXAMINATION CONTINUED BY MR. BONOMY: If I can go back to the one I intended to ask you about which is DANT/6 which should be D4/H/l. What is that document? - That is a pupil's school record.

Is that the record card and attendances at Riverside School? - Yes, it is.

Did Mr. Hamilton attain any qualifications or pass any certificates that are recorded in that? - There is a number of school report cards contained within that book.

And these are just reports of his progress through the school? - Yes, from the first year/

year through to fourth year in that school.

Now, could you look please at DANT/8 (also D6/H/l)? Is that a Scottish Certificate of Education Certificate for Ordinary Grade passes in l968? - Yes.

Does it show Thomas Hamilton passing Ordinary Grade Arithmetic, Technical Practice, Woodwork and Metalwork? - Yes, it does.

Lastly, look at DANT/9 which is D7/H/l. Is that a School Leaving Certificate? - Yes, it is.

Is that Stirling County Council Riverside Secondary School? - Yes.

And does that show that Mr. Hamilton had passes in English, Art? - Yes.

And merit passes in History, Geography, Arithmetic, Mathematics, Science and Technical subjects? - It does.

No cross-examination.

MR. BONOMY: Sir, the next piece of evidence will be given by reading a police statement in this instance of a witness who is Roger Peter Charles Allston. Mr. Allston for various domestic reasons has declined to attend the Inquiry, but if you, sir, thought it necessary steps could be taken obviously to arrange for his attendance. But having considered the terms of the statement to the police, I have come to the view the reading of that statement would be sufficient for the purposes of the Inquiry. The witness number is S662.

LORD CULLEN: I am content you do it in that way.

MR. BONOMY: In that event I would invite Mr. Lake again to read the terms of this statement.

MR. LAKE: This is the statement of Roger Peter Charles Allston, living in Gravesend in Kent. I am 48 years of age, married and reside with my wife, daughter (l3) and son (ll). I am a freelance/

freelance photographer at present and have been a photographer for over 30 years. As such I do buy and sell equipment fairly frequently, generally through a magazine called Amateur Photographer.

Approximately two and a half years ago, mid-August, l994, I contacted a man in Stirling over the phone, by the name of Tom Hamilton who was selling an exposure meter which I was looking for. This advertisement was in Amateur Photographer. I chatted to Tom for a while, when I got hold of him, about cameras, etc. He appeared to me to be very knowledgeable about cameras and photography and seemed as though he could get his hands on whatever equipment I wanted. This seems slightly strange for an amateur, however, I put it down to enthusiasm. I did not buy the equipment at this time and informed him I would get back to him.

I shopped round and found that Tom was offering the best price, so I contacted him again with a view to buying the item. On speaking to Tom we again chatted for a while during which he informed me that he was having problems with the lighting in some of his photographs. I told him to send some of the photographs down to me and I would point out and rectify the problems. I also bought the exposure meter he was selling.

On receipt of his photographs I noticed that they were all portraits of young boys or groups of boys. They were, however, perfectly normal and decent. I realised his problem and phoned him up. I informed Tom of the mistake and told him what equipment he needed to obtain to rectify this.

We again chatted for a while during which he informed me that he was going to start up his own photographic business by hiring local halls and sending out flyers. I wished him good luck and told him if there was anything I could do then he should get in touch with me.

We formed a friendship over the phone and would speak to each other frequently, passing on tips and general chat. I saw his phone number advertising equipment for sale in the Amateur Photographer in almost every issue. It was clear that Tom was trading, however, he insisted he was merely enthusiastic.

Tom/

Tom told me that he was the Chairman of Scottish Boys Clubs and he did seem to have a great liking for children and it was my impression that it was a healthy liking and not sexual. He told me that he put his boys through fitness schemes as a "Healthy Body - Healthy Mind". Tom hated fat children and blamed the parents for allowing them to eat junk food.

I can recall Tom telling me that he was keen on guns and was a member of a shooting club. He told me once that he thought the Clint Eastwood films were totally unrealistic because Eastwood continues talking throughout using his Magnum. Tom said that his Magnum was so loud that if he didn't wear ear muffs then he would be temporarily deaf.

Tom was usually a very jovial man and very talkative.

Some time towards the beginning of this year (l966) Tom told me that Trading Standards had been to his house accusing him of being a trader. Tom said that he had managed to fob them off but they told him he could no longer advertise in the Amateur Photographer. Tom was very upset and depressed at that as this was his sole form of income. He told me his photograph business was down the tubes. However, he was going to fight the ban from Amateur Photographer.

I received less and less phone calls from Tom and when I did he was very subdued and depressed. I did not know of the rumours going around about him.

Towards the end of February l996 Tom told me he was shooting more and more as this took his mind off his problems. The last time I spoke to Tom was Wednesday, 6th March, l996. He hardly spoke. He told me he had lost his fight with Trading Standards and Amateur Photographer. The last thing Tom said to me was "I'm going back to my guns" and he then rung off.

I never spoke to Tom again although I was concerned with what he had said. I never met Tom in the flesh, it was purely a telephone friendship.

DAVID/

12.20

DAVID NOLAN (37), Sworn:

EXAMINED BY MR. BONOMY: I am a Detective Sergeant with Central Scotland Police and I have 18 years' service.

And you are actually based in Falkirk? - That is correct, yes.

Now, you had a number of duties in connection with this Inquiry, but one of them was to be part of the team of officers investigating the firearms history, and indeed the licensing history of Thomas Hamilton? - That is correct, yes.

Now, we are going to hear evidence later in great detail about that. I want to ask you a few questions to try to set the initial scene in this. I think that you and your team investigated the history of the holding, purchase and sale of firearms by Hamilton? - That is correct, yes.

And also the holding and purchase of ammunition by Hamilton? - That is correct.

And to try to make the history clear, one of the things you did was draw up a number of charts? - That is correct.

I am simply going to ask you to look at a couple of these and talk us through each one. First of all, would you look at the chart which is C2/L1? Now, can you confirm first of all that this is a chart drawn up by your team relating to the purchase and holding and sale of firearms? - That is correct.

And could we have that then on the imager, because that is probably the best way for all of us to follow it? Now, can we see -- if we get the very top, please, as well -- it is necessary to go to the top of it. Do we see the years are set out from 1977 to 1996? - I will need to get the original document, the writing is so small.

Well, if you just hold on we will give you an extra copy. That might be the best way. Now, do we see that the years 1977 right up to 1996 are/

are set out across the top of the document? - That is correct.

And that down the left-hand side is the name of each of the weapons, that so far as you have been able to tell, Mr. Hamilton owned at some stage? - That is correct.

I think you have then blacked in for the period of his ownership of each weapon the squares across the page opposite the name of that weapon? - That is correct, yes.

And just to demonstrate how this simply illustrates the position, do these show that as far as you can tell the first known purchase of a weapon was of a Vostock .22 in 1977? - Yes, 20th February 1977.

By which time Mr. Hamilton had a firearm certificate? - Yes.

Is that a handgun or a rifle? - A handgun.

And we can see that about the end of 1977 he disposed of that weapon? - On the 17th March 1977 he disposed of it.

Sorry, the 17th March. And if you look again at the next three weapons, which are a Smith and Wesson, an Anschutz .22 rifle, a Browning .22 pistol, and a Smith and Wesson .357 -- I presume the two Smith and Wessons are revolvers? - Yes.

Sorry, that was four -- and then the fifth one is a Sako rifle. We can see the periods during which he had owned each of these? - Yes.

If we take the first three, the Smith and Wesson, the Anschutz and the Browning, they were all acquired in 1977 or 1978; is that right? - That is correct.

And were they all disposed of around the same time? - Disposed of in 1984.

And all roughly at the same time, or -- two of them at the same time? - Two of them at the same time, October 27th and one on the 3rd June.

And/

And the two that were disposed of on October 27th 1984 were a Smith and Wesson revolver and a Browning pistol? -

That is correct.

And indeed also in 1984 he appears to have diposed of a Sako rifle and another Browning pistol? - That is correct.

So overall throughout 1984 he had disposed of five weapons? - That is correct.

Now, if you go to the very end of the right-hand side of the chart, we can see the weapons he actually held, so far as your investigation can tell, as at the 13th March 1996? - That is correct.

And does the chart show that these were the four weapons that we have already heard about in evidence? - Yes.

Now, two of these he had held or owned for a considerable length of time? - That is right.

The Smith and Wesson .357 weapon had been owned since when? - The 4th December 1979.

That was -- sorry, can you give me that date again? - 4th December 1979 for the Smith and Wesson.

And he still had that one in 1996? - That is right.

Therefore this is a Browning which he had owned for a number of years as well? - Yes, from 7th November 1984.

And then we can see that he had, fairly shortly before March 1996, acquired the other two weapons? - That is correct.

When did he acquire the other Browning? - On the 11th September 1985.

And when did he acquire the other Smith and Wesson? - 23rd January 1996.

Now, do you know yourself which of the four/

four weapons was used to do all the shootings in the school? - I

know it was one of the Brownings.

Do you know which one it was? - I would need to refer to other charts.

We will check that in a second. Now, I think the chart beyond that demonstrates the ownership and sale of a number of other weapons during that period? - That is correct.

Thank you very much. Now, you can part with that chart for the moment and can I ask you now to look at the chart C3/L, and it extends over four pages. Now, is that a chart recording purchases of ammunition? - It is, yes.

Where did you get the information about the purchases of ammunition? - From the various firearms certificates.

So on Hamilton's certificate there would be a record of the purchase of ammunition? - That is correct.

Now, that has to be recorded only in certain circumstances; isn't that right? - I think it has to be recorded on purchases of ammunition.

Well, a commercial purchase has to be recorded; is that correct? - That is correct, yes.

What about the acquisition of ammunition at the Club for the purpose of shooting at the Club? - If he shoots it at the Club it does not need to go on the certificate.

It doesn't need to go on the certificate? - No.

What about the reconstitution of ammunition by a person who has the equipment at home, to use the discharged casing of other rounds and to insert the material, including the bullet, that makes up the round? Does he have to record that on the certificate? - I think so, from my knowledge, yes.

And/

And I take it then that the only records which were on Mr. Hamilton's certificate were those of commercial purchases? - That is correct, yes.

And that you have recorded here the whole sequence of purchases recorded on his certificates between 20th February 1977 and -- is it 23rd February? - 27th February.

27th February 1996? - Yes.

Now, is there a pattern or a particular feature that you do observe about the purchases - He was shooting quite a lot in 1977. It tapered off in 1978. There was a lot of activity in 1979; very little in 1980; only one in 1981; '82 it picked up; '83 there were three purchases; '84 there was quite a lot of activity. There were seven purchases in '85 -- sorry, there is a whole page in '85, so there was a lot of activity in '85 and '86. '87 there are five, and between '87 and 1995 there was no ammunition purchased at all.

The dates there may be of some significance. That is between the 22nd October 1987 and the 22nd September 1995? - That is correct.

There is no record of any commercial purchase of ammunition? - That is correct.

Then between the 22nd September 1995 and the 27th February 1996 what purchases were made, and can you give me these individually, please? - On the 22nd September 1995 he purchased 50 rounds of.357 ammunition. 29th September 1995, 300 rounds of 9 millimetre ammunition. 30th December 1995 700 rounds of 9 millimetre, and 25th January 1996, I think it is 450 rounds of .357. The 12th February it was 200 rounds of 9 millimetre. 16th February, 100 rounds of 9 millimetre, and 27th February 100 rounds of 9 millimetre.

Sorry is 16th February, the second-last one -- I appreciate it is not very clear -- but is that not 400? - I think you are right, yes, that is 400 -- it is a bad copy.

Now, that was 400 rounds of 9 millimetre; is that right? - That is correct.

Followed/

Followed by another 100 rounds of 9 millimetre on the 27th February? - That is correct.

Or it might be the 23rd, is it not? - It looks like 27th on this copy.

All right, the 27th. And the 2nd of February (sic) as well was also 9 millimetre; is that right? - That is correct.

So there is 700 rounds of 9 millimetre bought in February, and 1,000 rounds had been bought between September and December? - That is correct.

And in addition 500 rounds of .357 were bought between September and January? - That is right.

Now, could I ask you just to go back now to the other chart which you looked at showing the guns? Now, if I tell you that the gun that Hamilton shot himself with was the Smith and Wesson, 48K8754, can you confirm to me that that is the one he owned from 1979 right through until his death? - That is correct.

If I tell you that the Browning which was used for the shooting within the gymnasium and outside was 245PZ42837, can you confirm to me that that was the one which was purchased on the 11th September 1995, more or less immediately before he started purchasing ammunition again? - Yes.

No cross-examination.

GARY HYDE (27), Sworn:

EXAMINED BY MR. BONOMY: I think you manage a shop in York called York Guns? - That is right.

And you are authorised firearms dealers with North Yorkshire Police? - That is correct.

I think around 9th September 1995 you got/

got a phone call from a man called Thomas Hamilton? - That is correct, yes, we did.

Was that the first time you had encountered him? - Well, to the best of my knowledge, yes.

What was the purpose of the phone call? - The gentlemen in question was inquiring about 9 millimetre pistols, and what we had in stock.

And did you have something in which he was interested? - Yes, we had.

What was it? - It was a 9 millimetre Browning high-powered competition model.

Was that something he had expressed an interest in, a particular type of Browning, or was he just asking generally? - He was asking generally. We do carry quite a good selection of pistols. It was something within his price range and something we -- not so much recommended -- but it was something within his price range.

12.40 p.m.

Did you pick that out as the first one you told him about or did you give him a selection and he picked it out? - It would be quite a while ago. I can't remember at the time. We would probably have gone for quite a few.

This is on the telephone? - That is correct.

As a result of his interest, what did you do? - We then decided to sell Mr. Hamilton the weapon. We reserved it for him and subsequently he sent down his Firearms Certificate and a cheque with a letter for the goods.

So he had to send you what documents? - He sent us his Firearms Certificate, his gun licence.

Is it the original or does he send you a copy? - The original only. We would never accept a copy.

How much did he pay for the gun? - I haven't got my original statement or invoice with me.

All right, if you look please at Production FAE83. Is that the invoice? - That is the original invoice torn out of our invoice book when we gave a statement to the police.

And does it record the number of the gun? - Yes, it does.

What is the number? - 245PZ42837.

If you could just put that on the imager briefly so that everyone can see. I don't think that document has been circulated. So that is the invoice, is it? - That is a copy of the original invoice, yes.

Is that a page out of a book you were keeping? - It is a page out of our invoice book. There are one or two crossings-out.

What was the price? - £304.

How/

How was it paid? - It was paid by cheque.

Did you clear the cheque before you sent him the gun? - No, we never clear cheques on Firearms Certificates.

Was it okay? - The cheque was okay.

Did you hear any more about the gun? - Yes, we did. The gun was sent by Datapost and Mr. Hamilton phoned up and said he wasn't happy with the weapon in question and we then talked about it and he said that the weapon was not quite what he had in mind and it wasn't in the actual condition which was described on the phone. He then sent it back down to us and then I called him or he called myself, I can't remember with it being a while ago, and said the weapon wasn't in as clean a condition as he expected and I then asked him if he would like it if we tidied it up a little bit and put in a few extra bits and pieces and he said okay and we would reduce the price, give him a part refund and send the gun back to him.

How much was the refund? - It was about £50. Hence the crossings-out on the invoice. That is why it looks a little bit messy.

It will help us I think to understand how these things work better if you could tell us what record you then had to make of this transaction? - On the initial sale?

Yes? - Well, the Firearms Certificate is received usually by Recorded Delivery or Registered Post. We then completed the invoice and put the weapon out in our Firearms Register, completed the table on the reverse of the licence, checking he had authority to purchase the particular weapon in question and the gun is then sent by Datapost straight up to Scotland.

So his certificate will tell you whether he can purchase this weapon? - It will indeed, yes.

And you would record the purchase on the certificate? - We would enter it on the back and I would sign it as I did so. It would be entered in/

in our register as a sale going out of the stock.

So does that mean that his certificate when you get it records somewhere on it the guns he actually possesses at that time? - The licence itself when it arrives tells me what he already has in his possession.

As well as what he is authorised to hold? - That is correct, yes.

And as long as there is enough space left as it were between the two you can sell that gun? - As long as he has not already purchased a 9 mm we have authority to sell him the weapon.

He could of course have permission for more than one 9 mm? - He could possibly, yes.

And indeed in this case he did? - Not to my recollection. I can't remember.

It is unfair to ask you I think but you can take it from me that he did. Is that unusual? - Not particularly, no. Various different weapons for different types of shooting.

No cross-examination.

ROBERT LINDSAY SPEIRS, (39), Sworn,

EXAMINED BY MR. BONOMY: Are you the manager of the sports department of Crockets the Ironmongers in Glasgow? - Yes.

I think Crockets are also dealers in firearms? - Yes.

And authorised to be dealers by the police, is it? - Strathclyde Police, yes.

How long have you actually worked as the manager of the sports department? - Eight and a half years.

And throughout that period have you been responsible in the shop for the sale of firearms and ammunition? - Yes.

During/

During that period, has it been the practice of the shop to stock a selection of firearms? - Yes, sporting rifles and shotguns. We used to stock handguns up until six years ago and then we ceased trading in handguns.

Did you cease trading at all in them? - Just in handguns. We still do sporting rifles and shotguns.

If I want a particular handgun could you get it for me, albeit you didn't have it in stock? -We could certainly try and order it for you.

And do you do that or did you give that up too? - Very, very seldom do we sell any over the last six years.

Is there any particular reason why the business was developed that way? - We had found that a lot of companies down south were able to sell handguns a lot cheaper than what we could so we decided.....also the shop had a break-in and a number of handguns were stolen.

So it has not been a downturn in interest that has created the change in practice in your business? It has been a change in the commercial situation and the risk of having stock there at all? - Yes.

Now, were you familiar with a customer of yours called Thomas Hamilton? - Not really familiar.

Did you know who he was? - Well, by coming into the shop to buy ammunition, yes.

Is it right to say that the company you work for has actually done business with Mr. Hamilton since about 1979? - It was news to me. The police told me that we had sold him firearms but that was news to me because that was prior to myself starting with Crockets.

But you do now know the position is the company dealt with him back to 1979? - Yes.

And that was always on a proper basis with the Firearms Certificate recording the transaction and/

and your Register recording the transaction? - Yes.

Now, I wonder if you would look please at a Production which is FA69. What is that document? - It is a document from Central Scotland Police giving a warning that failure to renew timeously may result in possible prosecution. It is about renewing your Firearms or Shotgun Certificate.

And that is all it says, is it? It is obviously the wrong form then. Is that Production No. FA69? Can I see it for a moment please? I am sorry, but I don't have the Production to hand. What I intended to give you was a Firearms Certificate.

LORD CULLEN: Is it FA41 by any chance?

MR. BONOMY: I am completely beaten at the moment, sir. I am sorry. If I see it I might be able to..... it is actually a later one I am looking for, sir, but I think I can make some progress without it at the moment.

EXAMINATION CONTINUED BY MR. BONOMY: I was going to show you a certificate that you made certain entries in from September of 1995. Can you confirm to me that on the 29th of September, 1995 that you did sell Mr. Hamilton 300 rounds of 9 mm ammunition or can you not remember that? - I think I did, yes.

Sorry? - I believe so.

Do you remember Mr. Hamilton coming into the shop? - Nothing out of the ordinary, no.

You don't remember him coming in and asking what 9 mm ammunition you stock? - I think actually he phoned first. I am sure he phoned and asked first what ammunition we stocked.

Do you remember him asking for a particular type of ammunition? - That was at a later date. I think that was this year he had asked if we could order him ammunition.

You don't remember him in September, 1995 asking about what is called Geco ammunition? - We carry/

carry that in stock, 9 mm Geco. We normally carry in stock 9 mm Geco and 9 mm Winchester.

You don't remember telling him in September that was the position? - I think I told him that over the phone.

Now, does the type of ammunition make any difference to the performance of the weapon? - No, we normally just keep what is called full metal jacket in stock because, according to all the written literature, it seems to cycle better.

Full metal jacket? - Yes.

But does the particular make, whether it is Winchester or Geco, does that make any difference? - It is two bullet weights. The Geco is a 123 grain bullet and the Winchester is 115 so some pistols will shoot more accurately with a heavier bullet whereas some shoot more accurately with the lighter bullet.

BY LORD CULLEN: What do you mean by cycling? What is cycling? - You know the rounds are in the magazine and some guns, if they have been altered for competition use, the slide as it goes backwards and forwards picks up the rounds from the magazine and feeds it into the chamber and each time you pull the trigger the empty case gets drawn back and thrown out and it goes forward and picks up another round. Well, some guns need quite a bit of recoil. It is gases that cause the action to work forwards and backwards and if there is not enough gas produced then sometimes you will get a mis-feed or a malfunction.

Recoil is used to feed another round into the chamber, is that right? - Yes.

MR. BONOMY: I think, sir, that it might be helpful if you were prepared to declare an early lunch.

LORD CULLEN: Yes, I think that would be helpful.

MR. BONOMY: And the Productions can be sorted out and then the evidence will proceed more quickly in the afternoon.

LORD CULLEN: I think that is right. We will rise now and resume at 10 to 2.

After/

1.55 p.m.

After an adjournment for lunch.

EXAMINATION CONTINUED BY MR. BONOMY: Mr. Speirs, I hope that we now have the right Production. It is D/H/E29.

MR. BONOMY: Sir, in the folder it should be Dl0lL.

EXAMINATION CONTINUED BY MR. BONOMY: Now, do you recognise that as the firearms certificate you were referring to? - Yes.

And it has on it a table which is Table 2 recording purchases of ammunition? - Yes.

And it records a purchase on the 29th September l995 at your shop? - Yes.

Now, that was a purchase of 300 rounds of 9mm Geco? - Yes.

Can you tell from that entry the type of ammunition it was -- I know the make is Geco, but can you tell what the nature of the rounds were? - It is 123 grain.

Give us that slowly? - It is 123 grain full metal jacket, and Geco is the manufacturer.

And all these rounds would be the same? - Yes.

Now, that is a September transaction. You think that that was organised on the telephone? - I am pretty sure that he phoned up and asked what types of ammunition we had, you know, what types we stocked, and I told him that we kept Winchester and we kept Geco, and I think he said, you know, he had never tried the Geco before, so he may possibly come through and purchase some, to try them.

And did he come into the shop? - He came in, according to this, on the 29th of the ninth l995.

Do you remember him coming in? - Not really/

really.

Now, the next transaction relates to your shop as well; is that correct? - Yes.

And what was that transaction for? - That was for 9mm.

Now, that is 9mm ammunition -- how many? - I think it is 700 rounds.

Do you remember that transaction? - I think that was the Winchester stuff, because he had said that the Geco, you know, wasn't functioning properly, or he didn't like it, it wasn't giving good groups.

That would be good results on a target, good groups? - Yes.

And he wanted to purchase a different type? - Yes, to try them.

Now, is that 30th December l995? - Yes.

So 700 rounds of Winchester 9mm? - Yes.

Now, is that also full jacket? - That is full metal jacket, yes.

And can you tell me anything also about the make-up of that ammunition? - Well, Winchester Suffolk is a lighter bullet. It is ll5 grains as opposed to the l23 for the Geco.

Apart from purchasing that ammunition, did Mr. Hamilton ask you to order other ammunition? - He asked about 357 ammunition, which we could get it in -- you know, would we get it in for him? And I told him at the time that, you know, we could make orders for customers, but with ammunition we would only get it in if we were getting an order up for the shop, otherwise he would need to pay the carriage costs.

And what was his reaction? - He said that would be fine, that he had spoken to our suppliers, Winchester UK, they had 300 rounds, I think/

think it was, of an ammunition that he was looking for.

Was it perhaps 450 that they had? - I thought it was 300, but it would be the 450 one.

Now, could these rounds be constituted differently so that they have a soft point? - The 357 for a Magnum?

Yes? - Those were soft point, yes. It was ones that we didn't stock. They were a lighter bullet. We stocked the l58 grain, you know, .357 Magnum loaded with a l58 grain bullet.

And is that also soft point? - Yes. He wanted the lighter weight, l25 grain.

And did you get them? - Well, we had an order coming up from Winchester, so I phoned them and asked them if they could put these in along with it.

And did you contact Winchester and get them up? - Yes.

And were they sold, according to this certificate, as well? - Yes.

And what does the certificate say about this? - 25th of the first l996, Crocketts, Glasgow, 450 .357 Magnum, RFB 13, Strathclyde, signed by Jane McMahon.

And is she one of the staff? - Yes.

Now, do you remember Mr. Hamilton coming in with a catalogue of Federal ammunition? - Yes.

And what did he want to know on this occasion? - It was 9mm ammunition he was enquiring about that comes from Edgar Brothers. He said he had tried the Geco and he had tried the Winchester and he was looking to try something else, because he was looking for the best possible cartridge.

Now, did he place an order? - Yes. He asked us to order l00 rounds of the 9mm Federal.

And did you get them? - We got them up with/

with an order, yes.

And when did you supply them to Mr. Hamilton? - The 27th of the second l996.

I take it all of these transactions were paid for by Mr. Hamilton? - Yes.

How did he pay? - On the two occasions that I served him it was with credit card. The last two I don't know -- I think the last one was cash.

Was Mr. Hamilton, as far as you were concerned, simply an ordinary customer, or was there anything odd or peculiar about this dealings with you? - I only really spoke to him a couple of times on the phone, and then for the length of time it took to fill out his certificate. I couldn't say -- there was nothing out of the ordinary.

No cross-examination.

GEORGE HARRY STADEN (49) ,Sworn:

EXAMINED BY MR. BONOMY: I am a Director of London Armoury Ltd., from London.

And your company retails firearms and other sporting accessories? - That is right.

And are registered firearms dealers? - Yes.

I think that you have checked back through your records, as requested, to see what transactions there were with Thomas Hamilton; is that right? - That is correct.

And can you confirm that on the 20th December l995 Mr. Hamilton was in touch with your company? - That is right.

By telephone? - By telephone.

And what was his interest at that stage? - He purchased a set of Packmire grips for a Browning pistol.

How/

How did he pay for them? - By credit card.

What did they cost? - £37.50 in total.

Now, on the 29th December, nine days later, did he contact you again? - He did.

What was he after this time? - Another set of Packmire grips and two Shocktech recoil baffles.

BY LORD CULLEN: What are they? - They help to reduce the recoil of a pistol.

Are they fitted to the gun? - They are an additional thing that is supposed to be better than the original that comes with the gun when it is new.

They replace something on the gun? - Yes.

EXAMINATION CONTINUED BY MR. BONOMY: They are inserted somewhere into the gun, are they? - Underneath the barrel.

And they reduce the amount of recoil? - They are reputed to.

That is what they are supposed to do? - Yes.

Do they? - Probably not -- and Mr. Hamilton didn't think so, because he returned them.

First of all, going back to the first item, the grips, were they for a Browning pistol? - They were.

And were they the exact same grips as the last time? - They were.

The same price? - Yes.

The Shocktech baffle -- was that for a Browning? - Yes.

Both of them? - Both of them.

I/

I take it you can't put two on one gun? - No.

How did he pay this time? - Credit card.

Total price on this transaction? - I haven't the total. It is £3l for the Packmires, £26.75 each the Shocktechs, £6.50 postage.

I think on the l6th January l996 Mr. Hamilton phoned you again, is that right? - Not according to my records, no.

You didn't get a call asking about the cost of postage for a Smith and Wesson revolver? - Well, I did, but I don't have the date of that.

Was it some time in January? - Yes, probably.

And was he looking for a price for the weapon as well as the postage? - Yes.

Did you give him a price? - I did.

What was the price? - I believe it was £396 plus £l0 postage.

Later in January was he in touch with you again? - Well, we received a letter from Mr. Hamilton enclosed with the two Shocktechs which he returned and requested a refund of £53.50.

And I think you gave him a refund; is that right? - That is right.

I am moving past that now, to I think an interest that was expressed in holsters? - That is right, on the 24th January he wanted two holsters, which I believe were for Smith and Wesson revolvers, but I can't confirm that.

Did you supply holsters? - I did.

Two of them? - Two of them at £27.95 each, plus £6 postage.

Again, paid how? - By credit card.

Now/

Now, do you advertise that you can supply through the post, in certain magazines? - I do.

Which magazines do you advertise in? - Target Gun and Hand Gun Review.

Why do you select these two magazines? - Because they give me the best return.

And are they the ones that are most widely read in the community of people who use guns for sport? - I believe so, yes.

And can I take it that you have not sold any ammunition to Hamilton? - No, sir.

And that while he enquired about a Smith and Wesson revolver, you didn't actually supply one to him? - That is correct.

CROSS-EXAMINED BY MISS DUNLOP: If I could just ask you one or two questions about the periodicals to which you have referred, the Gun Review and Target Gun -- do these come out weekly or monthly? - Monthly.

And are they available in an ordinary newsagent's? - Yes, W.H. Smith carry them.

They carry advertisements by dealers in firearms? - That is correct.

And do they also carry advertisements by individuals wishing to dispose of firearms? - A few.

So it would be possible to locate new weapons or second-hand weapons from these? - That is right.

The other question I wanted to ask you was the periodical entitled "Target Gun" -- is that more specifically directed towards handgun users? - Yes.

So that is dealing with people who have handguns for target shooting competitions and that sort of thing? - It is a little more specialised than the Gun Review, in handguns.

"Gun/

2.10 p.m.

"Gun Review" then covers the whole spectrum of shooting as a sport, does it? - More than "Target Gun" does, yes.

No re-examination.

JANET NEIL (60), Sworn:

EXAMINED BY MR. BONOMY: I think you are the Manageress of D. Crockart & Sons in King Street, Stirling? - Yes.

How long have you been employed by that company? - 42 years.

I take it you started more or less just after leaving school? - When I was 17.

What is the general nature of the business? - Clothing, fishing and shooting. It is a country sports shop. Retail.

I think the shop is registered to sell firearms and ammunition by Central Scotland Police? - Yes.

Did you have a previous family connection with the business? - Yes, my father was the manager for 50 years.

I think since 1984 the shop or business has been owned by Mr. Bell? - Yes.

But you are the person who had and has principal direct dealings with firearms transactions? - Yes.

Does the shop stock handguns? - No.

Has it ever stocked handguns? - No.

Does the shop sell handguns by request? - By request, yes.

And/

And do you get many orders for handguns? - No.

Over the years have you had many and it has dropped off or has it been a steady flow? - No, approximately six in 42 years.

What about handgun ammunition? Do you stock that? - Very, very little. Maybe one box of just two sizes.

Prior to March 1996 did you have many customers for handgun ammunition? - Very few.

How many in fact? - I don't know. Maybe two or three. Not much more.

And one of these was Thomas Hamilton? - Yes.

How long had you known Thomas Hamilton? - From a very early age. I would think maybe 16 or 17, maybe a wee bit younger.

How did you first come to come across him? - I think he bought an airgun. His parents bought an airgun when he was very young. Well, not very young. A teenager.

We have heard a statement from his grandfather who really was known as his father that he had never bought him any form of weapon. How clear is your recollection of that? - I really can't remember. It is a long time ago.

I appreciate that. That is why I ask. Are you able to say that he actually had a gun bought at that time? - I am quite sure he an airgun. Quite sure.

And that it came from your shop? - Yes.

Have you any idea when he first bought handgun ammunition from you? - No. Not without looking at the records.

Well, I wonder if you could now look please at Production FA3 which in the volumes should be D24 L. Now, is that a firearms certificate in the/

the name of Thomas Hamilton issued in February 1977? - Yes.

And on that are there recorded transactions in ammunition? - .22 only. Target pistol ammunition. It just says 1,000 .22.

Well, let's take this in stages. Do you have Table 2, ammunition? - Yes.

And is that table complete in fact? Is it filled up by ammunition transactions? - Yes.

And in there does your company's name appear a number of times? - Yes.

And are all the transactions relating to .22 ammunition? - Yes.

Now, does that help us to determine when Mr. Hamilton first dealt with you in the purchase of ammunition? - Yes.

When was that? - The 14th March 1977.

Can you tell that by the signature on the right-hand side? - Yes.

Because the company name is not there but is Currie the name of one of the staff? - It is one of the assistants, yes.

So from the 24th (sic) of March 1977 you had dealings in the purchase of ammunition? - Yes.

Did you ever sell firearms to Mr. Hamilton? - Yes.

When was that? - Do you mean a rifle or a handgun?

A gun or a rifle? - I have sold him a rifle and two handguns.

Do you remember what the handguns were? - One was a 9 millimetre Beretta and the rifle was a .223... I don't know the make. Sako I think it was.

Have you also bought firearms from Mr. Hamilton?/

Hamilton? - Yes, we bought a .223. The three items he did buy from us were special order for him.

Yes, but did he ever sell any to you? - Yes.

Do you remember what he sold to you? - I think it is in my notes if I can read it.

Well, it might help if I give you another Production. Can you look at FA18 which is D35 L. Now, that is another firearms certificate? - Yes.

And do you have there a record of any transactions with a gun? - Yes, I bought from him a .27 Sako bolt action rifle and a .22 Browning rifle.

When did you purchase these from him? - 26/10/84.

Both of them on the same date? - Yes.

And does that certificate also show that you sold him a .223 Browning rifle? - Yes.

When was that? - 7/12/84.

Now, I think thereafter you regularly sold ammunition to him, is that right? - Yes, for about another year or two years.

And if you look please at what I think is DHE29. This is another continuation of the firearms certificate, is that right? - Yes.

And there are three sales of ammunition on it in respect of your company? - Yes.

When was the last one? - 16/2/96.

Sorry, I will rephrase that question. When was the last one in 1987? Is it not on that form? - No.

Can you help me with the front of that again please? Can you help me with the front of that again please? Can you give me the date on the front of the certificate? - 14/2/95.

Well,/

Well, just keep that one with you just now please and can you have in front of you FA27 which is D50 L. Does that record ammunition transactions up to 1987? - 1986.

What is the last one in 1986? - 2/10/86.

Do you remember that there were transactions in 1987 terminating on the 22nd October 1987 and that there was then a gap until 1995? - Yes, we never seen him for all that time. He was never in the shop.

So from the 22nd October 1987 until 1995 you didn't see him? - No.

Now, if you go back to the one that you had a moment ago which was DHE29. Are there three ammunition transactions on that form? - Yes.

What is the date of these? - 22/9/95, 12/2/96 and 16/2/96.

Are these three occasions on which you sold ammunition to Mr. Hamilton? - Yes.

What did you sell on each of these occasions? - In September I sold him .357 Norma.

How many? - 50. On the 12th February I sold him 200 9 millimetre Luger and on the 16th February we sold him 400 9 millimetre Luger.

Now, you must have a fair experience of dealing with customers like Mr. Hamilton who want to buy ammunition on a regular basis, do you? - Yes.

When you see their certificates, these people who do target shooting, when you see their certificates do they have a maximum amount of ammunition they can purchase and a maximum amount that they can hold? - Yes.

Is there a sort of standard quantity or do you get a feel for what might be a standard amount that is permitted to be held and purchased? - Well, I mainly deal with rifle ammunition, mostly sporting, and very few handguns so I don't really deal a lot with the amounts that they could have with/

with handguns.

Do they get a lot more for handguns than for rifles? - I deal with so few.

Well, you can see what is on that one? - Yes, I know.

I mean, what are the limits for Mr. Hamilton? - Mr. Hamilton was allowed to hold 1,500 in his possession and he was allowed to buy 1,000 rounds.

That is of what? - That is all the different.....each one that he held, each rifle.

How many types of ammunition? - Five.

So he could hold five times 1500 rounds? - Yes.

Now, do people with rifles get that sort of permission? - No.

What sort of average to they have? - Normally maybe 500 to possess and 200 or 300 or buy.

In the case of rifles, do they have different types of ammunition and can hold 500 of each type? - No.

Just usually one type? - No, they can buy different types as long as it is the same calibre. They can buy high velocity or hollow point or solid but only one amount of 500.

And would they have 500 for each of these or would the total have to be 500? - The total would be 500.

That is the sort of normal certificate for a rifle shooter? - Yes.

The 1,000 means, this is in Mr. Hamilton's case, that that is what he could buy on any one day? - On any one day.

So I suppose he could come back on the following day and buy another 1,000? - Yes.

And/

And over the two days he would have bought 2,000? - Yes.

Is there any way you would know whether he had got rid of the other 1,000 or at least 500 of them so that he fits within the limit? - No.

Is there any system for checking? - No.

Now, I wonder if you would look please at DCFA85 which is also in volume D99 L? - Yes.

2.28 p.m.

Do you recognise that document, Mrs. Neil? - Yes.

What is it? - It is a note from Tom Hamilton asking us to try and get him this ammunition.

What is it? - l,000 rounds of 9mm Luger full jacket round nose.

9mm Luger full jacket round nose? - Yes.

And 7.5 G -- what does that mean? - It must be a reference.

And ll6 GR. -- does that mean anything? - That is the grain of the bullet.

Is that a light or heavy bullet? - In handguns, I really don't know much about ammunition for handguns.

Now, did you get the thousand rounds for him? - No, it was discontinued -- we phoned up about it and it was discontinued.

Now, did Mr. Hamilton speak to you about his attempts to check whether that ammunition was available? - Yes.

What did he say to you? - He seemed to think that the company had the ammunition in stock, and when we telephoned for it they said it was discontinued.

Now, would you look please at DC/FA86, which is Dl00L? Is that another note from Mr. Hamilton? - Yes.

Addressed to you? - Yes.

What does it say? - "Mrs. Neil, please supply 200 rounds of Winchester X3574P .357 Magnum JHP, l0.3 gram".

Did you actually get that note? - He brought that note in to me.

And/

And what did you do about that? - Well, we phoned up a company to see if they had it and they didn't have it, they would have to order it.

And did you get it for him? - Yes. It is still in the shop.

And when you indicated you didn't have it readily available, what did he say to you? - Just to order it for him.

Did he at any stage say he had got some elsewhere? - Yes.

What did he say about that? - He just said he would buy elsewhere just in case there was any delay in us getting it.

And was that all in January? - That was all in early February.

Did you learn in January or February that he was buying a gun? - Yes.

What did he tell you about that? - I wasn't there the day he ordered it. He just came in and asked to get a price for a handgun.

And did you get it? - We got him a price.

Did you get the gun? - We got the handgun, yes.

And did you sell it to him? - Yes.

What was it? - A .357 Magnum.

That is a Smith and Wesson revolver? - Revolver, yes.

And how much was it? - We charged him £4l0.

How did he pay for that? - He paid by cheque. He paid for it before we got it.

Now, would you look please at DC/FA/91, which sorry, is D102L? Is this another note from Mr./

Mr. Hamilton to you? - Yes.

And what did he request this time? - He asked for us to buy the 750 rounds of Norma ammunition for a 9mm, 125 grain.

Well, does that refer to 750 rounds? - Yes. He had telephoned a company and they said they had 900 rounds left, and we were to get him 200 rounds on, for him to try it, to get their grouping. And when he got them, he said he would let me know the next day if he wanted the remainder of what the company had in stock.

It was 950, so that is the other 750? - Yes.

And did he order the other 750? - Yes.

And did you get them for him? - Yes.

And did he get them? - He got 400 of them.

How did you find Mr. Hamilton in his dealings with you? - Very quiet, polite. He always knew what he wanted. He always came in with his notes, exactly what I had to order.

Anything about him that ever gave you cause for concern? - Not really, no.

Did you ever find out why there was this gap between l987 and 1995? - No. I never asked him. He never really spoke about his life in any way. We just took it he was buying elsewhere. We are a bit more expensive than some other places. We don't do mail order, and I took it that was the reason.

In recent years has mail order been a growing way for people to acquire guns and ammunition? - Yes.

Has that affected your business at all? - Yes, it did, yes.

CROSS-EXAMINED BY MISS DUNLOP: I wonder if I could just ask you about periodicals. Do you stock gun magazines? - Years and years ago. We/

We only kept one.

Which one was it? - The Gun Review.

And do you know if Mr. Hamilton read that magazine? - Yes, he ordered it.

CROSS-EXAMINED BY MR. JONES: Mrs. Neil, you have said that you took it that between l987 and l995 Mr. Hamilton was buying elsewhere. Could you look again at the certificate that you had and just tell us whether there is any record on the firearms certificates of any purchases from anybody other than you between l987 and l995? - That is up to l984 on that one -- do these certificates all follow each other?

MR. BONOMY: Sir, it may be that the question caused some confusion. I wasn't meaning to suggest for a minute that Mr. Hamilton was purchasing ammunition commercially by mail order. I think Mrs. Neil's assumption was that he was buying elsewhere. But there is, I can assure Mr. Jones, no evidence in any of the documents to suggest Mr. Hamilton bought ammunition commercially between October l987 and September l995.

LORD CULLEN: Does that clear the point?

MR. JONES: It does, sir. I just wanted to get it into the record that according to the Firearms Certificate there is no record of commercial purchases between these two dates.

LORD CULLEN: Yes. I think that was my impression -- so I don't think we need to trouble the witness with the question any more.

No re-examination.

JAMES O'HANLON GILLESPIE (38), Sworn:

EXAMINED BY MR. BONOMY: I stay in Stirling.

Do you have a business? - Yes.

What/

What is that? - A landscaping business.

Do you have a van connected with that? - Yes.

With your name on it? - Not any longer.

Did it used to have your name on it? - Yes.

And would it from time to time be parked outside Thomas Hamilton's house in Kent Road, Stirling? - Yes.

When did you first get to know Mr. Hamilton? - It started back when I was l6, serving my apprenticeship. My brother-in-law had a carpet shop next door to him. So when would that be, roughly? - I was l6 at the time. I am 38 now.....

Could you just speak a bit closer to that microphone so that we can hear you? - I was l6 at the time.

Now, his shop was actually known as Woodcraft, was it? - Yes.

And how long did it operate for? - I am not sure. I have only known him since then.

And how long did you work as the apprentice in the carpet-fitting business? - For one year.

And thereafter did you have no contact for a time with Mr. Hamilton? - Yes. My brother-in-law opened up a carpet shop in Barnton Street, and I was driving off and on for him, and Mr. Hamilton asked me to drive for him, like to go through to Glasgow to uplift kitchens.

And what age were you then? - About 20.

I think you applied for and got a firearms certificate? - That is right.

When was that? - I applied when I was 21/

21.

So what year is that -- l7 years ago -- so l979? - Yes.

At that time were you aware of Mr. Hamilton's interest in shooting? - Yes.

Was it that that encouraged you to take up the sport? - No. I went once or twice with him to Callander.

Was he a member at Callander, then? - Yes.

Did you join Callander club? - Yes.

How long were you a member for? - About two years.

Now, what is the name of the club? - I can't remember the name of the club.

During the two years that you were a member did you shoot much? - I went once or twice with him, and somebody else from Doune, and I went once or twice on my own, and that was about it, I think -- I lost interest in the shooting.

How many times over the two years do you reckon you went there shooting? - Probably about seven times.

What weapons were you using? - I was using a Smith and Wesson revolver, .22, and I also had I think it was an Anschutz rifle.

Now, when you gave up the shooting did you lose contact with Hamilton? - Yes, I lost contact with him for -- not straight after that, just maybe over a year or so after.

And when did you end up in touch with him again? - I met him one day in Port Street, about six years ago.

Now, was there anything in particular that gave rise to continuing contact with him after that? - I told him I had started up in business and he told me with him being in business himself he could/

could sort of point me in the right direction and give me some pointers.

So did you meet him from time to time? - Yes.

Where? - At the house -- his house.

And how was he occupying himself, largely, at that stage? - What do you mean, sorry?

What was he doing? - At that stage?

Yes, what was he doing at that stage for a living, or what was his general activity? - He had an interest in cameras, and Boys' Clubs, of course.

And how major was his interest in Boys' Clubs? - Just running Boys' Clubs in Dunblane and various other places.

How much of his time did that take up? - Most days of the week I think.

I take it in the evening, rather than during the day? - Yes.

Were you involved at all in his Boys' Club activity? - Not at all, no.

What about giving him lifts and so on? - I gave him lifts once or twice to his clubs, and I also gave him lifts from Bridge of Allan to Menstrie to uplift the mini-bus.

Did Mr. Hamilton at any stage throughout the period you have known him ask you to become involved in the Boys' Clubs? - Yes he did.

When was that? - Well, he asked me first of all away back when I was l6, and also when I was about 20, when I was driving for him, and I said "I have no interest in Boys' Clubs whatsoever".

Into l994/l995 did you fairly regularly run him to and from the Boys' Clubs? - Sorry, what dates?

During l994 and l995? - Yes.

And/

And is that in the van that you have? - Yes.

Now, was there anything particular that sort of kept your friendship with him going? - Not really. That was the only -- I would take him from clubs, to clubs -- he would give me advice on my business, and sort of book-wise.

What did he do with you book-wise? - He just advised me how to keep my books initially.

Did you have any other common interests? - No, none whatsoever.

Did you know where Mr. Hamilton got his letters typed? - Yes. He told me at the University.

Did you ever take him there? - I did.

And was that on one occasion or more than one? - About two or three occasions.

And on these occasions did he wait till the letters were ready or did he go back for them? - Sometimes he waited, but most of the time I dropped him off there and he made his own way back.

And did you know what all his correspondence was largely about? - Well, he showed me one or two letters just complaining to the Council and that sort of thing.

Did he complain a lot to you? - He just read the sort of things he wrote, and quite frankly I didn't listen to what he was saying because I wasn't interested.

But did he moan about things generally? - Yes, he was being classed as a pervert and that sort of thing, you know.

Well, did you hear talk of him being a pervert from anywhere but him? - No.

So what sort of things did he say in that connection? - Just he was being sort of singled out, sort of thing.

Sorry/

Sorry? - He was being singled out.

By whom? - By various people. He never named anybody.

Did he name any organisation? - No, I don't think he did, actually.

2.50 p.m.

Was there a stage at which you actually stopped giving him lifts to and from his Clubs? - Well, before this happened at Dunblane, the last time I spoke to him in the house was about four or five weeks before that.

And up until that time were you still helping out running him back and forward? - No, because I was getting into a busy time.

So when did you actually stop running him back and forwards? - Probably about February time.

And latterly were you only running him.....sorry, January time.

And just before that were you only running him to and from two places? - Yes.

Where were they? - Menstrie and Bridge of Allan.

Is that Menstrie Centre and Bridge of Allan Sports Hall? - That's right.

At that time, that is January of this year, was he running Clubs elsewhere? - I'm not sure whether he was running them but he was uplifting boys and taking them to like football throughout the region.

Now, about seven weeks or so before the 13th March did something happen in Mr. Hamilton's house with a firearm that you ought to tell us about? - Yes.

What was it that happened? - He was cleaning his revolvers at the time and he had one revolver in his hand and he asked me if I had any kids would I allow them to attend the Club and I said, no, I wouldn't. Then he pointed the revolver at me and fired it with a blank chamber so I got so much of a fright, I was holding a cup of coffee at the time and I called him a stupid bastard and threw the coffee at him and walked out smartly and that is the last I saw him.

How/

How long exactly was that before the 13th March? - I think it was about four or five weeks.

Now, before that happened how many guns did he actually have out? - Two. And was he cleaning them? - Yes.

Do you know what both guns were? - I think one was a 9 millimetre.

Was was the other one? - I think it was.....I'm not sure. A 357 or a 44 Magnum. I'm not sure.

Can I be clear whether these were pistols or revolvers? - Well, the 9 millimetre was a pistol and the other was a revolver.

And which one is it you say was aimed at you? - The 9 millimetre.

You have just said it was the revolver. Can we be clear about this? - It was the 9 millimetres.

And that is not a revolver? - No.

You do agree with me that a moment ago you said it was a revolver? - Well, I meant to say the 9 millimetre.

Did you report that to the police? - No.

Why would you not have let any child of yours go to one of his Clubs? - I thought he was too military.

Was that the only reason? - Yes.

The incident itself that you have just described, what did you make of it at the time? - The reason I never reported it was because he would just have denied it.

I understand that but what did you make of the incident? - I didn't make much of it at the time, just the fact that I had got a fright.

But you made no further contact with him? - No.

Did/

Did he try to contact you? - No.

Did you think that he was dangerous? - Yes, I think so. Well, obviously then he gave me the idea that he was dangerous.

Did anything else happen that gave you the impression he might be dangerous? - Just the idea of having guns in the house in the first place, two many for anybody to have in the house at the one time.

Do you know how many he had? - I knew he had the revolver and the 9 millimetre. I think at one stage he had a machine gun at one point.

But did you know in February or whenever this was that he had four handguns? - No, I just knew he had the two.

And had you on any other occasion in the last 18 months or so seen any of his guns? - Just the two that I have described.

How often have you seen them? - Probably once or twice before that.

What was he doing on these other occasions? - Just cleaning them and he asked me too if I wanted to hold them and I said no thanks.

So nothing inappropriate was done on these other occasions? - No.

Where did he normally keep them in the house? - I think it was a cupboard in the hallway.

CROSS-EXAMINED BY MISS DUNLOP: You didn't see Mr. Hamilton at any of his Boys Clubs or camps, is that right? - No.

You didn't. Yet you said you would not have allowed a child of yours to go and you explained that by saying he was too military? - Yes.

Can you explain a little more what you mean when you said that? - Once or twice when we were in the house he showed me some videos, gymnastics, he had been coaching the boys and also I had/

had been taking him up to the Clubs and I have also heard him shouting.

What did you see on the videos? - Just gymnastics

and playing football. Mostly playing football.

What about the videos made you think he was too military? - He shouted at them too much. Too rough with the kids. Shouting.

Did you notice anything about what the boys were wearing? - Well, at the time of football it was shorts. That is the only one that I have seen.

What about gymnastics? - Not very much gymnastics. Mostly football.

No re-examination.

JOHN ALEXANDER CAMERON MOFFAT (42), Sworn:

EXAMINED BY MR. BONOMY: Do you stay in Stirling? - Yes.

Are you a digger driver? - Yes, that is correct.

Now, are you a member of Callander Rifle & Pistol Club? - Yes, I am.

Do you have a position in the Club? - Yes, I do. Currently I am the honorary membership secretary.

How long have you held that position? - This is my second year.

And how long have you been a member of the Club? - I can't be absolutely certain but I believe I went there to begin with round about 1979.

Was the Club in 1979 known as the Callander Rifle & Pistol Club? - Yes, I believe it was./

Does it have its own premises? - Yes, it does.

What is the nature of these? - The Club has a 25 metres indoor range and it has a Clubhouse.

How many positions in the range are there? - As far as the small bore rifle is concerned, there are eight firing points. For small bore and full bore pistol there are four firing points.

Are firearms kept on the premises? - Yes, they are. The Club owns its own firearms and they are stored there.

Are these firearms in large or small quantity? - I don't really know how to answer that question except to say that currently the Club has between eight and 10 small bore rifles and perhaps half a dozen or so small bore pistols and three full bore pistols.

Are these for the use of Club members? - Yes.

Are there other people that Club members can bring to the Club who can use these? - If a Club member comes along with a friend, perhaps to show off his sport, then we do allow people to use the small bore pistols but it is understood that the member is responsible for the friend's behaviour.

Does the Club require a particular form of permission to be able to allow this to happen? - The Club does not actually make any demands on anybody. If they come along, as I say, with a friend on one evening we simply take the view that this is sombody who has come along, wants to see what's happening to experience the atmosphere. We don't make any demands. We don't ask them to sign anything. We don't even ask them to pay any money. But if they come along the following week then they are asked if they would like to become a member and if they say yes, they would actually, I give them a little form and ask them to fill it in and I also ask them for some form of character reference.

How long would they need to wait or come along/

along and shoot for before they could become a member? - Well, we take the view that there is a minimum requirement of six months. That means attending regularly for six months before we would even consider putting them before the Central Committee to grant them full membership.

Is this your own Club's decision about the period? - Well, we decided, we took it on our own selves to put on a six months probabation period of anybody who was coming along, although the governing bodies for the sport reckon that if a person is already a firearms certificate holder, has been a member in good standing of another Club, that there really is no need since that person will be assumed to have been vetted by the police, there is no need for him to be a probabationary member.

What is the position then if one of your members brings along a friend who does not hold a firearms certificate? Can that person shoot as long as your member is responsible for him? - That person would be allowed to shoot on the first night, given that the member said that he was going to be responsible. The guy would get to shoot on that night. They would be allowed to shoot but if it looked as if they were going to come along regularly then I would have to ask them to, as I say, fill in the little form and bring me a character reference.

And at that point would he be allowed to continue shooting before the character reference came along? - Not if that person was a complete beginner, no.

When he has given you the character reference and completed this probabationary form, can he come along without the member and just shoot on his own? - Yes, he can, given that he has expressed a desire to become a member. He can come along on his own and he would be allowed to shoot.

Now, to enable that to happen whereby a person who is not a full member of a Club can shoot on the premises, do you have to be recognised by either the home office or the Secretary of State to be able to do that? - Can you say that again please?

Does your Club have to be recognised by the/

the Home Office or the Secretary of State before it can permit a non-firearms certificate holder to shoot? - I am not exactly certain of how the law works on this but I do know that our Club needs to have Home Office approval before we can be a Club.

So yours is a Home Office approved Club? - Oh, yes.

That's fine. Apart from the firearms owned by the Club for the use of members, do any of your members keep their firearms on the Club premises? - Yes, I do believe that a couple of the guys prefer to store their firearms on the Clubs premises.

Would there be room for the Club to provide facilities for everybody to do that? - Oh, gosh. I honestly don't know. At the moment the strongroom is not terribly big but I dare say that with a certain amount of judicious moving about it would be possible to put in sufficent strong boxes or strong safes to allow members to keep their firearms there, yes.

So far as the Clubhouse is concerned, is that a social club? - Shooting is a very social sport but it is not exactly a social club. You must remember that the place started out as a hut and it was bricked up on the outside and a new room was put on. It has the basic facilities. It has lighting and heating and toilets and running water but that is about it.

Does it have a liquor licence for example? - Oh, no.

Do shooting clubs that are of a bigger size have liquor licences? - I don't think so. The only place I can think of in Scotland was the shooting centre and they had a liquor licence but that is about the only place I know of.

Where was that? - That was in Bonnyrigg in Edinburgh.

Had that now closed down? - That is correct.

Do you know over what period that place operated?/

operated? - No, I really couldn't say. It was the early 1980's anyway.

Was that a commercial operation rather than a members Club? - Yes, it was run as a commercial operation.

Now, on the 24th February of this year did you get a call at home from Thomas Hamilton? - What day was the 24th? Was that a Monday?

Well was it around the latter part of February? - Yes, that is correct.

And why was he phoning you? - Tom Hamilton phoned me because he said he was looking for somewhere to shoot regularly.

Now, what were you able to tell him? - Well, I had to tell him what I would tell practically everybody. I asked him who he was and I asked him how he knew to phone me and then I tell him the shooting disciplines that are currently shot at Callander. I just basically tell him about the Club and the kind of shooting that we do, ask him what kind of shooting he has done or what kind of shooting interests him and then I invite him along to see the place and get to meet the members.

So he was able to come along on that sort of basis if he wanted? - Yes, that is right.

Now, did he come? - Well, Tom Hamilton told me that Mondays night weren't good nights for him. Wednesday night was his preferred night for shooting so the conversation was more or less a case of "Okay, Tom, I'll see you when I see you, probably some Wednesday night. Goodbye" and the next thing I know is that I turned up on the Monday night following that and Tom Hamilton was there and I was a little bit surprised about that, given he said that Monday nights were no good for him.

So it was a Monday he phoned you and the following Monday he turned up? - Something like that, yes.

In the original conversation you had with him did he tell you anything about past membership of the Club? - Yes, he did. Tom Hamilton/

Hamilton told me that he had been a member of Callander years ago and I have been going there since 1979 and I didn't remember him and I said that to him. I said "It must have been before my time then, Tom, because I don't remember you" and he said "Oh, I used to come with Clive Woods". Now, I don't remember Tom Hamilton but I do remember Clive Woods. I remember shooting pistol with Clive Woods so when he said the name Clive Woods I knew he must have been coming down round about 1981, 1982 or 1983. Something like that.

Has Woods not shot with you since about that time? - No.

We have just had evidence from a man called Gillespie -- James O'Hanlon Gillespie -- who suggested he was also a member of Callander. Does that mean anything to you? - The name doesn't ring any bells.

Did Mr. Hamilton say anything about giving up or interrupting his shooting activity? - He said to me on the phone that he had been away from shooting for quite a while, and he said to me that he wanted to get back into it, now that he had more time on his hands. I asked him what he did for a living and he said he was a gym teacher. I am old enough to remember the time when being a teacher meant something, so I said "That's good". So with that in mind the conversation progressed a little bit further, but he did say going through to Callander shooting didn't take his fancy any more, he had progressed beyond that, he sort of found it sissy -- not difficult enough.

Did he say whether he was a member of any other club? - He said he was a member of Stirling Rifle and Pistol Club, and that he had been a member I think it was of Dunblane, he said.

Would you be able to do full bore pistol shooting in Stirling? - I believe the Stirling boys used to hire Whitestone Range, and I think they had an arrangement with the Territorial Army whereby they were allowed into the Riverside Range to do pistol shooting, I think.

And these would be places you could do full bore pistol shooting? - Yes.

Can I go back to an earlier question. Did he say anything about having to give up shooting for a while? - No, he didn't say he had given it up
-- I don't think he used the words "give up". I think he just gave the impression life had presented other things for him to do and he had to push shooting on to the back burner.

On the Monday when he did attend, the first Monday, was that still in February? - Yes, I think it was. I think it was the last Monday in February.

Well,/

Well, I think that was 26th February? - Well, that is when it would be, then.

And did you go that night? - Yes, I did.

And was he there when you got there? - He was there. I turned up late expecting to find everybody hanging about in the cold, but one of the other members had arrived early and he had opened up and let the guys in.

And how did you learn that Hamilton was there? - I was coming from the car and the assistant secretary, Raymond, passed me and he said "There's a new guy in there asking for you", and that is when I knew there was someone there.

And did you go and speak to him? - I did, yes.

Had he already been in shooting? - No, he hadn't. I said "Hello there, how are you getting on", and all that jazz, looked around to see who was in the clubroom, and I sort of said "Have you been on the range and seen where we shoot?". And he said "Yes I have, thank you very much". And then he followed me into the range. The guys were round the bottom of the range and they were hanging up targets and patching up bullet holes and saying "How are you getting on", and all that jazz. And I noticed that Tom Hamilton had taken his guns out his bag and he had put them on the upper shooting plinth, or -- I don't know what you call it -- the upper shooting bench. And I was kind of irritated by that, because it is not the way we do things in Callander -- but he hadn't been shooting.

Now, what were the guns? - They were two Browning 9 mm self-loading pistols which the Browning people call "high powers".

Were they both high powers? - Yes, they were both high powers.

MR. BONOMY: Would you just give me a moment.

THE WITNESS: Certainly.

EXAMINATION CONTINUED BY MR. BONOMY: The two/

two guns that you saw I take it were both Browning guns? - Yes, that is right.

Were there differences that you could detect between them? - Yes. One of the Brownings was just a completely plain, ordinary, bog standard Browning high power. The other one was the variant -- I am not sure of the correct name that Browning have given it, but they call it something like "The Target" or "The Competition". It is a variant. The barrel is about an inch and a half longer. It has a cosmetic muzzle weight at the front. Apparently they were supposed to do some work on the guts of the thing to make it more accurate and easier to shoot, but that is about it.

Now, were you at all surprised to see him with two weapons like that? - I was surprised, because there isn't a police force in the U.K. that give out -- well, put it this way, they don't like to give firearms of the same calibre. They take the view that if you have one gun of that calibre you don't need another. So to see two Browning
9 mm there, I was surprised by that. Having said that, if you can demonstrate good reason for needing two firearms of the same calibre, then they take the view that if you have a reason for it then, you know, they will give you it.

I take it that one reason could be that you were shooting in different types of competition, albeit with the same calibre of weapon? - Yes, that is true up to a point, but I don't know if it applied in Tom Hamilton's case, because Tom Hamilton told me he shot close pistol. Well, if he shot close pistol and shot 9 mm Browning, why did he need two pistols to shoot one discipline -- that particular discipline? I could understand if he needed two pistols for two completely different disciplines. I have pistols -- right, I use a .22 pistol for one discipline, and I use a .38 calibre pistol for another; but why have two guns of the same calibre for the same discipline? It doesn't make sense.

Now, that night was he allowed to shoot his own guns in the range? - Yes he was. I told him on the phone that we had had experiences of people coming in and bringing along firearms and shooting holes in our target range. So I told him "If/

"If you want to shoot your own guns you will have to do a little marksmanship test for us". And he said "Yes, okay, thank you very much". And I gave him a gun -- I even gave him the ammunition -- and he performed the marksmanship test, he kept his bullets on target where they are supposed to be. So I said "Fair enough, you have demonstrated you can hit the target, so you can use your own guns".

So he hit the target, anyway, with all ten shots? - Well, kept the bullets within the scoring rings.

And what is the diameter of the scoring rings? - A PL7 target is approximately what -- about 2 feet square, 2½ feet square, something like that.

And he was within that range, and allowed then to shoot himself? - That is right.

Or to shoot, rather, his own weapon? - That is correct.

Now, did you notice anything odd about the use of targets later that evening? - I certainly did. It was odd in as much as I found it odd -- it jarred slightly. The PL7 target is a fairly big target, and we shoot at it from 25 metres. I said to him "Tom, there is plenty targets there, pin one up, and on your own shoot and we will watch you and make sure you don't do anything daft" -- or words to that effect. He took the target but he didn't pin it up. He put it down and he told me "No, no, it is all right, I prefer to use my own targets". And Tom Hamilton's idea of a target was two pieces of A4 paper sort of stuck together and pinned on the back wall; and what he liked to do was put little fluorescent stickers on the A4 paper and shoot at them. Now, that is odd -- well, it is not terribly odd, because sometimes shooters who are having problems with trigger control or sight picture -- sometimes they prefer to shoot at a blank piece of paper so that they don't have anything to distract themselves.

If he had used the club's targets? - Yes.

Would that mean a target which was disposable after he had used it? - Well, the targets cost about 25p each, so they are too expensive/

expensive to throw away after they have had a few bullet holes, and what we do is we patch them with sticky patches and re-use them again and again.

We have seen photographs which show the sort of bits of paper you are describing hanging on a wall with these marks, these fluorescent or coloured marks on them? - Yes.

I take it if he wanted to take them away and hang them up for some reason or other, he would have to use his own targets? - Well, he would up to a point but some of the people who come down are really keen, and really enthusiastic, and they will shoot at a target and they will be so proud of themselves that they actually say "Could I please take that away and keep it, so that I can show my husband" -- or "so that I can show my wife" -- or whatever. And we say "Well, yes, on you go".

Maybe you could look at one of these photographs. They are PHO E25, photograph 14 -- just have a look at the screen there. Are these the things that you have been describing to us? - Yes, that is the things.

Do you have yours up at home? - No, I have been doing it so long I am only interested in what the score is, I'm not interested in showing off.

I take it you have a lot of friends who are marksmen? - I made a lot of friends when I joined Callander Rifle and Pistol Club, but shooting is a social event to me.

Do people do things like this, hang up the targets at home? - No, not by and large, no -- what? Hang that on your bedroom wall?

Is it important that it is a bedroom? - No, it is not important, but I just wondered.....

Can you help us a little with what you are wondering about? - Well, it is just he has got what -- one, two, three, four, five, six, seven, eight of them hanging there, and it just seems strange.

It is a room which was not used as a bedroom/

bedroom -- the same room, if you look at photograph 15, you will see that in the same room there were boxes of ammunition, and a table where he worked, and you will see some more of the targets there? - Yes, I see that.

Does that help clear your mind about it?
- Yes, it does, thanks very much.

How does that help? - Well, he has got a lot of ammunition there, and he has got his targets, and he has got his sticky tape and his scissors and all the rest of it. He is quite orderly. Most people I know, they have their ammunition and their firearm, and they go down to the range and they get their targets down there -- the target is not important to them, except what the score is. They don't take the target home as a trophy. That is not like anyone I have ever met. I mean, beginners proud of themselves for the first time, yes, they take the target home to show off, but after a couple of weeks it is no big deal any more.

Are these targets anything to be proud of anyway? - Not really.

I mean, looking at the scores -- if you see 14 again on the screen, it comes up quite clearly -- you can see the groupings, such as they are? - Yes, but tell me how far away from the target was he when he shot them?

Well, I can't answer that, I am afraid? - If those targets were 10 metres away then it is not that terribly great.

25 metres? - That is okay.

Right, thank you. Did you notice anything about the ammunition he tended to use? - I saw his ammunition on the shooting range. It was factory ammo. Now, factory ammo. is quite expensive. It is about £5.50 for 50 rounds. So most of us don't shoot factory ammo., we manufacture our own ammunition. But the stuff he was using was
9 mm parabellum, and it was a 115 grain bullet, full metal jacket.

It sounds impressive. Is it as expensive as/

as it sounds? - Well, as I say, it is about £5.50 for 50 rounds of the cheapest stuff you can buy. It goes up and becomes more expensive as it gets a better grain.

Would he be the only person around the club that used that sort of commercially produced ammunition, or would some of your members also do that? - The club has its own 9 mm at the moment, but there really isn't anybody who shoots it regularly. I am just trying to think who has 9 mm pistols. I know some of the chaps have 9 mm, but I think that most of them re-manufacture their own ammunition.

Do you do that at the club premises? - I take my reloading gear to the club premises and I reload there, because when I have made a bullet or bullets, I fire them across a chromograph to tell me how fast they are going, and I examine the bullets to see there is no signs of over-pressure or pace slipping, or anything like that. And when I see the bullet is a good bullet I make up a batch of a couple of hundred.

And you do that at the premises? - I do that at Callander, yes.

Do most people do that, or do most people do it at home? - Most people who are members of the club who re-manufacture, they tend to re-manufacture their ammunition at home.

And did you notice how Mr. Hamilton transported his ammunition? - No, I never paid any attention to what he carried his bullets in.

You didn't notice he had a box? - No, I couldn't say with any certainty.

Or a tray with the bullets in it? - No. I seem to recall that he discharged ammunition from an open box of bullets, just an open carton of bullets.

Now,/

3.30 p.m.

Now, can I take it that he remained in the range for a while and shot his own weapons? - That is correct, yes.

Did he come back again? - Do you mean did he come back again on another night?

Yes? - Yes, he came back the following Wednesday. I think it would be the 28th of February he came back.

And were you there? - Yes, I was there.

Was the shooting any different that night? - I couldn't tell you. I don't think so. I think he just did his own thing again.

Do you remember one of the other members, Mr. Barr, practising? - I remember that Tom was competing with the Scottish Pistol Association in their pistol competitions running over the winter time and Tom had to complete round No. 8 of the Police Pistol One Match and since he had to shoot it anyway and since Tom Hamilton had said he was interested in Police Pistol One I asked Tom Hamilton if he would like to compete along with it, to practice, to have a go.

What is Police Pistol One? - Police Pistol One is a National Pistol Association shooting discipline and it consists of 30 rounds fired in three distinct series. One series at 25 metres, one series at 15 metres and one series at 10 metres. At 25 metres the competitor has two minutes to fire 12 shots at a target 25 metres away. In two minutes. So that is 12 shots in two minutes at 25 metres. Practice two at 15 metres has six series of one shot in two seconds and that translates that the shooter charges his firearm, comes to the ready position and on the command "Fire" then has two seconds to raise the piece and fire one shot into the target. He does that 12 times. That is two series of six. He then moves down to 10 metres and he then has to engage the target with two shots in two seconds and that constitutes the Police Pistol Match.

What is the nature of the target that is being/

being fired at? - The target is a stylised representation of a human being. It is a black and white target and it looks for all the world like a man wearing dark clothes holding a firearm in a sort of crouching or bending position.

Are there rings on the target? - Yes, thee are scoring rings.

They are not quite circular, are they? - No, they are sort of oval or oblong.

Like a running track shape? - Yes, that is exactly right.

I assume the higher score is as you get nearer the centre? - That's exactly correct.

Anything odd about the way Mr. Hamilton carried out this exercise? - Well, people who shoot Police Pistol a lot, who practice it a lot, tend to be very deliberate with their 25 metre shooting because points are lost if you shoot too rapidly or you don't take sufficient time to get your sights just exactly right but Tom Hamilton charged his magazine, loaded the gun and at the command of "Fire" he raised the gun and simply let a fusillade of shots, getting the gun empty as fast as he could, jammed the next magazine in and blasted away with it until it went empty. That is how he shot it.

Was there something odd also about the position where you had to fire one round in two seconds? - Yes, there was. Along with Tom Barr and Tom Hamilton there was a comparative newcomer to the club in the range at the same time, a gentleman by the name of Ian Campbell. Ian is a newcomer and he is very keen. He is a very nice man. Ian had expressed an interest in learning to shoot so I invited Ian along with us and for Ian's benefit I explained what was required in words of one syllable and when it came to firing one shot in two seconds I said "Fire" and Tom Barr and Ian Campbell both reacted correctly and fired one shot but Tom Hamilton raised the pistol and managed to get four shots off before I could shout "Stop" so I had to sort of say to him "You know, Tom, that's not the way it's done. It is one shot in two seconds, not four" and he said "Oh, yes, I am sorry. Thank you very/

very much". He thanked you quite a lot.

Did you ever get back the probationary membership application form? - Yes, I got that back.

Would you look please at ME19 which in the volume is D103L. Is that it? - That is it, yes.

Fully completed? - Yes.

Was it that Wednesday night that you got it? - That is correct, yes.

The following Wednesday was the 6th of March, exactly a week before the 13th which is the day of the incident at Dunblane? - Yes.

Was he there on the 6th? - Yes, he was.

Anything odd happen that night? - I don't think so. I can't remember.

Did you speak to him at all about the reference you required? - Yes, I did. I said to him on the Monday night when he got this form, he knew that he was required to give me a reference and he got the form on the Monday night and told me he would have the reference soon. When he showed up the following Wednesday I said "Have you got that reference yet?" and he said "No, soon" and when he turned up on the 6th of March I chiselled him again and said "Where's the reference you are supposed have had? You said you would get it". "Oh, yes, there has been a bit of a hold-up. I am getting it for you".

Did you ever see his Firearms Certificate? - No, I never saw his Firearms certificate at all.

May I take it you just assumed because he had guns he would have a certificate? - I did, yes.

What category of people can provide references for you? - Well, I personally, since I sort of got left sort of, you know, just to get on with it as it were, I decided that since the police ask for a doctor or a lawyer or a Minister of Religion or a teacher or whatever that we would just ask/

ask for the same categories of people with the exception that a police officer cannot be used for a reference if you like when you are applying for a Firearms Certificate but I sort of thought well, a police officer would do as a referee for somebody who was wanting to become a member of the club.

So what were the categories? - Police officer, teacher, a doctor, lawyer, Justice of the Peace and Minister of Religion.

Did you see whether Mr. Hamilton allowed anyone else to use his guns on the range? - I understand that he offered people a shot if you like of his guns. He offered me a shot as well, offered me a go but I have shot too many guns. It doesn't do anything for me any more. Perhaps if it had been something exotic I might have had a shot but a Browning, no. I have fired too many Brownings to be impressed by them.

Did you see anyone else using his guns? - No, I didn't. Any time I was Range Officer he was firing his own firearms. He was using his own guns.

What is a Range Officer? - What is a Range Officer? A Range Officer is a person who is in charge of the range. A Range Officer may be a shooter, he may actually be competing, but the Range Officer is responsible for giving the range commands so that actions are done in concert if you like. For example, you come in, make sure everybody in in the range, close the door and then you will say "Okay everybody, ear defenders on, shooters collect firearms, shooters come to the firing line" and until those words are said you don't pick up a gun, you don't move your ammunition until you are told you may by the Range Officer.

And that would happen during the Police Pistol One competition? - That is correct.

When Mr. Hamilton was simply practising would he require a Range Officer? - Yes. Oh, yes.

There is always somebody there? - Yes, there is.

Now, if he had produced a reference from a professional person, from one of the categories that you/

you have described, he would have automatically have become a probationary member? - Yes, he would have.

He would have had to be for six months or would it have been less for him? - No, it doesn't make any difference.

Six months? - We take the view that it doesn't matter. Six months.

Would the Committee then have to decide on full membership? - Well, it has to be a Committee because if it is an individual who says "No, you can't get in" then there is always a chance that it is spite or badness. If it is a Committee decision then I suppose it is fairer.

And in six months do you reckon you would have enough experience of someone to make that judgment? - Well, the way it works is that it is a social sport and it is a particularly social sport in Callander. We do a lot of shooting but we also sit around the pool table and drink a lot of Coca-Cola and do a lot of chattering and I never recommend anybody to the Committee until everybody had has a chance to look him over or her over and see whether or not they could get along with this person, whether they could shoot with them. Safety is a big consideration but if somebody gives you bad vibes, you don't want to shoot with them.

Were you at the stage of knowing enough about Mr. Hamilton to give any judgment on his final membership? - No, not at that time.

Were you concerned about him at all by that relatively early stage? - I personally wasn't but having said that, on an evening shooting in Callander there is quite a lot of work to be done. It is like any activity. In order for all the members to enjoy there is a certain amount of housework or housekeeping that has to be done, from brushing the floor to washing the dishes and quite often it is 'Joe Soap' that gets left to do it so I didn't really have a great deal to do with Tom Hamilton at that point other than being Range Officer on a few occasions when he was in the range shooting.

CROSS/

CROSS-EXAMINED BY MISS DUNLOP: Just one question if I may. You described shooting with a .22 as sissy. Can you help me please with that? - No, he described it in those terms. A .22 calibre pistol does not produce a great blast, does not produce great noise, does not kick very hard. Forget all you ever saw in the movies. It doesn't work like that. Quite a lot of people, most people in fact, get into shooting via small bore .22 calibre and then they graduate. Some people do say with a .22 calibre that there is no challenge to them and that is what he said. It was not a challenge to him.

So things like blast and noise and power are all-important, are they? - They seemed to be important to Tom Hamilton, yes.

CROSS-EXAMINED BY MR. GIBB: I wonder if you could help me. One of the things this Inquiry will obviously look at is the question of the holding of firearms? - Yes.

Can I put to you a proposition that a central armoury manned by the police for instance regularly might be a way of holding firearms as opposed to keeping them in strongrooms in a club such as yours which could not be manned 24 hours a day. Have you any comment to make on that? - Well, there are a lot of competitions around Scotland and the North of England that I go to and speaking personally it would not be convenient for me to have to go to a central armoury and pick up a gun and then drive to the competition. I don't think I like that idea very much. There is always the point that it is your gun and you have got to clean it and you have got to look after it. You have got to take it for repair. You have got to practice with it. That is a lot of shuttling backwards and forwards, backwards and forwards. I don't think it is a good idea.

Well, you may not think it is a good idea but certainly the teaching staff at Dunblane Primary School, this is one of their areas of major concerns now? - Yes.

And it may indeed be a major concern of others. Albeit it may not be convenient, obviously this Inquiry has to look at the public interest as opposed/

opposed to the interests of those such as you. Can you see the legitimate concerns to do something that is required in the public interest following on this tragedy? - I honestly don't know. I honestly don't know. I enjoy my sport. I get a lot of fun out of it. Society has to protect itself, I agree with that, but as to what the answer is I honestly don't know. I don't know if it would serve the public to have all firearms banned or kept in a central armoury. I honestly don't know. I honestly don't know. Tom Hamilton, I think he was mad to do what he did and I am not mad. I know there are a lot of people with a lot of reservations but I am sorry for what happened, I really am, but I don't know what the answer is.

CROSS-EXAMINED BY MR. TAYLOR: You will be the holder of a Firearms Certificate, is that right? - That is correct, yes.

Can you tell us which Force issues that certificate to you? - Central Region Police.

Have you had occasion to apply for a certificate from any other police force? - No.

You indicated in your evidence that there is no police force in the land which would issue a certificate for two 9 mm handguns. Do you recall that? - Yes, I recall saying that.

I was wondering how you managed to form that view if you had only.....? - Well, hang on a minute now. What I mean is that police forces in general don't like to give out guns of the same calibre. I mean, I own two .22 calibre rifles and when I applied for the second .22 calibre rifle the officer who came along said to me "John you have already got one rifle, what the hell do you need another one for?"? I said too him "It's a different discipline, Duncan. This rifle is for positioning and the second rifle is for pulling". "Oh, okay, I'll go and tell them that". That was a good and sufficient reason. If I had said "Duncan, well, I just fancy another gun", I know perfectly well he would have said "That's not a good enough reason, you're not getting it".

And do you know what reason was given by Mr. Hamilton? - No, I have no idea.

So/

So does it follow therefore that if an appropriate reason is given there would be no good cause why two guns of the same calibre might not be permitted? - If Tom Hamilton had a good reason for having two guns of the same calibre of the same make and the same type, if he had a good reason then I daresay Central Scotland Police would have given him it.

We have heard evidence from Mr. Gary Hyde who is the manager of an outfit called York Guns. Have you heard of York Guns? - I have seen their advertisement.

Is it quite a big outfit? - I think it is.

Where was it you saw their advert? - It was in a shooting magazine called "Target Gun" I think it is.

So they advertise quite regularly in such magazines? - Yes.

His view this morning was that it was not unusual for someone to have two 9 mm firearms. Is that something you would agree with or disagree with? - I wouldn't agree with that. I would not agree with it because.....

Do you think he might be in a better position to judge, being the manager of a main dealership? - Well, he is in the business of selling guns.

Does that not mean he might be in a better position to judge than yourself? - No, because I have been asked for my opinion. What you have got is my opinion. What you said was Gary Hyde's opinion. I think it was odd given that he was interested in shooting Police Pistol. He was interested in shooting Police Pistol and he got a
9 mm to shoot Police Pistol so what was he needing another one for Police Pistol for?

That would depend on the reason he gave to the police, would you accept that? - Yes.

3.50 p.m.

RE-EXAMINED BY MR. BONOMY: You mentioned practice as one of the reasons for taking weapons home? - Yes.

What practice do you do at home? - Oh -- right. It is a technique called "dry fire", and it is very useful for helping to develop your muscle control, to hold the firearm steady. The National Small Bore Rifle Association Disciplines, and the International Shooting Range Disciplines require the competitor to hold the pistol in one arm. So you can imagine 2 lbs. of metal at arm's length -- after a while it starts to wobble and shake. So what we do is we dry-fire pistols, being a device which allows the hammer to be cocked and then the trigger squeezed, but the hammer -- it doesn't fall on the firing pin to stress it and therefore vibrate it. The hammer is intercepted, there is a check -- there is the same trigger weight, but there is no damage done to the gun. Now, dry-firing is a damned good method of improving your scores.

One thing I take it for sure is that you don't need ammunition at home? - No, because it is on your firearms certificate, that the firearms and the ammunition are to be used in the appropriate range. Now, your home isn't an appropriate range, unless you happen to have a range there.

So you don't need to keep the ammunition at home? - No.

And it is presumably easy to store ammunition in a club? - Yes it is.

You also don't need to have the magazine at home? - No, I don't think you need to have the magazine at home.

And it would be easy enough to keep the magazine at a club? - Oh yes, magazines are small.

But at the moment you can buy magazines even without your firearms certificate; is that right? - That's correct, yes.

So it wouldn't be much good keeping magazines in the club unless there was some way of preventing/

preventing the ready substitution of other magazines you can buy in the street? - Well, it doesn't really matter anyway, because it would be a simple matter to open the pistol up, insert a bullet into the breach, close the pistol up and bang, you could fire it.

Only if you had it at home? - Only if you had the ammunition at home.

And you would have to load it one by one? - Yes.

For every shot? - Yes.

So at least you wouldn't be able to do the damage that was done at Dunblane? - That is very true.

BY LORD CULLEN: Just on the matter of magazines, can you tell me, do magazines bear unique serial numbers or not? - No.

One other matter: you said when you first came to Callander Range Mr. Hamilton was doing his own thing? - Yes.

Presumably that means shooting on his own; is that right? - No. When I say he was doing his own thing I mean he was shooting at his own targets.

Was he competing with anyone else? - No, he wasn't competing with anyone else.

Though he told you that he had engaged in Police Pistol? - Yes.

And there was some sort of competition about that on the second occasion? - That is right.

Is it common or uncommon for shooters at a club like Callander to shoot entirely on their own without competing against somebody else? - Most of the people I know, they shoot for scores, so that the scores can be compared with other people, in models -- for glory, because there is no money in it. Some people are shy, they don't like to shoot in close-up competition because they feel if they don't/

don't do very well people will laugh at them, people will snigger and make caustic comments. But by and large people shoot for scores to be compared with other people.

Do you mean by that they shoot in competition? - They shoot in competition. The Scottish Pistol Association run competitions for every class of firearm and every -- how can I put it -- ever skill of a shooter.

But there are some shy people who prefer to shoot on their own? - That is correct, yes.

Does that mean they will always remain in that condition? May they graduate to competition, or are they likely to be that way all the time? - Well, what we try and do is we try and encourage them by -- how can I put it -- how can I put it -- we try and encourage them, to give them that self-confidence to know that they are not alone, that everybody makes mistakes, everybody has bad days, and that there is a tremendous camaraderie among members, among all the people who you will meet at shooting competitions.

JOHN SMITH BAIRD WILSON (62), Sworn:

EXAMINED BY MR. BONOMY: I live in Stirling.

Were you formerly a police officer? - Yes.

With Central Scotland? - Yes.

Over what period? - January l955 until July l989.

Now, that is what -- 34 years? - Yes.

That is a long time for a policeman? - Yes. I was kept on that bit extra because I was the Firearms Instructor.

And during which period were you the firearms/

firearms instructor.

And during which period were you the firearms instructor? - I qualified in l975, although I had started in l974, and finished some time in l989.

Did you know Thomas Hamilton? - Yes.

How did you get to know him? - He had a shop, Woodcraft, which was in Cowane Street in Stirling, one of the DIY places. His prices were good. He used to give l0 per cent discount to the police.

So the police actually got a discount? - Well, I did, and certainly others did as well.

While you were dealing with him in the shop, and perhaps over the years after that, were you suspicious of anything? - Yes.

What? - He was unusual -- effeminate. He had a tendency to sort of wring his hands. There was a bit of a feeling of discomfort.

What about his interest in Boys' Clubs, young boys? - As far as I knew he hadn't been reported for anything. I knew he was interested, because he had his back shop done out with carpet right up the wall, and he had boys' photographs on the carpet.

Can you tell me what these photos were like? - They were I think stripped to the waist like photographs -- certainly nothing naked.

We have heard some evidence today of photographs with black swimming trunks and nothing else -- they weren't of that type? - I can't remember that.

But nothing indecent? - No.

Did you know he was interested in shooting? - Yes.

And because of your interest as the Firearms Instructor did you have something in common there, or did it never arise? - Not a great deal. I/

I had a fair idea of what weapons he had, but I never shot along with him. On one or two occasions he asked if he could come to the Police Range, and I always managed to put him off for some reason or another.

Would you take someone else to the Police Range? - Yes.

But not Thomas Hamilton? - No.

Why? - Well, I suppose because they looked normal and Tommy Hamilton definitely didn't look quite the normal person.

Were you yourself a club shooting marksman? - Well, I was an instructor.

I appreciate that, but were you also a member somewhere? - Yes. I took the class on Wednesday night, the Police Firearms Club, and so shot on a Wednesday night.

So there was a Police Firearms Club on Wednesday night? - Oh yes.

And where did that normally shoot? - Randolphfield, the Police Headquarters, Randolphfield.

Thursday, 7th March this year, did you meet Thomas Hamilton? - Now, if this is the meeting in Debenham's?

Yes? - I couldn't swear whether it was Thursday or Friday, but I did meet him.

So that is 7th or 8th March? - 7th or 8th March.

Where did you meet him? - In Debenham's, the Cook Department of Debenham's.

In Stirling? - Yes.

About what time? - I would have thought 20/25 past ll, or maybe -- I was with him for about l5 minutes I think, and I do know that I left him at 20 minutes to 12.

Is/

Is that a Department where you can buy kitchens? - Yes, there is kitchen.....

Or kitchen units, anyway, and fit them yourself? - No, no.

Just kitchen utensils? - I had been giving a cookery course at one of our local hotels, and I was interested in cooking -- so it was utensils.

Were you speaking to him? - Yes.

Initially what was the conversation about? - Well, I heard him say "Hello, John, how are you?" I turned round, and of course it was Tom Hamilton. It was his usual, wringing of the hands, and I asked him what he was doing and he said he was dealing in camera lenses and cameras.

Did he ask you what you were doing? - Yes.

And what did you say? - That I had retired.

Were you uncomfortable in his presence? - Yes.

Was that always the case anyway? - To a certain extent. He was okay in his Woodcraft shop, because it was a customer/client relationship (sic); but in Debenham's he had put on weight -- he looked different, and I felt uneasy while I was speaking to him.

When had you last seen him? - Five or six years ago I would have thought.

And this occasion on 7th or 8th March, was that the first time you had felt uneasy? - No, but I felt uneasier.

Right. Did he say anything about what he was doing in the shooting world? - Yes.

What did he tell you? - He mentioned Callander -- he mentioned the range there. He said that the Linofix -- the Linofix is a screen which stops spatter from bullets -- was badly damaged, and the/

the range was spattered. And he said "Much the same as you had at Police Headquarters" -- when our range had to be closed because there was excess lead and not enough ventilation in it.

Did you give him some advice about that problem? - I gave him advice about two or three things. The main thing I gave him advice about is I have tinnitus, a ringing in the left ear, and I told him to make sure he always had his ears covered, never to have a shot without -- for a while at the Police Range we were getting ammunition in that was pumping about a third of its content out on to the floor, so much so that when the cleaner was using the Hoover one day it blew up because it was full of gunpowder. I told him about that.

And that was the general nature of the conversation? - Yes.

Did he ask about instruction in shooting? - Yes.

What did he ask you? - He said "My conventional shooting is okay, but I am not very good at l0 yards", and he said "I could do with some instruction" -- inferring that I give him it.

What was your response to that? - I said that I had tinnitus and I seldom pulled the trigger of a gun, I certainly have stopped shooting game and I have become anti blood-sports.

Did you mention the problem with your ear? - Yes. I think he knew this before -- yes, I am sure he said "How did you get on with your ear?" I am sure he brought that up, although I couldn't say for certain.

And do you have some dispute ongoing over that? - Yes, I do.

So there is a claim involved? - Yes.

And did he know that? - Yes.

When that was discussed did his attitude seek to change? - It did. For the first time ever I heard him actually speak against the police. Until then as far as I was concerned he was very very/

very police-orientated.

And what did he say? - Regarding?

When he spoke against the police on this occasion? - Oh, yes, he said, you know, the authorities were against him, the parents of the children were against him, the police tried to get kids to say he had done things that he hadn't done -- he certainly was anti-police.

Did he then go on to specific incidents involving the police? - He did.

Which was the first one he mentioned? - Hungerford.

What did he say about Hungerford? - He said that as far as he was concerned that the police, when Michael Ryan started shooting in Hungerford -- that the police were scared to go in. And I said "Well, as far as I remember Michael Ryan was hidden and the police would have been going in as targets". And I finished up by saying one or two other things, but said -- I was disagreeing with him, I was getting a wee bit annoyed, and I said -- my actual words were -- "Anyhow, these nutters normally kill themselves anyway, they don't want to be wounded by police firearms officers".

And did you also say it was better if they did that anyway? - I did.

And did he talk about one local incident as well which actually wasn't a firearms incident? - It was a firearms incident.

Well, in the sense that there were ordinary police officers there? - Yes, but this particular one had happened in Cowie just outside Stirling, where a man phoned up one night and said there was an idiot running about with a shotgun. When the first policeman went out there he found out in actual fact this was the person who had phoned, and he had the back and front of the vehicle blasted by a shotgun.

Now/

4.10 p.m.

Now, you had a view about that incident, the Cowie incident? - Yes, he said that the police firearms team should have been out and taken care of it.

Did he then ask you a question about police firearm responses? - Yes.

What was the question? - I think the first one was "Are firearms kept at all police offices?" and I said "Well, there certainly wasn't while I was there. It was only places that were manned 24 hours a day". Did he ask you anything about the time that the police would take to respond to an armed incident? - Yes, he brought that out by saying "I think that there should be a permanent firearms response unit available, armed and in a car or in a van, that they can get to the scene, very, very quickly".

Can you say that again? You said.....?
- He said.

That the police should.....? - That they should have an armed response vehicle like other forces do -- obviously he had read quite a bit -- that other forces do so that they could get to a firearms incident quickly.

Did you get the impression he was looking for information? - No, not at that time.

CROSS-EXAMINED BY MR. GIBB: A matter I might raise with you in view of your lengthy experience in firearms is as you will appreciate the staff in Dunblane Primary School take a particular view about firearms? - Yes.

One matter I would like to ask you about is the possibility of a central armoury at perhaps Police Headquarters where all firearms would require to be kept. Have you any view on the practicability or otherwise of such a facility? - Is this for civilians?

Yes? - Absolutely impossible.

Impossible? Why is that? - For the number/

number of firearms that are held in Central Scotland it would need a huge team of men to look after it. With the few guns that we did have at the Central Scotland Police Sports Club, it was bad enough there and you are only talking about a few, but to keep weapons, that number, it would be thousands of weapons. Impossible in my opinion.

Adjourned until Monday, 3rd June, 1996 at 10 a.m.

.....

FOURTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

MONDAY, 3rd JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayer (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Glasgow, for the Scottish Police Federation.

I N D E X.

Page.

GORDON STUART CRAWFORD,
Examined by Mr. Bonomy..... 4
Cross-examined by Mr. Campbell..... 21
Cross-examined by Mr. Gibb..... 31
Cross-examined by Mr. Taylor..... 33
Re-examined by Mr. Bonomy..... 38

GEORGE FREDERICK SMITH,
Examined by Mr. Bonomy..... 41
Cross-examined by Mr. Campbell..... 46
Cross-examined by Mr. Gibb..... 48
Re-examined by Mr. Bonomy..... 49

RAYMOND REID,
Examined by Mr. Bonomy..... 49

WILLIAM PATRICK CAMPBELL,
Examined by Mr. Bonomy..... 53
Cross-examined by Mr. Campbell..... 58

GEOFFREY CLIVE WOOD,
Examined by Mr. Bonomy..... 59
Cross-examined by Mr. Campbell..... 69

NIGEL KENNETH BELL,
Examined by Mr. Bonomy..... 70
Cross-examined by Mr. Campbell..... 79

BRIAN DAVID FAIRGRIEVE,
Examined by Mr. Lake..... 80
Cross-examined by Mr. Campbell..... 99
Cross-examined by Mr. Gibb..... 104
Cross-examined by Mr. Taylor..... 105
Re-examined by Mr. Lake..... 107

ROBERT COMRIE HESLOP DEUCHARS,
Examined by Mr. Lake..... 107
Cross-examined by Mr. Campbell..... 123

SANDRA LESLIE FERNIE,
Examined by Mr. Lake..... 124

DAVID JOHN CHARLES SHELMERDINE,
Examined by Mr. Lake..... 128

.....

MONDAY, 3rd JUNE, 1996.

FOURTH DAY.

GORDON STUART CRAWFORD (36), Sworn:

EXAMINED BY MR. BONOMY: Are you an Engineer? - I am, yes.

Do you live in Falkirk? - Yes, I do.

I think you are the Secretary of The Stirling Rifle and Pistol Club? - That is correct.

How long have you been secretary? - Since 1990.

How long have you been a member of that club? - Since 1986.

Are you a member of any other pistol or rifle club? - Yes, I am.

Which ones? - It is the Forth Shooting Club.

Where is it based? - It is currently constructing an indoor range at Hopetoun.

How long have you been a member of that club? - Two years.

Do you hold any official position there? - No.

Are you the holder of a firearms certificate? - Yes.

From which police authority? - Central Scotland Police.

How long have you held a firearms certificate? - Since 1987.

Can you tell me what weapons you are authorised to hold under that certificate? - I currently have authority or am in possession of eight at the moment and have authority for another five, I think it is.

Eight? - Yes, eight at the moment.

You/

You hold weapons because of your position as secretary of that club? - I also have the club's certificate, yes; I have five on that certificate.

I am not so concerned about that; can I look at your own personal.....as a personal marksman how many weapons are you authorised to hold? - I think it is a total of 12; I don't have my certificate with me to refer to but I have eight in possession at the moment.

You could have 12? - Yes, I think it is 12.

What are they? - I have a .38 centre fire rifle, I have a .22 rifle, a 357 revolver, a .45 self loading pistol, a 22 self loading pistol, a 38 self loading pistol, a 38 self loading revolver, I have a 308 long range pistol which is a single shot pistol and a 12 gauge shotgun.

Are these all for different shooting disciplines? - That is correct.

So could it be said that any one of these is simply a spare for the ones you normally use in a particular discipline? - They could be regarded as a spare, yes; I only have one 22 target pistol at the moment so as far as the 22 UIT type of disciplines are concerned I don't actually have a spare.

LORD CULLEN: Could you bring the microphone closer to you, I am having difficulty hearing you.

EXAMINATION CONTINUED BY MR. BONOMY: You have a number of full bore handguns in the list that you gave us? - That is correct.

And there were a number of different calibres there? - Yes, that is correct.

Can you just tell me the calibres of full bore handguns you have? - I have a 38 calibre self loading pistol, a 38 calibre revolver.

Are these for two different disciplines or/

or for the same discipline? - The 38 revolver was purchased with a view to customising it into a competition pistol; it was bought secondhand with the intention to send it to a gunsmith to make into a proper competition target revolver.

Would this be used in the same type of competitions or different ones? - They could be used in the same type of competitions; once the revolver was customised with a proper target barrel, sight, etc., it could be used in a variety of police or service type pistol competitions; the self loading pistol can also be used in these competitions and also for competitions where it is only for self loading pistols.

So it has a wider use than the revolver? - No, the revolver has a wider use than the self loading pistol although the self loading pistol is my particular favourite.

Can we move on to your handguns? - I have a 357 revolver -- again it can be used for police pistol type discipline; I do keep that as a spare for that sort of competition; it is basically out of the box, it has no modifications done to it whatsoever so in some competitions you use it to fire a pistol which is completely standard.

Does that complete the list of full bore handguns? - No, I have also a .45 self loading pistol that I use for service pistol type disciplines.

Now, can you with any one of these carry out all the disciplines that you are interested in for handguns? - No, I can't.

For example, you have talked about police pistol and service pistol competitions; can you participate in all of these? - You can participate if you are prepared to be orientated; not all the procedures are entirely suitable, each has different characteristics; the police service is a self loading 38 calibre.

Can you use either one of each of the other three for the discipline you presently use that one for? - Yes, you can.

Do/

Do you compete outwith your own clubs? - I do.

Where, for example, do you compete? - I have been a regular contender at Bisley during the May Bank Holiday weekends since 1993.

Your firearms certificate will fully authorise you to hold ammunition? - That is correct.

How much? - My personal certificates entitle me to hold about 4000 rounds of mixed calibres.

That is for the various calibres you have? - Yes.

A total of about 4000? - Yes.

And that is for as many as 12 weapons altogether? - Yes.

Now, when you first applied to join The Stirling Rifle and Pistol Club in May, 1986 -- --? - That is correct.

Was the system you had to go through the same as is in force at present? - No, it is not, it is slightly different; then you had two sponsors for the club, two full members of the club.

To propose and second you? - Yes.

That is in 1986? - Yes.

What is the difference today? - The difference today is they have changed it back to that system where it is now only one full member is required under the Home Office guidance but the club still require two.

So the system is actually the same? - Essentially, yes.

Apart from having a proposer and seconder does a person that wishes to become a member need any other support or approval? - Prior to the 1st January the club's application form required every applicant to have a signatory who was someone/

someone who knew him personally outwith the club.

Were these eligible people who were under a restriction in some way? - We suggested that they actually have someone of a professional standing -- in other words, somebody who could at some point in the future be a counter signatory for a firearms certificate application form.

Is that still the case after the 1st January? - No, the criteria was relaxed by the Home Office on the 1st January.

What is the position now? - They suggest you don't need a counter signatory on the application form.

Do you not bother with any supporting referee now? - We actually find that most of our new members who come along to the club are by invitation only so they tend to know somebody in the club already.

The fact of the matter is if someone from outside wished to come along they would need the support of a referee? - That is correct.

Does the Stirling club have premises? - No, we don't.

Where is the shooting range? - We hire ranges which have a variety of certificates; for a competition of a military variety we would hire the Whitestone range in Dunblane and we are currently using the Inverclyde International Sports Centre at Largs.

Are these all ranges where you can use full bore weapons? - Yes, they are.

Are club members mainly interested in full bore or small bore shooting? - The majority of members are interested in full bore.

How many members does the club have? - Approximately 63 currently.

Did you know Thomas Hamilton? - Only in the context of shooting on the range, I didn't know him personally.

In/

In that context when did you first meet him? - When he probably joined the club during 1987.

Do you remember him joining in 1987? - No, I don't, I wasn't secretary then.

Well, what is your best recollection of when you first encountered him on the range? - Probably 1988 onwards, 1989, something like that.

Was he a regular visitor to the club meetings at the various ranges from 1988? - No, he wasn't; he was an irregular attender in the fact we would regard him as a fair weather shooter -- unless it was bright and sunny Tom wouldn't appear.

Can members of the Stirling club acquire ammunition through the club? - Yes, they can.

Do any of the members actually do that? - Yes, they do, in the context of full bore rifle ammunition.

And what about pistols? - We have only started re-stocking pistols since the end of last year.

Between 1988 and the end of 1995 did you stock ammunition for pistols? - I have only had the club certificate since 1995, I think it is, so prior to that it was a previous club armourer who has always certain stocks of 9 millimetre ammunition but it never moved.

Thomas Hamilton's firearms certificate indicates no purchases of ammunition between 1987 and 1995; now, that would apply only to commercially purchased ammunition? - That is correct.

Without ammunition you can't do any shooting; are you quite clear that he had attended the Stirling meetings between 1988 and 1995? - Yes, I have seen him, I would say I have seen him several times.

Over that period? - Over that period.

On/

On an annual basis can you give us a rough idea of how many times he attended your meetings? - Maybe three or four times -- as I said he wasn't a very regular attender.

Is there a book in which attendances at meetings is to be recorded? - We used to keep a loose leaf attendance sheet; as I said to the detective who came to the house I had only recently had a clean out and I have got rid of them all.

So there are no records of what he did? - Apart from the attendance book there is no record going back beyond January.

Is there anyone in particular he came to the club with? - He was always seen with Clive Wood.

Was Clive Wood a member? - Yes.

Was he a member before Thomas Hamilton? - I don't know.

Do you know if Thomas Hamilton may have had membership much earlier than 1987 which elapsed? - I don't know, I can't answer that.

Did you ever have a conversation with Hamilton? - Not in a social sense.

About shooting even? - Yes, I had various conversations with him on the range when he would appear, the last of which was on the 2nd March this year.

Generally speaking what were these conversations about? - It is hard to remember exactly; I would ask him about what he wanted to do, what he would be looking to do, the particular shooting discipline; like the police or service disciplines, Tom wasn't interested, he didn't appear to be competition orientated, he wanted to do other things, shooting at 10 metres which we are not interested in and we suggested to him that he follow along with everybody else in the club.

Did he? - To an extent; he wouldn't necessarily follow the course of fire, he didn't have a good understanding of

competition.

What/

What do you mean he didn't follow the course of fire? - It starts at 25 metres, it is classed as a repeat A target which is a caricature of a man's pose on a police training target; 25 metres, it is 12 rounds in two minutes and the command is six rounds down range and most of the members would follow that command but Thomas would blast off all 12 rounds and I had occasion to mention to him that the course of fire was strictly six rounds where he has to load six rounds, re-load another six rounds; it is not in the rules of competition and he continued with the full 12 rounds.

When did you first experience this behaviour that was not in keeping with the rules? - Prior to becoming secretary, as an ordinary member; on all occasions I had noticed Tom on the range he would tend to fire the full magazine rapidly, there was no deliberate practice on his point to improve the score or to improve his technique.

ls/

10.20 a.m.

Is that not something that should have caused concern to members of your club? - The criteria on the range is that safety is everything on the range, and there is a qualified range conductor, and obviously that is the sole criteria in management of the range, that everything is safe and is seen to be safe. If somebody fires off 12 rounds in 20 seconds, as long as these rounds are entering into the backstop, or the bullet catcher, that person is deemed to be safe.

Can it be said that what he was doing in these circumstances was genuinely target shooting?
- No.

Is that not in fact the only good reason a member of a rifle or pistol club has for getting a Firearms Certificate? - I would agree with that, yes.

BY LORD CULLEN: Just to be clear about this, was he in fact taking part in competitions against fellow members, or was he working on his own or what was he doing? - Tom never entered into competitions whatsoever.

Would you describe him, in the way in which he carried out the discipline, or rather failed to carry out the discipline as was intended
-- was he doing this solo, or was he doing it along with others? - There was others in the firing line. You would have five people in a row, and they would all have their own individual targets. When Tom blasted of in 20 seconds it was noticeable that other shooters in the line were disturbed by his rate of fire.

And was there a Range Officer giving a command as to when to fire? - I have given that command on occasion, and I have had to chastise him. I have said to him "That isn't in the spirit of the competition".

But he wasn't in fact competing? - That is correct.

He had a starting point given to him by the Range Officer, and of course the same would apply/

apply to any other shooters in the line? - Yes. If he wanted to shoot he had to start along with the rest of us, and do the discipline we were practising, otherwise he wouldn't be able to shoot. When we tried to give him advice he wasn't open to that advice.

EXAMINATION CONTINUED BY MR. BONOMY: And does it follow that the other persons who were shooting at the same time were actually shooting against each other so that their scores would be counted up? - That is correct.

You also mentioned his fondness for shooting at 10 metres? - Yes.

I take it to enable him to do that he would have to do the earlier routine of shooting at other distances first of all till he got to the 10 metre line? - That is correct.

Or is it yards or metres you work with? - Metres.

BY LORD CULLEN: I should have asked you another question. You said he was a fair weather attender. Does your club have any rule by which in order to retain membership somebody who is a member requires to attend for a minimum number of meetings a year, or something of that sort? - Not currently, although that has been debated. To date the problem Stirling faces is that by hiring an MOD range, as we do, the MOD have cancelled events at short notice. So if we were to impose on somebody "You must come four times a year", we have had a whole year cancelled from under our feet at one point -- almost a whole year. They can cancel a booking within seven days and say "You can't use the range, the range has been closed for maintenance work".

I can understand that, but that isn't likely to result in one year's meetings being cancelled? - It has happened in the past.

For a year? - Yes, they have closed it because of problems with the bullet catcher at the back, what we call the backstop.

But in practice when that has happened have/

have you been able to reinstate at least a reasonable number of meetings in the year? - Yes, we have used other ranges.

So at no stage has your club had a rule of the sort that I have envisaged? - That is correct.

EXAMINATION CONTINUED BY MR. BONOMY: Have you yourself since you joined the club regularly attended meetings? - Yes, I have.

What sort of percentage attendance have you had over that period? - I would say 90 per cent.

So far as Hamilton is concerned what did you observe about the pattern of his attendance? - Very haphazard. There was a period where we hadn't seen him for I would say nine months.

And then what would happen? - He would suddenly appear back again.

How often? - It happened at the beginning of this year where we hadn't seen him since probably last May, something like that, and he started appearing on January, and he was walking into the range, which was unusual.

You mean walking from his home? - Well, he had either got public transport somewhere -- because the range -- it is a Sunday booking that we have, to which he appeared to walk out just after lunch time.

Prior to that how did he travel? - He travelled by vehicle.

By car? - By car.

On the subject of membership, just to complete that -- which we touched on earlier -- is there a fee to be a member of your club? - Yes.

What is the fee? - It is currently £55.

And is there any form of membership card or identification issued to members? - I have attempted to issue membership cards to all members, not long after I became Secretary. They had to produce/

produce photographs. Not all members complied with that, but the majority of members who turn up have membership cards.

So this is the ones who have produced photographs who have membership cards? - Yes.

Some haven't done that? - Some haven't done that.

So far as recent attendances are concerned by Hamilton, can you tell me when you first saw him in 1996? - It would be the first booking at Whitestone, I believe.

Would that be 4th February? - It rings a bell, yes.

We are talking about late January or early February, are we? - Yes.

Was he with anyone on that occasion? - No, he wasn't. He came himself.

Did you see him shooting? - Yes I did.

What was he shooting with? - He had three pistols, two 9 mm Brownings and one revolver. At the time I said to the detective at the time that I though it was a Luger revolver. I later corrected that. It was probably a Smith and Wesson.

Now, is it common for someone to turn up at one of these meetings with three guns? - Yes, it is not unusual.

Do you know whether he used them all? - No, I don't.

Would the next meeting be a fortnight later? - Yes, it would.

Did he come again? - Yes.

Do you remember what weapons he had on that occasion? - Again as far as I remember he had two 9 mm Brownings with him. I can't recall if he had the revolver.

On any of these occasions did you make arrangements/

arrangements for him to get a lift home? - Yes, I did.

Who was that with? - I think in the first instance it was with the club President, George Smith. I gave him a lift home on one occasion as well.

So on one of these two occasions you actually ran him? - Yes.

Now, when was the last time you saw Hamilton? - March the 2nd this year.

And where was that? - That was at the Scottish National Sports Centre at Inverclyde, at Largs.

So you had booked the range there for the day? - That is correct.

And did you meet him there? - Yes. He was brought there by Alex Wood, and he was a passenger in the car with two other members.

Did you have any discussions with Hamilton that day? - Yes, I did.

What was that about? - It was the start of the competition season, so members had expressed an interest to do some practice prior to competition starting. So they wanted to do a police pistol course of fire and a service pistol course of fire. So we put the targets up, and Tom came along and stuck on the self-adhesive orange fluorescent patches, two of them. And I said to him "That is not what we are here for", and took them off the target.

Had he done that before? - He would do that at Whitestone, yes. He used to put little fluorescent patches on.

And did you allow him to do that at Whitestone? - Some people put little white marks on as an aiming mark. It appeared that is all he was doing.

Presumably you put that in the middle of the bullseye? - Well, in the competitions you don't/

don't have an aiming mark like that. You have to stay with the existing target. You can't put your own aiming mark.

But where did he put these aiming marks? - He put one in the centre of the target and one at the top of the target.

And why would he put one at the top of the target? - I am not sure.

And he was allowed to do this at Whitestone when there was no formal competition going? - That is correct.

Where did he put them on the target at Largs? - In Largs on the PPI target -- the target takes the form of the caricature of a man. He had one fluorescent marker on the centre and one round about the chin area which would be in the position of the '7' ring of the target.

Now, in the past you saw him do that and he was allowed to shoot. Did he shoot in the direction of these markers? - Yes, he did.

So there would be two points on the humanoid target that he was shooting at at Whitestone, for example? - Yes. At Largs I had taken those markers off.

Did you have to give him any other individual instruction at Largs? - I tried to give him some instruction as to the course of fire at the start, knowing in the past he had shot off 12 rounds in 20 odd seconds. However, that was to no avail, because he basically did the same as he did before, and I had to say to him then that it wasn't in the spirit of the competition.

Which guns did he have with him? - At Largs I believe he had the three guns with him, two 9 mm Brownings and a .375 revolver.

Was he using any one in particular? - I believe he was using the Browning more than anything else.

Well, that would be one of the Brownings? - That was one of the Brownings, yes.

Can/

Can you tell us any distinguishing feature about that which would enable us to tell which of the two Brownings it was? - The Browning he was using was -- they call it a competition model. It has a longer barrel and a barrel weight.

Later on in the day did you speak to him at all, or was that the last you spoke to him? - No. We started to do service pistol targets, and that entails a competitor has two targets in front of him, a left and a right, and you eventually end up at 10 metres. Now, the course of fire is six rounds, only it is three on each target at 10 metres in six seconds. Tom expended 12 rounds on the one target, with one pistol, and I said to him "That is out of order".

But so far as you were concerned there was nothing unsafe about it, I take it? - No, there was nothing unsafe. His handling of the firearm was safe.

And as long as there was nothing unsafe the club wouldn't do anything about his membership? - That is correct.

BY LORD CULLEN: Let us ask you: supposing he persisted in such behaviour, despite what you said to him? - Yes.

Would any club official take any further action? - Yes. It would get to a point whereby the rest of the members would get fed up having to correct him. We would say to him "Either you follow the course of fire that we are giving you or you don't take part at all. It gets to a point whereby if you are constantly watching this person, then safety could be compromised by an individual like that, because you are constantly aware that he is doing something different from everybody else, and you would tend to focus on that individual.

And not taking part at all would mean effectively not being able to use his gun in any range where your club was operating? - We would quite specifically say to him "Look, if you are going to carry on this behaviour then we don't want you to take part". We would do competition targets. There would then be a period of time when the targets which are turning targets would be static/

static and we would say to people "Look, if you want to have a small bit of practice to yourself you can go in at that point in time". So Tom would slot in then, but as far as the theme of the day was concerned, it was going to be competition practice.

EXAMINATION CONTINUED BY MR. BONOMY: So in other words, you were really concerned at allowing him to take part in your competitions, but his membership would still be secure? - Yes, it would.

Even in spite of repeated breaches of the instructions that a Range Officer was giving him? - He had been given instructions on the course of fire. If the person chooses on the course of fire to fire off in 20 seconds, if he does it in two six-round spurts, that is up to him. He has two minutes in which to fire, within a particular stage. If he chose to fire in 20 seconds, then all that would be reflected in is a poor score.

Yes, but he was doing something you thought wasn't in the spirit of the competition? - Yes. These were the rules I was operating to, and these are issued by the National Pistol Shooting Association, Shooting Rules and Regulations. So running competitions within this context, I had to point out to him that it wasn't in the spirit of the competition.

Now, we have heard some evidence about the Browning you have mentioned being modified in a way which meant that when you removed the magazine the gun wasn't safe -- whereas with most guns when you remove the magazine it can't fire, there is a mechanism that it can't fire; is that right? - Not all guns are manufactured the same.

Is it not unusual to have one in respect of which the removal of the magazine doesn't make it safe? - It is not unusual. I have a pistol which is like that.

Can I ask you just a little bit about ammunition. Mr. Hamilton used ammunition which he bought commercially? - That is correct.

As far as you could tell; is that right? - That is all I ever saw him use, was commercial ammunition./

ammunition.

So can I take it he never bought any at your club? - No, he never bought any of our ammunition.

At the Largs meeting -- sorry, if I can go back to that question: is it unusual for someone just to use commercially manufactured ammunition? - Yes, it is.

Is it exceptional? - It is exceptional, because commercial ammunition is expensive and it doesn't necessarily give you the best target performance from the pistol.

But do you have other members who use only commercially manufactured ammunition? - I can't think of any at this time.

So far as the Largs meeting is concerned, did he actually score in the competition? - Yes, I scored his target for him.

And how well did he score? - He was 220 out of 300.

And how does that shape up? - Well, as an example, I have got a score sheet from Pistol '94 at Bisley, and there was 561 competitors in 1994, and 220 would have put him at 533 out of 561. Mine was, on this one, at No. 35.

On/

10.40 a.m.

On the day at Largs where did it put him? - At the bottom out of the l4 that were there.

Just look at one document for me please. It is ME65. In the volume it is D55L. Is that Mr. Hamilton's application for membership of the Stirling Rifle and Pistol Club? - It is.

Dated l8th February l986? - That is correct.

And he was proposed by a gentleman called Cole and seconded by a gentleman called Perry? - That is William Cole and William Perry.

Were they both members at that time? - They were, yes.

His occupation was given by Mr. Hamilton himself as a kitchen fitter? - That is correct.

And he gave a firearms certificate number; is that right? Down at the bottom. FAC, does that relate to a firearms certificate? - I'm not sure. I didn't write that.

CROSS-EXAMINED BY MR. CAMPBELL: Am I correct in understanding that if I wanted to join the Stirling Club I would not require to have in my possession a firearms certificate? - That is correct.

What I would require according to your rules would be the support of two members? - That's correct, yes.

But in terms of Home Office recent changes in fact only one would be required at least for some of the club? - Yes, that is correct.

So if I wanted to learn how to use firearms without going through the procedure of obtaining a firearms certificate from the police, a club such as yours would be the means of doing it? - That is correct. We have no means of checking your background. So in essence you can come along and sign the attendance sheet which has been created since/

since January where under Section 21 of the Act you have to declare you are not a prohibited person. So you can come along and engage in target shooting with us. You can use the club guns and as far as we are concerned we don't actually know whether you are a prohibited person or not. You have made a statement you are not but you can continue using the club guns but you would not be able to take them away with you. You would only be able to use them on the range.

And if in fact I possessed firearms unlawfully at home, let's say, then again my membership of a club, a gun club, would afford me the opportunity of learning how to use such weapons? - Not with illegal guns.

Agreed, but with similar weapons? - You could certainly learn the skills, yes.

So far as Thomas Hamilton is concerned, if, and I appreciate it is only an if, if by March of this year he had formed some murderous intention then the shoot on the 2nd March l996 would have given him an opportunity of practising his skills such as they were? - He has practised those skills since l977 I believe, far less the 2nd March.

I wonder if I could just ask you a few general questions. Is the Stirling Pistol and Rifle Club subject to..... I'm not singling your club out here. Let me make that plain. I'm just using you as an example. Is your club subject to any system of police or any other authority's registration or approval? - The club has Home Office approval currently. We required in l992 to re-submit for approval and that was done under..... I forget the number. The Home Office approval reference number is DDG/5/5/C3. That was confirmed by the Secretary of State for Scotland on the 27th May l992. Information regarding the club, the club has a safety and training document which you are more than welcome to have a look at and that is all contained in there for the club.

Is a club such as yours required to seek and obtain such Home Office approval? - I believe we are, yes. I believe some other clubs, if they are a private club, I think that is the term, they don't actually need approval but we need approval in order/

order for members to have club guns and to use club guns.

So the approval or the need for approval is triggered by the existence and use of club guns? - That is correct.

And just in the briefest terms if you would, what do you require to do or submit or undergo in order to obtain this approval? - You have to have a proper constitution which I have a copy of.

I don't think we need to go into the details of the constitution? - Right. A proper constitution. That constitution was sent to the Scottish Home and Health Department for approval along with the club's application form for approval.

Anything else? - We also supplied, and I don't know if this applies to other clubs, a safety and training document which we had compiled over a number of years.

Does anybody come to speak to you or to inspect you or to ask questions or anything like that? - I don't recall that that happened, no.

Apart from this l992 approval procedures which you have just mentioned, was the club subject to any form of licensing or registration or police approval? - We currently have to have what are called range conducting officers who are qualified as such via the Ministry of Defence through the auspices of the National Rifle Association. In the past that was done by recommendation from the club chairman. In other words, if I thought that that particular person was of suitable character he would be recommended to be a range conducting officer. His name would go to the National Rifle Association and we would end up with a range conducting officer certificate. Come January of next year the Military have said, and the NRA have agreed, that qualification by recommendation should cease and from that point you have to be course qualified. Last year Stirling took the decision that we would be course qualified early so 12 of our members have been through a recognised ranging conducting officer's course for both rifle and pistol for the use of military ranges.

And/

And this course would equip you to carry out the duties of such an officer I take it? - Yes, it does. Again, I have copies of the course notes that were supplied as part of the training package.

But am I to understand from this that for example you would not require any approval or registration or licence from Central Scotland Police for example? - Effectively the police would be taking it that you were Home Office approved.

Can I take it therefore and please correct me if I am wrong, that there was no system whereby anyone from the Home Office or from Central Scotland Police would monitor or supervise the activities of the club? - That is correct.

And so far as the conduct of the club is concerned, and please don't misunderstand me, I am not making any personal criticism but just in general terms, so far as the rules and conduct of the club are concerned, that would be a matter for the club itself to determine? - That is correct.

You explained in answer to a question from my learned friend Mr. Bonomy what you would do in certain situations where for example a member does not obey orders. Am I correct in understanding that there are no universal standards laid down which clubs such as yourself must follow? - To some extent that is correct. There is no standard training package that clubs should actually follow and that is why we attempted to create our own. Competition rules however are the most comprehensive set of rules that we currently have. Both with the UIT discipline and for the certificate discipline.

And the reason for that presumably is competition by its nature would require to have rules and regulations which every body abides by? - That is correct.

Is there any local hierarchy of gun clubs and associations? - Not as far as I am aware.

Is there any national hierarchy? A Scottish Rifle Association? - Yes, there are Scottish/

Scottish Associations. There is the Scottish Rifle Association. There is the Scottish Pistol Association. There is the Scottish Target Shooting Federation which is an amalgam of all bodies.

What is the role and function of such national organisations? - In the case of these organisations, they would organise competitions outwith other clubs and they organise competitions which are open. So in the case of the Scottish Pistol Association, they regularly run competitions through the season at a variety of ranges throughout Scotland.

So do I correctly understand from that answer that their principal function is in terms of the organisation and regulation of competition? - Yes.

How many female members does the club have? - Five.

Out of how many? - Out of about 63.

Are these five full members, the ladies? - No, they are not. Only two are full members. The other three are probationers at the present time.

How many members roughly are members of the Police Force? - I have one member who is a member of the Police Force.

You mentioned I think at the beginning of this year the Home Office suggested that the need for a counter-signatory on any application to join your club could be done away with in general terms. Was any reason given for that change in the procedure? - I think it may well have come from the Firearms Consultative Committee.

Were you aware or were you informed of any reason for this relaxation? - No, it just came through in the form of a notice from the National Pistol Association and it was reported and given to us in the Firearms Section in the form of a leaflet.

Again, forgive me if this is familiar to yourself but am I correct in understanding that Hamilton was somewhat perhaps unusual in only using commercial/

commercial ammunition? - Yes, he was.

The normal practice or the common practice would be what? - The normal practice for the members of Stirling is to reload their own. This affords them the ability to match the ammunition to the particular firearm they are using. Not all firearms are the same. They have different twists in the rifle or the barrel. One may be faster or slower than the other and for that reason you wish to make ammunition which will best utilise the ballistic performance.

Forgive me because I really know very little about this but am I to understand from.....? - It is like a car. It is a tuning process. You may find that some ammunition might fire okay through a Smith and Wesson and if you use the same ammunition in a Colt it does not group so well so you end up losing a point so the benefit of reloading is that you can then tune the ammunition by changing the amount of powder you put in it or changing the weight of the bullet or the style of the bullet that you use to obtain the best performance.

So you effectively manufacture your own ammunition? - That's correct, yes.

Were you aware of any reason why Thomas Hamilton differed in this respect? - I don't think he was interested in the aspects of the reloading side of things. He merely just wanted to go up and shoot. That was it.

He wasn't interesting in the reloading aspects and he didn't appear to be interested in competition? - That is correct.

What was he interested in? - He appeared to be just interested in coming along and having a casual shoot on those occasions that he appeared at the range.

Reverting again if I may, and forgive me for using you as an example here but I am sure you will understand why I am asking you these questions? - Yes.

If a member simply stopped coming to the club/

club, what if anything would you do? - If a member stopped coming to the club, currently there is not much we can do under the constitution unless he fails to pay his subscriptions. I have had occasion recently to inform Strathclyde Police of such an incident. I have a Fax which was dated the 25th March l996 about a member who has failed to pay his subscription and I have told them that he is no longer a member of Stirling Rifle and Pistol Club.

Are you envisaging the introduction of any system whereby for example if somebody simply stops going to the club you inform the police authority? - Yes. I think we should. I think it is a responsible thing to do.

When you say Yes, you think you should, is this something you are envisaging for the future? - It has been discussed in the past, about absentee members if you can call it that or people who appear to go from one firearms certificate renewal to the next and we never see them. Once they have a membership of a club, under our constitution it is difficult to remove them for that reason and it has been discussed numerous times in Committee how we actually go about enforcing it without putting the club in danger of litigation for a variety of reasons, as has happened before elsewhere.

Sorry, forgive me. I am not really quite with you. What is the relevance of litigation? - Well, one club down South I believe tried to get rid of a member and they found themselves in Court. So our club is fairly small. We don't have large resources to counter the grievances of a member if he feels he has been hard done by. So yes, we would seek that members who don't do regular attendance, we have to deal with that and say to them "If you don't attend then you can no longer be a member". It is something we have to look at in the future, yes.

Since you have been a member of the club are you aware of any member being expelled? - Yes, I am.

And what, if any, action was taken in relation to that person so far as informing other parties was concerned? - I know of two individuals. One was not long after I joined the club/

club. The club used to use what they call a barrack range on the Forthside TA Centre and adjacent to that barrack range is a small room which members use to wait there to go to the range itself. I was not a firearms certificate holder at that time. My friend was the full member. Somebody was showing someone a pistol and used a blank. He was trying to demonstrate how the firearm functioned by putting a blank in the magazine. He then put that magazine into the pistol and let the slide go forward. As a consequence of that his finger was on the trigger and the gun went off. That person was immediately ejected from that club and I believe the then Secretary informed the local police and there was no question, you know, of that absolutely stupid act.

11.00

The second person was.....he had been introduced to the club by a person who is no longer a member; he appeared to be okay, he did everything he was told and he had applied for a firearm certificate which was granted; he then got a rifle and he brought that rifle up to its first outing. His friend had manufactured some home made ammunition for him but that ammunition was made using a case which had been fire in another rifle, the consequence of that was the head space or basically the case didn't properly fit the chamber, although it was the same calibre the case didn't quite fit properly the chamber of the rifle so when you fired the rifle the bolt and the whole action of the rifle jammed, it couldn't open, it seized solid; this individual took umbrage at this saying the person had destroyed his rifle and he walked off the firing point; he had left the rifle in its position because it hadn't been cleared, the bolt action was open so it was left on the firing point, pointing in the same direction, towards the target; at the end of the day when we were packing up we realised this person, instead of walking off the firing point, had walked off the range and left the rifle; the then secretary of the club also had a dealer sticker and he took charge of that rifle and entered it on to his register; he contacted the person concerned and that person gave him cause for concern that that person was of unsound mind and the secretary phoned the police and the man's certificate was removed.

So I am led to understand from that that there is a rule in the club if anybody is expelled the police are informed? - That is correct.

If, and in so far as somebody has a firearm's certificate when they join the club, are they required to exhibit it? - Yes, they are.

Is there any regular review of that certificate by the club? - No.

The last matter I want to ask you about is this -- do I understand correctly that on the last shoot that Hamilton was at on the 2nd March he was firing at targets which took the form of the outline of a human figure? - That is correct, yes./

yes.

Is that a common practice? - It is a common practice that is currently used -- what they call police pistol discipline; it is based on a police training target which has on it scoring rings going from 10 out to 5, I think it is, if I remember rightly.

As someone not involved in this type of activity the question arises as to why a humanoid form of target is used rather than any other form of target? - My own opinion is there is no reason for a humanoid target to be there; you can remove the form by changing the pattern -- it is black and white, it is a repetitive target; if you change some of the patterns then the humanoid figure would disappear and a competitive shooter wouldn't notice any difference whether it is a humanoid target or not; in fact, such targets are produced for Germany where the same competition is shot in Germany, the Germans don't allow humanoid targets.

And these targets are turning? - Yes, what you have is you go through a course of fire; at 25 metres you have 12 rounds in two minutes to include a re-load so in the case of a revolver or self loaders it is six rounds and six rounds so you must be able to re-load in that time; going forwards to 15 metres it is two 6 round targets and then it is one shot per two seconds exposure to the target, the target will turn away for five seconds, re-appear for two seconds and in that two seconds you fire one shot. After you have completed that you go forward to 10 metres; there is two shots in two seconds so again the target turns away for five seconds and re-appears for two and you fire two shots so it is a total of 30 shots; the possible score is 300 and a good club shooter should make 285 to 290.

And Hamilton? - 220.

And this is a police pistol discipline you are describing? - Yes, that is correct; I may add, he wasn't interested in any of the UIT disciplines at all.

That is a form of shooting which, if I am understanding it correctly, has been developed for/

for the purpose of police training, presumably improving their skills? - No, it was developed from police training, it is not used as police training, the police training is slightly different.

Whatever the reason for the form of competition, the result of it would be to improve his skills in this time firing at a humanoid target? - A humanoid target is not necessarily required for competition, as I said earlier.

You have told us about Hamilton's behaviour in the club over the years, somewhat solitary and non-competitive? - That is correct.

Was he alone in that form of behaviour or were there others in the club that exhibited similar characteristics? - There are other members who are non-competitive, yes; I wouldn't say they are the same as Hamilton though.

In what way was Hamilton different? - Hamilton was a loner, he wouldn't engage in social conversation with anybody; it is known also that women members didn't particularly like being around him, he was a bit of a creep in their eyes.

A bit of a what? - A creep.

He was obviously a very different character from others in the club? - Yes, he had a distinct effeminate voice; I didn't speak with him as much as.....there was other members of the club who had tried to a greater extent to get into some conversation with him but to no avail.

Did you ever consider doing anything about Hamilton and his behaviour? - To some extent he was such an infrequent visitor; you would say "The next time that guy comes up I will have to have a word with him" but he wouldn't appear and so by the time he came up you had actually forgotten what had happened previously; that is to some extent the way that Hamilton came to the club, it was haphazard, and up until the turn of the year he has had as much attendances in the first three months of this year that he has had in the previous year.

CROSS-EXAMINED/

CROSS-EXAMINED BY MR. GIBB: I just wondered, when it comes to renewal of firearm certificates whether there is any liaison between the police and the clubs as to an individual's continuing suitability? - In some respects it is haphazard; I have sometimes got a phone call asking "Is this person a member of your club?" and on some occasion I am asked to write a letter to confirm whether this person is a member of our club.

Is that just basically to find out whether they are a member? - Yes, sometimes we get a phone call.

I presume there is no requirement for applying that renewal of certificates to state what gun clubs you are a member of? - The application form doesn't allow for that, no.

If it were to allow for that and allow the police to investigate the conduct of any such members then that might have had a bearing here -- I just say might? - It might have had a bearing, yes.

Because clearly Hamilton's behaviour at the club was not conventional? - Yes, but we have also heard that his behaviour outside the club was not conventional.

I am trying to find out if there could be any tie up between the renewal of a certificate and any investigation of membership of a club before the renewal takes place? - Yes.

It also seems strange to me that in any commercial purchase, as long as any holder of a certificates goes and purchases commercially, they don't need to show that they have used up their existing supply of ammunition; say, for instance, they have permission to hold 1500 rounds you can go and buy 1000 rounds a day? - Yes, that is correct.

So far as home made ammunition is concerned presumably you need a cartridge each time you renew a bullet, do you? - Yes, you keep the cartridge case and you would purchase a primer, powder and the bullet, the major component of that being the primer; without the primer nothing works./

works.

Can you purchase cartridge cases without anything in them? - Yes, you can.

Would you need to exhibit your firearm certificate to do that? - No, you wouldn't.

So that a way round the difficulty for the restriction for holding ammunition is to purchase empty cartridge cases, any number? - Currently you, as a private citizen, can purchase all the components needed to make a round of ammunition; as soon as you make the round of ammunition you are breaking the law.

Presumably you can purchase any number of cartridges and primers by mail order and there would be no check up? - Unless you know what you are doing you are endangering yourself to some serious injury.

Certainly Hamilton at the time of his death or just prior to his death had a significant number of rounds of ammunition that he was permitted to have? - I am not aware of that.

Did the local police visit your club at all from time to time? - No, they don't.

As a matter of routine? - No, they don't although the door is always open.

Did it occur to you to report your concerns about Hamilton's behaviour to the police? -No, because I said earlier he did everything that was safe on the range, his firearm was pointing towards the target, towards the bullet catcher, he didn't swing it round to point it at other people so in that context he was safe.

But he wasn't there in the spirit for which the club was founded? - That is correct.

CROSS-EXAMINED BY MR. TAYLOR: You told us that the club buys in stocks of ammunition, is that correct? - That is correct.

Did you keep any records of all the stocks which you maintain? - Yes, I keep a ledger./

ledger.

Can you just talk us through what would happen if a club member was to purchase ammunition from that stock? - If on a range day he was to purchase 100 rounds of 38 special ammunition, provided he fires it off on the range on the day there would be no entry on the certificate; however, if he was to take some away with him then the remaining rounds would be entered on his certificate.

In so far as individual own records are concerned what would be disclosed in that record for sale? - It would be recorded as being sold to an individual, X number of rounds.

Is the name of the individual recorded in the club record? - Yes, I do.

You said specifically there that you did; is that a practice which was common before you took over your responsibility? - I can't answer for that, no, I don't know.

When was it you started having responsibility for ammunition? - I think it was 1994 when the existing or the previous armourer resigned his position.

Is it possible for a member of the club to purchase ammunition from club stocks and his shooting colleague to use it? - Could you repeat that question?

If I was a member of the club would it be in order for me to purchase ammunition from club stocks and for the person with whom I was shooting to use that ammunition? - In the confines of the range, yes but if it came to taking it off, if you had any left it would have to be entered on one or other person's certificates.

You indicated that between the years 1988 and 1995 Hamilton attended three or four times but I was wondering whether that was three or four times per annum? - Yes, three or four times per annum, usually during the summer.

BY LORD CULLEN: Is your club affiliated/

affiliated to any organisation? - Yes, we are affiliated to the National Pistol Association, the National Rifle Association and the Scottish Pistol Association.

Does your club, by reason of that affiliation, apply any standards which any of these organisations laid down? - It is mainly concerned with the conduct of competitions.

What about safety? - The safety one is the National Rifle Association for the.....they run courses for training for officers which are approved by competent military authorities.

That is training for officers? - Yes, training for officers.

When it comes to somebody who wants to become a member presumably he has to be a probationary member for a certain period? - That is correct.

Is that invariably the course for any person that comes in? - The criteria allows for the club to waive the probationary period for members of the Armed Forces, the police, etc. which we never have.

What is the probationary period which your club applies? - Currently the Home Office reduced it down to three months; in our constitution it is between three and six months and at the discretion of the Committee we can extend that probationary period if we feel it necessary.

It is three months unless extended? - It can be between three and six, yes -- three months.

Is there some form of check that is carried out on a probationary member to see whether he is, in view of the Committee of the club, fit for full membership? - In the past couple of years we only have about, I think it is, five or six probationary members at the moment; I have been doing training with them on a one to one basis or as a group; it doesn't necessarily involve the use of firearms, it can be simple discussion as to what they need to do in order to hone

certain skills; you don't necessarily need a firearm to complete the training; when you come on to the range you are trying to enforce what you have told them.

Well,/

11.20 a.m.

Well, that is skill, but what about for example safety, whether a person is competent in handling a firearm with safety? Is there some check on that? - That check is done during the probationary period. They have a one-to-one supervision during that period.

That is in the club rules; is that right? - That is in the club rules, yes.

And is that in any way connected with some form of national standard, or is that simply what the club itself devises? - It is what the club itself devises. We recognised some time ago -- it came out probably in 1988 or 1990 that the standard of shooting was going down and the supervision of probationary members wasn't all it could be, so we devised a safety brief that I give to everybody that comes on to the range as a new member, whether they have a Firearms Certificate or not -- they all get the same brief, and they get a hand-out to take away with them.

But once they have gone away with that hand-out is there some check before they become a full member that they are really competent in a safety sense? - That check would be by other members of the Committee, if there is any other members of the Committee on the range at the time, they would check as to the suitability of that person -- has he done anything that would disturb anybody with regard to range safety?

You have told us that now you have what you call an attendance book? - That is correct.

Since January of this year. What categories of information go into the attendance book? - The attendance book has -- I don't actually have it, the police now have it.

I think it is sufficient if you simply describe the categories of information that go into the book? - The information is they are asked for a declaration which says "I am not a probibited

person under Section 21 of the Firearms Act". So that declaration is at the top of the page and then they sign their name below that, all members sign their/

their name below that.

Do you mean each time they attend? - Yes.

And presumably there will be a date to indicate what the relevant date is? - At the top of the page, the range they are on, whether it is Whitestone, Inverclyde or Blair Atholl.

So at the top of the book you can find which members have attended which meetings on which days? - That is correct.

As well, of course, the declaration which you have indicated to me? - Yes.

Is there any record kept of what particular firearms or calibres of firearms are used on these occasions? - No, there isn't.

Is that something which would be practicable? - I don't see why not.

You said -- you were asked some questions about telling the police if somebody had simply ceased coming. I think you indicated a point might come where you might tell the police? - Yes.

As far as you are concerned what kind of gap would be sufficient for you to take that course of action? - Well, currently under the Constitution, it is only when they fail to pay their subscription.

I know, but we are talking here not about failure to pay, but failure to attend? I would say two years would be a reasonable time.

And you would report it to the police. What action would you anticipate the police might take if they got that information -- what are you looking to the police to do? - Basically enquire if the person is still around and still has a Firearms

Certificate -- the person in that two years may have turned his Firearms Certificate in.

Is this information to help you to run the club, or is it to provide information to the police for the police to use? I just want to be clear what you have in mind? - I think it would be information/

information for the police to use.

And what kind of use do you think they might make of this information under the system as it presently is? - I would hope they would go along and see the individual concerned and ask him "We understand you have not appeared at a range. Can you confirm where you are shooting with your firearm?".

And if he said "I am not shooting anywhere, I have lost interest in the whole subject", then -- I mean I appreciate you are not a police officer, but what do you envisage might happen? - Therefore, under the Act, he doesn't have good reason.

And what might follow from that? - He would have to surrender his Certificate, probably.

Pardon? - He would probably have to surrender his Certificate and put his firearms into storage or sale.

So you assume there is a power on the police to demand surrender of a Firearms Certificate if he has ceased to use his firearms? - If he has ceased to have good reason to have them, yes.

If he has ceased to have good reason to have them. I see. One other question -- you were asked about the extent to which there was any need to record the sale of ammunition by a club, and of course you have pointed out that would be if any ammunition was not used on that occasion but was taken away? - That is correct.

Presumably there is some procedure for this, is that right, in your club? - For recording the ammunition?

Who would be responsible for seeing that a record

was made of any ammunition that was bought on the range and actually carried away unused? - That is my responsibility as the Firearms Certificate holder for the club.

RE-EXAMINED BY MR. BONOMY: On the point Lord Cullen was asking you questions on relating to reporting members who have shown little or no interest/

interest in club activity, is the factual position that you do report to the police if there is a failure to pay a subscription and the person thus loses his membership? - Yes, there is. There was one occasion recently on the 25th of March.

But if a person simply fails to attend for a couple of years you do not at present report that to the police? - That is correct.

And that is something you thought might be a good idea, to report to the police? - I think if you are into sporting shooting competition, etc., regular attendance is a must.

Now, you have referred on one or two occasions to the expression "prohibited person", and you now have it at the top of your attendance book of the people attending on any particular day? - Yes.

What is a prohibited person under Section 21 of the Firearms Act? - A prohibited person is someone who has served a prison sentence which is between three months and three years -- he is prohibited for I think it is five years. Anybody who has served a prison sentence in excess of three years is prohibited for life to be anywhere near a firearm or ammunition.

So we are talking about people with criminal records which prevent them holding Firearms Certificates? - That is correct.

You mentioned that in two contexts. One was in the application form to join the club; is that right? - Yes, that is correct.

They have to declare they are not prohibited persons?

- Yes.

And similarly on the attendance book? - That is correct.

And is that essentially the only declaration that a person is giving you in respect of his fitness to be a member of the club? - That is correct.

And so far as Hamilton is concerned, of course,/

course, he had a Firearms Certificate? - That is correct.

And therefore he would need to make no declaration when applying for membership about not being a prohibited person, you would assume that from the fact he had a Firearms Certificate? - He applied to the club in 1987 when those rules didn't exist.

Does your Home Office approval as a club have anything to do with the fact that you don't have your own premises, or is that immaterial? - Immaterial.

And can I take it there is absolutely no system that you are aware of for the police to vet applicants for membership to the club who do not hold, and who have not applied for, a Firearms Certificate? - That is correct.

This is just to be absolutely clear about the position so far as Hamilton's performance in the club is concerned: did he at any stage in shooting the way you have described break any of the competition rules? - He did on two occasions on the Police Pistol course of fire that I conducted, where he had loaded up what in my opinion -- the rules dictate you have to do six rounds on two separate occasions -- sorry, I'll start again. At two minutes the command is "Six rounds load and be ready". In Hamilton's case his magazine had 12 rounds in it. Part of the practice is you have to do a mandatory reload of the revolver or pistol, and he failed to do that.

So he was actually breaking the rules when he did that as far as you are concerned? - Yes.

Turning to these targets which are in human form, and looking at full bore shooting practice or competition carried out or conducted by your members: are the targets they shoot at in the main of the human shape, or are more of the competitions and practices they do related to targets which are not in that shape? - They are more in the human shape.

What are what you described as "UIT disciplines" -- please just give me that in general terms,/

terms, because I appreciate this is a very detailed subject? - UIT disciplines are covered by the Union Internationale De Terre, which is the governing body of that particular sport. It covers firearms of calibres between .22 and .38 calibre. It is generally shot single-handed at bullseye- style targets.

And that union is the governing body of that type of competition? - Yes. The firearms concerned must fit a control box.

So that presumably means the firearms have to be of a particular dimension that fits within the box? - That is correct.

So far as removing ammunition from the range is concerned, if you purchase it from the club, is there any form of control in existence to prevent me at the end of the competition from simply putting the 10 remaining cartridges I have got in my pocket and walking off without telling you? - There is no control. Everybody is deemed to be individually responsible.

You talked about one-to-one training of probationary members at your club. Who is the supervising member of these one-to-one sessions? - It would be a full member of the club who actually owns a Firearms Certificate.

GEORGE FREDERICK SMITH, (57), Sworn,

EXAMINED BY MR. BONOMY: I am a self-employed fencing tutor, and I live in Stirling.

Are you presently President of Stirling Rifle and Pistol Club? - Yes, that is correct, I am.

When did you join it? - 1972 I believe.

And have you been a member since then? - Yes, I have.

You presently hold a Firearms Certificate? - Yes, I do, yes.

Do/

Do you also have a Shotgun Certificate? - I do.

In your Firearms Certificate there will be provision for holding particular weapons? - That is correct.

Can you tell me what weapons you are authorised to hold please? - Yes. I have -- at the present moment I have 17 guns, but eight of these are antiques. One is inoperable. I have one shotgun, which is usable, four handguns and four rifles.

Are the four handguns similar to each other? - One is a .357 revolver; one is a .45 automatic -- semi-automatic pistol. One is a .22 semi-automatic pistol, and one revolver which is a .455, which is a relic of the last War, I believe.

Do you use it in competition? - Yes. There is what they call -- it is basically old guns that are used for the competition -- but that is at Bisley.

Are the other three handguns you have referred to interchangeable for competition? - I am sorry -- interchangeable?

Yes, can you use any one of the three for a number -- for most of the disciplines that you would compete in? - I see what you mean. No, the .22 pistol would be used for small bore pistol shooting. The .357 would be used under Police Pistol, or disciplines like that, the semi-automatic -- well, we do have a .45 revolver competition as such, so they are used in different disciplines.

And how much ammunition are you authorised to hold at home? - 200 rounds for each of the weapons, but I have never got that much.

And I take it, just to be clear about it, you are authorised to keep the guns at home? - Yes, I am.

Have you, in the last ten years, been a regular attender at meetings of the Stirling Rifle and Pistol Club? - Yes, I am. Occasionally I have to miss one or two for either holidays, illness or/

or work, but most of the time I am there.

Can you give me a rough estimate of the percentage attendance during that period by you? - Oh, about 80 per cent I would think.

Did you ever see Thomas Hamilton at any of the meetings of the club? - Yes, occasionally.

And by that I am referring to the last ten years or so? - Yes.

Did you ever speak to him? - I probably did, but I would guess it would be just to pass the time of day -- except on the last meeting that we had.

Well, when was that? - That was February. I think it was February 8th or about that time.

And do you remember encountering him on that occasion? - Yes, I do.

And in what circumstances? - Well, the first one was when he happened by chance to be standing next to me in the firing line when we were shooting at targets. He was using a Browning semi-automatic pistol, which was a Target model of that type. And after we had the guns cleared and we went up to look at the target, I commented to him on his shooting, which was reasonably good considering the fact that it was factory ammunition he was using; and

that was the sum total of that part of it.

On/

ll.40 a.m.

On that occasion were you concerned at all about the way in which he was firing? - Well, it surprised me that he fired very rapidly all the time but I was aware that was a trait of his, that he always seemed to do it.

When commenting on his score did you say anything to him about whether or not he should be competing? - Yes, I said to him that he had done reasonably well and with a bit of practice he ought to be going in for competitions with a score like that and he said "Thank you very much " and that was the end of the story.

Were you aware he did not go in for competitions? - Well, I had never seen him at any of the competitions that I had gone to.

Now, is that the day that you gave him a lift home? - That's correct, yes.

So is that the only time you had any real dealings with him? - Yes.

Are you quite clear that it was February? - Yes, that is correct.

Do you know for sure when it was? - I think it was the 8th but I am not absolutely certain. I do recall saying to the police that I wasn't sure at the time.

Was there anything remarkable or noticeable about the journey home? - On the way back he asked me..... he had heard that I had lost my job. I had been made redundant and he asked me if I had another one and I told him that I had decided that I would become self-employed and become a coach. He told me then that he was a coach which surprised me because I really knew very little, virtually nothing about him and I asked him what he coached and he said he coached gymnastics. I asked him where that was and he said it was at Dunblane. I thought he said the Dunblane High School. I can't remember after that what we said. I probably said "Oh, very good" or something like that and then the conversation lagged.

What/

What did you make of him as a result of that day? - Well, I was quite surprised. He was a very uninteresting sort of person with very little to say for himself. The only thing I could say that was good about him was that he was careful with his firearms and he didn't cause any trouble in the club but he didn't appear to me to be the type of person who would get on with children. That was all. Being a coach myself.

After the tragedy I think you were present at a meeting of various members of the club just to discuss the situation, is that right? - Yes.

Was that a formal meeting or just a get-together? - It was just a get-together more than anything else I think really to discuss what had happened.

Did anybody at that meeting come up with anything firm about his behaviour that perhaps some action should have been taken on? - Not really. I don't think anyone really knew very much about him and there was nothing he had ever done or said which would have suggested anything otherwise. In fact, after the incident I was told that it was probably someone in our gun club and I scrolled through the members and I just couldn't think of anybody and he certainly didn't come to mind as being the person.

At the meeting we are talking about was there any discussion about him breaking any of the club's safety rules? - Oh, yes. There was a slight one. I think everybody has at some time or another been picked up for something. We were very strict on safety and discipline. I think he had lowered a gun out of line with the target or something like that and had been corrected by one of the members but I think that was the only occasion I know. He accepted the criticism and that was that.

Is there any restriction on the amount of ammunition that a person who is either attending a club or in fact is it only members who can buy ammunition? - Yes.

Was there any restriction on the amount of ammunition a member of the club could buy on any one occasion, apart from the limit on his firearms certificate/

certificate? - Oh, I see. No.

As long as he is within the limit of his firearms certificate he could buy that amount from the club? - That is correct, yes.

Can you look please at Production SRFAll7 which should be your club's attendance diary or book. Is that what it is? - Yes.

Was there a meeting on the l8th February? - The l8th, yes.

Would that be the date that you ran Hamilton home? - Yes, I believe it probably was. It could have been the 4th because I have signed that one.

It could either have been the 4th or the l8th? - Yes, I think that is right.

BY LORD CULLEN: Sorry, that is the 4th of which month? - Sorry, February.

CROSS-EXAMINED BY MR. CAMPBELL: If I noted you correctly, so far as Hamilton is concerned you said that no one in the club knew very much about him? - Yes. Well, as far as we know, he attended in the afternoons. We generally fire rifles in the morning and in the afternoon we would move to pistol on the range and because Hamilton so far as I know did not possess a rifle, he would come in the afternoons and he would leave very shortly after he had done a shooting. That was generally before the club meeting had finished so he would appear and do a shooting and then go away again.

What I was wanting to as you was whether that was an unusual situation where you would have a member about whom very little was known or whether there are a number of other people in your club who fall into that category? - I think in general the majority of people had been introduced to the club by other members at some time or another and so they tended to be much more integrated into the club. Hamilton, I am not absolutely certain about this, I think we inherited from a period when Dunblane Small Bore Rifle Club had decided to close down through cost and they tried to sell the club to us. There were only three members left and that is why financially/

financially they couldn't run the club any longer. We had a meeting, as far as I recall, of the entire club and those who shot full bore rifle objected because they wouldn't be able to take advantage of the building. It was an indoor range. In the end, we didn't buy it and I believe they Army eventually purchased it but in the interim period there was an agreement I think that the members of that club could join our club and one of them was Hamilton although I'm not absolutely certain about that, so Hamilton came to us in a slightly different way and he never really took a lot of interest in the club but he never did anything which would have made us think we ought to do something.

Another thing which you said I would like to ask you to elaborate on just briefly if you would. You told us yourself Hamilton did not appear to be the sort of person that would get on with children. What did you mean by that? - Well, he was a bit introverted. He hadn't a lot to say for himself and I didn't..... this is in retrospect, I might say. I thought this since this incident and perhaps my opinion is coloured by what happened but looking back he didn't seem to be, you know, full of life or interested, the sort of person who could get children interested in a subject but that is purely my opinion.

I think you told us about an occasion when you gave him a lift in your car? - Yes.

Did you feel comfortable in his presence? - Well, I didn't actually. I didn't particularly like him very much. I felt he was slightly effeminate. Just the way he spoke. There was no other reason to think anything other than that. I just didn't find him very interesting. There was nothing that we could talk about, except firearms I suppose but even then his interests were related to what he had and he didn't reload his own ammunition which was unusual.

We heard a little bit about that from Mr. Crawford so I won't ask you about reloading? - Right.

Just one final matter. We have been told that one form of target practice uses targets in the shape of the human body? - Yes.

Maybe/

Maybe I should know this but if I attended the Olympic Games or the Commonwealth Games would I see riflemen or pistol shooters firing at human form targets? - I am afraid I don't know that either, I am sorry. There is a possibility, yes, but I really don't know. I have never been to the Olympics to see the shooting but it is a recognised form of target that we use.

CROSS-EXAMINED BY MR. GIBB: You mentioned that you yourself had authority for up to 200 rounds of ammunition for each weapon you own? - That is right.

But you rarely get to that figure. How many rounds of ammunition would you fire at a maximum at any one shoot? - Maybe 30 to 60 rounds of rifle ammunition in the morning and maybe l50 rounds perhaps or l00 rounds pistol in the afternoon.

BY LORD CULLEN: Is that purely you you are answering for or as a matter at large? - It is for myself.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: As a matter at large, how many rounds do you think? - Do you mean for everyone?

Yes? - Oh, I see.

What is the absolute maximum you would shoot, the number of rounds, at any one competition? - Perhaps 30 rounds in a particular pistol competition a single person would fire.

You see, I think we all know that Hamilton had permission to possess up to l500 rounds of ammunition for each individual weapon. Is there any need for such a high number of rounds to be possessed at any one time? - Personally I don't think so. I reload the gun and I only reload enough for the next shoot. It is target ammunition so I believe Mr. Crawford explained that we tend to reload down as much as possible so that you get accuracy rather than power from the gun.

Would it surprise you that Hamilton had permission to have up to 7,500 rounds of ammunition on his certificate? - Yes, it seems a lot.

Or/

Or that he had probably at the time of the incident about 7,000 rounds of ammunition in his possession? - That would not..... well, it would surprise me but, I mean, he was allowed to buy..... He would be allowed to buy X amount of ammunition at any one time. Is that right?

Am I right in thinking that at the time of renewal of firearms certificates there is no requirement to disclose the Clubs you are a member of? - No, I think you just state on the application that you intend to use it, the weapons, to shoot targets as the reason for having this.

So the good reason to apply for a certificate is that you want to become a member of a club? - That's correct, yes.

But you don't need to satisfy the police as to a continuing good reason for the renewal? - I think you have to be a member of a club to continue to have a firearms certificate. So they would presumably know that you are a member of a club.

As far as you are aware, is there any check done on clubs when an individual person seeks to renew their firearms certificate as to their suitability for renewal? - No, I am not aware of that.

RE-EXAMINED BY MR. BONOMY: Can you look please at Production ME65? You will see that that is Hamilton's application for membership of your club? - Yes.

With a proposer and seconder. Would that have happened if he had simply been someone you inherited from Dunblane Club? - Yes, it would have. He would still have had to fill in a form. Oh, yes.

RAYMOND REID (49), Sworn:

EXAMINED BY MR. BONOMY: Do you stay in Callander? - Yes.

I/

I think you are a baker? - I am.

Now, you hold a position with Callander Rifle and Pistol Club, you hold an official position with the Callander Rifle and Pistol Club? - Yes, I am the Secretary.

How long have you bene the Secretary? - About 30 years.

How long have you been a member of the club? - 36 or 37 years.

Are you a member of any other club? - No.

Do you hold a firearms certificate? - I do.

Do you hold a shotgun certificate? - I do.

In terms of your firearms certificate, how many weapons are you authorised to have? - I have on that certificate three target rifles, a .22, a .22 sporting rifle, a 357 revolver, a 9mm pistol and a .22 pistol.

How much ammunition are you authorised to hold? - I'm sorry, I can't tell you offhand. It is no more than 2,000 rounds in total for all the calibres.

That is taking them together? - Taking them together.

Was Thomas Hamilton ever a member of the Callander Rifle and Pistol Club? - Not to my recollection but I could not go back through the books as Central Scotland Police have them in their custody. I can't remember over the years.

So you have never made a check through the books to establish whether or not he was ever recorded as a member? - No, that would fall into the position really of the Treasurer or the Membership Secretary.

I think that you were asked on the llth April to provide to the police any documentation there/

there was which might indicate whether or not Hamilton ever was a member of the club, is that right? - That would be correct, yes.

And did you hand over a number of documents to the police? - Yes, all the books going back as far as l972 and all the Treasurers' books back to the same period.

So you had Minutes of meetings from l970 in fact onwards, did you? - Yes, I had Minutes from l954.

But you yourself have not gone through these at all to see whether there was any record of Hamilton being there? - No.

Now, can I take it that you had never encountered him prior to l996? - No, I first met him in l972.

Where did you meet him in l972? - Dunblane Small Bore Rifle Club.

Was he a member there? - As far as I know, yes.

Were you also a member at that time? - No, at that time there was a Stirling and District Shoulder to Shoulder League which came from Callander, Stirling and Dunblane or wherever and we went to other clubs and competed on a shoulder to shoulder basis.

12.00

What do you remember of him in 1972? - He just made by skin creep, he was one of these people I didn't like to talk to.

Was he shooting in competitions then? - Yes, he would have been.

At that time he wasn't the holder of a firearms certificate but I daresay he could have shot in these days as a member of the club using the club's equipment? - That would be correct, yes.

Did you meet him after that on any occasion? - I think I was in his shop one time.

As a customer? - Yes, as a customer.

Now, apart from this occasion when last did you encounter him? - I met him one evening, he was down at Callander Rifle Club and was due to shoot and the club wasn't open and I happened to be walking down the street.

When are we talking about? - February this year.

Before that did he actually contact you at home? - Yes, there was a phone message but I never followed up.

Did you understand that his interest at that time was in membership of the club? - Yes, I would assume it would have been.

So you met him some time in February when you arrived at the club? - No, I was on my way down the street, I was just actually going to the club.

What happened? - I was walking with a boy that shoots with us and we were chatting away and he kept interfering and I was actually quite nasty to him and he jumped on the bus and went back to Stirling.

What was he asking about? - Why was the club not open, it should be open.

Did/

Did he ask you about the best night to come to the club? - I perhaps said to him to contact John Moffat, I can't really remember.

If thereafter there was contact to Moffat that may explain why he contacted him? - Yes.

Now, in the time that he was thereafter there attending at Callander did you see him? - Yes, I was down at two committee meetings which happened to be on a Thursday evening and through some misunderstanding there was very few members turned up and there was no committee meeting on that night.

Did you see Hamilton shoot a pistol? - No, I didn't see him shoot, I saw him there.

Did you have any conversation with him on this occasion? - I may have spoken to him as I would speak to all the members before I left.

Were you aware that he had applied for membership? - Yes.

Now, in the Callander club is there a probationary period for anyone who wants to be a member? - Six months.

And what is the purpose of the probation? - The purpose of the probation is so that members get to know their prospective member and to see that he appears at least once a week and how his attitude is on the range and after that he is put forward by the membership secretary to the committee who are asked to decide whether he should become a member.

At that stage do members express their individual opinions from what they have seen of the performance of the probationer? - Yes.

WILLIAM PATRICK CAMPBELL (44), Sworn:

EXAMINED BY MR. BONOMY: You work as a Plant/

Plant Operator? - Yes.

I think you stay in Falkirk? - That is correct.

Now, you are a member of Stirling Rifle and Pistol Club? - Yes.

Do you have an official position with the club? - I am the Competition Secretary, I am also a course qualified RCO.

That is a Range Conducting Officer? - Yes.

So you have been through training that has been recently introduced by the National Rifle Association? - Yes, I have.

When were you first aware that you had a member in the club called Thomas Hamilton? - Basically it would be the beginning of this year; I became competition secretary at the latter end of last year and it was at Whitestone I actually met Thomas Hamilton.

Is that the very first time you met him? - Yes.

How long have you been a member of the club? - About three years.

Can you remember the first of these occasions? - I think it was about January, I can't remember the date, at Whitestone; I was conducting the range that day.

Can you remember anything particular about how he behaved? - Everything he was asked to do he did properly and I found him a shy man, he didn't say very much -- that is basically all I can really say.

Can you remember what guns he was using? - It was a Browning 9 mm.

Did he only use one? - He had two, he had two holsters and he had one in each holster.

Were they both right handed holsters? - No,/

No, one was facing to the left and one was facing to the right.

But were they both for a right handed person? - Yes, he was right handed but he used.....the way the holster was set up it was facing to the right and one was facing to the left.

Now, did you go to a shoot at Inverclyde in March? - That is correct.

I think that was the 2nd March? - I think that is the date, yes.

Did you travel along with Hamilton to that? - Yes, he phoned me up on the Friday evening and asked if he could get a lift; well, at that time I didn't know if I was going to be taking my car, my cousin's car or travelling with Alex Woods at the time so it was decided on the Saturday morning that Alex would take all four of us in his car.

You agreed that Hamilton could go? - Yes.

Did he have to get himself from Stirling to somewhere? - Yes, he had to get himself to Falkirk.

He did that, did he? - Yes.

Who all was in the car with him? - There was myself, Alex Woods, my cousin Alexis Fawcett and Tom Hamilton.

Was Alexis Fawcett a member of the club too? - She is a probationary member.

In the course of the journey was Hamilton sitting in the front or back of the car? - The back.

Who else was in the back? - My cousin Alexis.

Was that the same on the way back? - Yes.

Do you remember much in the way of the conversation/

conversation on the way there? - We were sitting in the front of the car and it is very difficult to hear conversation in the back so I was more or less talking to Alex Woods on the way there and on the way back.

At the Inverclyde Shooting Range did you see Mr. Hamilton shooting at all? - I was taking the range at some point but I didn't really pay much attention to him shooting; what we did do when we went there at first, we put up some PPI targets and he had red stickers and he wanted to put the red stickers on and Gordon Crawford said no, that is not permissible because we were going to do PPI targets.

That is police procedure 1? - Yes.

That is a target which is in a human shape? - Yes.

Was that the only target used that day? - No, there was a service procedure V target.

What are they? - An army type running man, camouflaged brown and black.

Again a human form? - Yes.

You actually were the Range Conducting Officer, at least one of the Range Conducting Officers for that shoot? - Yes.

Were you not involving yourself in what Hamilton was actually doing? - At that time I was on the range when this one was short so I think Gordon was taking the range at that particular time.

At that stage in the day did you not see him? - Yes, he tended to be very rapid in his firing.

Did you have an observation about him which struck you as unusual? - Yes, just the sort of speed he let rounds off at the targets and he wasn't really very interested in the competition side of

it, he just wanted to shoot basically.

Is that okay by your book? - No, not really, it is not part of the competition; it is 15 seconds and his was off in five seconds, just as/

as fast as he could pull the trigger basically.

Are there marksmen who perhaps get the best results by shooting immediately and as quickly as they can or is that just exceptional? - To me he wasn't interested in competitions really; basically I have only met the guy a couple of times on the range; everybody else takes their time and takes aim and that is the thing that should be done.

So he was unique, as far as that is concerned? - Yes.

Nothing that you would complain about? - No, everything you asked of him he would do correctly.

Do you remember anything of the conversation on the way back? - No, as I say, I couldn't hear what was being said; the only thing is when he got out the car in Stirling my cousin did mention.....her words were "That is a right weirdo, that one" -- basically that is what she said.

That is Alexis Fawcett said "He is a right weirdo"? - Yes.

She said something else? - Yes, she did but I can't remember exactly what it was.

Did she say something about the way he talked about his guns? - Yes, she did.

What did she say about that? - She said he was on about a Kalashnikov rifle, he moved his gun, he stroked his gun -- to me that was unusual.

Does the expression "he talks about guns as though

they were babies" ring any bells with you? - Yes, my cousin said that -- as though he was.....that is what he lived for was his babies, if you like.

When she described him as being a weirdo and mentioned the way in which he talked about guns what was your reaction to that? - Well, afterwards, before anything, before this had happened, Gordon said that Robert Mullen's wife found/

found him the same way; women seemed to have that intuition about the guy but to me I just found him a shy guy, he didn't like to speak much, he was a hard person to have a conversation out of.

CROSS-EXAMINED BY MR. CAMPBELL: Do I understand correctly that you are a Range Conducting Officer? - Yes, that is correct.

So you will have undergone training for that role? - That is correct.

After you heard Alexis Fawcett making the remarks which she did about Hamilton did you contemplate doing anything about this, so far as Hamilton was concerned? - Well, if everything is done correctly on the range and obey all the orders and rules what can you really do about it; I mean, he did everything correctly.

Please understand I am not saying this in a critical fashion but were you aware that he had a firearms certificate? - Yes, he did.

Now, so far as the visit to the range that day, was that the occasion when Hamilton was putting stickers on human form targets? - Are we talking about the range at Largs, Inverclyde?

Yes? - That is correct.

Whereabouts was he placing the stickers? - He was placing the stickers, one on the head and one on the chest about heart level.

How did you view this behaviour? - Well, there is a

shooting discipline called a practical procedure we have used which is brown targets and that is how these people score -- there is a wee square and that is a high scoring target; I think that is what he was into; I didn't know him very well so I didn't know what type of shooting he was doing.

Did you consider anything different or unusual about his behaviour in that regard? - With that procedure in competitions I thought it was unusual and I sought Gordon's advice on that.

What was the advice? - Not to use them,/

them, not to use the stickers.

Just as a matter of clarification are we to understand that there is a form of competition which rewards accurate shooting relating to the heart and head area? - I am unsure about that because I never taken part in that sort of target but there is no human form involved at all, it is just a small square with a larger square involved.

GEOFFREY CLIVE WOOD (51), Sworn:

EXAMINED BY MR. BONOMY: I think that you live in Doune? - Yes.

I think that you work as a Cameraman? - Yes.

Now, I think that you have known or you did know Thomas Hamilton for a number of years? - Yes.

When did you first come across him? - In the early 1980s at Callander Gun Club.

Were you a member there? - Yes.

And do you remember the first time that you actually met him? - Not especially.

Did he start going to the club then around the time that you are talking about, the early 1980s? - Yes.

Do you remember whether anyone in particular came with him or he just appeared on his own? - It is so long ago I don't really remember.

Do you remember if he became a member of Callander Club? - I assume he did.

You were a member yourself? - Yes.

Over what period? - Probably for about/

about three, four, five years.

Apart from seeing him at the club did you see him anywhere else around that time? - Well, after that, after our initial meeting he was.....he owned a shop called Woodcraft and I actually met him there because he was a useful guy to know, he gave you discounts on DIY.

Is this at the same time that he was going to the Callander Rifle Club? - Yes, well, in the early stages.

So/

12.20 p.m

So over how many years do you reckon he attended at the Callander Club while you were going? - Probably -- from memory -- it is very hazy -- three to four years, I would say.

Now, did you then join Stirling, a Stirling club? - Yes.

And is that the Stirling Rifle and Pistol Club? - Yes.

Do you know when you joined it -- do you remember that? - I think it was in the late 1980s -- 1987 probably.

Was Hamilton a member there? - He became a member, yes.

After you or before you? - After.

Had you anything to do with him becoming a member? - He may have introduced himself to me. I don't recollect actually specifically sponsoring him. I think he sort of turned up and we knew each other, that that was it.

Now, we have seen an application form dated 1986. It doesn't have any reference to you on it, but would that be consistent with the time? - It is certainly about the time that I joined the club,

yes.

There has been a suggestion in the evidence today that he might have been inherited, as it were, from a Dunblane club which was folding around that time. Does that mean anything to you? - To a certain extent, yes. He ran -- or he used the premises for a club at Dunblane. It was a rifle range, a .22 rifle range, and he used those premises. But I was never connected with that club.

Is that something that you know from speaking to him? - Yes.

Now, how long did you remain a member of the Stirling club? - I still am a member.

And since the mid-1980s have you been a regular/

regular attender at meetings of the club? - Yes.

Are you a member of any other clubs? - Until recently I was a member of two clubs, one which followed from another, in Edinburgh -- in the Edinburgh area. The last one was called The Phoenix.

Now, Mr. Hamilton lost or sold up the shop he had in Stirling, the shop you have been referring to? - Yes.

After that shop had been sold, did you hear from him, looking for assistance in getting to and from the club's meetings? - Yes. I mean, we have kept in touch since -- I mean, there was a period of time where we sort of lost contact. I think he stopped -- two or three years ago he stopped going to the Stirling club. I think he probably went once or twice in that particular year, and I think possibly round about 1993, 1992/1993, and during that period I didn't have much contact with him other than chance meetings perhaps in Stirling shopping streets.

Going back though earlier than that, did he have his own transport when he had his own business? - Yes, he had a Transit van.

After he had lost that did he turn to you for transport to get to and from club meetings in the mid-1980s? - Yes.

Now, was he shooting at all between 1988 and 1990? - Sorry, can you repeat that?

Was he shooting at all between about 1988 and 1990? - Probably, yes, I would say so.

Did you know anything about where he got his ammunition? - It seemed to be -- he mentioned Crockets. I think that is where he got it -- if he didn't, well, I know it is possible to buy ammunition from the club, so some of it may have come that way as well.

Were you ever aware of him buying ammunition at the club? - Not specially, no. I don't remember an instance where he actually bought it.

There/

There is a gap in the information at the moment which I am trying to fill. He doesn't appear to have purchased ammunition commercially between late 1987 and 1995, and there is no hint of where he might have got his ammunition at the moment, and yet there does seem to be evidence that he was shooting during that period, although it is fairly vague evidence. Now, can you help us at all to fill that gap? - There was a period of time -- and again this would be some time in the 1980s -- where we paid a number of visits to a club called Ashgill.

Is that near Larkhall? - Is that near Larkhall? Down the A71 near Stonehouse?

Yes? - And it was possible to buy ammunition there. We were just visitors.

Did you actually see him buying any? - Yes, he must have done. It was Early Target ammunition, which was made by a company called Mountain and Sowben. It was reused cases, and it was repacked ammunition. It was not brand new ammunition.

Is that ammunition he would just shoot off on the range on the actual day? - Supposedly, yes, but it would be possible to take it home if he had surplus. Whether that was legal or not I am not sure.

Did you reckon, though, that he was shooting between 1988 and 1990? - 1988 and 1990? I think so.

And then between 1990 and 1992? - I think so, yes.

You have got no impression of him giving up for a year? - There was a year -- I can't remember which particular year it was. As I say, I think it was around 1992/1993 -- where he seemed to be more occupied with other things, and we rarely saw him on the range, in fact.

That is one year only -- approximately? - Yes. It might have been a bit more or less.

Were you ever in his house? - Yes.

Frequently?/

Frequently? - Well, only during the times I picked him up to go to shoots, so that would be no more than twice a month.

When were you last in his house? - I think at the beginning of this year.

On any occasion when you were in the house did you see photographs of young boys around the walls? - No.

Were you aware of his involvement in boys' clubs? - Yes.

How did you know about that? - Gossip, and he told me himself.

Did he talk about his involvement very much? - He tried to, but after his initial conversation I tried to -- he was very repetitive. At one point he was havig problems with getting school lets, which involved an ombudsman, and he spoke to me about that.

Did you hear a lot about the ombudsman? - Yes.

Did you ever hear rumours about him? - Of various kinds, yes.

Did that information come from him or from other sources? - Both.

What was the general nature of the rumours you heard from other sources? - That in some way he was not a satisfactory person to be running a club.

In any way specifically? - Nothing specific -- no, I don't recall anybody actually specifically saying he had done X, Y or Z.

I think you actually bought a gun from him at one time? - Yes.

A Beretta? - Yes.

Nothing wrong -- a perfectly straight-forward transaction? - Yes.

You/

You say you last saw him in January. Was that at a shooting meeting? - Yes.

And was that at the Whitestone Range at Dunblane? - Yes.

Did you take him there that day? - Yes.

Did you watch him shooting at all? - Yes.

Do you remember what he was using? - I think he was using both his weapons, which were a Browning and -- he had acquired, by that time, I think a second Browning which has been spoken about, so he had two Brownings. I think he was using one of them, I think his new one, and he was also using his revolver.

Anything you observed about his shooting behaviour that day which caused you concern? - Nothing especially different from any other occasions.

Was there anything unusual in general about his shooting behaviour? - He used up more ammunition in the time allotted, because the shooting is regimented into shooting details, and usually you are given enough time to fire say ten rounds. He might fire 20 in that time.

What about the speed of the firing? - Well, that is obviously firing at a faster rate than perhaps you normally would.

Less carefully? - It depends on the individual, how well they can shoot. Some people require a lot of time between shots. Other people can.....

How good a shot was he? - I would say certainly average. He wasn't a poor shot.

Did he say anything to you on that occasion about trying to get back into Callander? - Yes.

Did you find out any particular reason why he was wanting to rejoin, or join that club? -
The only reason as far as I could see was that -- it was on a Wednesday night. The club had converted to/

to full bore shooting. It was a club I had been to before, and I think he was running a boys' club on the Wednesday night as well, and somehow he thought I would be quite useful in getting him a lift home, and I really wasn't interested in doing that.

So he was obviously trying to encourage you to join? - Yes.

But do you know why he wanted into Callander? - I think it was a function of the frequency -- it was every Wednesday I think it was. I think they ran every Wednesday, whereas the Whitestone -- sorry, the Stirling club's dates sort of vary quite a lot depending on an ability to get bookings on ranges. So he would

probably be able to shoot more frequently there, and I don't know how it tied in with his other activities.

When did you last speak to him on the telephone? - About the Saturday before, or about a week before -- not the Saturday closest to the 13th, but I think the weekend before that.

And what was the subject of that conversation? - Could I give him a lift to Whitestone, I think it was -- yes, I think it was -- to whatever the meeting was, and I said no, I wasn't going, I was doing other things.

Are you clear it is not the weekend immediately before the incident? - Oh, I would have to -- I think when I spoke to the detective constable who came to see me I was able to pinpoint it then by looking at the dates for the bookings for the Stirling club, but I have since forgotten. All I can say is he left a message on my answering machine, and I phoned him back, and so there would be a record there with BT, I imagine, on his phone bill.

But it was to arrange to go to a meeting? - Just purely to be a facilitator, a ride to Whitestone.

And when was the Whitestone meeting to be? - I can't remember.

Well, was it immediately? - The one that was, yes, about to -- but I can't remember when that was.

But/

But were these normally at the weekends, though? - Yes, they were on a Sunday.

So if he phoned you on a Saturday.....? - Well, it would be that Sunday, yes.

The following day? - Yes.

Can you just look at Production SRFA117, and could you look up the 10th of March? Now, is there a meeting anywhere near to that date? - There doesn't seem to be any record for the 10th March on this.

What records are there for March? - There is this one, 2nd -- sorry, 2nd March.

There is one for the 2nd. Is there one after that? - No.

So it would be possibly in relation to the meeting on the 2nd March? - It could be.

Now, did you notice anything odd about him on the telephone that day? - Not especially, no.

Did you consider yourself to be a friend of his? - Well, in different circumstances I would have said I was as friendly as I am with anybody -- you know, I class him as a useful acquaintance. He was somebody who had been extremely useful in the past and therefore, yes, he was a friend. He wasn't a close friend. My friendship only really revolved around the shooting club.

Was there anything you ever noticed about his behaviour that was peculiar in the sense that it might indicate he had very odd tendencies, for example, that he was paedophile or something of that nature? - No.

Over the last five years or so have you noticed any particular change in his behaviour or his mental state? - No, not -- no.

What about his physical shape? - He was getting fatter.

Significantly? - Yes.

He/

He always bought his ammunition commercially. You sound like a fairly experienced marksman. Is that unusual? - Well, as far as I am aware there are roughly three ways of obtaining ammunition. One is you buy it from the club, two you buy it commercially from a registered gun dealer, and thirdly you can make it yourself. As far as I'm aware he didn't make it himself.

What do you do? - I have made my own, but I have also bought commercially.

Is it unusual for someone who shoots off a lot of ammunition never to make any of his own? - It depends how rich you are.

Did/

12.40 p.m.

Did he strike you as rich? - Oh, I knew that he wasn't rich. Certainly after the shop had closed he certainly wasn't a rich person but I've no idea what his income really was.

With the benefit of hindsight, is there anything that you can think of that gave any hint that he would do anything remotely like the shooting at Dunblane? - No.

CROSS-EXAMINED BY MR. CAMPBELL: You were asked certain questions relating to Hamilton running boys' clubs and the like? - Yes.

Without beating about the bush, am I right in understanding that there was a considerable amount of rumour and speculation relating to his running of these boys' clubs? - From both sides, yes. I heard both sides of the story from various people. Some people thought he was a very nice person and other people thought he was a suspect person.

And the rumour and speculation included the question as to his motivation for running these clubs? - Not specifically.

When you say not specifically, generally that is what it related to? - There was innuendo but individual people were not able to say that X had been a boy who had been abused in any way.

Did Hamilton discuss these rumours and speculations with you or mention them? - He did at the time of his action I think against the Council, was it, which involved the Ombudsman.

Did he attempt to defend himself against these accusations in any way? - He said that as far as he was concerned he was not guilty. Not in those words but that was the gist.

Well, what were his words? Was there anything particular he would say? - I can't tell you. It was just a conversation we had at the time. You talk about many things and you can never remember precisely.

Did/

Did the question of whether he had any perversion come up? Was that ever discussed? - He said that some people thought he was a pervert.

So that would tell you quite a lot about the nature of the rumours and speculation? - Oh, yes. Don't get me wrong. I was aware of what was being suggested but I gave him the benefit of the doubt because there were enough other people who thought he was a straightforward person, including policemen and various other people.

No re-examination.

NIGEL KENNETH BELL (29), Sworn:

EXAMINED BY MR. BONOMY: I think you are a surveyor? - Yes, that is correct.

And you live in Dunblane? - Kinbuck.

Now, I think that you are or certainly were earlier and may still be a probationary member of Callander Rifle and Pistol Club? - Yes, I was.

Are you now a full member? - I haven't taken up membership at all. I have not actually been back to the club.

I think on Wednesday, 6th March you attended the club? - Yes.

When you went in were there other members around the place? - There were approximately three or four members.

Was there anyone actually shooting at the time? - There was. From the noise coming from the range it was clear there was somebody firing a full bore pistol.

Just one person? - Whenever I went into the range it was only one person, yes.

Before you went into the range did you ask those who were in the club who was there? - I did. I recall mentioning "Oh, who's in the range?" and/

and I was told at the time that it was, and I recall this quite vividly, somebody mentioned that it was the strange man from Stirling with the odd voice.

Did you know who that was? - I didn't know, no.

You had never encountered him before? - No, the 6th March was actually a Wednesday which is not a night I would normally go down.

When you went into the range did you see the person referred to? - I did, yes.

What was he doing? - Well, he had stopped firing. We have lights on the outside of the range and a bell and whenever you want to enter the range, if you feel the firing has stopped, you would press the bell and whenever the light goes off it is clear to enter the range and he was just standing at the bench.

Did you speak to him? - I did. I just introduced myself and said "Hello" and he said the same.

Was there then an arrangement made between you? - There was. I actually asked him did he want to be the range officer for that session's firing and he said he didn't want to be so I took on the responsibility.

Does that mean whenever there is more than one person there someone must act as range officer? - Yes, they must do at all times.

Can that person also participate in the shooting? - He can, yes.

And Hamilton didn't want to do it so you did it? - That is correct.

Now, you were only a probationary member of the club at that stage? - Yes, I was.

And is that okay? - To the best of my knowledge it's okay. Certainly I was aware of the criteria to be a range officer and I was happy doing it.

Do/

Do you hold a firearms certificate? - I hold a shotgun certificate but not a Class l.

Were you a member of any other club at that stage? - No.

Prior to going to Callander and becoming a probationary member, had you previous experience of firing handguns? - The only experience I have had was in approximately May or June of l995. The Stirling Sports Council were offering introductory courses to sporting activities and that is how I became introduced to Callander. That is the only time and I have been going reasonably regularly since then.

So how long were you a probationary member prior to the 6th March? - Since I went on the introductory course in about May or June of l995.

Why hadn't you taken up full membership? - There is a restriction within the club rules which is you must be a probationary member for at least six months before you can make an application to join and during that time you must have attended regularly in order that the club members might see if you are a fit and responsible person.

And you hadn't had long enough? - I probably could have made an application after six months, yes.

Now, was there anything remarkable about the shooting that then took place with you and Mr. Hamilton? - Not really out of the ordinary other than he certainly fired a lot more rounds that evening than I would ever have seen anybody else firing.

What about the targets he was using? - The targets were different, yes. He was using a sheet of white A3 paper from a drawing book which had either red or orange little rectangular stickers right in the middle of it and he was using these as target practice. It is something I have never seen before but I have not been a very regular shooter.

Does that mean he was trying to group the shots around the mark on the paper? - He was, yes/

yes.

And was he succeeding? - Yes, at one particular point he actually indicated to me to stop shooting and asked if he could show me he had hit a bull.

When you went forward each time and got the scores, what did he do with the target? - He very carefully removed the targets and took them back to the bench where he had an A3 drawing book where he would then place each of the targets.

Now, did you ask if he was a member at Callander? - I did, yes, just in conversation.

What did he tell you? - I recall that he told me that he wasn't at this time but he had been in the past.

Did he say anything about what he had been doing for a number of years immediately before this, how much shooting he had been doing? - He told me that he hadn't shot for some time but that he was getting back into it because he needed the practice.

Did he say though for how long he hadn't shot? - I don't recall.

Did you ask him why he needed the practice? - I did. Most people who shoot enter competitions fairly regularly themselves and I assumed it was for competition but he actually said No, it wasn't, he just needed the practice.

Was there any conversation about where you came from? - There was. He asked me where I was from and I said "By Dunblane" and he expressed some interest just in sort of passing and I got the impression that he knew Dunblane quite well although he did mention he was actually from Stirling.

Did he say anything about whether he had been a member of a gun club at Dunblane? - He did actually, which surprised me. I mean I haven't been in Dunblane for a terribly long time but I certainly never heard of a gun club in Dunblane.

Was there anything in your conversation that/

that made you feel uneasy or uncomfortable? - I did not feel happy with the gentleman at all in that very unlike the rest of the members of the Callander Rifle and Pistol Club, they are all very friendly, and he was very..... he came across as being a very intense man. I felt very uncomfortable with him.

Was there anything else in particular about him that made you feel uncomfortable? - No.

Anything in the way he spoke or did anything? - He was just very deliberate and very intense.

Now, did you shoot with him more than once that evening? - I did, yes.

Did you use his weapon? - I did, yes.

Did he offer it to you? - Yes, he insisted that I used it.

Now, the weapon that you used, was it a standard Browning pistol? - It was.

And therefore there was nothing particularly sensitive about the trigger mechanism? - Not that I was aware of.

It may be of some reassurance to you to know that that is not the weapon that was used in the killing. Now, did you use it on more than one occasion? - Yes.

Was that at his insistence? - It was, yes.

Did you readily take up the offer or was he persuasive? - He was very persuasive. It wasn't something..... I didn't want to shoot a full bore pistol that night at all and I was quite happy shooting the 22.

Was there a youngster around the range? - There was, yes.

Was he involved in the shooting that you and Hamilton were doing? - Not at the same time as I was, no.

Were/

Were you aware of him being in Hamilton's company for part of the time? - Yes.

How old was the youngster? - I don't know.

A teenager? - I would guess so.

Was Hamilton actually trying to coach him at one stage when you went back into the range? - He was, yes.

Now, were you approached again by Hamilton for a favour? - I was. I was just in the club lounge talking to some of the members and he approached me and asked me if he could have a lift to Dunblane Railway Station where he would get a train for Stirling.

Did you give him a lift? - I did, yes.

Were you happy to? - No, not at all.

Can you tell us just what it was overall that made you unwilling to give him a lift? - I found him just a very intense man but I didn't think..... I just didn't feel comfortable with him. I couldn't put my finger on anything specific other than I was just very uncomfortable in his presence but I would never have seen anybody stuck for a lift home.

When it comes to saying that a person is not a fit person to hold a gun in his hand, can you pinpoint a particular feature about him which would make him unsuitable or unfit to hold a gun? - No, I think as far as the club is concerned it is more a question or whether or not you are responsible and that is following the guidelines that are set down for the use of firearms. In other words, being safe.

Now, I think when you got to the car you actually, perhaps panic is putting it a bit high but something happened which caused you even more concern about getting into the car? - Panic is pretty close to the case. I, as I have said, was very uneasy in the gentlemen's presence and when I got to the car it was only then that I realised that my son's baby seat was in the front of the car and he/

he asked me to leave it there and he would sit in the back and I was really, really uncomfortable at this stage about Mr. Hamilton being in the back of the car, particularly with firearms and particularly given that nobody in the club, unless they overheard our conversation, knew that I was giving him a lift.

Now, I take it you managed to make arrangements which resulted in him being in the front passenger seat? - Yes, I did. I moved the car seat.

In the course of that journey do you remember anything of the conversation? - I do. I remember the conversation very well.

What was it about? - The conversation started off really just about his shooting and the fact that he enjoyed shooting. He mentioned that he had had a firearms licence for more than 20 years. He got a bit agitated at one particular point because he explained to me that at one stage he had held something like, if I recall, a 243 rifle, a self-loading rifle, and he was quite aggrieved obviously at the police for having taken it off him. I asked him why it had been taken off him and he said it was as a result of what had happened at Hungerford and the fact that Michael Ryan, I think his name was, had killed so many people.

Which caused the law to be changed? - And caused the law to be changed, yes.

Now, did that appear to be something which Hamilton held as a grievance? - Very much so. He was really angry at the fact..... I was under the impression that the rifle that he had, he hadn't had it for very long and he had mentioned that it had cost him about £1,200 and that as a result of the law being changed the police actually bought the firearms back from the owners and he mentioned that he had only been paid £700 for it and he was very angry about that.

So he was harbouring a grievance about the change in the law and about the police? - Yes.

Now, as a result of the way in which he was speaking to you about this particular subject, were you even more concerned about his presence in
the car? - No more so than I already was, no.

Did/

1.00

Did the conversation continue fluently after that? - No, it was very much in fits and starts.

How did you keep it going? - I just tried to keep talking to him; I asked him at one stage what he did for a living and he said that he was a gym teacher or words to that effect; I presume this meant that he was actually a teacher at one of the schools.

Did you find out from him how many guns he had? - Yes, he talked about having four pistols at one stage; it was a very disjointed conversation; he did start off first of all by saying he owned a shotgun and a rifle which he had sold recently; I think I may have said "What other firearms do you have" and he said that he had two Brownings which were standard for competitions and which he obviously had with him on the club nights together with two Smith & Wessons .38 revolvers and he also mentioned in the same conversation, I was under the impression thinking although he didn't ever mention, a Beretta of some sort.

Was there conversation about the use of ammunition and the type that was used? - Not that I recall, no.

You were not surprised at all that he was using commercially manufactured ammunition? - No, I mentioned to him at one stage that he had fired, in my impression, an awful lot of ammunition that night; in fact, I asked him how many rounds he had fired and he said he had fired several hundred rounds; I mentioned that would be very expensive to do and that most people who were at the club generally only fire just a few rounds a night; I recall I think having shot 15 rounds on a night.

How many did he say he had fired? - Several hundred he said.

At night? - Yes.

After you had dropped Hamilton off I think you went straight home? - Yes.

Did/

Did you say anything to your family or to your wife about what had happened? - Yes, I did; I think, if I could go back in the conversation, he mentioned he had been a gym teacher and I asked him where; he said "The High School", he took a boys club or something on a Thursday night; I had expressed an interest because I actually go to the High School on a Thursday night to play badminton and I said I had never seen him there; he actually got quite angry with me at this stage and said was I questioning him; I said no, I was just curious because I was there on a Thursday and he pointed out that his boys club finished just before 8 o'clock before the badminton started which was quite plausible; I said to my wife that I met this guy who I was particularly concerned about and more in relation to being involved with children than as far as firearms were concerned; my wife did mention that, you know, there is no point in actually doing anything about it, Nigel, because the Council would never have allowed him to run a boys club unless it was appropriate.

Did you see him again after that night? - No.

Where were you on the morning of Wednesday, 13th March? - I was in the office, I had a meeting to go to in Stirling at 9.30.

Did you tell anybody about what had been taking place on the 6th March? - I did, yes; I was explaining to one of my colleagues at work that I had met this gentleman, Mr. Hamilton, and I did mention that I was a bit concerned of the fact that he had gone on about this 243 rifle and about how he was annoyed at it being taken away from him as a result of what had happened at Hungerford and that is as far as the conversation went and I had to leave.

Roughly what time was that? - It was about twenty five past nine.

You said earlier that you haven't actually taken up membership of the Callander Club? - I haven't, no.

Are you intending to? - I have no thoughts one way or another.

CROSS-EXAMINED/

CROSS-EXAMINED BY MR. CAMPBELL: Just very briefly if I may -- you told us that at the range that evening you acted as the Range Officer? - Yes.

Have you undergone any formal training for the position of Range Officer? - Yes.

So did the Callander Club have a formal requirement that a Range Officer should undergo some training before carrying out that role? - Everybody, to the best of my knowledge, would be automatically trained in carrying out that duty.

How was that training given? - It is done over a period of time; when you say formal training it is not a question of "Tonight is going to be a training night and you will be trained as a Range Officer"; it is more a question of initially during the six week introductory course that we had the very first thing that you learn is how to obey the Range Officer and to know what the various commands would mean; you obviously start to pick it up from that point and you gradually are asked to carry out the duty of Range Officer in front of other people.

So you learn by watching others doing it and then you are asked to do it yourself? - Yes.

And others watch you? - Yes, that is certainly what I found from my own personal experience.

After an adjournment for

lunch:

BRIAN/

BRIAN DAVID FAIRGRIEVE (69), Sworn:

EXAMINED BY MR. LAKE: You live in Polmont? - Yes.

What is your occupation? - A retired General Surgeon.

What are your qualifications in relation to being a surgeon? - M.B., Ch.B., F.R.C.S.

You also are the holder of an MBE? - Yes.

What was that awarded in respect of? - My international dealings with Scouting.

When did you first become involved in the Scouting Movement? - As a boy I think -- do you mean as a leader?

When did you first become involved in Scouts as a leader? - 1957, I think.

And what was your role within the Scouts in the 1970s? - I was County Commissioner at that time.

And what are the responsibilities of a County Commissioner? - Well, there are administrative responsibilities for the whole of the County; I have to say that the name, County Commissioner, has been changed now to Area Commissioner; when the regions came into being I became Area Commissioner and the responsibilities are to ensure that the Scouting is run smoothly in the County and the District Commissioners who represent the various aspects within the County were able to meet with me and each other to discuss matters relating to Scouting in our particular area.

So within the hierarchy of the Scouting movement the District Commissioners were beneath the Area Commissioner? - I wouldn't like to say beneath, but yes.

In the hierarchy? - Yes.

When did you first become aware of Thomas Hamilton's involvement in the Scouting movement?/

movement? - In the early part of 1974.

How did you become aware of his involvement? - I was informed by the District Commissioner, by Comrie Deuchars that Hamilton had taken some boys to Aviemore and had shown irresponsible behaviour in that these boys were forced to sleep in his van in winter conditions in spite of the fact that Hamilton had told the parents he had booked them into a youth hostel.

Why did Mr. Deuchars tell you that? - He was informing me because he thought I ought to know about such things.

What did you do in response to that? - I encourage Comrie Deuchars to investigate further any failings that Mr. Hamilton may have and as a result we requested Hamilton resign which he did.

What was the basis for requesting him to resign? - In response to the irresponsible behaviour for boys on the hills and he also acted improperly by taking boys on to his sailing craft on Loch Lomond; we checked Hamilton fairly early on and he was assessed and the report that was given to me was that Hamilton knew nothing about boats or the sea and was certainly not suitable to take charge of boys in a craft.

You said that the original complaint made by Mr. Deuchars related to boys that Mr. Hamilton had taken into the mountains; was there any complaint regarding the use of a craft? - I honestly can't be certain about that.

What exactly was the complaint regarding taking the boys up to the hills? - The fact that he had promised the parents that they would be sleeping in hostel accommodation and the fact that he made them sleep in his van and when Comrie Deuchars checked with the youth hostel there had been no booking made by Hamilton in advance in spite of the fact he informed parents there would be.

What was your concern in relation to that conduct? - Safety.

Safety of the boys? - Yes.

And/

And safety as to their physical harm? - Yes, because of the inclement weather one would expect in February or March in the Aviemore area.

Were there any other allegations made in relation to Hamilton? - No allegations made to me, no.

Are you aware of any allegations made to anybody else? - No.

You said you discussed with Mr. Deuchars and you invited Mr. Hamilton to resign? - Yes.

Did you speak to him prior to having that discussion with Mr. Deuchars? - Yes, I did -- not prior to having the discussion with Mr. Deuchars; I spoke to Hamilton after Mr. Deuchars had made these facts available to me.

But was that before or after you invited him to resign? - I invited him to resign after I had met with him.

Can you remember when you met with him? - I think it was April or May, 1974.

What was the discussion when you met with him? - With Hamilton?

Yes? - It was a long discussion and one which I tried to shorten but Hamilton went rambling on in various different directions which actually gave me more and more cause for concern as I spoke to him because I didn't think he was a particularly stable person and I was very glad that we were taking that step to have him removed from the Scout movement.

I appreciate it was a long time ago but can you remember what he was rambling on about? - No, I can't but he had certain the ability to go on and on and on in a variety of different ways.

You said this increased your concern? - Yes.

In what way? - I formed the impression that he had a persecution complex, that he had delusions of grandeur and I felt his actions were/

were almost paranoia; I am not a psychiatrist, I am a surgeon so my skill is not really based on the psychiatric facts that I know of but I was doubtful about Hamilton's moral intention towards boys although I had no evidence whatsoever except clinical acumen.

So if you could explain to me how you arrived at your concerns regarding his moral intentions? - Just with discussions with Hamilton like I would assess a patient with whom I am having a dialogue and I would come to a diagnosis and the diagnosis I came to was I was fearful of Hamilton's intentions and his responsibility.

Having reached that conclusion what did you do to communicate your view to others? - I wrote a letter to the Scottish Scout Headquarters -- I think that was in August; there was some delay, I can't be absolutely certain about the delay but there was a period of time when we were considering.....we were trying to obtain Hamilton's warrant badge and he was reluctant to give it back to us initially but finally when the warrant did come back I wrote a letter to the Scottish Headquarters and gave my opinion as I have already expressed to you that gave me cause for concern.

What is the significance of the warrant? - The warrant is a document that is given to you when you are given some position of authority in the Scout movement but the positions of authority vary from Assistant Scoutmasters or leaders up to group Scout leaders and then up to Assistant Commissioners.

Is a warrant required for all these positions? - Yes.

When do you recollect that Hamilton returned the warrant? - April I think it was.

BY LORD CULLEN: What exact position did he have at the time, what was the warrant relating to? - He was warranted as an assistant scout leader or a scoutmaster in these days.

Was that for a particular Scout group? - He tended to go between two groups; he was firstly with/

with the 4th/6th which is a troop which meets, in fact, in the church next door to here and then he went across to Bannockburn, the 24th, and associated with that troop and he caused some trouble there because of some discipline matter and he aggrieved parents and he was asked to leave Bannockburn or he asked to leave the Bannockburn troop, by which time we were asking him to return the warrant of the 4th/ 6th.

So the warrant bore on it the name of the particular Scout group as well as the position? - Yes.

So it was from the 4th/6th that you were seeking his removal? - Yes.

EXAMINATION CONTINUED BY MR. LAKE: And the things that led to you seeking that removal was that incident regarding the hills or the disciplinary matter that you just referred to? - All the matters together.

All the matters together? - Yes.

Could I ask you to look at Production DSA6 which I think in the volume is D4/H iv; do you recognise that? - Yes, I do indeed.

What is that? - It is the letter that I wrote to Hamilton asking him to return his warrant book to me.

That letter is dated? - The 25th May, 1974.

Do you recall whether you received the warrant in response to the letter? - Eventually we did -- I am not certain whether it was in direct response to this letter or not.

Could I ask you now to look at Production DSA9, in the folder that is D6/H iv; do you recognise this? - Yes, I do indeed.

What is it? - This is a letter that I wrote to the Scottish Scout Headquarters giving them my impression of Thomas Hamilton and telling them that he had not yet returned his warrant to me despite the fact that I have approached him to do this/

this on several occasions.

What was your purpose in writing that letter, in giving your impression of him? - Because I felt he shouldn't be a member of the Scout movement.

I see in the second paragraph of that letter you make reference to his failure to return the warrant and then you express your view in the third paragraph; could you read the third paragraph? - The whole of the third paragraph?

Yes? - "While unable to give concrete evidence against this man I feel that too many 'incidents' relate to him such that I am far from happy about his having any association with Scouts. He has displayed irresponsible acts on outdoor activities by taking young 'favourite' Scouts for weekends during the winter and sleeping in his van, the excuse for these outings being hill-walking expeditions. The lack of precautions for such outdoor activities displays either irresponsibility or an ulterior motive for sleeping with the boys".

I think you then go on to refer to the incident of boating which you referred to earlier? - Yes.

And you said your concerns were either irresponsibility or an ulterior motive? - Yes.

And that was based on the hill-walking expedition? - Correct -- do you want me to continue?

If you read the fourth paragraph? - "His personality displays evidence of a persecution complex coupled with rather grandiose delusions of his own abilities. As a doctor, and with my

clinical acumen only, I am suspicious of his moral intentions towards boys".

What did you understand the Scout Headquarters could do with the information in that letter? - I think under the circumstances to notify the neighbouring County Scouting organisations so that if Hamilton tended to approach them they wouldn't give him access; by this time he still had the warrant, he hadn't returned the warrant/

warrant as far as I can recall by this time and I thought the Scottish Headquarters could enter Hamilton's name in a confidential file.

What is the purpose of a confidential file? - To have a file on people whom the Scout movement doesn't consider should be dealing with youths.

If you look at the second page of that letter, can you see what that is? - That is a form that the Scottish Headquarters use when there is some suspicion about a person in the Scouting movement; it is a form that has to be signed by the Commissioner which gives details and this was a form that I signed and returned the details about Thomas Watt Hamilton including his age, his height, the description of the man, the colour of his eyes and so on and various other pieces of information for the Scottish Headquarters to subsequently record on their confidential file.

What was the purpose of that file? - Simply to reinforce the information that I had given in my letter.

Could I ask you to look at DSA10 which is D6A/H iv in the folder; what is that? - This is a letter in reply to mine, I think the one I have just read out; I think this is a letter from Scottish Scout Headquarters to tell me that they had received the description form and that went on to add that Thomas Hamilton had attempted to gain access to Scouting in Clackmannanshire which he failed to do because the Scout Headquarters had notified the neighbouring counties.

In the second paragraph there is a reference to that application being accompanied by his record book? - I must have

received his record book by that time, I am not absolutely certain of the date when he returned.....he did eventually return the record book to me.

And was the record book the same thing as the warrant book? - Yes, it is loose terminology, I am afraid.

Did you have any further contact with Mr. Hamilton after you had had his warrant returned to/

to you? - Yes, I did.

When was that? - I think it was 1977 when he came to me and I interviewed him in Falkirk Royal Infirmary; he demanded an interview with me because he wanted to come back into Scouting.

Did he arrange that interview with you in advance? - Yes, as far as I can remember.

That was in 1977? - Yes.

Were you aware in 1977 that Mr. Hamilton attempted to rejoin the Scouting movement? - I had known from various sources, I don't remember exactly the details but I had known from various sources that Hamilton had been trying in various directions to gain access back into the Scout movement.

Was he successful in that? - No.

What stopped him from being successful? - I think the organisation system; when a person approaches the Scouts to join we always make enquiries about the suitability of that person and as Hamilton's name was on that file then Hamilton wouldn't be given a warrant on the basis of that.

Did you have further contact with Mr. Hamilton after 1977? - I don't think I met him personally but I had had phone calls from him.

Do you recall when these phone calls were? - I can't remember exactly.

Prior to considering the telephone calls do you recall considering a report from the Ombudsman's local administration in 1984? - I was given a copy of that Ombudsman's report.

Who gave you that report? - It was given to me by the Scottish Scout Headquarters to which I responded.

What was the purpose of giving that report to you? - Just to see if the information regarding the Scout movement was accurate.

If I could ask you to look at Production DSA30,/

DSA30, in the folder that is D24/H iv; also it would be useful if you would look at DSA28 which is D23 in the folder; starting with the first of these documents can you say what it is? - It is a letter from the Scottish Scout Headquarters to me dated the 23rd August, 1984, simply telling me about the Ombudsman's report and asking me to read through this and to agree whether or not the information relating to the Scouts was accurate.

BY LORD CULLEN: Strictly speaking it was a draft? - Yes, it was.

EXAMINATION CONTINUED BY MR. LAKE: Did you consider the terms of the report? - Yes, I did.

You say in that letter dated 23rd August there are five particular passages within the report to which your attention was drawn? - Yes.

Considering these in turn by looking at the report, the second of the two documents you were given, and look at paragraph 4 of the draft report in which there is reference to an official of the Scout Association passing information to a councillor, do you see that? - Yes, I do.

Do you have any information to confirm that? - No, I wasn't aware of that.

Do you have any information to suggest that it wasn't true? - No.

On page 3, paragraph 7, the last sentence of that makes a reference to the Director of Education saying that Hamilton had previously made it clear he had no connection with the Scout movement; are you aware of Hamilton claiming to have any connection with the Scout movement? - I don't think he made any direct reference to that as far as I am aware although I do remember he did use the word "Rover" which was at that time a Scout word.

On page 4 of the draft report in the tenth paragraph, about five lines down, there is a reference to the deputy director indicating he had been told by the Scout Association that they had removed Hamilton because of certain undesirable characteristics/

characteristics but the Association were not prepared to say this formally; were you aware of the Association having done that? - No, but I was latterly aware they had agreed that this was accurate as far as the Scouts were concerned but I wasn't aware that they had told anyone outwith the movement that he had undesirable characteristics, I am not aware of that.

Did you seek to dispute that finding? - Who?

Did you seek to query that? - No.

On the sixth page of the draft report, paragraph 14, at the very bottom of the page and the start of the next page there is reference to a letter by Hamilton in 1974 saying that he had resigned his leadership within the Scout movement? - He did eventually resign, we asked him to resign and he did resign and that is when he returned his warrant book and record.

So Hamilton did write a letter resigning from the Scout movement? - I am not sure whether he wrote a letter or not but he certainly did return the warrant.

BY LORD CULLEN: Was that before or after his position was terminated, was it written after the event? - Yes, in fact it took quite a bit of persuading for him to return the warrant book; he

was out of the Scouts by that time and he did return it eventually but I am not exactly sure of the details.

EXAMINATION CONTINUED BY MR. LAKE: Before continuing with the report could you look at DCRC ALB 1F1 and in the folder it is D27; now, was this a letter, a handwritten letter, by Hamilton dated the 28th April, 1974 which doesn't indicate to whom it was addressed and which he says he tendered his resignation of the 24th Stirling Scout Group and he goes on to say "I disapprove of your behaviour" who he says to be the District Commissioner? - Which letter are you referring to?

It is a handwritten letter dated 28th April, '74? - This is all dated 1981.

Perhaps/

Perhaps if I could give you my copy of the letter; have you seen that letter before? - No, I haven't.

Do you see in that letter Hamilton purports to be resigning from the Scout Association? - I haven't seen that letter before.

So that wasn't a letter that Hamilton wrote to you when he resigned from the Scout Association? - I don't think Hamilton wrote to me when he resigned from the Association, I wrote to him but I don't think he wrote back to me but I certainly haven't seen that letter before.

Can I ask you to have before you document reference number DSA15 which is D10 in the folder; do you recognise that letter? - Yes, I do.

Who is it addressed to? - It is addressed to me.

Who is it from? - Thomas Hamilton.

What is the subject matter of that letter? - This followed an interview I had with Hamilton in Falkirk Royal Infirmary; I think my interview was on the 19th August and this is a letter dated

28th August and he simply says "I am sorry for any inconvenience I have caused you. I would be obliged if you would keep me in mind should any positions be available. Tom Hamilton". I think he wrote a similar letter almost identical although it wasn't a photocopy, he wrote a similar copy to the Scottish Scout Headquarters.

As far as you are concerned it is a letter of resignation? - It is a letter of resignation, yes; no, I am sorry, may I correct that -- I don't think I look upon that as his letter of resignation; he had already returned the warrant prior to my meeting with me in the Falkirk Royal Infirmary; this was 10 days after my meeting with him in Falkirk Royal Infirmary he wrote this letter because we had a long meeting in the infirmary and we discussed all aspects of his membership of the movement and this was him replying to me by saying he regretted any inconvenience he had caused me.

To/

To return to the Ombudsman's report, that is DSA28 and DSA30, we were looking at page 6 and reading from the bottom of that page to the top of the next page and reference was to Hamilton writing a letter which showed he had resigned from the Scout leadership in 1974 because of his certain disapproval of certain actions of certain Scout officials? - Yes, that was Hamilton's impression which he gave to the Ombudsman at the time of the inquiry.

You have no recollection of having received such a letter? - No.

Can I ask you now to look at page 8 of the draft report, paragraph 18 and the part of the text which is inset halfway down there where there is reference to "The title of the club does not appear to imply any masquerading under the banner of the Scouts or any other uniformed organisation". Were you aware of any concern that Hamilton's organisation was masquerading as Scouts? - I think the use of the word "Rovers", he was using the words "Stirling Rovers" and Rovers was a name that we used to use before Venture Scouts became the usual terminology but at that time Rover was in vogue and there was a slight worry on our part that Hamilton may have been suggesting to people who didn't know that he may be part of the Scout movement.

Could I ask you to look at document DSA31, in the folder it is D25; is that your reply to the previous letter? - Yes, it is.

What did you set out in that letter? - I simply gave an synopsis of all that had happened in relation to Hamilton and the Scout movement for the period of time from 1974 to the date of this letter; the reason that I brought all the information together in this letter was that we could have for ourselves or for our records a synopsis of the situation with regard to Hamilton because it seemed to me at this time that this was an ongoing situation with him continuing to be troublesome to us.

The first thing you say in the second paragraph, you say that Hamilton was requested to return his warrant because he wasn't considered to be/

be a suitable person to help out? - "He was, in fact, requested to return his warrant so that the whole situation could be clarified and due to the fact that he was not considered to be a suitable person to be holding a warrant in the Scout movement at that time".

In the next paragraph you refer to the meeting that you had at Falkirk Infirmary in August, 1974? - Yes.

And you note that he had acted in a breach of the rules of the Association? - Yes.

Again in the next paragraph you refer to the letter we have already looked at in which he said he wouldn't trouble you further? - Yes, he also said during the interview he would make no approach to scouting unless they approached him first and then he wrote the letter where he had apologised to me for any inconvenience caused.

The paragraph after that, you refer to a meeting in 1977? - Yes.

Which you say had taken place at your house? - Yes, he phoned my house, it was a phone call.

Did you ever receive an unannounced visit by Mr. Hamilton to your house? - Yes, I think I did but I can't remember exactly the date when that took place.

Perhaps to assist you you could have in front of you document DSA70 which is D29 within the folder? - Yes, I had forgotten about this meeting; Hamilton had appeared at my door at 4 o'clock on the Sunday afternoon on the 17th August, 1986.

This document you have in front of you, these are types notes? - These are notes that I took after Hamilton left; I felt very concerned and I felt I had to write down all my dealings with Hamilton and then I subsequently had this typed so that I could read my writing which is not particularly legible.

Did/

2.35 p.m.

Did he discuss the effect that these rumours, as he saw them, were having on his life?
- He said in paragraph 6, I think it is, he maintained his life had been ruined by malicious rumours about his behaviour and his views, rumours spread by Scouting Commissioners in the Dunblane area.

You asked him to substantiate that statement, that the rumours had been spread by Scouting Commissioners in Dunblane, but he declined to do so? - He declined to do so because he said the matter was in the hands of his solicitors.

Some five paragraphs up from the bottom you have made another assessement of Mr. Hamilton which begins "From the purely professional point of view"? - Yes.

You say there you regard him as having become even more obsessional, and from the look in his eyes you wouldn't have been surprised if he was currently on psychiatric drugs. Is that a view of him you reached as a result of your conversation over the hour? - Yes.

What did you do with this typewritten note? - What did I do with it?

Yes, what did you do with that? - Simply held it in my own files.

You see on the second page of that there is a handwritten note and that is dated the 24th of August, 1986? - Yes. That was another phone call from Tom Hamilton about ten days after he appeared on my doorstep, and he phoned me and asked me if I had thought over what he had said during his last visit. I explained about my -- I can't read my own writing, I am afraid -- "and found talking difficult".

BY LORD CULLEN: Is it "accident"? - That is correct.

You must have had an accident? - I did. I fell out of the loft, and broke two ribs, and I was having difficulty in speaking to Hamilton. He apologised for bothering me and said he would re-contact/

contact me in a few weeks.

EXAMINATION CONTINUED BY MR. LAKE: So that wasn't a long conversation? - No.

Can I ask you please to look at document DSA38, which is D30 in the folders? You will see this is a letter to you from Mr. Jefferies at the Scout Association Headquarters? - It is.

That is dated the 19th August, 1986? - Yes.

That letter records that Hamilton had visited the Scout Association Headquarters and discussed matters with a person there? - Yes.

In the second paragraph it is indicated that Hamilton was still claiming that he was being slandered by Scout people in Stirling? - Yes.

And mentions a Mr. Deuchars? - Yes.

And Mr. Deuchars has given his view of Hamilton in the third paragraph? - Yes.

And he says he regards Mr. Hamilton as suffering from a persecution complex? - Yes.

So to that extent he was agreeing with your view of him? - Yes. That would be ten, 12 years after my initial letter to Scottish Headquarters about Hamilton.

What did you do in response to having received that letter of the 19th August, 1986? - I don't think there was anything I needed to do at that time.

Can I ask you to look at document DSA72 or D31 in the folders. Do you see what that is? - Yes. It is another record of a further phone conversation with Hamilton that I took on the 16th September, 1986.

And what is the subject matter of that telephone conversation? - Well, clearly it was Tom Hamilton's attempt to get back into the Scout Movement.

And/

And once again he was expressing concern at being blacklisted? - Yes.

And asking to see a confidential report on him contained in Scout Headquarters? - Yes.

And your response to him was the Scout Association did not require to discuss with him the reasons for not taking him on as a Leader? - Correct, yes.

Could I ask you next to look at document DSA39, which is D32 in the folders? You will see this is a letter which has been copied to you from a Mr. Garth Morrison? - Yes.

The subject matter of the letter is that once again Hamilton has been making complaints to the Association? - Yes.

And had been seeking an opportunity to respond to what he saw were criticisms of him? - Yes.

He referred to the report from the Commissioner for local administration, and the reference there to what he calls "The grapevine of innuendo and unattributable comment"? - Yes.

What was the purpose of writing to you in these terms? - This was a copy of a letter sent to Headquarters and to me for information from the Chief Comissioner, Garth Morrison, who was not aware of Hamilton's existence until he received the telephone call from Hamilton, and Garth Morrison wrote to me simply to say he had had this long monologue, as he calls it, on the telephone, and he asked me to suggest to him how he should respond to this.

And did you discuss it with him? - I didn't discuss it with him because he wasn't available, but I left a long message with his secretary.

What did you suggest in that message? - I suggested that Hamilton not be reinstated into Scouting for a variety of reasons, and I suggested to him that he ought to proceed with a degree of caution because I was frightened that Hamilton might go/

go into legal circles and involve the Scout Movement, although there was no justification whatsoever for that, in my opinion.

You said that Hamilton ought not to be permitted into the Scout Movement for a number or a variety of reasons? - Yes.

What were those reasons? - The ones I have already stated in regard to irresponsible acts on climbing, boating, handling of parents, discipline of Patrol Leaders, which cumulatively added up to an irresponsible person.

So there was no additional material? - No, because he was out of Scouting then. Anything that has happened subsequent to 1987 has been outwith the Scout Movement.

Could I ask you to look at DSA73, which is D34 in the folders? Do you recognise this? - I do.

What is it? - It is a note that I obviously wrote down to remind myself of phone conversations that I had had. This is December, 1986. On Sunday the 6th I had a phone call from Comrie Deuchars to tell me that Tom Hamilton had recently been to see him.

And the second note there is? - And the second note was on the Wednesday, 10th December, from David Vass, the Chief District Commissioner of Trossachs Area, to say Tom Hamilton had been to see him at his house, and true to form he had been difficult to get rid of, and he made wild accusations about various aspects of the Scout Movement.

It was about that time your involvement with the Scout Movement ceased; is that correct? - I retired in 1987, yes.

Did you have any further dealings in respect of Hamilton? - I don't remember anything else.

Did you at any time have evidence or concrete evidence to suggest that Hamilton would harm children in any way deliberately? - No. He would/

would harm them by default in the sense of taking young boys -- I am talking about ten, 11 year old boys -- to the Aviemore area and sleeping in a van -- I think is irresponsible. I don't think he set out to harm the boys, but his actions were those of an irresponsible Leader and we couldn't tolerate that. I had nothing to suggest that he was homosexually orientated. I was suspicious of his moral intentions towards boys, but that is a different thing. I never stated that he was a homosexual.

Did you have any reason to suspect he had paedophile tendencies? - I had worries.

And these worries are the ones you have already indicated? - Yes, which tended to grow throughout the years.

Were you aware that Hamilton had a Firearms Certificate? - No.

Were you aware that he ever used guns? - No.

Did you ever report any of your concerns to the police? - No.

Did you ever discuss with the police your concerns as to Hamilton? - Perhaps on an informal basis I did.

Do you recall a time in 1993 when two policemen came to see you regarding Hamilton? - No, I don't; I don't have any recollection of that, I am afraid.

CROSS-EXAMINED BY MR. CAMPBELL: Would it be correct to assume that, given your position of responsibility in the Scout Movement, one of your prime concerns would be the safety and wellbeing of the children who were members of the Scout Movement? - That was my prime responsibility.

That was your prime responsibility? - Yes.

So everything that you did would have been done with that prime responsibility uppermost in your mind? - Yes.

And/

And you have told us that you were concerned about Mr. Hamilton? - Yes.

Concerns which perhaps were not born out of any -- what is sometimes called hard and fast evidence? - Only in respect of the activities that he took the boys on, which was factual, and that represented in my estimation considerable irresponsibility; but as far as his moral intentions are concerned, that could only be what might be called "hunch". I like to call it "clinical acumen".

Would it be a fair summary that you felt that it was your responsibility to those in your charge to take firm and clear action as a result of your concerns? - Yes.

And that firm and clear action involved taking such steps as you could instigate to ensure that Mr. Hamilton played no further part in the Scout Movement? - Yes, although it was really Scottish Headquarters that took these steps, not me. I gave the initial report to Scottish Headquarters and they, with their communication system, notified the rest of the Scout Movement in the area.

You told us towards the end of your evidence-in-chief that you had discussed your concerns, at least informally, with the police? - Yes.

Could you elaborate on that please? - I can't really remember in any detail. It was probably a casual conversation, because I had a police near-neighbour, now moved away from the area, and I think I probably discussed Hamilton because I was a little bit anxious -- and I have no idea when that was.

Who was the police near-neighbour? - He was -- as I say, he has now retired from the police. He was Chief Inspector John Ferguson.

And what did you say to him? - I really have no idea.

Would it be fair to assume that you passed on the general concerns which you have told us about? - Possibly.

Could/

Could you look at letter dated 14th May, 1991? We are going to get into difficulty here because the numbers I have for Productions I think are different from the ones that are being used, but I think this is D46 of H4? If you bear with me for a moment I will get its other number -- no, I won't. I don't have it.

MR. LAKE: I think that is DSA68.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: DSA68. Just take a moment to -- I think again this is a letter which you wrote on the 14th of May, 1991 to a Mr. McKellar? - Yes.

Area Commissioner of Forth Valley Area Scouts? - Yes. He took over from me. I was the Area Commissioner and I retired and he took over the post as Area Commissioner from me in 1987, and he was still in that office in 1991.

Perhaps you could just read out the first couple of paragraphs? - This is to Jim McKellar, regarding Thomas Hamilton -- "That name will, I feel certain, ring a few bells, and I am afraid that it is probably about to ring a few more. I have heard that Hamilton is pursuing a case against Central Scotland Police for harassment, and is directing his complaint to HMI in Edinburgh".

And you go on to indicate that Hamilton's complaint appears to be principally directed at the police at this time, but you then felt you would be happier if your file was returned to you; is that right? - Yes. I had given Jim McKellar this file when I resigned or retired, rather, from the Scout Movement.

Why did you want your file returned to you? - I am really not quite sure.

Perhaps you could just read the last three paragraphs for us please? - The last three, starting with "Please feel free"?

Yes? - "Please feel free to take photocopies if you so desire, but I should be grateful if you would return this file to me as soon as possible. Hamilton has, in his time, taken on the Scout Movement, right up to the Chief Scout. Central/

Central Regional Council -- right up to his M.P. and the Ombudsman; and now Central Scotland Police -- right up to H.M. Inspector. Surely all these folk are not wrong?".

What did you mean by "Surely all these folk are not wrong"? - Well, I can simply say they were all out of step except Hamilton, was the phraseology that I would otherwise use. I couldn't imagine all these organisations could be wrong in their assessment of the man.

At this time are you aware that Hamilton had been and was still permitted to possess a Firearms Certificate by Central Scotland Police? - I had no idea that he was using firearms at all, ever.

Were you ever informed that he possessed a Firearms Certificate? - No.

Could we go back to one of the earlier letters in the whole matter please, which, according to our numbering is document two of H4, which I think is DSA2 or 3, I am not sure which -- forgive me. It is a letter of 24th May, 1974 from Mr. Jeffreys.

MR. LAKE: DSA4.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: DSA4, I beg your pardon. This is a letter from Mr. Jefferies, the Executive Commissioner to the Warrants Department I think at Scout Headquarters? - Yes.

And it records that "The County Commissioner for Stirlingshire has advised" -- that is yourself? - Yes.

".....has advised that he has requested the return of Hamilton's warrant as he is suspected of improper behaviour with boys". I take it that is a letter relating to your concerns relating to his moral intentions? - Yes.

Well,/

3 p.m.

Well, specifically concerning paedophilia? - I don't think paedophilia was a word that was readily used in these days, l974, but I would say Yes to that question now.

That is what it amounted to? - Yes.

In addition, the County Commissioner who is a medical man, thinks that Hamilton is mentally unbalanced? - That is not a phrase that I would use. I think David Jeffreys is using a little journalistic licence there and certainly that is not what I suggested.

Do we find your considered views therefore in your letter of the 29th June to Mr. Jeffreys which we looked at earlier? That is Document D6 which is DSA9. If you could just be reminded of that? - Sorry, what was the question?

We are looking for your considered views at that time. Can I take it this letter would be a record of them? - Yes. I think in the second-last paragraph.

I appreciate it is very difficult at this remove in time but can you tell us to the best of your ability why you entertained these suspicions and concerns which we find recorded in this letter? - I don't think you can quantify clinical acumen other than a hunch if you like but my medical training perhaps encourages me to see this sort of thing in people and I can't put it into more specific terms than that.

But there must be something to prompt these concerns, however well trained you are or were. What was it about either his behaviour or about what he had done or about the allegations or whatever which was prompting these concerns? - I find that very difficult to answer. I really do.

Moving on to the letter of resignation or the purported letter of resignation I think you were shown just briefly although it was the first time you had in fact seen that letter? - Right.

Could it be given to you again? I think it is D27? - This is dated l98l.

No/

No, what I had in mind was the document which you hadn't seen before which was purported to be dated I think in April l974? - It is not that document. I have it, thank you.

I think we know that that letter emerged in the course of the Ombudsman's investigations? - Yes.

Can you take just a moment to read it? - Read it out, do you mean?

No, just to yourself? - I haven't seen this letter before today and I can only take it it was addressed to Comrie Deuchars. Would that be correct?

All I want to ask you is whether the contents of that letter bear any relation to the circumstances surrounding Mr. Hamilton's removal from the Scout Movement? - No, I wouldn't have said so. The person referred to in the letter would appear to be Comrie Deuchars. Yes, it would appear to be him.

I take it from what you have told us that nobody gave you any information relating to this letter? - None whatsoever.

In l974? - None whatsoever.

If such a letter had been in fact been sent to anyone in a position of responsibility, would you have expected to be made aware of it? - Not necessarily. I think this is a matter which could be dealt with by the District Commissioner who was Comrie Deuchars at the time. I don't think that it would have been necessary for me, as Area Commissioner or County Commissioner, to be brought into that. It was very much an internal matter.

You see, it has been written I think before the earlier correspondence setting out the reasons for Mr. Hamilton's removal I think? - Yes.

Which appears happened on your recommendation? - Yes.

In which he purports to tender his resignation? - Yes.

If/

If he in fact had tendered his resignation before the earlier documentation which we looked at, would you have expected somebody to have informed you of that fact? - I am really quite confused now about the timing. Can you perhaps rephrase that for me?

Well, the letter which we were looking at earlier which set out your considered views is dated June l974. If I can remind you of that? - Yes.

Whereas this letter purports to be dated the 28th April l974? - Yes.

Now, if in fact Mr. Hamilton had tendered his resignation as a Scout Leader before the earlier documentation which we were looking at, would you have expected somebody to have told you about that? - Not necessarily.

BY LORD CULLEN: The fact of the matter is this letter appears to have been written about a month before you asked Mr. Hamilton, pressed your request, to return his warrant? - I think so, my lord.

And I see your letter of the 25th May refers to an earlier one of the l5th May sent by Mr. Deuchars asking for that warrant to be returned? - Yes.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Did Mr. Deuchars tell you at the time that he had received any information of a complaint? - I can't recall any discussion with Comrie Deuchars about this letter or its contents. Could I just add one thing? This letter makes reference to Hamilton tendering his resignation as Scout Leader of the 24th Stirlingshire Troop. He was not Scout Leader of that Troop. He was Acting Scout Leader of that Troop. He was actually warranted for the 4th/6th Troop which meets in Stirling itself so Hamilton was wrong in that statement but I haven't seen this letter before.

BY LORD CULLEN: Would Acting Scout Leader be covered by a warrant? - Not really, my lord. It is not essential I don't think. Perhaps the warrant procedures are in progress but it would be/

be taken on an acting basis until such times as his warrant was..... but he was warranted in the Scout Movement for the 4th/6th.

Yes, somebody for which he was acting might already have a warrant for another post? - Yes.

CROSS-EXAMINED BY MR. GIBB: I wonder if I could ask you to look at D22 which is DSA57. I think you will see that is a newspaper cutting dealing with parents backing youth leader after the Council end the letting of a premises. I think at that time you were still Area Commissioner? - I was.

And I think at that time that Hamilton has set up the Dunblane Rovers Group and I think also at that time you indicated earlier that Rovers was still a name known in the Scout Movement? - Yes.

Being followed by the Venture Scouts? - That is right.

There was really nothing to stop anyone setting up a Rovers Group, was there? - None whatsoever.

And indeed there was and is nothing to prevent any person setting up any youth organisation? - Not as far as I am aware.

Do you accept that perhaps one of the areas this Inquiry will need to consider is the vetting of those who are responsible for looking after children in youth organisations in the broadest terms? - Having spent my life trying in the Scout Movement, I think an organisation such as that should have some kind of confidential file on people who are potential leaders in that organisation.

Does the Scout Movement itself carry out any vetting? - Oh, yes.

Does it have access to get a Criminal Records Office check for instance on those who wish to be in the Scouts? - I am not able to give that information but I understand the Chief Executive of the/

the Scottish Scout Association is one of the witnesses and he will be able to give information about that, up-to-date information.

Do you accept a certain inevitability that if there is to be vetting of those involved in any youth movement in the broadest sense that that may need to extend to more traditional youth movements such as the Scout Movement or other church-related organisations? - To the Scout Movement?

Yes? - We have it already.

Yes, but I am talking about some official vetting mechanism as opposed to the organisation itself? - I would think that would be very difficult to undertake because it is very difficult to tell people when your impression is based on clinical acumen and in Hamilton's case it was not that that made us think of getting him removed. It was irresponsible behaviour during various outdoor activities and that together with my impression of him were the reasons for having him removed and it would be rather difficult I think to put that down into..... I don't know. I can speak within the Scout Movement because it works there and we have had it working for years. I think it would be very difficult to have it widely used.

But Hamilton was a thorn in the flesh for years of the Scout Movement really from l974 onwards? - He was indeed.

And indeed even as of today's date there would be nothing to stop the Hamiltons of this world setting up a youth group? - Nothing whatsoever as far as I am aware.

And is it your view that some sort of vetting mechanism is appropriate for non-mainstream organisations? - Yes.

CROSS-EXAMINED BY MR. TAYLOR: Can you have DSA38 in front of you please? That is D30/H(IV). We have looked at this already today and I think that is a letter addressed to you from Mr. Jefferies. In the last paragraph of that letter it is suggested that nothing should be said about/

about Hamilton as he is the sort who would resort of legal action. Do you know what sort of legal action would be in contemplation at that time? - This is David Jefferies' phrase, not mine, so I've no idea what he had in mind that Hamilton might do.

Can you also please have a look at the previous document in the pile which is D29/H(V), otherwise DSA70? This is a document we have already looked at. It is a note of a telephone conversation headed l7th August l986. I think that is a file note you made following the appearance of Mr. Hamilton at your house, is that correct? - Yes.

And you said you kept that in your own files. Are these files which were located in your own house or elsewhere? - In my own house.

And later in your evidence you made reference to informal discussions which you might have had with a neighbour, Chief Inspector John Ferguson? - Yes.

Firstly, can I ask you if you have a clear recollection of having spoken to the police officer? - No, I don't.

Is it possible you didn't speak to him at all or is your memory of having spoken to him quite clear? - Having been a personal friend of him and a near neighbour, I could well have discussed this in the course of other conversations but I have no specific recollection of when and if I discussed Hamilton with John Ferguson.

BY LORD CULLEN: Can you just assist me with one point. Can you tell me to what extent Hamilton was given any reason or reasons, official or otherwise, for the removal of his warrant? - Yes, he was warned about the behaviour in Aviemore and the fact that he had failed his boating test and that this represented a lack of responsibility and as a result his warrant would be removed.

Was that given to him officially our unofficially? Was it in a letter for example or just in a conversation? - I don't think it was a letter. I think it was in a conversation between Comrie Deuchars and Tom Hamilton.

So/

So he may be able to tell us about that? - Yes.

So that is really as far as you are aware the reasons went, is that right? - Yes.

Whatever you yourself may have thought, that is as far as the reasons went? - Yes.

RE-EXAMINED BY MR. LAKE: You said in answer to my learned friend Mr. Campbell that you would not have used the word paedophilia in l974? - I don't think so. I don't think it was a word that I knew in l974.

Just to be clear about it; what exactly was your concern in relation to the moral intention towards young boys in l974? - I think it is the word which is now used, paedophilia, yes. If it had been today I would probably have included the word paedophile.

So it would be correct to say there was a fear of improper sexual contact? - Yes, that was my fear but it was only instinctive.

One last matter; you referred to the various avenues pursued by Hamilton and his report to the Ombudsman? - Yes.

Were you aware of the outcome of Hamilton's complaint to the Ombudsman? - I think the Ombudsman came up in Hamilton's favour if I recall.

ROBERT COMRIE HESLOP DEUCHARS (68), Sworn:

EXAMINED BY MR. LAKE: What is your occupation? - School crossing patrol and retired former BR employee.

Is it correct that you live at 5 Kent Road in Stirling? - That is correct.

And that is close to No. 7? - Upstairs, yes.

Sorry/

Sorry, is that you are upstairs or 7 is.....? - No. 5 is

upstairs. No. 7 is downstairs.

How long have you lived there? - Since l970.

Before I turn to your dealings with Thomas Hamilton, I would just like to consider your connection with the Scout Association in general. When did you first join the Scout Association? - I joined the Wolf Cubs in l934 and remained in the Scout Movement until I was officially retired in April l993.

In the early l970s can you recall what your role was within the Scout Association? - In l970 I was Group Scout Leader of the 4th/6th Stirling Group. In l97l I was appointed Assistant District Commissioner for Scouts. In January l973 I was appointed District Commissioner for Stirling.

What were the responsibilities of the District Commissioner with regard to the appointment of Scout Leaders? - The District Commissioner has full responsibility for the appointment and termination of leaders in the Scout Movement within Stirling District.

If someone wished to apply to become a Scout Leader, to whom would they apply? - They would apply to me as District Commissioner.

And what would you do with that application? - When you are approached by someone to become an adult leader, the procedure which is laid down in the Scout Association Policy, Organisation and Rules is that an Inquiry Form is prepared by the District Commissioner and sent to our Records Office in order to determine the person's character, whether they are suitable or unsuitable for working with young children.

You said that is what is done. Is that what was done in l970? - That is what was done in the case of Thomas Hamilton.

When did you first have dealings with Thomas Hamilton? - I would say as a civilian I visited his Do-It-Yourself shop on a few occasions prior to him approaching me to become a leader.

That/

3.20 p.m.

That is his shop in Cowane Street? - That is correct.

When did he apply to you to become a Scout Leader? - I would say it would probably be May or June of 1973. I am not sure of the exact date.

Are you aware whether or not Hamilton had any involvement with the Scout Association prior to that date? - I had heard that he was a Venture Scout with the First Stirling, but as I did not visit Venture Scouts, who are supposed to be a self-governing body, to see that the thing was running well, I had no connection with Hamilton as a Venture Scout.

What is a Venture Scout? - As far as I know, yes.

What is a Venture Scout? - Well, he had his uniform and all the rest of it with the First Venture, and I believe Scott Park, who was the leader, confirmed he was a Venture Scout, but not a regular attender.

What age range do Venture Scouts cover? - Venture Scouts cover the age range -- well, at that time it was 16 years to 20 years.

Was he still a Venture Scout at the time he applied to become a Scout Leader? - No. I think he had just actually finished his Venture Scout period of service.

You said in 1973 Hamilton approached you to become a Scout Leader? - He actually phoned me at home one night and I arranged for him to come down and have a talk with me, so that I could get the various particulars from him, i.e. his name, address, date of birth, so that I could send away the enquiry form.

And that is the enquiry that has to be sent to Scout Headquarters? - That is correct.

Did you do that in respect of Mr. Hamilton? - I did.

And/

And what was the response? - As I did not receive a phone call within the next 24 hours it was assumed it was all right, but as I normally do, I wait until I get written confirmation that a search has been carried out and no record of any misdemeanours could be found.

And that is a record kept by Scout Headquarters? - That is correct.

At that time what was your opinion of Hamilton's character? - I would say he was young and very enthusiastic.

Were you happy to accept him as a Scout Leader? - Yes.

What are the responsibilities of a Scout Leader? - Well, as his first appointment was that of Assistant Scout Leader, he was under the direct jurisdiction of the Scout Leader of the 4th/6th Stirling, and also under the Group Leader of the 4th/6th Stirling, so he was only acting as assistant at that time.

So when you refer to him being an Assistant Scout Leader, was that after you had approved him? - That is correct.

And once he had been approved by you, that would be when he was granted his warrant book? - That is correct.

Was he able to be an Assistant Scout Leader without that warrant book? - He could have been on probation while his warrant was going through, but until the warrant is actually signed by me, it is an ineffective piece of paper. His service with the Scouts actually begins on the date the District Commissioner signs the warrant.

After you had sent the enquiry to Scout Headquarters did you make any further enquiries prior to signing the warrant? - No.

Did you see Mr. Hamilton again prior to signing the warrant? - No.

When did you tell him that he had been appointed as an Assistant Scout Leader? - When I received/

received the completed warrant book, as it was known at that time, from Scout Headquarters, I went along and presented it to him.

And can you say again which Scout troop was it he was appointed to? - He was appointed as Assistant Scout Leader to the 4th/6th Stirling, which met in the Episcopal Church Hall, Dumbarton Road.

How did he get on as Assistant Scout Leader? - From memory he was very keen and willing to do this, that and the next thing. In fact, there was an occasion when I was approached by Mr. Sim, the Group Scout Leader, who unfortunately is now deceased, that Thomas Hamilton had offered to take some boys on his boat to Loch Lomond for some part of their Proficiency Badge work. I said "Under no circumstances until such times as that boat is certified by someone in authority who knows about speedboats". This was arranged through Glasgow Scout Council, who had an expert, and Mr. Hamilton was given the name and address of this scrutineer, as I would call him, and advised to make arrangements so that his boat could be inspected. I received a report back from the gentleman in question, and Mr. Hamilton was declined a certificate on the grounds that (a) there were insufficient lifejackets/something aids -- I can't remember the words.

Buoyancy aids? - Buoyancy aids, that is it -- insufficient lifejackets/buoyancy aids, no distress flares and no oars in the event of the engine breaking down on the boat, and also his knowledge of the waters of Loch Lomond was rather scant.

And that is in relation to his seacraft or boatcraft? - Yes.

Your information about how he performed within the 4th/6th Stirling Scout Troop -- did that come from the Scout Leader? - Yes.

Who was the Scout Leader? - I think if I remember it was a Mr. Montgomery Stevenson.

And he was the source of your information? - Yes, and also from Mr. Sim, who was the Group Scout/

Scout Leader.

Is Mr. Stevenson still with the Scout Association? - No, he is not. He left, and stays somewhere in the St. Ninian's area.

Did you have any problems with Mr. Hamilton as a Scout Leader at the 4th/6th Stirling? - No problems whatsoever.

How long did he stay at the 4th/6th Stirling? - Well, on the information I received from Mr. Sim and Mr. Stevenson, during September, or the beginning of October, I had had a conversation with Father McAllister of the Roman Catholic Church in Bannockburn, who wanted to resurrect the former 24th Stirlingshire, which was a closed sponsored group attached to the Roman Catholic Church. I pointed out to Father McAllister that there were no Roman Catholic leaders available, and he said "I am quite willing to accept a Protestant leader, as long as they run the troop, and I will look after the religious aspect of the boys within the group". And with that, and with the reports I received on Thomas Hamilton, I took it upon myself to give him a six months' secondment to start up and organise the troop at Bannockburn.

Is it correct that problems occurred while he was at the 24th Stirling Troop? - They did start to appear, but at the beginning I put it down to, shall we say, being inexperienced. His play times were somewhat stretched some nights, and there didn't seem to be much Scout work being done. So I reprimanded him, and things improved for a few weeks.

A more serious complaint was made, however, when he took some boys up to the hills? - That is correct.

Was that complaint made to you? - It was, by the parents of the boys who had been on that trip.

What were they complaining of? - They were complaining that the boys had arrived home on the Sunday very cold and hungry due to the fact that they had been forced to sleep in the van overnight, and the temperature had dropped so dramatically that the/

the van had frozen up and had to be towed to Aviemore to be defrosted.

What did you do in response to the complaint? - Well, after investigating and going round all the parents involved I then told Mr. Hamilton that his planning abilities were rather lacking, and in future he should double check everything -- because his excuse was that the accommodation had been double booked, and he didn't want to disappoint the boys, so he let them sleep in the van overnight.

So you warned Hamilton about his behaviour, but took it no further? - That is correct.

And there was a second complaint made not long after that? - Yes, within three weeks the boys again arrived home, but this time their sleeping bags were soaking wet, all their clothing was wet, and once again they had slept in the van.

Who made the complaint on that occasion? - The parents of the boys who had attended.

What did you do in response to it? - I once again went round and visited both the boys and their parents, and got their story, and one parent had produced a copy of the programme which Mr. Hamilton had issued on both occasions, and it clearly stated that the boys would be accommodated in the former railway hostel at Aviemore. Being a B.R. employee I immediately phoned my counterpart at Aviemore, obtained the phone number of the hostel, and confirmed with the owner of the hostel that no booking had been made at all by Mr. Hamilton in his name or in the name of the 24th Scout Group on either of the occasions.

Did you speak to Hamilton about this? - I did.

What did he say? - I told him after that that in view of his lack of qualities in leadership that I considered his services were no longer required in Scouting, and that I was withdrawing his warrant.

So what was the actual reason for withdrawing/

withdrawing the warrant? - For the lack of planning and irresponsibility of Thomas Hamilton in putting young boys at risk.

That was at risk from cold? - That was correct.

Did you have any reason to suspect that he intended to cause harm to any of the boys in any way? - No reason whatsoever.

Did you have any reason to suspect there may be improper sexual motives in what he was doing? - None whatsoever, because when I asked the boys, the boys said "Oh, it was all right for Mr. Hamilton. He went on the front bench seat on the van with his sleeping bag and blankets, and we had to sleep on the cold steel floor".

Did you tell Hamilton that you were withdrawing his warrant? - I did.

What was his response? - His response was "It is your decision. I will resign" -- and he walked away from me then. Following that I submitted a form to Headquarters saying I did not consider him a suitable applicant due to his immaturity and irresponsibility.

And what was the purpose of submitting that to Scout Headquarters? - To ensure that he did not get another warrant in the Scout Association.

How would he be prevented from getting another warrant? - Well, the minute the application was filled up and sent to Headquarters, they would check the list again and say "No, no, your warrant is declined".

So the Scout Headquarters keep a list of persons they consider unsuitable to hold a warrant? - That is correct.

And is that referred to as the blacklist within the Scouting Association? - That is what is called the blacklist.

Could I ask you to look at a document which is DCRC AL/B1/F1/1. It is D27 in H4. I think/

think there is not a copy of it other than this one -- there is a copy available now. That is a letter addressed from Mr. Hamilton, from an address at Cowane Street in Stirling, and is dated the 28th April, 1974. It states "Dear Sir, I tender my resignation as Scout Leader of the 24th Stirlingshire Scout Troop. Firstly I disapprove of your behaviour as District Commissioner, in the underhand way you conduct Scouting business. Having helped at your summer camp, I was appalled at the conditions of safety, hygiene and equipment. I was shocked in your openly buying six bottles of cider and six bottles of wine for the consumption of young boys, and in the way it is common practice for all the Leaders to disappear to the pubs at night and leave the boys unsupervised". His reference to the District Commissioner in that letter would be a reference to you? - That is correct.

So this letter appears to have been written to you? - Well, may I say I can't recall having received that letter.

You never received that letter from Mr. Hamilton at the time? - Not that I can remember.

After you had terminated Mr. Hamilton's warrant what was the next time you saw him? - About 12 years later when a furniture van appeared at the gate of the block and Mr. Hamilton got out and started unloading furniture into the empty flat below where I stay.

So he was moving in beneath you? - He was. I thought he was just helping the old couple, but after the van left and he remained, my words at that time were "My God, what have I done to deserve this?".

Who were the old couple, as you have called them? - The old couple were who I was led to believe were the mother and father of Thomas Hamilton.

Did you speak to Hamilton and his mother and father while they lived beneath you? - I spoke mainly to the old man, because on one occasion he was attempting to cut the grass with an old hand mower and I said "Look, Mr. Hamilton, I will get the electric mower out and I'll tidy up the grass for you/

you in five minutes. Put that old mower back in the garden shed", and ever since that day I have always cut the grass for him.

Did you socialise with Hamilton's father? - Yes, once we got to know each other, yes, we met on a Saturday or Sunday in the Masonic Lodge in Stirling.

Did you ever socialise with Hamilton? - No.

Are you in a position to say whether or not Hamilton was a Mason? - I don't think he was. I mean, talking to the gentleman that I assumed was his father I would say that no, Thomas Hamilton was not a member of the Masonic Lodge.

And did you have discussions with Hamilton while he was living at No. 77? - Mainly after he had pushed his father out of the house and become sole tenant of the Council flat.

When did his father leave the house? - I would say three or four years ago.

And what makes you say that Hamilton pushed his father out of the house? - Because on occasions -- it is a very quiet street, and on occasions, on odd nights my wife and I would hear this gentle tapping on the door downstairs, and this was the old man trying to get in, and speaking to the old man later, young Tom had deliberately locked the door and left the key in the lock, and made the old man stand out there for maybe ten, 15, 20 minutes, knocking at the door; and the old man would knock quietly because he didn't want to disturb the neighbours round about.

Did Hamilton's father ever complain to you that he was being mistreated by Hamilton? - He did.

What did he say was happening? - On one occasion the black and white television which was in the living room, according to the father, was removed and put into the old man's bedroom, and a new coloured television was installed in the living room, with strict instructions "The new television is for Thomas Hamilton's use only". Under no circumstances could the old man make use of this television.

And/

3.50 p.m.

And that was the way Hamilton treated his father? - Yes.

You say when his father moved out you had a discussion with Hamilton? - That is correct.

Were there any particular areas Hamilton discussed with you? - The main area of discussion was between Thomas Hamilton and myself was the Sports Club or Boys Club or whatever it was that he ran at Dunblane. That seemed to be his forte in life and it was very successful and I remember saying to him on one occasion "Maybe this is what you have been looking for, Tom. It is your life", shall we say.

Did he have any complaints arising out of his operation of the Sports Club? - No, according to him it was going very well.

Did he ever discuss with you an incident arising out of a camp he held at Loch Lomond in l988? - Yes, he was very upset that the police had raided the camp and judged the camp as a Scout Camp and not as the way he ran the camp and he was very distressed and he was determined that he would obtain an apology from Central Scotland Police for a mishandling of the incident.

Did he indicate to you that he blamed the Scouts in any way for what had happened? - Never once.

Were you aware whether Hamilton had many callers at the house at 7 Kent Road? - There were one or two but I wouldn't say he had many callers at the house.

Were these men or women that came to the house? - Mainly men.

Would any women visit the house? - There might have been one but that is about l0 years ago at least.

Did any boys come to visit the house? - I have only seen young boys there once and that was at the end of one of his camps or..... No, I think/

think it would have been after he had started holding his annual do at Dunblane High School. A van drew up, young boys got out, unloaded the van, straight back into the van and away again.

So it was an isolated occasion? - Yes, definitely very quick.

Do you recall an incident in which callers to the house resulted in the police being called? - Yes, I do.

When was that? - I would say probably May or June of last year. I heard probably about 5 o'clock at night a very heavy hammering on Mr. Hamilton's door and then a knock came to my door and this well-built lad in his 30s asked if I knew if Mr. Hamilton was in and I said "Well, I'm very sorry, I can't tell you one way or the other".

What did the man do? - He said "Well, we'll come back later".

Did he come back later on? - He did. About 9 o'clock at night. I heard the front door being hammered and kicked and I heard his back door being hammered and kicked and the next thing I knew the police had arrived and there were actually two men there and they were put into the back of the police car. The police eventually got Mr. Hamilton to open the door and went in and had a few words, came out, spoke to the two gentlemen in the car and then they got out of the police car and walked round the corner as if they were going to another car.

Did you discuss that incident with Mr. Hamilton? - I did.

Did he tell you what had happened? - He said it was a misunderstanding about the gentleman who came to his door. I think it was his stepson and Mr. Hamilton had also I believe advertised a photographic business which offered to take young lads photographs and the stepfather had misinterpreted what the boy had taken home.

You mentioned a camera business there. Were you aware that Hamilton carried on a photographic business? - Well, some of the neighbours told me that he had pushed business cards through/

through their letter boxes but I can't recollect getting one myself.

Did you ever see him using a camera? - Yes, on occasions. There was one occasion when I came home and he was in the front garden across the road photographing some pansies as the lady involved was an artist and she had tried to sketch the pansies so that she could later do the pansies in water colour and he took photographs for her and gave her the completed photograph when it was ready.

Do you know where he conducted his business from? - I am assuming it was from 7 Kent Road.

And you didn't notice any people coming to and from the house in respect of this business? - There were one or two cars came but I wouldn't like to say that they were there at the business. I believe there was one gentleman that Thomas Hamilton mentioned to me that he had just sold a camera to, but that was it.

Did he ever discuss any photographic assignments he was doing with you? - He did, because he came out of the house one morning heavily laden with tripods and camera cases and such like and I said to him "Where are you going, Tom?" and he said "Oh, I have got a conference to cover in Glasgow" somewhere. I don't remember where it was and he said to me "I'm going away along to get the train" and I said "Throw the stuff in the back of the car and I'll drop you off at the station" which I did and that was it.

You mentioned you saw one or two callers to the house, mainly men. Do you know who they were? - One of them was a landscape gardener by the name of James Gillespie and the other, I won't say frequent, was somebody who I am assuming worked for STV because they were in a blue Rover Estate with the STV insignia on the side of it.

Were you aware Hamilton kept guns? - No.

Did he ever discuss guns with you? - He brought a gun catalogue out once and whether I had mentioned earlier that I had at one time been a member/

member of the Bridge of Allan Rifle Club, I said "Tom, I'm sorry, but my eyesight is gone, using rifles and that goes beyond me now."

Did you ever go into No. 7 Kent Road? - I was only privileged to visit the kitchen in No. 7 Kent Road. I was never in any other part of the house.

In passing by did you ever see into the house? - Only once.

Where did you see into? - For some unknown reason his front curtains were open and I recall seeing maybe l5 or 18 pictures round his wall of what looked like class photographs to me.

Were these photographs with a number of boys in each photograph? - Yes.

Could you see what the children in the photographs were wearing? - No, I couldn't.

Were you aware of those photographs being removed from Hamilton's walls? - Well, I did hear that they had been removed but I couldn't confirm or deny that statement.

Were you ever aware of him burning photographs? - Once again, I was told that he had had a bonfire out in the back garden and there appeared to be a smell of celluloid but I was out that night and I just saw the burning embers when I came home.

Do you know whether or not Hamilton worked? - I don't think he worked after his Do-It-Yourself shop collapsed.

Did he appear to you to be short of money? - No.

What led you to that conclusion? - Well, last year my wife had insisted that we fit a security light (a) so that she could see to drive into the garage and she also wanted another security light at the side of the house so that nobody could stand at the corner and catch her as and when she came out of the car. We got that fitted and Thomas Hamilton came to the door and said "That's a wonderful/

wonderful idea. I have a lot of valuable equipment. How much did it cost?" I said "Well, the total came to about £64" so within five minutes he was back at the door and handed me £32, 50 per cent of the cost and the same thing happened when I persuaded him to connect an outside tap to his waterpipe, he paid 50 per cent of the cost.

In your opinion was he a good neighbour? - He was a very good neighbour.

Did you have any complaints about him? - The only complaint I had was the state that he kept his kitchen in and also that he refused to do anything about his front garden.

You said in l973 you regarded him as being suitable for appointment as Scout Leader or Assistant Scout Leader? - Yes.

Did your opinion of him change at all as a result of living so close to him? - Yes.

When did your opinion of him change? - I would say just shortly after he had got rid of the old man out of the house.

You say that was about three years ago? - Yes.

What was your opinion of him after that date? - I felt that he had no self-discipline and he appeared to have no sense of responsibility.

Did he give you any cause for concern? - Not against me in particular or anything like that.

Did you see Hamilton going about in March of this year? - Yes.

In particular, did you ever see him making his way out of the house carrying letters? - Yes. I think it was either the Saturday night or..... no, it would have been the Sunday night prior to the Dunblane tragedy.

On the 12th March did you notice a white van parked outside his house? - Well, it wasn't actually parked outside his house. It was parked outside/

outside between No. l and 3 which is two semi-detached houses next to our block. That is where it was parked.

Did you see Hamilton using the van? - Not on the Tuesday night. It was on the morning of Wednesday the l3th that I associated the van with Hamilton.

What was he doing with the van at that time that you associated it with him? - He was scraping ice off the van when I returned from the newsagent's to pop the Stirling Observer through the letter box for my wife.

Did you speak to him? - I did.

What did you say? - I asked him to save my legs and to save my feet getting wet in the snow would he put the Stirling Observer through our letter box so that my wife would get a read of it in the morning.

What time was this? - This was about 8.l5 in the morning of the l3th March.

Did he strike you in any way as unusual at that time? - No, as I say, the only thing that made me sort of wonder was that he was up at that time in the morning because he wasn't an early riser.

But you saw nothing unusual in him at that time? - No, because when I proffered him the paper he said "Right, Comrie, I'll do that".

Were you aware of rumours circulating in Stirling and Dunblane regarding Hamilton? - I was.

What were the subject of these rumours? - There were rumours that he was sexually abusing children and such like and so forth.

Where did you hear these rumours? - From one of the neighbours following the camp at Loch Lomond and I said to the neighbour "Be very careful what you say. There has been no proof."

Did you have any reason to suspect Hamilton was in some way mistreating children? - None/

None whatsoever.

Are you aware that Hamilton ever blamed you for circulating rumours? - I did hear from my counterpart in the Trossachs, Dr. David Vass, that some letters had gone to parents in Dunblane saying that I, along with other members of the Scout officials, had spread malicious rumours about him but at the same time I also understand that there was another letter went to the parents of Dunblane that if they wanted a character reference then they could contact me and I would be only too willing to supply a character reference on behalf of Mr. Hamilton.

Did he ever speak to you and confront you with having, as he saw it, spread these rumours? - No, none whatsoever.

CROSS-EXAMINED BY MR. CAMPBELL: When asked about looking into Mr. Hamilton's living room on one occasion I think you said something to the effect that for some unknown reason his front curtains were open? - Yes.

Do I gather correctly from that that generally he kept his front curtains closed? - That is correct.

Even during the day time? - Even during the day time, yes.

I think you told us that you became quite friendly with Jimmy Hamilton, Mr. Thomas Hamilton's adopted father? - I did.

And you would actually go for a drink to the Masonic Lodge? - That is correct.

Which Lodge was that? - Lodge No. 30 in Forth Street, Stirling.

When you were asked by my learned friend Mr. Lake as to whether or not Mr. Thomas Hamilton was a Mason, I think you made some reference to remarks made by Jimmy Hamilton in giving your answer that in your view he was not a Mason. What did Mr. Jimmy Hamilton say that caused you to be of that opinion? - I wouldn't like to say. I don't know. Tom just gave me the impression that he wasn't interested/

interested in anything such as the Masons. I couldn't say what inference James made of that. Sorry.

Was Jimmy Hamilton a Mason? - He was.

In the same Lodge? - No, he wasn't actually a member of Lodge 30. He was a member of Lodge 76.

No re-examination.

SANDRA LESLIE FERNIE (47), Sworn:

EXAMINED BY MR. LAKE: I think you live in Cowdenbeath? - Yes.

What is your employment? - Administrative assistant with the Scouts.

How long have you worked for the Scout Association? - Seven years.

Who do you work with in the Scout Association? - Do you mean in close contact with?

Colleagues, yes? - Two other administrative assistants, the chief executive, the accountant and two programming executives.

Do you have any dealings with the chief executive? - Yes.

Who is the chief executive? - David Shelmerdine.

What are your dealings with him? - We just do office work. Secretarial work.

In the course of your work do you answer the telephone? - Yes.

If anything arises, any query arises, in a telephone conversation, what would you do with that query? - Sorry?

If/

4.00 p.m.

If a query was raised in the course of a telephone conversation would you answer it, or would you refer it to another person? - It all depends what sort of query it was.

Do you recall receiving a telephone call from Mr. Hamilton? - Yes.

When was that? - Wednesday 6th March.

And what time was that? - I can't be exact. It was after lunch, which would be maybe between 1.30 and 2.

Did the caller say who he was? - Yes.

What did he say he wanted? - First of all he asked me who the Patron of the Scout Association was.

And what did you reply? - I replied it was the Queen, and could anybody else help him?

And did he respond to that? - He just wanted to know the other high ranking officials.

Were you able to give him the names of other high ranking officials? - I told him I didn't have them to hand.

Did you make any suggestion instead of giving him the names? - I asked him if the Chief Executive could help him.

Could I ask you please to look at document DSA50, which is also D50 within the folders. Have you seen it before? - Yes.

What is it? - It is my statement after the telephone conversation.

And is that a record of the conversation that you had that we were referring to? - Yes.

You see at the start of the first paragraph there is a reference to the enquiry as to who the Patron of the Association was and your reply that it was the Queen? - That is right.

And,/

And, as you said, he then asked whether there were any other persons in high office to whom he could write? - Yes.

It says there that you offered to send him a copy of your Annual Report? - Yes, that is right.

And what was the purpose of that? - Well, I didn't realise at first what he wanted or the reason for his phone call, and sometimes if they are doing their memoires or something, if they have been in the Scout Association a long time, they are quite happy to have the Annual Report, and it goes into their portfolio.

Did Hamilton give you the reason for his call? - Not straight away, no. He just told me the Annual Report wasn't of any use to him, and I thought this was a little unusual, because they are normally quite happy to have the Annual Report.

And what did he discuss after that? - I asked him why he wanted this information, and he then told me that he wanted the Queen or other high ranking officials to know about the mal-administration of the Scouts.

Did he say what mal-administration he considered had occurred? - He just said it was being put about that he was a pervert, and that David Vass was going around the schools telling everybody he was a pervert when he was only actually an enthusiastic and friendly Leader.

Did he say what he meant by the fact that he was an enthusiastic and friendly Leader? - No.

Did he refer to his boys' club? - Sorry?

Did he refer to boys' clubs which he had started up? - Yes. He said he tried to start them up on numerous occasions, but because David Vass had gone into the schools it was very difficult for him.

He blamed all these matters on David Vass? - Well, he said David Vass was to blame -- he knew for a fact, that is what

he told me, that David Vass had gone into the schools and approached the headmasters.

In/

In the second paragraph of that report you have made reference to allegations he had made against Comrie Deuchars? - Yes. He had said that David Vass and Comrie Deuchars had said he was a pervert.

It is noted in the second paragraph that you offered to let Mr. Hamilton speak to David Shelmerdine, the Chief Executive? - Yes.

What did he respond to that? - He responded by saying it was too late for that.

And later on, in the final paragraph of that page of your note, it is noted that you again suggested he should have a word with the Chief Executive. What did he reply to that? - He said he had sent letters to them before, and they had done nothing about it. I then asked him who he had written the letter to and who he had spoken to before.

Who did he say he had spoken to? - He said he couldn't remember all the names, but the one he could remember was Jefferies.

Who is Jefferies? - That is David Jefferies, a former member of staff.

What was his position in the Scout Association? - He was the Executive Commissioner.

At the top of the second page of that note you have again referred to the statement he made to you as to the effect of the various rumours. You have noted there he said he could no longer walk down the street, his reputation had been ruined, and he was close to bankruptcy because of the Scouts? - That is right.

Were these his actual words? - Yes, more or less, from what I can remember now, yes.

He blamed all these things on the Scouts? - Yes.

Is that the Scouts as an Association, or the individuals he had referred to previously? - That I don't know. He just said "The Scouts".

You/

You have then noted he said he wanted the Queen to know what kind of organisation she was Patron of? - Yes.

And finally it is noted that he asked you to send him names and addresses of all the high ranking officers? - That is right.

Did you do that? - No, I did not.

Why not? - I reported the conversation to the Chief Executive and he said "Don't send them".

When did you report the conversation to the Chief Executive? - The following day.

Did he give a reason for not sending them? - He just said "Oh, I know about Thomas Hamilton".

Did he say what he knew about Thomas Hamilton? - No.

Had you come across Thomas Hamilton before that telephone call? - No.

How did he sound to you on that call? - Normal. He wasn't aggressive or unusual in any way.

Were you able to gauge what kind of mood he was in? - I think he was -- I felt he was actually after sympathy.

No cross-examination.

DAVID JOHN CHARLES SHELMERDINE, (48), Sworn,

EXAMINED BY MR. LAKE: Do you live in Dunfermline? - No, I don't live in Dunfermline. That is my office address.

What is your employment? - I am the Chief Executive of the Scottish Council of the Scout Association.

Is that a full-time post? - That is.

And what do your responsibilities include?/

include? - My responsibilitities include the day-to-day management of the Association in Scotland, and also the development and implementation of policy.

When were you appointed to the post? - In April, 1987.

And who was your predecessor? - My predecessor was David Jefferies.

Prior to considering the operation of the Scout Association in relation to the appointment of Leaders at the present day, I would like to look first at the relationship between the Scout Association and Thomas Hamilton. Are you aware when Mr. Hamilton first approached the Scout Association to become a Leader? - Yes, I am. We have a record that he approached the Association in July, 1973, when a warrant was issued to him.

You weren't in the post of Chief Executive at the time? - No, I wasn't.

On what do you base your knowledge that he became or applied to become a Scout Leader at that time? - We have a record system that keeps records of Leaders who are appointed within the Scout Association.

Perhaps if I could then refer you to some of those records? Are you aware when a warrant was first issued to Hamilton? - Yes. That is the 11th July, 1973.

And could I ask you to look at document, reference DSA2, which is D1 in the folders? What is that? - This is the Leader Warrant Record Book which is issued to Leaders on appointment within the Scout Association and it is dated the 11th July, 1973.

And are you aware from the records that that warrant was subsequently withdrawn from Hamilton? - Yes, I am.

Are you aware what the reason for that withdrawal was? - The record on file suggests that the warrant was withdrawn because of concern over a couple of activities in Aviemore where the Association's rules in terms of adventurous activities/

activities seemed to have been broken.

What form does that record of activities take? - That record is a report from the then Area Commissioner, Mr. Fairgrieve.

And could I ask you to look at DSA9, which is D6, and at the same time if you also have DSA4, which is document D2? Firstly, dealing with the one that is marked D2, do you see that is a letter dated the 24th of May, 1974? - 24th May, 1974, DSA4?

Yes -- sorry, you are on different numbering? - Yes. This is a letter from my predecessor, Mr. Jefferies to our Warrant Department at Headquarters.

What is the purpose of that letter? - This was to record that the then County Commissioner of Stirlingshire had withdrawn the warrant of Mr. Hamilton.

And what was the reason for the warrant having been withdrawn? - It is indicating here that there was an indication of improper behaviour with boys, and also that "The County Commissioner, who is a medical man, thinks that Hamilton is mentally unbalanced" -- to quote.

And looking then at the document that is DSA9, you will see that is a letter dated 29th June, 1974, and that is addressed to your predecessor, Mr. Jefferies, from Mr. Fairgrieve? - That is correct.

And in that he gives his opinion as to Hamilton's state of mind? - That is correct.

Attached to that letter on the second page -- could you say what that is, please? - This is what at the time was known as a descriptive form which recorded for the confidential files at Headquarters a list, of build, colour of eyes, hair, etc., of Mr. Hamilton, so that a record is put on file in case an individual tries to get additional certificates elsewhere in the Scout Association, potentially under his own or an assumed name.

And if a person did that you would be able to reject the application? - We would.

We/

We have heard reference this afternoon to something known as the blacklist. What is the blacklist? - This was a term used at that stage for a confidential file, confidential service record of Scout Leaders.

And those letters to which you have referred, are they part of the blacklist? - They would have formed part of the confidential file then called the blacklist, yes.

Are those the only letters that make up the blacklist against Thomas Hamilton? - No, there is a series of other information that has been kept since that time, in terms of correspondence or other information related to Hamilton's other activities.

Are you aware in general within that correspondence whether there are any complaints other than those referred to in these letters, made against Mr. Hamilton? - The complaints in the letters from Scout colleagues to the Records Department through Scottish Headquarters, are the only Scout complaints; but we were asked on a number of occasions to give references to a number of other enquiries that were made.

What enquiries were these? - There was an enquiry I believe -- if I could just give the date -- back in August, 1984.

Who was that enquiry from? - That was an enquiry on a draft report by the Commissioner for Local Administration, who was carrying out an enquiry as to the cancellation of school lets by

Central Regional Council. Mr. Hamilton had apparently at that time been stopped from using school premises.

We have already heard from Mr. Fairgrieve that the concern that he had about that regarded the method of the circumstances in which Hamilton came to leave the Scouts? - That enquiry was not about the main thrust of why Hamilton left the Scouts, no.

What other enquiries had been made to the Scouts? - There was an enquiry in June, 1993.

Who was that enquiry from? - That was by/

by Central Scotland Police, who were carrying out an investigation.

What were they investigating? - I do not know the nature of the enquiries, only that Mr. Hamilton was connected to that enquiry.

Who, within the police, did that enquiry come from? - The original enquiry came from Detective Constable Taylor, I believe it was, from the Child Protection Unit, which I believe is based in Bannockburn.

And what was the nature of the enquiry? - The nature of the enquiry was to ask if Hamilton had been a Scout Leader, which we confirmed, and we also made available to them information which we had on the file -- for example the information about the Commissioner for Local Administration's report, and a number of the articles that had appeared in the Scotsman related to that enquiry.

Were the policemen permitted to have access to the files? - Yes, they were.

The Inquiry was adjourned until tomorrow morning at 10 a.m.

.....

FIFTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

TUESDAY, 4th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayer (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Glasgow, for the Scottish Police Federation.

.....

I N D E X.

	Page.
DAVID JOHN CHARLES SHELMERDINE,	
Examination Continued by Mr. Lake.....	4
Cross-examined by Mr. Campbell.....	29
Cross-examined by Mr. Gibb.....	35
Re-examined by Mr. Lake.....	38
JOHN DAVID RITCHIE VASS	
Examined by Mr. Lake.....	40
THOMAS ANGUS MACK,	
Examined by Mr. Lake.....	46
GARY ERSKINE McDONALD,	
Examined by Mr. Bonomy.....	49
Cross-examined by Mr. Campbell.....	64
BRUCE WILLIAM CARRUTHERS,	
Examined by Mr. Lake.....	65
COLIN ROBERT LOUDON,	
Examined by Mr. Lake.....	68
FRANCIS BAIRD CULLEN,	
Examined by Mr. Lake.....	71
EWEN JAMES ELLIS ANDERSON,	
Examined by Mr. Lake.....	73
Cross-examined by Miss Dunlop.....	82
Cross-examined by Mr. Gibb.....	82
Cross-examined by Mr. Taylor.....	82
JAMES KINDNESS,	
Examined by Mr. Lake.....	83

GEORGE BAXTER,
Examined by Mr. Lake..... 90
Cross-examined by Mr. Campbell..... 107
Cross-examined by Mr. Taylor..... 109
Re-examined by Mr. Lake..... 109

DEREK BAIN ANDERSON
Examined by Mr. Lake..... 110
Cross-examined by Mr. Campbell..... 114
Cross-examined by Mr. Taylor..... 114

DOUGLAS GEORGE JEFFREY,
Examined by Mr. Lake..... 117

TUESDAY, 4th JUNE, 1996.

FIFTH DAY.

DAVID JOHN CHARLES SHELMERDINE,

EXAMINATION CONTINUED BY MR. LAKE:

Yesterday we discussed the fact of the file kept on Thomas Hamilton at Scout Headquarters? - Yes.

And you said it was referred to as "the blacklist"? - It the past it was referred to as the blacklist -- now known as "the confidential files".

And what is the effect of the record being kept there? - The effect of the record being kept there is to ensure that if another person -- if the same person applies for an appointment within the Scout Movement elsewhere in the United Kingdom then we are able to check their previous record of service within the Scout Movement and if that has been unsatisfactory, we can deny an appointment to that Leader.

Does that apply for a defined period or is it in perpetuity? - It remains on the file in perpetuity.

You also said in some of the evidence you gave yesterday that you had enquiries about Hamilton by the Commissioner for the Local Administration? - That is correct.

And what was the purpose of that enquiry? - My understanding from my reading of the file is that a let of a school premises, or premises belonging to Central Regional Council, or controlled by them, was refused to Mr. Hamilton, and he objected to that refusal and asked for an enquiry into that matter by the Ombudsman.

And what was the purpose of the Ombudsman's enquiry to discuss? - To my knowledge it had been mentioned that Mr. Hamilton had in fact been a Scout Leader previously, and that they had considered his work as a youth worker unsuitable.

And

And why did the Commissioner write to the Scout Association? - The Commissioner wrote to the Association to confirm various facts about our involvement with Mr. Hamilton.

Perhaps to consider those facts we could refer to the report which is DSA28 or D23, and a letter from the Scout Association which is DSA30 or Production D24. Perhaps first looking at DSA30, do you see that is a letter to Mr. Fairgrieve? - That is correct.

And in it the writer draws attention to five specific parts of the report where statements are made about the Scouts? - That is correct.

Are you in a position to say whether or not the statements made about the Scouts on those five points are an accurate record of the facts or an inaccurate record? - My understanding from reading through the file is that these were paragraphs that were highlighted, as you have mentioned, where the Scouts are noted in the report. My understanding is that we believed that we did not have to comment any further on those particular aspects. There was only one aspect that required further clarification, which is the subject of further correspondence between the Scout Association and the Commissioner.

Looking at the individual parts of the report in turn, the first is on page 2 at paragraph four, and if you refer to that paragraph you will see that the whole of it refers to dealings with the Scout Association. Do you see at the beginning there is reference to an award ceremony in October, 1981, and an official of the Scout Association drawing the attention of a Councillor to the fact the boys' group was not connected to the Scout Movement, although there was a similarity in the name; is that accurate? - That is correct.

And towards the end of that paragraph there is reference to the Youth and Community Officer having dealt with the local official of the Scout Association, who had confirmed that the group, that is Hamilton's group, is not affiliated to the Scouts, and that Hamilton had been removed from the Scout Association following a confidential report which showed him to be undesirable for Scout work? - That/

That is correct.

Is that an accurate representation of what happened? - Yes. If we are approached and asked for references for a former Scout Leader, we will indicate whether or not they had been suitable, and their service had been satisfactory.

And you provided that information to the local authority? - I believe so, from what I have read from the file.

The next reference is to the third page of the report and paragraph seven, and there there is reference in the final sentence to the Director of Education saying that Hamilton had made it plain in 1981 that he had no connection with the Scout Movement; and the Director commented that Hamilton's group's name had conveyed an impression that it was so connected. Are you aware of any impression that Hamilton's group was believed to be connected with the Scouts? - Yes. This and other instances where there is a very close similarity between the name of the Scouts and other derivatives of that name sometimes leads to confusion amongst parents as to the nature of the group that they are attending. In this case I believe the name of the group that Hamilton ran was called the Stirling Rovers. "Rovers" is a name that the Association had used up to the middle 1960s for a section of the upper age group known as "Rover Scouts".

And was the Association concerned about Hamilton's use of the word "Rover" in the title of his group? - I believe that there was concern at the time about the name, but there is no licensing that allows us to protect the name "Rovers", or associated names.

Is that saying that the Association were unable to do anything about the name despite their concern? - We would have been unable legally to do anything about the concern about the name.

Could I refer you to paragraph ten on the fourth page of that report? Paragraph ten reads "The matter was placed before the Further Education Sub-Committee on the 15th of August, 1983 and the item was taken in confidence. The Depute Director told/

told the Committee that the complainant" -- that is Hamilton -- "had been given a let to set up a new group which the Depute Director felt was meant to confuse people with the Scout Movement. He indicated that they had been told that the Scout Association had removed the complainant because of certain undesirable characteristics, but were not prepared to say this formally". You see there there was reference to confusion with the Scout Movement, and that refers to the area you have just been discussing? - That is correct.

Is it correct when it says that the Scout Association had provided information that Hamilton had been removed because of certain undesirable characteristics? - That is correct, but at the time there was no formal framework in which we could share this information, and therefore, like an employer seeking to employ a new member of staff and seeking references from other people, we provided a reference indicating that Mr. Hamilton, we felt, was unsuitable to work with young people.

What information was actually given to the local authority in response to their request? - I don't know, because there is nothing formally on file.

Are you in a position to say at all whether it was a general indication that he was unsuitable, or if any specific reasons for the unsuitability were given? - My understanding would be that at the time we would just indicate that we had found Mr. Hamilton to be unsuitable as a Leader. I do not have information as to the nature of how much information was passed.

BY LORD CULLEN: Can you say by which person that information was passed? - No, that is not clear.

EXAMINATON CONTINUED BY MR. LAKE: Would it be a person from the Scout Headquarters that that information was provided by? - It is unlikely. In this case it is more likely to be a local reference that is taken up.

In what way would that reference be taken up? Would it be by letter to Scout Headquarters? - It might be by telephone conversation. It could be by/

by letter; and I do not know in these circumstances what was the nature or how that enquiry was responded to.

Are you aware whether it was a formal or an informal enquiry? - Sorry, could you repeat?

Was this a formal or an informal enquiry? - That I don't know.

Do you receive both sorts of enquiries? - We do receive both sorts of enquiries.

It states in the report there that the Association were not prepared formally to say that they regarded Hamilton as undesirable. Is it a general policy of the Association not to give formal statements? - Because there is no formal framework in which to provide full information, the information we can provide is only of a very general nature.

On page 6 of the report in paragraph 14, at the foot of the page, the sentence there reads "He also enclosed a letter which showed that he resigned his Scout Leadership in 1974 because of his disapproval of certain actions of other Scout officials". Did the Association accept that as an accurate record of what had taken place? - No. There is correspondence on the file indicating that the Ombudsman wished clarification on that point, and that we had in fact confirmed that we had no letter on record showing that he had resigned, and our understanding was that Mr. Hamilton's warrant had been withdrawn.

Did the Scout Association provide clarification to the Ombudsman on this point? - Yes, there was correspondence between my predecessor and Mr. Henry Procter, who was then the Secretary of the Scottish Council concerning this matter.

And as a result of that correspondence was information provided to the Ombudsman? - Only to say that we had no correspondence on file from Mr. Hamilton indicating that he had resigned, but we did have correspondence on the file indicating that the local Scout Commissioners had in fact withdrawn his warrant.

Could/

Could I ask you, before proceeding with the report, to look at another report, which is reference DCRC/AL/B1/F1/1? This is the one that is D27 within the folder. Now, do you see that is a letter from Thomas Hamilton? - That is correct.

Which bears to be dated the 28th of April, 1974? - Yes.

And the opening sentence of that letter is to the effect that Hamilton tenders his resignation as a Scout Leader? - That is correct. This appears to be a letter to the local District Commissioner.

Does the Association have any record of having received that letter? - We do not have a record of having received that letter.

Returning to the Ombudsman's report, the final reference to the Scouts is contained on page 8, in paragraph 18, and in the text that is inset there is reference once again to the "The title didn't appear to imply any masquerading under the banner of the Scouts or any other uniformed organisation". And that was a statement of the Director of Education. Is that contrary to the impression of the Scout Association regarding the name of the group? - It is contrary to our belief based on the fact that we do get calls from parents occasionally seeking clarification as to whether the group that they belong to are in fact affiliated to the Scout Association or not.

Just looking at one or two other passages within that report, in paragraph 11 on page 5 -- just take the opportunity to read that. Do you see that paragraph notes that there were never any formal complaints made against Hamilton? - Yes, that is correct.

Despite a period of delay having been given to permit such complaints to be made? - Yes.

Did the Association take the matter of complaints into account in their dealings with Hamilton's warrant? - No, because we have rules in the Association and these rules are monitored by the structure we have in place, and as a result of that, in terms of internal supervision, we are able to/

to come to a decision whether or not an individual is operating within the framework of those rules of the Association. I believe, though, that there had been some complaints from parents in relation to the activities that Mr. Hamilton had carried out when he was involved with the Scouts, particularly these two events in Aviemore; but they were not formally documented at the time, until a report on why his warrant was cancelled.

Can/

10.20 a.m.

Can I refer you to paragraph l6 of the report on page 7? This is dealing with the situation when Hamilton's letting of a school had been revoked by the Council and it states "A petition with 70 signatories and more than 30 letters from parents requesting

reinstatement of the let were received by the Regional Council and at a meeting of the Further Education Sub-Committee on 7 November l983 consideration was given to these and to whether the matter should be reconsidered". Were you aware that such a petition of support had been raised in respect of Hamilton? - Only by virtue of an article which is on file from the Scotsman, I think headed "Parents Back Youth Leader" and having now read the file note of the Ombudsman's report, there is no other indication on file that we were aware of a petition and at the time we were not directly involved in this dispute.

I will come to consider newspaper articles on file in just a minute but if I can refer you to paragraph 20 of the report on page 9. There the Commissioner says "In the course of the investigation my officer asked the Youth and Community Officer whether there had ever been any concern about lack of organisation on the part of the Group over the years when they had a let of school premises or whether there had been any trouble over the use of school premises or equipment. The Youth and Community Officer said that there had never been any indication of cause for concern either from parents or school janitors. The Group's behaviour in school was exemplary". Were you aware of that view being taken of Hamilton's actings? - In relation to this particular Inquiry, only what is written in the report. If that is compared with our view of the way that Mr. Hamilton organised activities in relation to Scout activities at an earlier stage than that, we would have some concerns about the organisation but we were not asked particularly to comment on that aspect of the report.

Did you submit any information or evidence to the Commissioner relating to the view of the Association of Mr. Hamilton's groups? - There is no written submission to the Commission, other than requesting that we looked over the draft report to/

to check if it was factually correct in relation to the involvement of the Scout Association, where the Scout Association was mentioned.

You said the area in which you did consider it was inaccurate is only that in so far as Hamilton's resignation from the Scout Movement? - That is correct.

Can I ask you to look at two cuttings from newspapers? The first is reference DSA57 which is Document D22 and the second is DSA56 which is Document 28. Looking firstly at DSA57, Document 22, do you recognise this newspaper cutting? - This is the newspaper cutting that was on file.

And you see the cutting records "Parents of 70 boys who attend a Youth Group at Dunblane in Perthshire have been surprised and bewildered by the abrupt termination by Central Region of the Group's weekly let of the local High School. Many have written in protest to the Council asking for an explanation, and praising the way Dunblane Rover Group are run by Mr. Tom Hamilton. A petition has also been lodged". So you are aware from the newspaper cutting that that had taken place? - Only from the newspaper cutting, yes.

Just to complete that, that is a report from The Scotsman dated November 28th l983, is that correct? - That is correct.

The second cutting which is Document DSA56, D28, do you recognise that? - That is another cutting from the Scotsman which reports the findings of the Ombudsman in this Inquiry.

What is the date of that cutting? - Wednesday November 21st l984.

And what does the report say about the Ombudsman's findings? - In summary, it found that the Council had been unjust to Mr. Hamilton in withdrawing the lets for his Boys' Club.

You see in the second paragraph it says that Mr. Gillett who is the Parliamentary Commissioner for local administration, said "The Council's treatment of Mr. Tom Hamilton amounted to maladministration and that an injustice had been caused/

caused him". Then there is a quotation saying "'The evidence that the Group was well run and was supported by parents was ignored in favour of complaints which proved to be little better than gossip'". Were you aware of that having been said by the Commissioner? - Only from the Press cutting.

Do you agree that the complaints proved to have been little better than gossip? - I can't comment on the particular situation of this incident. If you refer back to our own involvement in it then there was factual evidence as to our concerns over his unsuitability in terms of the organisation of outdoor activities.

So the Association on its own information had reached a conclusion radically different from that of the Parliamentary Commissioner? - We did.

Did you have enquiries from the Police to view your file on Mr. Hamilton? - I am aware of only one enquiry to us which is formally recorded in our file.

Can you recall when that took place? - That was not until June of l993 and was an enquiry by Central Scotland Police.

Can I ask you to have in front of you Document DSA44 which is D47 in the folders. Do you recognise what this is? - Yes, the top half of the file note, the typewritten part, is my file note following an enquiry by Detective Constable Taylor from the Child Protection Unit in Bannockburn.

So an enquiry was made of you? - It was.

What was the nature of the enquiry made by Detective Constable Taylor? - The police were making enquiries concerning allegations of photographing boys in ill-fitting swimming trunks with the tops removed and the police indicated at that time that they could not find evidence of the photographs.

What did the Detective Constable seek from the Association? - The police were indicating that/

that they wished to know about Mr. Hamilton's previous involvement with the Association.

Are you aware how the police came to know that there had been an association? - Yes, a member of the Scout Association who also worked with Central Scotland Police had indicated to the police that he had had a previous involvement.

Who was that person? - I believe that was Mr. James McCallum.

What was his position within the police? - I don't know his position at the time but he is currently I believe the Director of Management Services of Central Scotland Police.

Did you meet Detective Constable Taylor? - I did not personally meet Detective Constable Taylor. This was a telephone enquiry.

What information were you able to provide to him? - I provided information about the previous involvement of Mr. Hamilton as a Scout Leader and also the fact that we had withdrawn his warrant because the file indicated that his services had been unsuitable.

Did you give any information as to the basis on which the warrant had been withdrawn? - The file note indicated that the reports of both activities that Mr. Hamilton had undertaken at Aviemore had not been well organised and that was the basis of the withdrawal of the warrant.

Was Detective Constable Taylor able to see the file? - Yes, he asked if he might see the file and we indicated that he could come to our office and view the file.

When was that telephone enquiry made? - The telephone enquiry was made on 24th June l993.

When was the file inspected? - On the same sheet of paper, the handwritten file note by my colleague, Mr. Henry Proctor, who was then the Secretary of the Scottish Council, dated 20th November l993 where he records a visit of Detective Constable Taylor and a colleague.

At the end of the first paragraph in that handwritten note there is a reference to the inspection being "All as a matter of complete confidence". What is meant by that? - I can't be sure what that means particularly but it is our usual practice if enquiries are made with the police to make available to them whatever information we might have.

I understand that but what is meant by the reference to that information being provided in complete confidence? - I don't know particularly what my colleague meant by that statement. It might be slightly superfluous in terms of the written note.

Did you ever get enquiries from the Press regarding Mr. Hamilton's behaviour as a Scout Leader? - Not in relation to his behaviour. I did have an enquiry in March of l994 from the Sunday Mail.

What was that enquiry about? - The enquiry was merely asking if Mr. Hamilton had been a member of the Scout Movement.

Did it seek any information about why he had had his warrant withdrawn? - No, it did not.

What information did you provide to the journalist? - I gave information as to the length of service of Mr. Hamilton in the Scout Movement back in the early l970s.

Did you provide any copies of what was already on your file? - I would need to be reminded of my file note in that context. I have a copy of my note here if that would be helpful, which I believe that the Inquiry has a copy of.

Perhaps parties don't have a copy in front of them at the moment. I wonder if you could provide that note and it will be placed on the imager for us all to see? - This is a copy of my file note. The enquiry was from, as you can see, Marion Scott, and the enquiry asked if Thomas Hamilton had been a Scout Leader. I confirmed this and referred Marion Scott to two articles in The Scotsman which were already in the public domain.

Are those the two articles that we have just looked at? - That's correct, yes.

So the Association was happy to provide those articles as representative of Mr. Hamilton? - These articles were already in the public domain.

Was any further information sought from you? - Not at all.

Thank you. That is all that is required of that document. Did you have enquiries from other youth groups relating to Hamilton's suitability? - There is a file note indication that there had been
an enquiry of one of our local officials within the Edinburgh Scout Area by another youth organisation.

What organisation was that? - It is not recorded. Only our response to our representative in the Edinburgh area.

When was that request for information made? - If I might just check. The information provided from our office to our local person in Edinburgh was in May l988.

Do you have a file note of that? - Yes, I do.

Perhaps we could have that on the imager as well please. Was this note prepared by you? - No, this was a note prepared by Mr. Proctor, the Secretary of the Scottish Council, and is in his handwriting.

Does it say there what the request was from the other youth group? - No, it records the telephone conversation from Mr. Allan Willoughby, the official in the Edinburgh Scout Area, following an enquiry he had and was making comment and providing information about the Government Ombudsman's report which again was a document which was in the public domain.

So the information provided by the Association in response to the enquiry was the Ombudsman's report? - That is correct. I believe that that enquiry was probably from a local authority representative in relation to Mr. Hamilton's wish to operate another club or have
another let in one of the Lothian Region's premises but I don't know where.

Turning/

10.40 a.m.

Turning now to Hamilton's dealings with the Association after he had had his warrant withdrawn are you aware of what Hamilton's initial response was once his warrant was withdrawn by the Association? - I believe from correspondence on file when told that we were withdrawing his warrant his response was the fact that he would resign as a result of that, but he had no option in the matter.

At that time when his warrant was withdrawn did he complain about that being withdrawn? - Not directly at that time.

Did he subsequently make complaints about having it withdrawn? - He subsequently did make complaints but prior to that he had previously tried to take up another appointment in Clackmannanshire Scout area and had been refused that because of his previous service in the Stirling area.

He was refused that after reference to the file? - Yes.

BY LORD CULLEN: When you say "you", at what level was that decision taken? - The application for the new warrant would be made to the local area Scouts within Clackmannanshire but before they could approve that warrant they would take reference with Headquarters to see whether there was a report on previous service.

EXAMINATION CONTINUED BY MR. LAKE: Could you look at DSA18 and 20 in the folders Nos. 14 and 16; looking at DSA18 you see that is a letter from Mr. Hamilton dated 25th February, 1977? - That is correct.

What is Hamilton seeking in that letter? - Mr. Hamilton had requested a Committee of Inquiry to be held under the rules of the Association as laid down in the policy organisation rules of the Association at that time.

And the second of these documents, DSA20, that is again a letter from Hamilton, this time dated March 2nd, 1977 to the Executive Commissioner, Mr. Jefferies? - That is correct.

In that letter he again is seeking an inquiry in relation to the removal of his warrant? - Yes, that is correct.

This request was made three years after the warrant had been withdrawn? - That is correct.

Had there been other complaints made in the previous time prior to that? - We are not aware of any.

Were complaints made subsequent to these two? - Subsequent to these two there had been various bits of contact and correspondence over a protracted period of time.

Perhaps if you look at some other correspondence very briefly, could you look at document DSA22, D18 in the folders; do you recognise this letter? - Yes, this is a copy of a letter from Mr. Hamilton dated 7th April, 1977 that we have on file.

It runs to some five pages? - That is correct, a handwritten letter by Mr. Hamilton.

Perhaps you can see from the tone of that letter on the last page, the second last paragraph, Mr. Hamilton states "I have found that the CC is almost unapproachable and completely unreasonable, I will now discontinue the thought of holding a warrant as I do not want my good name to be part of this so-called organisation in this district"? - That is correct.

The letter was making complaints in respect of certain matters relating to the Association? - That is correct.

Can I ask you to look at DSA42 which is D35 in the folders; do you recognise this letter? - This is a letter, again from Mr. Hamilton, to Mr. Proctor at the Scottish Headquarters some nine years after the last letter; this letter is dated 12th November, 1988.

Is that not 1986? - Sorry, 1986.

And in the very first paragraph there is reference/

reference to complaints against the Association? - Yes, that is correct.

He goes on to detail in a number of further paragraphs stating exactly what the complaints are about? - That is correct.

In general terms what was the response of the Association to all these letters throughout that period? - The Association had been quite clear as to the reasons why Mr. Hamilton's warrant had been withdrawn on the basis of his adventure activities, the lack of preparation and planning for that in Aviemore and I am aware that there were other concerns expressed at the time and as a result of that we felt that although the warrant had been withdrawn on the breaking of the Association rules this was somebody who was perhaps unsuitable to work with young children.

Turning to more recent correspondence can I ask you to look at DSA46 and 47, 48 and 49 in the folders; taking it briefly, document DSA46 is a circular letter to parents in the Dunblane area from Hamilton? - That is correct, yes.

Did the Association receive a copy of that? - We received a copy of it on the 30th August, 1995.

What did the Association do with that letter? - Initially we were not sure who had sent a copy to us but we retained the envelope in which it had been sent and compared that with what we believed might have been a letter from Mr. Hamilton, a circular letter to the parents in the Dunblane area and kept a copy of this letter on file; we decided to take no action as the letter was not addressed to ourselves.

And looking at document DSA47 do you see that is a letter to Dr. Robert Ball, the Education Convener with Stirling District Council? - Yes.

Dated 26th January, 1996; did the Association get a copy of that letter? - Again we received a copy of that in an envelope; by comparison on the handwriting on the envelope we concluded that again Mr. Hamilton had, in fact, sent that copy to us.

What/

What action was taken in respect of that letter? - In respect of this particular letter we photocopied it to the Area Commissioner with Forth Valley Area Scout Council for his information.

We heard from Mrs. Fernie that there was a telephone call made to the office on the 6th March in which Hamilton requested information about the Association; were you aware of that call having been made? - Yes, I am aware of that call; Mrs. Fernie reported it to me.

Was anything done in respect of that call? - No, Mrs. Fernie had been requested by Mr. Hamilton for the name of the patrons and other key senior officials within the Association; I indicated that we would not provide that information to Mr. Hamilton.

And the final item of correspondence, would you look at DSA48 which is D51 in the folders; do you see that is a copy of a letter addressed to the Queen dated the 7th March, 1996? - Yes.

Did the Association receive a copy of that letter? - We received a copy of that letter on the 12th March, 1996.

Turning now to some general issues on the vetting of applications for positions within the Scout Association, how many applications do you get each year for persons to be considered as Scout leaders? - In the United Kingdom we get 17,000, roughly 17,000, appointment applications for youth, for Scout leaders in various roles within the Association each year; however, we carry out about 35,000 to 40,000 internal checks on people who have close access to young people within the organisation.

What is the difference between an internal check and an application? - There is none in that the application for a warrant within the Association has to go through a three stage process; the first stage is for the local Scout district to check up local references in which they inquire into the character and nature of the individual applying.

Who are the reference taken from? - The/

The application provides two referees.

These are taken up at a local level? - Yes, these are taken up at a local level, particularly where the individual has not been previously known to the Association.

What is the second stage of the appointment procedure? - The second stage is that an inquiry must be sent to our national headquarters to inquire whether there is any reason why this leader shouldn't be considered for an appointment.

And in checking it with Headquarters would reference be made to the confidential file? - Yes, there are currently a number of areas of references that we are able to access; one is our own internal record of previous service and whether that service was satisfactory; secondly, the Association has run, for many years, a Press cutting service in which it gets reports of these individuals that have been convicted of crimes against young people. Thirdly, it has access to the Department of Education employment list, 99 which is an internal index that is used for those people who are unsuitable, particularly to be in the teaching profession, and at a more unstructured level we can, from time to time, have information from various sources and agencies which provide us with information, but that is on a very unpredictable basis.

When you make reference to the general education list is that done for anybody.....? - It is possible for many applications to be considered as the organisation can have access to that list; what I am not sure is whether that list is a UK wide list or whether it is only an England and Wales list.

Are you aware how frequently that list is updated? - No, I am not.

In carrying out the check at Headquarters what is the Association attempting to find? - The Association is attempting to seek out anybody that could be placed in a position of trust within the organisation that could possibly be a threat to young people.

What do you mean by a threat to young people? - Particularly in cases where their activities have been previously unsuitable; for example, in the case of Mr. Hamilton what we consider is the organisational abilities, whether an individual is competent to take young people into the outdoors and so put them at risk; for example, somebody convicted of theft might not make a good treasurer in the organisation.

On what basis might a person be refused at this stage of the application procedure? - The basis is the nature of the information particularly held of previous service; when a leader gives up an appointment within the Association a record of that service is sent to our national headquarters; in the vast majority of cases this indicates that their activities within the Association or role within the Association was satisfactory; a written report might add information to that, even if their service was outstanding in particular areas where they had particular expertise or skill or it might show that the leader was unsuitable for a certain position within the Association or that they were totally unsuitable and should not be considered for a future appointment within the Association.

And what factors are considered to be unsuitable for appointments within the Association? - This is a judgment that has to be taken by those making that report at the local level in view of the service.

What matters would be taken into account? - The factors to be taken into account might be the way that they implemented the role of the Association, whether they get on with other people and young people, the relationships that are made, whether or not they had a particular problem in terms of activity, understanding what we were trying to do, or perhaps they have refused to undertake training that we require for all our leaders to undertake.

Are these considered at the second stage of the report? - At Headquarters the report that comes back is the final stage in the appointment procedure; the report that comes back to the local Scout district might say that a particular leader should not be considered for a future/

future appointment and therefore at that stage the matter would not be taken further and the individual would be told that their services

were not required; depending on, if you like, a lesser report it might be that some of these issues would be explored at the final stage which is an interview between the applicant and the appointment sub-committee of the local district which is a group of people made up of experienced leaders within that Scout district.

They would consider the same factors which you have outlined? - They would consider a range of factors including the role that this volunteer was about to undertake and whether they felt the individual had the right attitude, characteristics etc. for working in that particular role; it would vary depending whether that role was working directly with young people or in some other capacity.

What sort of information would there be for a person not to get into the third stage? - An adverse report from the National Association.

Assuming that there was some sexual improprieties that were previously reported from the national headquarters -- --? - Yes.

Are there any other basis of concerns that would bring such a report from Headquarters? - There probably might be; for example, if we were aware of a leader who had been convicted of particularly bad driving offences we would have a concern as to whether or not we would allow that leader to drive vehicles in which young people were taken.

So convictions for sexual impropriety and other matters? -

No,/

11.00 a.m.

No, it is difficult to easily say what the nature of offence would be. One has to look at it in the context of the role which a particular volunteer is being asked to take on.

You said you would carry out 17,000 such enquiries in respect of new applicants each year? - We appoint 17,000 Scout Leaders in various roles each year, but we carry out 35,000 to 40,000 enquiries.

So are you saying that over half of the enquiries made are rejected? - No. If I could explain, we give appointments to Scout Leaders, who we then are effectively allowing to be in a position where they can carry out unsupervised work with young people. There is another category of people for which we don't keep a national record of their service, but who help out on an occasional basis. This is mainly people called helpers or instructors, for which the appointment is made locally, there is no national record kept. Or it could be that parents are coming along on a regular basis to help out with a particular Scout Group, and over the last two or three years the number of enquiries to check out these people who are to have access, but not necessarily unsupervised access -- the number of enquiries has risen dramatically. Five years ago, taking the 17,000 you have pointed out, the number of enquiries would have been roughly the same as the number of appointments we made. However, now people are recognising the need to carry out more and more checks.

So these are enquiries being made in respect of people who aren't actually going to be appointed, but who could have contact with members of the Association? - Well, have contact with young people but not necessarily in an unsupervised role.

Can you give me an estimate of how many Leaders you have in total throughout the United Kingdom? - Appointed Leaders, we have around a hundred thousand Leaders, but if you then look at the number of people who actually help Scouting and its activities, that number could be easily double.

Is any continuing review of Leaders undertaken after their initial appointment? - Yes. Those that we appoint as Leaders, we have a formal review of their service after a five-year, and a number of factors are taken into account, whether or not their appointment is renewed. This could include whether they have been for training, and their actual activities within the Association.

Is a further check made back to Headquarters at five-year intervals? - No, it is not made back to Headquarters.

Can you give me an estimate of what proportion of five-yearly checks or five-yearly reviews result in action being taken against a Leader, such as suspension or expulsion? - No, I don't, because these reviews are carried out at a local level, and there is not the requirement to report that back to Headquarters, other than to indicate that the warrant has been extended for a further period.

So if the review was unsatsifactory, what would happen? - It could be unsatisfactory in a number of ways -- unsatisfactory in terms of not renewing the appointment -- because the individual had indicated they really have done their bit and would like to retire; and it gives them an opportunity, as a break point. It could be unsatisfactory where the Leader could say "Well, I have done this job for 15 years and I really would like another challenge", and therefore a possibility is reassignment in terms of another role within the Association. Or it could be that there is a decision not to renew the appointment because that Leader has not come up to expectations in terms of either the rules of the Association, or in a number of other factors.

And if the appointment is not renewed, the warrant would be withdrawn? - That is correct. It gives both parties an opportunity of reviewing the situation and renewing or not renewing, if you like, the contract between the Association and the individual Leader.

Of all the enquiries made at Scout Headquarters over the years, what proportion of them produce a response that that person ought not to be admitted/

admitted to the Association? - I am not exactly sure of that number of responses. That would be information that I would be able to find out, but don't have it to hand.

If you are able to find that out, would you be able to provide that information to the Inquiry? - Yes, at the lunch hour.

The procedures you have just outlined are those in position today for the appointment of Scout Leaders? - Those are the procedures that are in place today. They are basically unchanged to what they were 20 years ago.

Just going back a little bit to where you said on a five-yearly review it may be decided that the Scout Leader's performance has not been satisfactory and their appointment would not be renewed. That would result in their warrant being cancelled? - Yes, or reassigned.

If the warrant were cancelled, would that result in a confidential file being created in respect of that person at Headquarters? - Not necessarily so. It would depend on the nature -- it it is a discussion between that Leader and the person renewing the warrant locally, and it may be a Leader, for example, had been in the wrong role within the Association.

What sort of situation would lead you to creating a confidential file at Headquarters? - A serious breach of the rules of the Association, or more serious criminal or other offences.

What sort of breach of the rules of the Association? - The Association lays down a whole range of rules for the conduct of its activities. One example would be the conduct of its activities in outdoor adventurous activities where the risk to young people in terms of activities in the outdoor environment would be much greater, and therefore those are regulated quite closely by the Association, and we would consider it irresponsible to take young people out into those activities without following the Association rules.

And that could lead to a confidential file? - That could lead to a confidential file, yes.

I understand that the Association has a policy for child protection? - It does, yes.

And that is intended to deal with a situation in which allegations of child abuse are made? - Yes, child protection in general terms, but also there is a procedure laid down for actual allegations or suspicions of child abuse, what to do in those cases.

Could I ask you to look at documents DSA74 and 75? These are not in volume HH, but I understand copies have been provided separately. DSA74 -- is that a note of the Association's policy for child protection? - That is correct.

In paragraph A there is a statement about the general policy of the Association, which is to safeguard the welfare of members of the Association? - That is correct, by protecting them from physical, sexual and emotional harm.

And in Section B there is a reference to the selection of Leaders. Is that a summary of the procedures which you have just been outlining? - That is correct.

In Section C there is a reference to the guidance of persons or adults involved in Scouting in a Yellow Card entitled "Young People First"? - That is correct.

Is that the document that forms DSA75? - That is correct.

And that document, DSA75, provides a code of behaviour by means of a number of do's and don'ts? - That is correct.

And also on one side it provides information as to what is to be done if there are suspicions of abuse or allegations of abuse? - That is correct.

And perhaps, in summary, what it is intended to do is that the complaint should be referred up through the Association where it will be referred on to the Social Work Department? - That is correct. In the case of an allegation of actual abuse then it has to be referred immediately to the appropriate/

appropriate authorities and passed on to them to investigate, rather than the Association to investigate.

The Association carries out no investigation of its own? - No. We must be clear we are talking about an allegation of actual abuse or suspicion of abuse -- then we have a statutory duty to pass on that information to the appropriate authorities.

And who might make such an allegation -- sorry, what would be the source of such allegations? - They could be various. It could be a young person themselves. It could be another Scout Leader worried about a particular situation. It could be a parent.

How many such allegations are made in respect of members of the Association each year? - To my knowledge in Scotland, which is my base, probably no more than a couple per year.

And I think you gave a figure earlier of the total number of adults in the Association as being 100,000 -- is that the United Kingdom as a whole? - That is the United Kingdom. We have somewhere over 8,000 appointed Leaders in Scotland, and the number of people helping would be double that.

And in respect of the couple of allegations a year, these are referred to some other organisation for investigation? - Yes. The most recent ones have come to my notice as allegations that have been reported directly to the authorities, and then obviously we have co-operated in the enquiries into the allegations.

CROSS-EXAMINED BY MR. CAMPBELL: I take it you would agree with me that it is quite clear that since 1974 the Scout Movement has been of the view that Hamilton was not a suitable person to be placed in a position of responsibility over young people? - That is correct. We would not have given him another appointment within the Scout Association.

And you have the Scout file on Hamilton, and we have been provided with excerpts from it, and the reasons for that view of the Scout Movement are set out quite clearly in the file? - That is correct.

And/

And it would appear from the Ombudsman's draft report that we were looking at earlier, that in or about 1981 various officers of Central Regional Council Department of Education were informed that the Scout Movement took that view? - That is correct, but not in an official way. We were asked for an opinion.

And then in or about 1984, at the time of the Ombudsman's investigation, evidence emerged that Hamilton was in fact misrepresenting the reasons for his departure from the Scout Movement? - We believed, as we have heard earlier, he was saying that he resigned. The fact was that he was faced with a choice of effectively we were going to withdraw his warrant, and his response I believe at the time was "Well, in that case I will resign".

And then in 1993 I think you have told us that you made available to officers of Central Scotland Police the whole Scout Movement file on Hamilton? - That is correct.

Just a few questions, if I may, on the question of the Scout Association's procedures relating to checking potential Leaders in the Movement. When carrying out the various enquiries by way of checking that you have mentioned, does the Scout Association have access to that applicant's criminal record, if any criminal record -- if he does have a criminal record? - On a regular basis, no, we don't. In very exceptional cases then the police will co-operate through the Chief Constable and allow us access to it, but it is only on a very exceptional basis.

Would you see any value in some system which ensured that the fact that an applicant was, for example, a convicted child abuser, was brought to your attention? - It certainly would be helpful to make an assessment of a situation to be provided with that information. In the lack of that information being officially available at the moment, the idea of the press-cuttings service was to enable us to identify those people at an early stage, so that if any approach had been made to us in later years, we might have some chance of keeping them out of the Movement.

Well, no doubt that is a very laudable objective,/

objective, but would you agree it is a somewhat hit-or-miss system? - It is not the most efficient way of doing it.

On a slightly separate matter, does the Association have any general policy as to whether or not a Leader should be given sole charge or sole responsibility for a group of young people? - Yes, we do have a policy on that in that nobody may work unsupervised with members of the Scout Movement unless they hold a specific appointment, one of the 17,000 that I have indicated. And we also have rules of the Association that in fact in general terms there should be two adults present, one of which must be the warranted Leader.

And finally I think you mentioned in answer to an earlier question that the Scout Movement made some provision for the training of applicants for Leadership positions? - That is correct.

Do I correctly understand that before anyone reaches this position of responsibility they will have undergone some system of service training or otherwise and therefore will have been subjected to a degree of supervision of other people? - No. The organisation of training is such that it is impossible to deliver all of the training that we set out for our Leaders within a very short space of time before they take up their appointment. The training is spread over a three-year period, and includes both skill training in terms of the programme of the Association, but also leadership training, i.e. their role as Leaders in working with young people.

There is perhaps just two documents that I would like to put specifically to you, reverting to the earlier matters. Could you have before you again please D47, which is also DFA44? This is the note of 24th June, 1993 relating to Detective -- as he then was -- Detective Constable Gordon Taylor's enquiry, and we see I think there is a further note of 20th October, 1993. As I understand it you were not directly involved in this -- or were you? - I took the initial telephone enquiry from Mr. Taylor.

I am obliged. So you would have been responsible for the terms of the note? - Yes, that is/

is correct.

Do we see in the note of 24th June, 1993, towards the foot, it is recorded that, "In confidence, D.C. Taylor was informed of the suspicion raised by Brian Fairgrieve in 1974, which led to the withdrawal/resignation of Hamilton? - That is correct, yes.

And then in the note of 20th October, 1993 we see that in fact the file had been inspected by prior arrangement; is that right? - That is correct, yes, on the 20th October.

ll.20 a.m.

Do you know, and you may not know this, but do you know whether before this or afterwards the police officer did in fact make contact with Brian Fairgrieve because I think there is some suggestion that might have been done? - Yes, I believe I indicated at the time that the person who was closest to this particular situation and might be able to help further was Mr. Fairgrieve and Detective Constable Taylor indicated that he might contact Mr. Fairgrieve but I'm not aware whether he did or not.

Well, I think if we read on in the note of the 20th October, we see again that there is some discussion that this might take place in the context of the investigation about Hamilton's behaviour with young boys? - That is correct.

And do we also see that at that time the police had by then gained access according to your note to large quantities of photographs and a video? - That was, I am assuming, reported to my colleague by them, yes.

But these were inconclusive with regard to preferring criminal charges? - That is what the note says.

Reverting them for a moment to the draft Ombudsman's report that I mentioned a moment or two ago which I think is Document 23 in H(IV) which is also DSA28. I would like you to turn to page 4, paragraph l0. We read in paragraph l0 a reference to a meeting at Central Region Further Education Sub-Committee on l5th August l983 and the item is taken in confidence. The Depute Director told the Committee that the Complainant had been given a let to set up a new group which the Depute Director felt was meant to confuse people with the Scout Movement. He indicated that they had been told that the Scout Association had removed the Complainant because of certain undesirable characteristics but were not prepared to say this formally. Do I understand that the Scout Movement were not asked at any time by the investigator in the course of this enquiry to specifically elaborate upon these matters? - I believe there might have been a meeting. If I can just..... correspondence between Scottish Headquarters/

Headquarters staff at the time and the Ombudsman indicated I think that there might have been a meeting or telephone conversation. I would have to check that correspondence here. If you would like me to do that?

Can you do that within a reasonable period of time or is that something you prefer to take time on? - Can I just check? I may be mistaken about this but I would just like to check. Yes, I'm referring to a letter from Mr. Proctor on the l3th September l984 to Mr. K. Bratton, the Secretary to the Commissioner for Local Administration in Scotland. It appears to be a phone call subsequent to receiving the draft report which I now see is related to confirmation first by telephone and then in writing indicating that Mr. Hamilton's warrant had been withdrawn and that he did not in fact resign and that was I believe the first contact.

So am I correct in understanding that neither Central Regional Council nor the Ombudsman asked the Scout Association to elaborate in a formal manner as to what was meant by "undesirable characteristics"? - I'm not aware of being asked, that the Association was asked.

LORD CULLEN: I think that letter is D26, Mr. Campbell, in case you want to refer to it. You probably don't but it is there.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Yes, perhaps you could just confirm this. If you look please at D26 of H(IV) which is also DSA34, is that the letter of the l3th September l984 to Mr. Bratton you referred to just a moment ago? - That is the one I referred to, yes.

Plainly that does not elaborate on the matter? - No, looking at that letter on file, just to confirm again that I believe that was only confirming whether Mr. Hamilton's warrant had been withdrawn or whether he had in fact resigned.

And turning back again to the draft Ombudsman's report if you still have that in front of you? - Yes, I note that we keep referring to the draft report rather than the final report.

Yes/

Yes, am I right in understanding this is a copy of the draft or have I got that wrong? - Can I just be absolutely clear?

I may well have got that wrong? - There are subtle differences between the two. It is actually quite difficult to distinguish without the attached letter.

It doesn't really matter for my purposes? - The basic thrust is the same.

Yes, we can check that in due course but for my purposes if you look please at page 2 of D23 and paragraph 4. There is a reference there to an award ceremony in October of l98l when an official of the Scout Association drew the attention of a Councillor to the fact that the boys' group was not connected to the Scout Movement although there was a similarity in its name and there is then a reference to the Scout official being displeased and the Councillor then took this up with the Director of Education who asked one of his youth and community officers for further information about the group. That officer carried out certain enquiries and he then said, looking at the next sentence, that he had checked with the local officer of the Scout Association who had confirmed that the group was not affiliated to the Scouts and that the complainant had been removed from the Scout Association following a confidential report which showed him to be undesirable for Scout work. To your knowledge, is that the only written record of this investigation and response by the Scout Movement to the youth and community officer? - I believe so, that this was an informal issue raised with the Councillor at I believe it was a Scout award ceremony to which the Councillor had been invited and had indicated that there did appear to possibly be some confusion between the name of the group operated by Hamilton and the Scout Movement.

And as to the identity of the Scout official? - I am not actually clear on who that was.

CROSS-EXAMINED BY MR. GIBB: I think in l984 the Association drafted the documents which we have seen, namely the overview of policy and guidance for child protection? - Yes, the overview that/

that you have before you is in fact my summary which I have used at various child protection seminars that we have had recently.

You made reference also to some doubt as to whether the facility extended to Scotland for access to criminal records? - Well, I am sure of the situation as far as the Scout Association and a number of voluntary organisations are concerned in terms of access to criminal records in Scotland.

Well, can you tell me again what that is formally? - The Association has no access to Scottish Criminal Records.

And I think in fact you wrote to the Scottish Office about that some two years ago? - Yes, I did write some few years ago to the Scottish Office on that matter and asked particularly if there was a possibility of that happening.

I think in fact while you got a response acknowledging the letter you have heard nothing since? - I have had no direct communications but I do know that there has been discussion by the Scottish Office on this matter.

Is it your view that organisations such as the Scouts should be given a formal entitlement somehow to access criminal records? - I believe that that would be something that would provide another potential way of excluding from the Association any known abusers.

So far as non-recognised organisations are concerned, such as boys' clubs set up by an individual such as Hamilton, would you agree with the proposition that there should be a National Register kept of organisations which are not affiliated to any mainstream body? - Yes, this is a difficult question to answer because of the diverse nature of those working with young people. We have to bear in mind that there are independent local groups that have no affiliation to any organisation or parent body and yet there are others which are part of a wider structured system. If the intention of the register is to find a way to exclude people who have previously had unsuitable service in other agencies then the sharing of that information would be useful. If it is merely a question/

question of access to criminal records then there may be other ways of approaching that.

Well, it might be suggested by others that it is appropriate that a National Register should be set up and that all members of these informal organisations should be subject to a similar Records Office check before they supervise children? - I am aware of that.

I think clearly if the purpose had been, as you said, to see if unsuitable people were running independent organisations, clearly Hamilton would have been picked up with hindsight by such a system? - If we, at the Scout Association, had had an opportunity for passing on information to a central agency then I think it would have raised concerns earlier on but there are a number of issues related to that that obviously need further discussion.

BY LORD CULLEN: In that connection, do you have any views as to how one might define activities which might bring somebody within the scope of the kind of thing that Mr. Gibb is putting to you? The question in my mind is where does it stop? Obviously outdoor activities might qualify but how much further does one go? - It is a question that ourselves are struggling with within the youth work sector, yes, the nature and scope of that. There is a difference between somebody who has already been convicted of a particular crime against young people which is on one record but all of our indications are that in trying to identify other unsuitable people one is having to look for trends or patterns of behaviour and that is not so easy to identify in terms of how you would report.

People might come into contact with children in quite a wide variety of ways. Anything from outdoor activities to giving piano lessons? - That is correct. The potential scope and the potential for an adult to abuse young children on a one-to-one situation is vastly wide and how one actually gets to a workable situation in that I think is something that we are all struggling to find a way to do.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: I quite understand Lord Cullen's point that someone who/

who takes half a dozen boys for football on a Sunday morning may fall into the category but how far does one take it. The other thing is we have talked about those who are convicted of an offence involving child abuse at its worst. Can I ask you to comment on the suggestion that the Courts could have power to make a disqualification order in respect of certain individuals which would prevent them having anything whatsoever to do with children in the future in a supervised fashion. Is that something that in your view is at all workable? - My understanding was that if an individual was convicted of an offence against children and that was known about then it would not require legislation to stop organisations appointing that person. However, it would have the additional advantage to these organisations of excluding that person if there was some legal framework in which they could do that.

Again, I accept here that Hamilton was not in this category but if he had been and had set up his own organisation after conviction he would have been on one scenario guilty of a criminal offence? - Yes.

Now, that is perhaps one possibility to look at? - That is correct, in a situation of a local independent unit and I have to say I don't know the exact details of the organisation of Mr. Hamilton's clubs but it appears that it was a one-man show and that there were no other criteria such as a local club having some sort of management committee on which there would be at least a second level of supervision of the activities.

RE-EXAMINED BY MR. LAKE: You said that you didn't have access to criminal records. When I was discussing with you earlier the confidential file you said that there may be informal information from the police? - Yes.

Can you give me an example of such information? What it might include and how it came to you? - I indicated previously that the Association from time to time receives information that is not in a structured or formal capacity but would lead us to suggest that we need to re-look at some person whom we might have already appointed because we did not have that information previously. I/

I can give you one example. Certainly in my time in Scotland it was brought to our attention, and I'm not sure exactly the route by which this information came to us, it could have come through two or three different places, but we had in fact appointed somebody that had previously been charged with an attempted murder offence and whilst the evidence had been such that that charge had not been..... the conviction had not gone through but there was sufficient evidence presented in that trial to raise a question mark as to the suitability of that person to be in a position of trust within the Association. So in that case I approached that individual and he resigned immediately from the Association, aware that with his previous history he could no longer command the trust of the Association.

11.40 a.m.

Some of that informal information may be of a police nature? - Yes, it could well be.

As a final matter is there anything you wish to say in relation to events, anything further you wish to say in relation to events that took place at Dunblane Primary School on the 13th March? - If I may, just in conclusion, say that Scout leaders who have been working with young people have all been deeply affected by this tragedy; those that work with young people feel very deeply about it and more than one Scout leader said to me that if Mr. Hamilton had a grudge against individuals within the Association why, oh why did he not kill me rather than those young children; we do not begin to understand what Hamilton was thinking about during the period leading up to that day but all of us within the youth sector working with and on behalf of young people want to continue to encourage adults to come forward and work with young people and would reassure the majority of them that their contribution is valued not only by the youth organisations and young people but by society at large. We are aware clearly that we want to find ways, more ways, to exclude these individuals that are actually unsuitable to work with young children. We are currently working on a submission to your office on behalf of a number of national youth organisations and agencies for your consideration and our thoughts and prayers will continue with those people who have been closely and deeply affected by these tragic events as we continue this work.

LORD CULLEN: Thank you, Mr. Shelmerdine, I am much obliged to you and I look forward to receiving your submission.

JOHN DAVID RITCHIE VASS, (59), Sworn:

EXAMINED BY MR. LAKE: You live in Dunblane? - That is correct.

What/

What age are you? - 59.

What is your occupation? - I am a consultant.

I understand that you are involved with the Scout Association? - Yes, for a long time.

When did you first have involvement with the Association? - As a boy and as a leader.

What was the nature of your association in 1973? - I was District Commissioner for the Trossachs.

While you were District Commissioner was an offer made to you by Mr. Hamilton of his services as a Scout leader? - Yes, that offer was made I think in 1978.

When was that offer made? - I believe it was made in 1978.

How was that offer made to you? - He came to my door one evening, rang the bell, explained who he was and that he wished to offer his services as a Scout leader.

Was that a common way in which someone would offer their services as a Scout leader? - It is highly unusual, we usually have to coax people.

What was your reaction to Hamilton offering his services in this way? - I thanked him for his offer, took his name and he gave me an address which I can't recall now but I think it was the shop in Cowane Street and I told him that I would get back in touch with him because I would need to make some inquiries.

What inquiries did you wish to make? - I would normally go through the procedure of sending off an inquiry form to Headquarters but because he was local I also telephoned Brian Fairgrieve and asked him if he knew of Hamilton.

What did Mr. Fairgrieve say? - He indicated it would not be prudent for us to use his services.

Did/

Did he say why it wouldn't be prudent to use his services? - I have no recollection of that, I don't think he could have because in the intervening years I believe there was some financial reasons why he had been asked to leave but I didn't know until this year, I didn't need to know.

Did you pass this news back to Mr. Hamilton? - I wrote to him and explained that we wouldn't be able to make use of his services.

What was his response to that? - I don't recall receiving one.

Were you ever asked for information about Hamilton by other parties? - Yes, on several occasions, at social events in Dunblane people asked me if I knew about him; I can't recall what was actually said and I indicated that the Scout movement would not have wished to make use of his services.

Who was making these requests to you? - The only person I can actually remember asking on one occasion was Mrs. Sheena Davidson who was then a District or Regional councillor.

Were there other parties who requested information also apart from the councillors, from other youth groups? - They were not from other youth groups, they could conceivably have been from parents or from councillors; some of these conversations took place at social events associated with fund raising but I can't really remember after this time the individuals.

Were these formal inquiries? - No.

And no formal response was made to them? - No, I made the response I made to you just now.

Did you express your own view of Hamilton? - No, not to external people; I didn't have a very clear view.

Did you have any information on Hamilton at that time? - When he came to the house on that occasion in 1978 I recollect I said to my wife, I remarked that the chap was very odd.

Did/

Did you pass that impression on to anybody else? - Not that I can recollect.

Do you recollect Hamilton ever coming to your house after his initial contact with you? - Very well.

When was this? - I think it was 1983 and in my statement.....I know that it was after the Ombudsman's report was published but at that time I hadn't seen the Ombudsman's report.

How did you know it was after the Ombudsman's report? - Because when he came to the house and requested entry which I rather reluctantly gave because it was round about Christmas and we had friends in, he appeared to be very concerned about the Ombudsman's report; it was largely the subject of the conversation that we had.

What did he say about the Ombudsman's report to you? - This was difficult to recollect accurately; he seemed to be convinced that as a Scout official.....he clearly believed it was me, that I in some way condemned him to the Ombudsman and nothing I could say could persuade him otherwise; he had a great advantage at that time because he had read the Ombudsman's report, I don't think I was even aware it had been published at that time.

So you assured him it wasn't you that had passed on any information? - Yes, the conversation became quite vigorous and I indicated that if he continued to make accusations of this nature he could make them to the leaders and not to myself because I was quite unable to satisfy his assertions.

Can you remember how long the conversation lasted? - No, it would be very difficult to recollect at this time.

Did you notice anything in particular about Hamilton's behaviour during the conversation? - I have indicated in my statement I was aware he was recording the conversation on a tape recorder -- at least, I assumed that is what it was in a small brown holdall which he had brought in with him which he reached into at the beginning of the conversation and/

and at the end.

What impression did you form of Hamilton as a result of that meeting? - Very intense, a very difficult man to convince on the basis of being straightforward, he had made his mind up and that was the end of it.

At the end of last year and the start of this year did you receive copies of letters from Hamilton? - In August, 1995 along with a large number of people in Dunblane I received a circular through the door which had got, I think it was, a green sheet on the outside which advertised his club in Dunblane and a second typewritten sheet which I think extended to two sizes which consisted of a statement about the boys clubs and then went on to a declaration in which he asserted that certain individuals, particularly the Scout Association, had been responsible for disadvantaging him, I suppose is the best way of putting it, and I was quite surprised at that because I actually thought he wasn't operating in Dunblane any longer, mainly because I had heard nothing about the activities of the boys club and since he hadn't impinged directly on the Scout Association at any point, and our activities, there was no particular reason why I should. In my occupation I am away from Dunblane all week, so perhaps not present. I wasn't fully au fait with local affairs.

Could I ask you to look at Production DSA46 which is D48 in Volume 5; is that the letter which you received from Mr. Hamilton? - That is correct.

Could I ask you also to look at DSA47 which is D49 in the folders; do you recognise this letter? - Yes, I received this letter late January through the door and this caused me some personal concern.

Do you see on page 2 of that letter in the second paragraph down the page, five lines down reference to "This was prior to Mr. Ross further misleading councillors on Committee in August, 1983 which led to the termination of our lets at that time. As you know the matter was fully investigated and Mr. Ross and his reported source David Vass, being a member of a rival group, were fully/

fully discredited and our use of schools was returned". Were you previously aware of these allegations being made against you? - No, I have no recollection of ever having had a converation with Mr. Ross; he clearly believed that I had and I don't know the reason for it.

Well, did you take any action in response to either of these two letters? - In the case of the first letter I established with local Scout leaders in Dunblane that he was still functioning and after some consultation we decided there was no point in responding in any way to it, it was futile; in the case of the second letter I reflected on it for a couple of days and you will note that the circulation of this letter is to primary head teachers as well as to Councillor Ball and then I rang Councillor Ball and had a conversation with him which essentially consisted of me making it absolutely plain that at no time had I suggested that anything improper was taking place between Hamilton and the boys, I was unaware of any impropriety and secondly, I was not responsible for malicious gossip.

That is a conversation you had with Mr. Ball? - That is correct, that would be about the early days of February.

Could you look at document DSA48 which is D51 in the folders; you will see that is a letter dated the 7th March, 1996 from Hamilton to the Queen; did you receive a copy of that letter? - I did.

When did you receive a copy of that letter? - Round about the weekend before the incident.

The weekend before? - About the weekend before the incident, I think about the 10th or the 11th.

Were you aware that Hamilton owned and used guns? - No.

12 noon

THOMAS ANGUS MACK, (63), Sworn,

EXAMINED BY MR. LAKE: Do you live in Menstrie? - Beg your pardon?

Do you live in Menstrie? - I do.

What is your occupation? - I am a pharmacist.

I understand you had involvement with the Menstrie Scouts? - That is right.

And for a brief period Hamilton came and assisted you with the Menstrie Scouts? - Two evenings.

And that that involvement ceased when you indicated to him that you would be making checks? - Exactly.

What check did you propose to make? - The Scout Association have a system whereby we are required to find out why someone has not been allowed to continue, and since he came from another area I would be required to check with officials of that area his reason for no longer wanting to be in that particular district.

Did you carry out a check of Hamilton? - I didn't.

Are you aware whether or not Scout Headquarters maintained a file on Hamilton? - I was made aware later that there was a confidential report prepared on him.

When were you made aware of this confidential report? - I think I am talking -- my involvement when he came to Menstrie at that time, I am talking about 1972/1973 or thereabouts, I would think it would be the late 1970s or 1980, I think, that I was made aware of that. But I was only made aware. I hadn't seen any documents.

How were you made aware of the existence of that file? - It was just word of mouth by other Leaders.

That/

That is other Leaders within the Scouts? - Yes.

Were you made aware of the contents of the file? - Not at all. I have no knowedge of what the file contains.

So what did you know of the Scouts' position in relation to Hamilton? - Nothing other than that he is not a suitable candidate for Leadership.

Were you aware of any allegation as to Hamilton's sexual orientation? - None at all. No, I had no idea of what the content of any report contained.

You had no awareness of any question of homosexuality? - None at all.

Or of questions of paedophilia? - None at all.

Were you ever asked by any persons to give references in relation to Hamilton? - No.

Were you ever asked to provide information about Hamilton's background? - No. Mr. Watson once phoned me regarding Mr. Hamilton, and I said simply that he was the subject of a confidential report in the Scout Association, but I knew nothing about its contents.

Who was Mr. Watson? - He was a Regional Council Officer. I think he had an office in Dunblane -- the Central Regional Council.

And what was his enquiry in relation to Hamilton? What did he ask you? - He simply said "Can you give me a reference" -- as far as young people are concerned. I am going back about 20 years. It is very difficult, but I think it was of the order of the Scout Association weren't happy about him being appointed as a Leader.

And is that all you said to him? - More or less, yes.

Could I ask you to look please at a Production which is reference CLC/AL/B1/F1/1B? I understand/

understand that copies of this have been handed round separately rather than included in the folder. Perhaps it would be easier if we could have this document put on the imager? If you could look firstly at the top of that document, do you see that bears to be a memorandum from Mr. Watson to a Mr. Collie, on Central Regional Council notepaper? - Yes.

And you see the heading "Subject", and beneath that "Dunblane Rover Group, T.W. Hamilton, Principal Leader"? - Yes, I do.

Could you look down that document a little bit to the fourth paragraph. Do you see there the fourth paragraph states "I checked with the Scouts' District Commissioner, Mr. Tom Mack"; do you see that? - Yes.

"I checked with the Scouts' District Commissioner, Mr. Tom Mack, and he has confirmed that the group is not affiliated in any way to the Scout Movement. Mr. Hamilton appears to be the subject of a confidential report at National level which shows him to be totally undesirable in relation to working for the Scout Movement. The report is based on his homosexual tendencies, and he was for obvious reasons discreetly removed from the Scout Movement". Did you mention to Mr. Watson that Hamilton was suspected of having homosexual tendencies? - I didn't say that.

Do you have any idea where Mr. Watson obtained this information? - No, none at all.

Were you aware of rumours circulating regarding Hamilton? - I think I was aware of them, yes.

What was the nature of those rumours? - That he was taking young people away camping, and that this was not considered a properly supervised event. That is really the sum total of it.

Was there any allegation in those rumours that Hamilton was suspected of sexual improprieties? - None that I was made aware of.

No cross-examination.

GARY/

GARY ERSKINE McDONALD, (29), Sworn,

EXAMINED BY MR. BONOMY: I live in Alloa.

And do you work as a window cleaner? - Yes.

You have known, or you knew, Thomas Hamilton, over a number of years? - Yes, that is right.

When did you first come across him? - When I was about nine years of age.

At that time had you and your family just moved to Dunblane? - Yes.

And how did you come across Mr. Hamilton? - I got a note through the door to tell me there was a club starting called "The Rovers".

And that would be what year, roughly? - I have no idea.

Well, you were -- what did you say -- nine? - I would be about nine or ten.

And you are now 29? - Yes.

So 1976, maybe, or 1977? - Yes.

Did you go to the Rovers? - Yes.

Were you in it long? - I was in it for about six months, five months.

And Mr. Hamilton ran it? - Yes.

Did he have any help to run it? - He had two boys maybe about 17/18 years of age.

And how many Rovers were there? - There was maybe 20, maybe slightly more.

Where did you meet? - We met down near the bowling club in Dunblane.

And what did you do? - Well, it was for shooting.

Now,/

Now, where was the shooting actually done? - Near the

bowling green -- I've forgotten the name of the place.

Did some of your pals go to this? - Yes.

Did you actually do some shooting? - I did a wee bit of shooting -- not very much.

What did you use? - A .22 -- it was a .22 rifle, airgun rifle.

And who provided that for you? - That was Tom.

Now, was this a proper shooting range you were on? - Yes.

And do you know if it was normally used by a shooting club? - I think it was. In the gun box there was his guns, then there was other gun boxes.

Did the club ever do anything else apart from shooting? - It used to go away camping trips.

And did you go on these? - I went on two, two long weekends.

Did you enjoy it? - I enjoyed the first one.

What was wrong with the second one? - Well, I burned my foot and he wouldn't tell my parents. He took me to the hospital.

How did you burn it? - We were in the boat and some hot water fell -- two boys were mucking about with some hot water and it went down my leg.

And you were on a boat? - Yes.

Where was the camp? - On Loch Lomond, on one of the islands.

How did you get treatment? - I got taken by speedboat to -- I think it was one of the hospitals up that way.

And/

And who took you on the speedboat? - Two men.

Was Mr. Hamilton with you? - No.

Did he arrange that? - Yes. It was two men who worked with him. They were at the camp supervising us.

So they took you? - Yes.

And then did they bring you back? - Yes.

And when was it you actually got home? - I got home about five hours later.

And was that the end of your involvement with Mr. Hamilton's club? - That was me. My dad stopped me because he was annoyed they hadn't phoned and told him.

Was there any uniform worn in the course of the Rovers' activities? - What do you mean uniform? We used to wear -- it was dark trousers and black shoes, and it was like Army jumpers.

Were there patches on the shoulders? - Yes.

And who insisted on that? - It was Tom.

And what was his attitude to safety when you were shooting? - He was very strict on that. I think he only allowed three to shoot at a time, or four to shoot at a time, along this -- it was like a long tunnel, and only four was allowed to shoot at a time.

And how controlled was the shooting for the four doing it? - Well, you had to shoot, put your rifle down till everybody had shot and then reload, and do it again, but he had it locked -- it wasn't locked, it was just a thing that came down like a hatch, you weren't allowed to go by that till everybody had stopped shooting.

Did you have anything to do with cleaning the guns after you had used them? - No. He used to show us how to clean the guns properly, but he did most of the cleaning.

Did/

Did you ever see a handgun? - Yes.

Who had the handgun? - Tom.

And that could have been around 1977? - Yes.

That is when he first got a Firearms Certificate -- but it could have been around that time you saw a handgun? - Yes. It was like a cowboy gun.

A revolver? - Yes, like the ones you see in cowboy films which they can spin -- it was like that.

Did you also have any other activities in Dunblane like football or gymnastics? - Yes.

Where was that held? - We used to go to the Dunblane Primary School and play football, and we used to have gymnastics there.

Now, was it Dunblane Primary School? - Yes.

You may be the only witness we hear from saying that there were activities of the Rovers in Dunblane Primary School? - We used to play with the gymnastics there -- we used to bring all the stuff out.

What part of the school was that? - In the gym, in the gym itself.

Do you ever remember a row taking place with Mr. Hamilton and other people during one of the club meetings? - No.

There was never an occasion when there were other men there arguing with him about using the Scout name? - He did one time. He took us out somewhere -- I can't remember where it was -- and some folks came up to him and started arguing with him.

Do you know where you were at the time? - I can't remember.

Can you remember what the argument was about?/

about? - Well, when he came back in the van, there was only five or six of us in the van at the time, and when he came back in the van he said "That is them started rumours about me again".

And did he say what the rumours were about? - Not that time, but the next time somebody started to call him a name -- that is when we started going to Dunblane High School. At this time we started going there because he wasn't in the Primary any more, and somebody had called him a name or something at the school, and he said "That is a rumour saying I am touching kids".

What was the name he was called, do you remember? - It was pervert, queerie.

And was that an adult or some of the group that called him that? - It was an adult.

And that was in the school somewhere? - It was just going into the school, the High School.

And did he say anything to you or the group about what they had said about him? - He just said "That's rumours starting about me again". That is all he said.

Did he ever tell you anything about why he left the Scouts? - He told me just a few years ago that he had been put out of the Scouts because he slept in a van or something.

Because he slept in a van? - Yes, with kids.

Now, quite apart from the shooting, when you were doing these other activities, how strict was Mr. Hamilton? - He was very strict.

What happened if you misbehaved in any way? - He would slap you over the earhole.

Pardon? - He would slap you over the earhole.

That was common, was it? - Yes.

Apart from going to Loch Lomond, did you go any other places for outings? - We used to go to/

to a swimming pool in Edinburgh.

You did an awful lot in six months. Was it only six months you reckon you were involved? - I was only six months involved with the shooting.

How long do you think you were involved with the Rovers altogether? - Maybe about a year and a half at the most.

Apart from clipping somebody on the ear, did he ever hit anybody more severely than that? - I never seen it.

Were you ever clipped about the ear? - I was hit once, yes.

Sore? - Yes.

I mean, have you a recollection of it being sore? - I was upset -- a ten year old boy, or a nine year old boy, getting hit over the head is sore.

Would you have expected your own parents to do the same to you if you had misbehaved? - Yes.

In those days that would have been acceptable, would it? - Oh, yes.

Did you ever see him hitting anybody in a way which, at the time, and even looking back from now, you think was unacceptable? - I never saw anything like that.

Did he ever take photographs of you? - No.

Or any of the other kids in the group? - He didn't take photographs at that point.

Did he develop an interest in photography later? - Yes.

Did the uniform that was used ever involve stripping off part of your clothing? - When we played football we used to play a skin side.

So one side had tops on and one side had bare/

bare buff? - Yes.

And it was only for identification purposes? - Yes.

It was never done in odd circumstances? - No.

If I can move away from the Rovers now, when did you next see Mr. Hamilton? - Well, I started to work for a company called R.L. Dobbies, and when I used to come home from work and go down, I sometimes used to see Tom in Dunblane putting leaflets through doors, and he used to say "Hello" as we met; and I hadn't seen him for a long time after that.

What age were you then? - About 18 or 19.

Did he ever ask you to help at his group? - Yes.

And did you? - No.

Had you no interest in that sort of thing? - I worked for the youth club, but my mum and dad, because of what happened when I burned my foot, wouldn't let me work with him.

Are you saying you used to work with some other youth club? - Yes. I used to work for Jim Gardiner and that.

Did your mum and dad have a Scout connection? - Yes, my mum and dad were Scouts in Glasgow.

But their reason for discouraging you from contact, or at least involvement with the clubs, was because of the scalding incident? - Yes.

Did you know him at the time he moved house from Riverside to Main Road? - Yes.

Did you help him with the move? - He came home one night and he asked if I would give him a wee hand, to help him to lift some heavy stuff.

Did you have a van that you could help? - No, he had his own van at that point.

Why/

Why did he come to you? - I don't know. I have no idea.

Had you been seeing him off and on at that time? - Not really.

Did you ever visit his house once he moved to Kent Road? - Yes.

How often have you been there? - I used to sometimes pop in, sometimes at the weekend, when I used to have the motorbike I used to pop in and see him. That is when I was 22.

When you were 22? - Yes. I used to pop in and see him, and then I hadn't seen him till my first boy was born, when I was 25 or 26.

So/

12.20 p.m.

So about three or four years ago? - Yes, I started seeing him again.

Did you actually assist him from l99l to l994? - I used to. For myself, I used to have a van and took his stuff to the High School when he had summer camp.

Over how many years did you do that? - I did it for four years. I didn't do last year.

Did you see what was going on at the summer camp? - No.

You never saw any of the activities? - I only took the food and all the gear up. The balls and stuff that he had.

Did you do any transporting to his clubs during the winter? - No.

Apart from running him to summer camp activities at Dunblane High School that would have been, did you run him anywhere else on a fairly regular basis? - I ran him to Glasgow.

Did you also take him on occasions to the railway station at Stirling? - I just dropped him off.

So would that happen quite a lot? - Yes. Sometimes he used to be a lot at the Courtyard in Stirling. He used to do leaflets and take photographs of people. He done that for a while and I used to run him to the railway station or even run him home.

So you would see him actually doing that? - Yes.

And give him a lift? - Yes.

Was there anywhere in particular that he regularly went to? - What do mean? I don't understand.

I mean, if he went to the station, did he have a regular routine? - I've no idea. I never/

never asked him.

Did Mr. Hamilton appear to you to be short of money at any stage? - He always seemed to have money when I seen him.

How recently did he offer to help you financially? - It was about last September. I was saving up for a car and he said "I'll help you out if you want".

Was there any sign then he had any money? - He had some money, yes. I couldn't tell you how much he had.

Just cash in his hand? - Yes.

Did it appear to be much? - Well, his wallet was full but that didn't mean anything really. It could be credit cards or anything.

Now, were you at his house when two men called at the door to enquire about his business, the DSS? - Was that about the selling? Yes.

When was that? - I have no idea but I just remember the two men coming.

Was it in the last year> - It was maybe two years ago.

And you were aware of two men being there and then speaking to Mr. Hamilton afterwards? - Well, they came to the door and said they wanted to talk to him and I just went away.

Did you find out later what they were there for? - Yes, he said because he was buying and selling cameras and he was on the dole that they were..... I don't know what the word is.

They were investigating it? - Yes.

Now, do you know how he went about buying and selling cameras? - He used to put it in the papers he was looking for cameras.

Do you know what paper he put it in? - Sorry.

I/

I mean, do you have experience of a magazine called the "Amateur Photographer"? - I used to see magazines in his sitting room but I couldn't tell you what they said. I am sorry.

Do you know if he was prevented from continuing with that business or not, with his camera business? - I don't know. In September he still had quite a lot of cameras but after that I hardly seen him.

After September you never saw much of him? - I never hardly seen him.

Between l99l and l995 when you did have dealings with him, did you see much camera equipment around the house or in his possession? - He had maybe about 60 or 70 cameras at one point.

Between l99l and l995 were you in his house from time to time? - Yes, I was in it.

How frequently roughly? - Maybe once every couple of months.

Did he have photographs on the wall? - Yes.

What were these of? - It was all of young boys with just their gym pants on or shorts.

Well, was it shorter than gym pants we are talking about? - Some were. Some were black trunks.

And were these individual photographs or group photographs? - Some were grouped and some were just one person, one boy.

And if it was one boy, what part of the body generally did it show? - It showed normally the chest and he was doing like gymnastics.

Would it show pants in the single photographs normally or would it simply be from the chest up? - Normally the whole body.

Did you notice anything or feel that there was anything odd about these photographs? - Not really.

Did/

Did he ever discuss them with you? - He used to say to me about..... I don't know anything about cameras but about different lenses and what they used to do and he used to show me that this lens does this and that lens does that.

What sort of features was he pointing to when he said that? - Well, he would say if he was taking them in the gym, he would just say if he was taking this lot you can take full lens, the high lens or something like that. If he was just taking one person he was trying to get the whole body in.

He would use different lenses if it was an individual than if it was a group for example? - Yes.

Did he say anything about how the lenses might show up features of a boy? - No.

So what did you make of the fact that he had all these pictures of boys from his boys' clubs on the wall? - I thought it was a bit funny but I didn't think anything bad about it.

Did he ever make any suggestions or say or do anything to you that might make you think he may be interested in a perverse way in children? - No.

Were you aware of the first time he had a video camera? - Yes.

When did he get that? - I think it was in l989.

Did he have a video player? - Yes, he had a video player and he sold it I think about three years ago.

And how long did he keep the video camera for? - He sold the video camera about a year ago or a year and a half ago.

Were you ever in the house when he was destroying video tapes? - There was one time he was ins the kitchen and he put some in the bin. He ripped them and said it was bad copies and I said "How do you not scrub them?" I said "I have a video recorder. I have a video machine as well and/

and you can play over them" and he said "Oh, I've used them so many times they are really finished".

And were you aware of a lot of letters around the house that he was typing or having typed? - Yes.

Would you see printed letters lying around? - Yes.

Did he engage in a lot of correspondence with people? - What do you mean by that?

Well, did he write to a lot of people? - Yes, he used to write all the time. He used to write constantly.

When he had a video recorder was he keen on watching video films? That is the type you hire or buy? - He used to like war films and that. Like, what is it called "Soldier Blue" and stuff like that. You know, war films like that.

Did you meet other friends of his in the house on occasions? - Yes.

Who did you come across? - A landscape gardener guy. I met him a few times.

That is Gillespie I believe? - Yes.

Anyone else? - He had somebody else in the house who is a painter and decorator but I have no idea of his name.

Do you know anyone MacDonald like yourself who visited? - Yes, I knew David.

You knew David MacDonald? - David MacDonald, yes.

What about his father? - I met his father a couple of times. His father was in one time I was in getting a photograph Tom had taken of his son and he had got his grandson's, I think, photograph taken as well. I think it was his grandson.

Are you related in any way to these MacDonalds? - No.

Not/

Not at all? - No.

Now, obviously there are people around the place from time to time but was Hamilton in your experience a sociable person or a loner? - He was a loner.

Did you know that he had guns? - Yes.

Did you ever see them around the house? - The only time I seen them..... I seen them in the Gun Club back then.

That is 20 years ago? - I think he had two then. About four years ago or five years ago he showed me his guns. He had four guns and he had a big like machine gun type of thing.

Were you interested in them? - No, I don't like guns at all.

Now, when did you last see him? - Last see Tom? I think it was in the..... I can't remember if it was the Wednesday or the Friday on the week before the.....

You reckon what, Wednesday or Friday? - It was the Wednesday or the Friday.

Did you go to see him? - I went to see him I think on the Saturday and the Sunday but he never answered the door to me if he was in.

So you didn't actually see him? Well, you saw him but.....? - I seen him on the Wednesday or the Friday and he seemed a bit down. I went on the Saturday because I was in Stirling on the Saturday and on the Sunday when I was collecting my money I went up to see if he was all right and he never answered the door to me.

That was on the Friday? - That was on the Sunday.

Had you been up on the Friday as well? - Yes, I met him I think. It was the Friday or the Wednesday I met him. I can't remember.

Were there not two occasions after that you went to the door and got no answer? - That is what/

what I am saying. I went on the Saturday and I went on the Sunday.

And were you pretty sure he was in on both of those occasions? - On the Sunday definitely. On the Saturday I wasn't totally sure but on the Sunday he was definitely in.

Now, was there one stage in the weeks before the tragedy that he had a conversation with you and which you came to the conclusion that he was depressed? - Yes.

When was that? - He phoned me I think it was five weeks before or six weeks before that and he seemed awful down. He was on the phone for maybe l0 or l5 minutes.

Did you see him after that? - Yes, I seen him after that. As I said, I seen him on the Friday or the Wednesday.

That is immediately before. Did you not see him about three weeks say or so before the shooting? Do you remember seeing him outside Kwik Save? - I probably did, yes. I'm just not thinking here. I am sorry.

Did you ever meet him either outside Kwik Save or McDonald's in Stirling? - Yes.

Do you remember doing that in the weeks before this tragedy? - I think it was Kwik Save I met him.

Do you know how long it was before the incident? - I'm sorry.

Do you remember having a conversation in which he mentioned Dunblane? - He said..... I'm trying to get this right here. He said he had a wee bit of hassle in Dunblane. They told him he wasn't to come back to the club and that the club wasn't doing very well. He was lucky if he was getting two or three people coming at a time.

It was not going very well? - No.

Do you not remember actually having a conversation and actually running him home? - When/

When was that?

Well, that is what I am trying to establish from you, whether that did happen. If you tell me all you can remember about the occasion on the Wednesday beforehand, that is the week beforehand when you saw him, we may actually find we are talking about the same thing. What do you remember of that occasion? - I met him and ran him home. I met him that day but I couldn't tell you where I met him.

Do you remember anything of this conversation that day? - Well, he had a lot of letters. He had letters everywhere and he said he had been writing letters to different people. He never gave me the letters to read because I have dyslexia and I can't read so he never gave me the letters to read them.

Was that a different occasion from when he was saying something about getting hassle from people in Dunblane? - I am lost, sorry. I probably have said but I can't remember.

You can't remember that now? - No, sorry.

CROSS-EXAMINED BY MR. CAMPBELL: You were telling us about Mr. Hamilton having a video recorder and watching video films? - Yes.

I think you mentioned war films? - Yes.

Any other kind of films that he would watch? - I didn't see any other films.

Did he watch violent films? - Oh, violent films. All war films are violent, yes.

You have told us that he was writing letters to lots of people. Did he appear to harbour, have, a grudge? - I would say yes, he had a slight grudge.

Against whom? - Just against the people who were slandering him.

No re-examination.

BRUCE WILLIAM CARRUTHERS (28), Sworn:

EXAMINED BY MR. LAKE: You live in Bolton, is that correct? - Yes.

What is your occupation? - H.M. Forces.

Is it correct that you used to live in Dunblane? - Yes.

What age were you when you lived in Dunblane? - From about the age of 7 through to l6.

12.40 p.m.

At that time were you at a boys club run in Dunblane? - Yes.

Where was that club held? - At the Duckburn Centre opposite the chapel in Dunblane.

Do you remember what the club was called? - The Rovers.

How often was it held? - I believe it was a weekly club but it wasn't held throughout the year, it was just, like, part of the year.

Who ran the club? - Mr. Thomas Hamilton.

What age were you when you first attended the club? - 12 years old approximately.

So that would be 1980? - 1979, 1980.

What activities did you do at that club? - I only went the one night; the first night I went down there was either snooker or a pool table and there was, like, a canteen and then he had an indoor range and a small bore .22 competition shooting.

Who was carrying out the shooting? - Mr. Tom Hamilton, he was the only adult at the club.

What weapons were you using? - The weapon that he allowed me to fire that night was a .22 competition rifle, small bore; that is the only weapon that I used.

Were you required to pay to this club? - There was no cost for either ammunition or the refreshments, drinks, crisps etc. that he had, it was totally free.

What was the age range of the boys attending the club? - They were all about my age group; I think probably the eldest may be about 14, perhaps 15 years old.

You/

You said you attended this club only once? - Yes.

Did you speak to Hamilton on this attendance? - Yes.

What did you discuss with him, what did he discuss with you? - Well, first of all he welcomed me into the club; there was only about eight other lads in that night and he chatted to me, he mentioned about a trip that he was possibly planning to Lochearnhead and asked would I like to go on it and we spoke about the weapons and then he took me through to the range where he allowed me, after a small bit of coaching, him acting as range officer, he allowed me to fire the .22 rifle; he showed me some pistols but at this time lapse I can't remember what calibres they were but they were automatic, they were not revolvers, it was definitely an automatic pistol.

This was not an air pistol? - No, but they could have been .22 calibre, 9 mm, I don't know.

Did he fire this? - Not in front of me and I never got allowed to have a shot.

Were you aware of him having fired it? - No.

Why did you not go back to the club? - After I had fired the weapon on the way out there was a bench at the inside door on the way out and he sat down beside me very close and he always spoke very quietly to anybody he spoke to and he put his hand on my leg, on the inside of my leg, and rubbed me just on the inside of my leg and he asked me something like "Why do you want to be one of my boys and to be in my club then, Bruce" and even at 12 years old I thought this wasn't right, I pulled away from him; I just said "I am just interested in firing weapons, Mr. Hamilton" and then he changed from being polite and being nice to me to sort of a stroppy attitude so after that, you know, it was time for us to leave and we left.

Did you tell anybody about what he had done? - Yes, I went home and told my dad; I didn't say anything like, you know, he molested me or/

or anything as he hadn't, I said I didn't like the way he touched me, the way he spoke to me and his closeness, I felt uneasy with him but I wanted to go back to the club because of the trip he planned; it was a young boy's dream, everything was free, the canteen was free, the bullets were free, it was brilliant.

You didn't go back? - I did, I went back the next week and he opened the door and he said to me "What do you want?"; I said "I would like to come in, Mr. Hamilton" and he said "I don't think you are mature enough to be handling weapons and you are not the right calibre of lad I want in my club, goodbye" and he slammed the door in my face; with that I went up the road pretty upset.

After you had told your dad what happened on the first occasion did he report that to anyone? - No, my father just said "Just leave it, son, stay away"; I then went to, as a sort of compensation, my dad took me to Bridge of Allan small bore shooting club where I joined that for a few months before going into the Army Cadets.

COLIN ROBERT LOUDON (30), Sworn:

EXAMINED BY MR. LAKE: Do you live in Whins of Milton? - Yes.

What age are you? - 30.

What is your occupation? - Butcher.

When you were younger where did you live? - Dunblane.

Did you attend at youth clubs there? - Yes.

What is the name of the club you attended? - I attended the Rovers Youth Club and also a youth club at Dunblane High.

Who ran these clubs? - Thomas Hamilton/

Hamilton ran the one at the Rovers and it slips my mind who ran the Dunblane one, several people.

The one that was run by Hamilton, how many boys attended it? - I reckon there would be about 16 boys at that particular time.

What did you do at the club run by Hamilton? - Basically just used it as a form of entertainment, you know; we had little else to do, we just played pool and occasionally we were allowed to use the small range he had had at the rear of the building for firing guns.

Where was that range set up? - It is set up at the back of the building.

Where was the club being held? - At Duckburn at Dunblane.

Could you repeat that? - It was held at Duckburn area of Dunblane.

What weapons did you use at the range? - I used a range of air rifles and some air pistols, a .17 and .22.

Were these provided by Hamilton? - He brought a number of weapons but some of the boys had their own; I recall having my own .22 rifle.

Were all the boys allowed to use the guns on the range? - Yes.

Did Hamilton provide any tutoring on the use of the guns? - Yes, he took everybody that wanted into the range and gave them all help and assistance in how to use it and how to act with weapons, etc.

Did you consider there was anything improper about his behaviour at the club? - I felt personally that I didn't doubt him in any way in the way that he came close to us and showed us what to do but there was always a thought at the back of my mind that he may try to come too close at times when he was assisting us with the guns.

Did you consider he was coming too close? - Several times I felt he may have been marginally/

marginally too close but I didn't give it much thought otherwise.

Did you report that to anybody? - No.

Why did you stop going to the club? - If I recall it was seasonal, I believe I just went for one season, as it were; I was 14 at the time and I felt I was probably getting a bit too mature for it as the boys that were coming were gradually getting slightly younger so I had enough and went on to better things.

At the time you stopped going to the club did you have any doubt about Hamilton's mental state? - I don't believe I did, no.

1.50 p.m.

After an adjournment for lunch:

FRANCIS BAIRD CULLEN (36), Sworn:

EXAMINED BY MR. LAKE: You live in Stirling? - I do.

And what is your occupation? - I am a nurse.

Do you recall meeting Thomas Hamilton? - I do, yes.

What age were you when you met Thomas Hamilton? - 14.

That would have been about 1974? - Exactly.

How did you meet him? - He used to come to a neighbour's house about two doors away from me. They had a mutual interest in motorbikes.

Sorry, an interest in -- you had an interest in? - He and a neighbour had an interest in motorbikes, so I met him through the neighbour.

Were you aware that he owned the Woodcraft shop in Cowane Street? - Yes, I was aware.

Did you work in that shop? - I did, yes.

What age were you when you worked in that shop? - 14.

And how long did you work in that shop for? - Two years approximately.

How frequently did you work in the shop? - Every weekend, and occasional Thursday and Friday nights after school.

Did you notice anything in particular about Hamilton's behaviour within the shop? - Behaviour/

Behaviour in what way? He spoke strangely and he walked strangely, but behaviourwise, no.

What was your opinion of him? - He was a generous man to work with and a kind man.....

LORD CULLEN: I wonder if I could ask you to speak more slowly and clearly. The shorthand writer is having difficulty recording what you are saying. (Shorthand writer repeats part answer). What is the rest of it?

THE WITNESS: He was definitely a strange man in the way that he spoke and the way that he cut his hair and the way that he walked, his approach to people, and more importantly his nervousness among adult people.

Did he ever say why he was nervous in the presence of adults? - Yes. He felt very uncomfortable amongst females.

Amongst females? - Yes, in particular.

Did he have any female friends? - No, not that I know of.

Did you ever see any weapons whilst working in the shop? - Yes I did.

What weapon was that? - Air rifles and a crossbow.

Did he use these air rifles and crossbow? - In the back of the shop, yes. There was an extension at the back of the shop and he would fire into thick pieces of wood.

Did you use them? - No.

Did you see anybody else other than Hamilton use them? - No. There was never anybody else when I worked in the shop.

Did you ever report to anybody that you saw him using weapons in the back of the shop? - There were other people who worked there. They may have seen him fire into pieces of wood in the back of the shop, but I never used the weapons myself. I saw/

saw him do it.

Who else worked there at the time you worked in the shop? - Two males that I can remember. One was Kieran MacKenzie.

Kieran MacKenzie? - Yes, his father -- I think his name was David MacKenzie, and Thomas Hughes.

And did you ever see them using the weapons? - No. As I said before, I didn't see anybody else using the weapons.

No cross-examination.

EWEN JAMES ELLIS ANDERSON (53), Sworn:

EXAMINED BY MR. LAKE: I live in Dunblane.

What is your occupation? - Fire Protection Consultant.

And what age are you? - 53.

Is shooting a hobby of yours? - It is.

What sort of weapons do you shoot? - A .22 target rifle. Nothing else.

For how long has shooting been your hobby? - 40 years.

And has it always been a .22 rifle that you have shot in that period? - Yes -- well, apart from on three occasions shooting some of the weapons that Hamilton owned.

What weapons were those? - A 5.56 mm rifle, a 9 mm pistol and a .357 Magnum revolver.

Did you ever fancy taking up shooting with weapons of both calibres? - I did, but I couldn't afford it.

Is/

Is it common throughout someone's shooting to remain on one calibre for as long as you have? - Yes, because our discipline is relatively inexpensive. I can buy 100 rounds of ammunition for £6.20. The heavier stuff, I believe, is somewhere in the region of 70p each.

Are you a member of any shooting clubs? - Yes, Bridge of Allan Rifle Club.

Where do you carry out your shooting? - Only on authorised rifle ranges.

Is that with the club? - With the club.

You have said you shot with Hamilton's guns. When did you first meet Hamilton? - I think somewhere about 1982.

Where did you meet him? - At the Dunblane Rifle Club.

Were you a member at the time? - Yes.

Was he a member at the time? - As far as I know he was a member, because he did attend for some years.

Was he shooting on his own or was he in company? - He did seem to shoot quite a lot of cards when nobody else was present, but he also attended on match nights, with other club members.

Did he ever bring guests on to the range? - He had the use of the range on a Friday night for teaching air rifle shooting to what I believe was then called the Dunblane Rover Group.

And who attended the Dunblane Rover Group? - Just boys from the school in Dunblane.

What age were the boys? - It is difficult -- I couldn't honestly say what age they were, whether they were Primary 7's, or Primary 1's (sic) at High School. I don't honestly know.

Would that put them around the age of 11 or 12? - Probably thereabouts.

What/

What did the boys who attended the range do? - They were simply being taught how to use an air rifle.

Did they use the rifles? - Yes.

Who supervised them when they were using the rifles? - Hamilton supervised them, and after I got to know him I went down on a Friday night from time to time as an extra supervisor.

What was your opinion of the way Hamilton ran the range with the boys there? - The discipline was excellent. They all called him "Sir", and there was no hijinks or anything wayward at all.

Did you see Hamilton at all outside the confines of the club? - He took to calling on my home several nights a week over a period of two or three years.

And when did this begin? - Just about the time when the boys club were using the rifle range.

What was the purpose of his visits to your house? - I just don't think he had anywhere to go.

Were these purely social visits? - Well, basically -- plus the fact that he did ask if I would become involved with helping in running the reconstituted club, which I believe he called the Dunblane Boys Club, and for about two years I acted as treasurer to that body.

When did you first have an association with the boys' club? - I think somewhere about 1983 or 1984. I couldn't date it any closer than that.

Can you remember where it was held? - It was held in the High School in Dunblane.

Did you know much about the club prior to being its treasurer? - No, apart from my association with the rifle shooting side, which as I say was on a Friday night in Dunblane.

When/

When you attended the club how many boys were there at the High School? - At its peak I think approximately 60.

How many adults were present to supervise? - Three or four.

How did the boys at the club behave? - Very well.

What did they wear? - Standard gym kit of shorts and sandshoes.

Did they wear anything on the upper half of their bodies? - No.

Did that strike you as odd? - Not in the least, because that was gym kit when I was at the High School in Stirling, for boys.

Did you take part in any club activities that were not held within the High School? - We once attended an outing to the Commonwealth Pool in Edinburgh, where a party of boys were taken by bus from Dunblane to the Commonwealth Pool, and I once paid an evening visit to a camp site during the annual camp.

Where was that camp held? - It was a caravan site on the east shore of Loch Lomond.

Can you remember what year that was you attended the camp site? - No, I can't.

But it was while you were treasurer of the club? - It was either while I was treasurer or just immediately after.

How was the management of the club organised? - There was a committee with Hamilton as chairman, my wife as secretary, myself as treasurer and several other members.

How many other members were there, even roughly? - Approximately four others.

And did they take part in all the decisions relating to the club? - Well, those who turned up at committee meetings, yes.

Did/

Did you have sole responsibility for the finance of the club? - Yes.

How was the club financed? - The boys paid a subscription of 50p per Thursday night, and that money was immediately placed in my hands and banked in the Trustee Savings Bank in Dunblane.

Did you deal with any of the finances for the summer camps? - Yes. One year we bought a boat, an outboard motor, life jackets, and I also paid the bills for food, etc. when he brought me the receipts. He would go out and purchase goods and bring me the receipts and I would then draw the money from the bank and pay him.

You have mentioned food there. What else was the club money spent on? - Well, just on running the club. The camp obviously was the major expenditure in the year. For most of the year the money was coming in from the subscriptions, and it went back out again prior to the summer camp.

Were you aware of rumours circulating in Dunblane about Hamilton? - Yes.

What were those rumours? - The rumours, as far as we could ascertain through the committee -- and there were as many parents for him as were against him -- somebody would always say "He did this", and you would then say "When and where?", and they would say, "Oh, I don't know" -- "Well, how do you know?" -- "I heard it".

What were they saying they had heard? - That he was queer, basically.

Is that just that he was homosexual, or that that involved the children in some way? - I assumed that is what they meant.

Did you ever discuss these things with Hamilton? - I did once say to him "Tom, I don't know why you bother. Why don't you just stop the clubs and just sit back and live your life". His reaction was that if he stopped people would immediately consider the rumours to be true.

What was your opinion of Hamilton? - I thought he was a very shy, lonely person.

You/

You said you were on the committee for -- was it three years? - Two years, perhaps three; certainly no longer.

Why did you stop being on the committee? - I didn't like the way I would suddenly be presented with a carrier bag full of receipts, some of which were just simply little till receipts with no details as to what had been bought -- you know, just an amount of money on them. Also I mean, I had no boys, no boys in the club, and lots of other things to do, basically.

Did your wife carry on on the committee after you left? - No, she actually resigned from the committee before I did due to a change in her working circumstances.

Were you aware that Hamilton continued to use your names as committee members after you had both resigned? - Not until recently. He did once put out a leaflet with my name on it, which I pulled him up about and told him never to use my name again without permission.

And what did he say to that? - Just that was it, he said no more about it.

You are aware that the let of the school was withdrawn by the Regional Council around the time you were on the committee? - Yes. That was just at the time we came on to the committee.

And how did you respond to that? - When we were told by him why, and what had happened, and he asked us if we would help in forming this new committee that the Council had asked for, we agreed.

BY LORD CULLEN: Was that what you call a reconstitution? - Yes.

I would just like to understand -- the reconstitution followed the resolution of the problems that there had been with the Regional Council? - Yes. As far as I know there was also some animosity from the Scout Group about the name he had used prior to that, where he called it the Dunblane Rover Group, and I believe there was also some problems about that, so it had to be altered as well.

Just remind me, what was the name of the reconstituted club -- what was it called? - Dunblane Boys' Club.

EXAMINATION CONTINUED BY MR. LAKE: Did he tell you why the let had been withdrawn? - Yes, just due, as far as we knew, to the rumours that were circulating. He also was quite honest with us at the start and told us why he had been put out of the Scouts.

What did he tell you about that? - Simply that he had organised two trips to Aviemore which had culminated in the boys sleeping in the van, and he had been asked to leave the Scouts after that.

Did he indicate his opinion of the Scouts, after having been, as you say, thrown out? - I think it hurt him.

Did he discuss it with you? - Not at any great length.

Did he appear to bear a grudge against the Scouting Movement? - I wouldn't have said it was obvious that he did.

Following withdrawal of the let did you write to the Regional Council in an attempt to have it reinstated? - Yes. I think it was to Councillor Buchanan, I believe.

Yes, it was. If I could ask you please to look at a copy of your letter. The reference is given as DCRC AL/B2/F1/54. In the second paragraph of that letter do you indicate that you regard Mr. Hamilton/

Hamilton as being entirely suitable to have custody of children? - There was nothing that I ever saw that would make be believe he wasn't. He did state on some occasions that he held qualifications through the Gymnastics Association, that he had Mountain Leadership Certificates, and things like that. As I say, he always came over to me as a very quiet, kind individual.

In the paragraph after that you refer to the discipline of the boys. Did you ever see Hamilton discipline any of the boys? - Only so far as raising his voice.

You never saw any of them hit any of them? - No.

And do you, in that letter, urge Mr. Buchanan to restore the let to Mr. Hamilton? - Yes.

Did you meet with Mr. Hamilton to discuss -- sorry, with Mr. Buchanan -- to discuss the restoration of the let? - The proposed Committee attended a meeting in Viewforth with Council members.

What was the outcome of that meeting? - The outcome was that as long as there was a properly constituted Committee, with helpers in attendance at the school, the let would be given back.

And was that the reason that the Committee you have referred to was set up? - That is correct.

Were you aware whether Hamilton had any adult friends, other than yourself? - I did hear him mentioning somebody called Clive on one occasion, but that is all, basically.

Did he have any female friends? - Not to my knowledge.

After you left the club did you continue to see him? - He continued to call at the house.

How often did he call at the house? - To the extent where he began to become a bit of a nuisance, like three to four nights a week.

Did/

Did you always allow him to come in? - Sometimes we weren't in -- you know, my daughter would be in, my daughter's boyfriend would be in, or whatever.

Did he ever bring any weapons to the house? - On about two occasions.

What weapons did he bring? - The first time he brought a 9 mm pistol and a .357 revolver, both correctly handled, wrapped in dusters in a leather carrying bag -- you know, they weren't ostentatiously carried from his transport or anything; and on another occasion a 5.56 mm assault rifle, which again was properly bagged and handled.

When were these weapons brought to your house? - I couldn't say now.

When did his visits to your house stop? - Somewhere about 1989.

Did you go shooting with him after you left the club? - I don't think so.

Did you ever see him shooting? - Yes, on three occasions.

Was that after the club, or while you were on the Committee? - That was I think while I was on the Committee.

What weapons did he use? - On one occasion we went to Dechmont, outside Cambuslang, and he used a 9 mm Browning pistol and the .357. On another occasion we went to the Clyde Valley Pistol Club -- the town where it is I can't remember. It is down off the A74, and we used the club's weapons. On another occasion we went to Whitestone and used the rifle.

The times that Hamilton brought weapons to your house, was that after you had been on these shoots? - No, I think that was before.

Did he say why he had brought the weapons to your house? - Well, he knew that I was also interested in shooting, and brought them just to let me see them, because I mean, I have books on firearms and things at home.

CROSS/

CROSS-EXAMINED BY MISS DUNLOP: I would just like to ask you one question. You said that Mr. Hamilton told you why he had been put out of the Scouts? - That is correct.

And you also said that there had been a trip which had culminated in the boys sleeping in the van? - That is right.

Did he explain to you why the boys had had to sleep in the van? - I think he had said something about the bookings in the accommodation had gone wrong.

CROSS-EXAMINED BY MR. GIBB: Just one point that was raised with me, interestingly: is there any restriction on the method by which you transport a gun from your home to a gun club? - Well, they are always in a proper carrying case. I mean, you can't just walk out the house with ammunition and a rifle.

Yes, but from what you said Hamilton had it in a canvas case, so it is not as if you need to have it in a metal case or any particularly secure container? - No, not for transporting.

So if we have heard evidence Hamilton went on the bus or train to the gun club, he could be carrying these weapons in a canvas bag, possibly loaded, without restriction? - Well, he would be very foolish if he carried guns about loaded.

Yes, but no necessity in practice to keep them in a secure metal container, for instance, in transit between the home and the gun club? - No. Quite a lot of people -- I mean, there are special carrying cases you can buy which just look like white cases for rifles, or just small attache cases for handguns.

CROSS-EXAMINED BY MR. TAYLOR: Are you able to tell us what Mr. Hamilton's motive was in organising the boys' clubs? - I assumed that he just was interested in providing something in the way of sporting facilities for the boys.

No re-examination.

JAMES KINDNESS, (54), Sworn,

EXAMINED BY MR. LAKE: My occupation at present is that I am a security guard chargehand.

And you live in Stirling? - And I live in Stirling.

What was your employment prior to being a security chargehand? - I was a member of the Central Scotland Police.

When did you retire from Central Scotland Police? - In December, 1991.

And what was your rank at the time you retired? - I was then a Detective Sergeant.

Do you recall during your time with the Central Scotland Police investigating Thomas Hamilton? - As a member of Stirling CID between the years 1968 and 1981, and in that period, I believe the late 1980s (sic), although I can't be exact, I had occasion to investigate complaints from parents surrounding Thomas Hamilton.

You say that was in the late 1980s? - 1970s.

What were the complaints that had been made? - The complaints arose by a supposition by a number of parents whose boys were members of the Forth Valley Rover Scouts, a club operated by Hamilton at Stirling High School, the inference being that there was some odd behaviour which inferred, as far as the parents were concerned, possible indecency.

You mentioned Scouts in that. Was this a Scout Group, or a club run by Hamilton? - It was a boys' club operated by Hamilton at Stirling High School.

Did it have any connections with the Scout Association? - I am sorry?

Did it have any connections with the Scout Association? - I don't know, frankly.

Did/

Did you know of Hamilton prior to the complaints being made? - I had no previous dealings with Hamilton, and indeed that was the only dealings I had with him.

Can you recall how many complaints were made? - My impression is that perhaps two or three sets of parents -- I believe three sets of parents -- reported, in the context of what I have already mentioned, the possibility of indecency on the part of Hamilton towards the children.

So all the parents were concerned with possible indecency? - The concern was that there was a change of behaviour pattern that the parents couldn't explain, that the boys had been previously stable, and there was a sudden transition after having attended Hamilton's club. They couldn't put their finger on the reasons why, and the assumption was raised -- it was never a proven assumption, it was merely an assumption, that the possibility existed that there might be something involved.

And this is why they approached the police? - Yes.

What did you do in response to those complaints? - I believe the case was referred by the uniform branch to myself -- well, not to myself directly, to the CID, and I was delegated responsibility for the investigation.

What did you do to investigate it? - I can't recall interviewing the boys personally, but they were interviewed; but this disclosed no evidence whatsoever of indecency -- nothing in any context was disclosed to support the suspicion of the parents that any form of indecency was involved.

Would it have been you who interviewed them all, or would it have been someone else? - I can't remember, quite frankly. It may well have been someone else, and the information from that interview was passed on to me for further investigation.

Are you sure that nothing was raised in the course of these interviews to confirm allegations of indecency? - There was no corroboration whatsoever to support any allegation of/

of indecency.

Having found that what did you do further in the investigation? - I felt it necessary to bring the matter to a proper conclusion one way or another.

Did you not consider the fact that the boys had said nothing had happened was a proper conclusion? - No, I wasn't totally satisfied.

Why were you not satisfied? - Well, there is always an inference that we might have missed something, and I felt it was imperative to conclude the matter by interviewing Hamilton, even although no information had been disclosed by the boys of any form of indecency.

At that time when you made the decision to interview Hamilton had you become aware by that time of his history with youth clubs? - At that particular stage I believe I had been in contact with Dunblane Police. He had previously been involved in operating a club which had folded, I think, in the Dunblane area. That is my recollection of events, and there had been some parental dissatisfaction with him in that previous club situation.

Where did you obtain that information? - From Dunblane Police. I had also to prepare a background enquiry report, so I required to contact Dunblane Police Office.

So this was part of your background enquiry? - Yes.

And was that a formal request for information to Dunblane Police, or an informal request? - It was simply done on the basis of trying to raise any information perhaps that might support indecent conduct.

Where else did you seek information about Hamilton? - I think that was the basis of my background enquiry, on purely the Dunblane situation; but of course this event took place almost l8 or l9 years ago, and my memory of the events is relatively dim.

Would/

Would you have carried out a check of the criminal intelligence system? - As it existed at that time, yes. He was not, to my knowledge, at that stage widely known in any context, as far as I could gather.

You say "the criminal intelligence system as it existed at that stage". In what form did it exist at that stage? - There was a criminal intelligence officer based at Police Headquarters, within Headquarters Criminal Investigation Department, at Police Headquarters, Stirling, with responsibility for collecting information and disseminating information about known or suspected criminals.

And if you had any enquiry to make, you would contact that officer and give the particular individual's name? - Yes. I can't remember doing so directly, to be quite honest with you.

Is that normally part of the procedure in such a situation? - That would be standard procedure.

Do you recall interviewing Hamilton? - I arranged for Hamilton to call at the police office. There was no question of arrest or detention, and he did so on a voluntary basis.

I appreciate it is a long time ago. Can you remember how long the interview took? - I have the impression it was a relatively, or comparatively extended interview, during which he denied, for example, being homosexual, and denied having any inclination sexually towards young boys; and that was really the sum total.

And these matters were put to him by you? - Yes.

Did you question him about the circumstances of the termination of the previous group in Dunblane? - I did not at that particular time.

What did you do following the interview with Hamilton? - Obviously, in the context of the events as such, there was no evidence to substantiate or support any form of charge against Hamilton/

Hamilton. He had arrived freely and voluntarily at the CID office and he was discharged from the office. He was not arrested or detained. He was simply discharged from the office.

Did you do anything as a result of the information that you had obtained? - What I believe came through was that there was a form of subversion by Hamilton in terms of parental authority. It is difficult to explain. There had been a gross display, for example, of affluence by Hamilton.

Is that to the children? - To the boys concerned.

What form did that take? - There had been money -- I think gifts of money, lending bicycles, canoe trips -- this sort of thing. There was also evidence I believe, if I remember properly, of allowing truants to frequent his shop in Cowane Street, which he had at the time. But having said that, there was no evidence and there was no corroboration to support any form of indecency charges against him.

2.30 p.m.

And that information as to spending money on the boys and allowing them to play truant within his shop, that was information you gathered in the course of your investigation? - Yes.

What did you do with that information? - I don't recall specifically but I believe I may have or could have submitted that to the Crown Intelligence Officer for future reference if needed.

And that was the Intelligence Officer you referred earlier to? - I assume so.

Are you aware of what happened to the group in respect of which the complaints had been made? - I think through lack of support the group folded.

Did you become aware of any subsequent group set up by Hamilton? - I was told by some other officer or officers that Hamilton at some later stage was in fact endeavouring to recruit for a new boys club and was putting leaflets as such through letterboxes and this sort of thing.

Can you recall where that information came from? - No, I can't. I would be guessing, quite frankly. I don't know.

Was any police action taken as a result of that information? - I don't know. I wasn't involved in that context so I have no knowledge of it. It was an ongoing process.

Can I ask you please to look at Production D intel F1D2. You see what that is? It is also document D2 within Volume I(III). Perhaps that document can be placed on the imager. Do you see that document on the screen now? - Yes.

That appears to be a flier or a circular for the Dunblane Rover Group and you see there is a little bit typewritten beneath the name T.W. Hamilton, Principal Leader. Do you see the text there says that Hamilton is suspected homosexual and operates the above-mentioned youth club. Boys playing truant from school and being members of this group are found in Hamilton's shop. He would appear/

appear to encourage these boys and is prone to influencing them against their parents? - I would certainly agree with most of that text, although not with the preamble.

The preamble being the first sentence? - Homosexual. I don't think that came out of my inquiry at all. That was never proven.

Was that note prepared by you? - I can't remember but quite frankly it is not a format I would present a criminal intelligence item on. It may have been prepared by another officer and submitted.

Do you know which officer prepared this? - I've no idea.

Would a submission to criminal intelligence take the form such as this where merely something is overtyped on an advertisement? - It is unusual. Nor is it an appropriate form for that type of submission.

If you could just move out on the imager there please. Zoom out to take in the whole page. It is dated 15th November, 1981. Does the date of that flier correspond to the time of your investigation into the boys complaints? - No. The complaint I dealt with was prior to that. Definitely in the 1970s. Not the 1980s. I can't remember the specific year but it was certainly before 1981.

Did you have responsibility for criminal intelligence in November, 1981? - I can't recall. I was in there briefly, yes, that department.

And if an officer was going to make a criminal intelligence submission, how would that be done? - In terms of the appropriate type of form, as regards the form of presentation. Often information was informed. Sometimes based on rumour. It was a very difficult issue to assess the level of reliability of intelligence. There is a system in operation since that time in terms of a grading system, grading in terms of reliability but in terms of my findings in respect of the single investigation I conducted, I would agree with the parental aspect, the fact that the boys were in his premises,/

premises, there was no question of that but nevertheless I stressed the fact that any instance of indecency was never proven by me against Hamilton and no charge was ever raised against him.

Would you only submit things to a criminal intelligence officer where you suspected a crime had been proved or would it have been for other matters? - It would be recorded in the context of an individual who is worthy of possible interest. The situation as would apply in terms of Hamilton even at that time was such that he was worthy in my view of some form of reference and I think this just provided an informal reference rather than simply forgetting that anything happened in the context of that particular event I am referring to. Perhaps this just provided at least a small, albeit vague, reference rather than nothing at all.

What sort of possible future interest did you have in mind when making a submission such as this? - As I say, I can't lay claim to that submission.

A submission like this. What would you have in mind in making it? - I would expect it might support other collateral coming from other sources. Other police officers, multiple pieces of information, bits of intelligence which may be knitted together to form a picture worthy of reference, worthy of knowledge of an individual who is potentially suspect.

With a view to detecting further crimes? - Yes.

No cross-examination.

GEORGE BAXTER (60), Sworn:

EXAMINED BY MR. LAKE: I think you currently live in Dunfermline? - I currently live in Dunfermline, yes.

What is your occupation? - Head of Centre,/

Centre, Woodmill High School, Dunfermline.

And your employers are Fife Regional Council? - Fife Council, yes.

You described your occupation as head of Centre. What is the Centre? - The Centre is actually the High School which is open seven days a week for the use of the actual public. The facilities of the school are available for community use.

Is that members of the public generally or for groups to use? - The members of the public generally.

Do you recall having involvement with Thomas Hamilton regarding the use of the Centre? - I do.

When did he first seek to use the Centre? - The actual date I can't remember now. It is quite a number of years. I think it is all documented but as far as my memory is concerned, I couldn't give you an exact date.

Would it be about February of 1985? - That is probably the right time, yes.

Can you remember why he wanted to use the Centre? - The first occasion he used the Centre was he arrived on a Monday evening, when I am not working actually, and he talked with my depute that evening and said that he had had a booking at the Carnegie Centre in Dunfermline and when he arrived there he found it was a double booking and therefore they had sent him down to our Centre to see if we had a vacancy. As it was, there was a vacancy. One of the gymnasiums was free. He had a group of boys which he had brought from Stirling and also a physical education teacher with them and they were looking for a facility for a class.

He had a physical education teacher with him at that time? - That is right.

What did they want to do within the Centre? - Well, it was gymnastics. Gymnastics within the gymnasium.

You said he was allowed to use the Centre when there was this double booking in Dunfermline? - That is correct.

Did his use of the Centre continue beyond that night? - After the evening was finished he made enquiries if he could actually come in a weekly situation. Now, the person who was in charge that evening is a qualified physical education teacher and he had monitored the situation that evening and saw no reason why it should not be continued. He said it was all very well organised and he agreed provided of course that it came back to me and I had no disagreement with it.

Are you aware what the club was called that was run within the Centre? - It was called the Lynburn Gymnastics Club.

How often did it meet? - At the start once a week, for a very short period twice a week and then back to once a week.

Can you remember how many boys attended? - Well, it was like everything else, it did vary. Usually at the start of the session there might be about 35 boys attending. As the session went on the numbers usually cut back. That was a normal situation.

And the purpose of this club was to carry out gymnastics? - It was a type of gymnastics. Anything that goes on within our Centre we monitor, no matter whether it would be a gymnastics club or a karate club and we have staff who monitor these things and the physical education teacher who I have in my staff described it as a gymnastics class from about 1945 or the 1950s. That was actually the type of gymnastics they were being taught there but he said the children enjoyed it. It was physically good for them and he couldn't actually say anything against it. It just wasn't the type of gymnastics they were being taught in the 1990s but there was nothing else wrong with it.

How was the club monitored by your staff? - Well, my staff, as I say, with all our clubs, at least once a fortnight they go in, maybe for just 10 minutes and just check the class and see that everything is going all right. As I say, at this/

this time Mr. Hamilton wasn't teaching. It was actually a qualified teacher from I think Lothian Region he actually had teaching the class.

Did Hamilton take any part in teaching, were you aware? - Not at the start. He was just there organising and dividing the group up. They also actually had a session at swimming as well and numbers were so that the gymnasium couldn't hold all the numbers and they divided up between the gymnasium and the swimming pool.

Who supervised the swimming? - Well, we have proper qualified attendants in the swimming pool.

You said that Hamilton did not teach at the start. When did he start teaching? - Well, the teacher from Lothian decided it was too expensive for him to travel and then he came to me and asked me if I could get him a teacher and I actually then got one of the physical education teachers from the actual school and she actually did the class for quite a long time and then the numbers dropped, the money wasn't there to pay for the facilities and then for a while he took over but we did actually stipulate that if he wanted to take over he would have to have members of the children's parents involved and we actually had the parents come along and helped actually for a while.

These are parents of the children in the club? - The parents of the children in the class.

How many of them would come along typically? - Maybe two. You know, it had to be someone who was really interested in that sort of thing.

And you said they came along for a while? - That's right.

Do I take it from that after a while the parental support dropped off and it was just Hamilton on his own? - At the end of the period actually it was him on his own.

And what sort of period are we talking about when he was on his own? - Oh, about the last/

last year he was with us.

When you say the last year, does that mean last year, 1995? - No, when did he finish with us? I think it was about two years ago he finished with us. So it would be about 1994.

Did Hamilton ever take photographs of the children while doing gymnastics? - We have a situation where all different things that are going on in the Centre are advertised to the public. For instance, if we have a computer class we take photographs of the computer class. It is part of the actual Centre and we put them on the noticeboard and let the public see what is going on. Mr. Hamilton had come to me and said would it be possible for me to display photographs of his class and I said well, I couldn't say anything else as all the other classes were on view and I did agree to him actually taking the photographs which was not the norm. He actually took them specially for us and supplied us with a large board for the photographs.

What did the photographs show? - Just the boys participating in gymnastics.

And these were to be displayed in a public area? - They were displayed in the front area, the entrance hall area, beside the photographs of the other facilities.

Presumably you saw nothing unusual in the photographs? - Nothing unusual.

Did you have cause to have much discussion with Mr. Hamilton while he was carrying out the class within the Centre? - Well, as I say, it was a normal situation. You tend to discuss with all teachers who are using the facility. We are open to the public and the public can come in and use the facilities and we also allow certain clubs to come and use the facilities and if they are using the facility as a club we make a stipulation that anybody wishing to use that club must be allowed to join it because they are getting the facility actually through the Region as it were.

You say you did discuss things with Hamilton from time to time? - Yes, we discussed things./

things. We discussed things with all the people and we make sure that everything is going all right, the facilities were all right and anything we thought was dangerous to use in the gymnasium we would say "You are not allowed to use that". We stipulated which items of equipment he was not allowed to use.

Was there anything unusual in Mr. Hamilton's manner when you spoke to him? - The man was rather an unusual person to talk to.

Why? - Well, the only thing I can say is you would have to have spoken to him to understand that. He was a very unusual gentleman to talk to.

You can't say what made him unusual? - He didn't laugh at anything. He didn't joke at anything. He was far too polite. It was "Yes sir, no sir, three bags full sir" all the time which gets a little wearing. He never argued with something. If you stipulated something he said "Yes sir, yes sir, yes sir".

Did you ever get a chance to see him running his club? - Yes, I, as part of the management team actually took part in the monitoring. It is just something we all did and we all do still at the present.

2.50 p.m.

That is the dress we had at primary school, shorts and that and then if you talk about secondary school gymnastics that was the dress we actually would use.
I didn't think anything was wrong with the situation.

How were the children at the club dressed? - Gym shoes and shorts.

And that's all? - That's all.

During Hamilton's use of the facilities at the Centre I understand you had cause to investigate a number of complaints made by the parents of children who attended the class? - There was only one complaint of a parent of a child who was going to attend the club. The parents' complaints came not from the actual club that was being run within the Centre but from the holiday camp that he had, these are where the complaints came back from and this, of course, we had no control over. The only one complaint we had from the parent was because he brought his son along and Mr. Hamilton wouldn't let him join the class because he said he was too tall.

Perhaps if we look at the complaints in more detail and when you look at the complaints as far as possible would you attempt not to refer to the names of parents making the complaint and the names of children? - I wouldn't remember these now anyway.

If you look first at document DFRC1, that is D89 in the folder H(V)? - Yes.

Do you recognise that? - Yes.

You see it is a letter addressed to you from the Rights Office, Dunfermline and the opening paragraph is "I wish to bring to your attention the negligence and cruelty which was apparent on a recent holiday organised by the Lynburn Gymnastic Club's organiser, Mr. Thomas Hamilton. This organisation, as I am sure you know, uses the school as its address". The next paragraph refers to identifying the person making the complaints and the third paragraph returns to the complaint which was that "Hamilton left the boys on the island at night unsupervised,/

unsupervised, while he stayed on a barge with other boys. The boys were left with a rowing boat", and one of the boys, the youngest, could hardly swim, and it goes on, "The boys were hardly given anything to eat, and were denied wearing their warm clothes. Three boys were forced to collect wood for the fire". Do you see all these things in the letter? - Yes.

The next paragraph states that one of the boys was picked on and assaulted by three other boys and that Hamilton watched without intervening; do you recall receiving that letter? - Yes, I do.

What did you do in response to that letter? - Well, first of all I sent it on to my superiors in Fife; the situation was that we had no control over what was happening outside the facility; what Mr. Hamilton was doing was actually hiring the facility from us and all the time he was using that facility we could actually monitor what was going on and this was something that was organised completely outside our facility and we had no knowledge of it. The first time we knew about this was when I received this letter; I didn't even know there was actual camps going on.

May I ask you to keep hold of that for the time being and also to look at document DFRC4 and there is no other reference to the document; do you see what that is, a specific memo to you from a Mr. Sommerville? - Yes.

And it concerns the letter which we have just referred to? - Yes.

And it suggests a meeting and discussion with the Rights Office? - Yes.

Did you discuss matters with people referred to in that note? - Yes, we had a meeting which was held in my school and we discussed the whole situation and Mr. Sommerville then took it on his responsibility to contact the Rights Office and have a talk with them.

Could I ask you to look at DFRC5, again there is no other reference to this document? - Yes.

At this point there was a short adjournment while Mr. Lake explained to parties concerned where the document that he was going to refer to could be found.

Do you have in front of you the document which has a reference DFRC5 on it? - Yes.

You see that is a memo from you to Mr. Joiner? - This is a memo from Mr. Sommerville to myself and Mr. Joiner.

And in the body of the memo it refers to a meeting you had with Mr. Hamilton? - This refers to a meeting that Mr. Sommerville had with Hamilton.

What did you understand the outcome of that meeting was? - He had a meeting with Mr. Hamilton and both he and Mr. Hamilton agreed that it would be a good idea to actually have a parents' committee and make up a proper Constitution of the club.

And that was the solution to the problem? - That was the suggested solution to the problem.

Did you take steps to help? - I had a meeting with Mr. Hamilton and we discussed the situation and I said that we would only continue his let if he actually followed these steps and he agreed he would actually call a meeting of the parents to form a parents' committee.

Could you look at document DFRC10; this document does have a D number which is D6 within volume D2, I don't think it is in H(V); I am corrected, it is in D92 in H(V); do you see that is a letter from you to Mr. Sommerville? - That's right.

In which you say you had a meeting with Mr. Hamilton to discuss his club? - Yes, that's right.

Can you tell me from that letter what he said to you about the suggestion for a committee? - He said that at present there was still no committee actually of parents but he had encouraged parents to participate/

participate in the club itself and he now had actually two members who were taking an active part in the actual club, in the actual session within the gymnasium.

Did you attend at the club and speak to Mr. Hamilton? - I attended -- in this letter I attended on Friday, the 17th, was it, yes.

3.l0 p.m.

That would be in l986? - That would be in l986, yes.

Was there still a gym teacher at the club when you attended? - No, that had gone actually and the club had actually moved away from being a gymnastic style and it was more actually in the type of boys' club. From what I can remember there was indoor football and these sort of things which were mixed along with a certain amount of gymnastics.

Were you still quite happy at what you saw going on in the club? - I was. With the two parents along there actually taking an active part with Mr. Hamilton.

Can I ask you to look at document DFRC21? At the moment the only reference I have for that is Dll in J(II). Do you see that is a letter which does not appear to be dated addressed to Mr. Sommerville? In the top left-hand corner it has got Mr. Sommerville's name? - Yes, it is actually addressed to me. That was the situation I referred to earlier. The big boy syndrome where a boy arrived actually to take part in the club and was told he was too tall and he was barred from coming in and Mr. Hamilton saying it was a dangerous situation, that the boy might knock some of the smaller boys over.

And that was a parental complaint regarding that boy being excluded? - Yes, that was I think the only complaint that was ever received with regard to the club within the actual centre.

And did you investigate that complaint? - I investigated it and as you can probably see, I have one in front of me anyway, the letter which I actually wrote to Mr. Hamilton. I was completely surprised, having never heard anything in my life like a boy was too tall to participate in a boys' club. I emphasised the fact that Fife Region is an Equal Opportunities organisation and this policy we must follow both with our own organisation and independent organisations using our facilities. As it happened, the boy's age was just coming up to the time where he actually wasn't eligible for the club because/

because of his age but Mr. Hamilton apologised and said he was only thinking of the safety of the other boys.

BY LORD CULLEN: Can I just ask you about that letter? I see it refers to the "Dunfermline Boys' Sports Club". Had the club changed its name in the process of things or what had happened? - No, it was still actually called The Lynburn Boys' Club. I think the gentleman who has written this has just.....

It is just a mistake, is it? - Made a mistake, yes.

So right through until quite recently was it still Lynburn Gymnastics Club? - Right up until the day when we actually closed his let off and said we were no longer accepting his let.

And when was that? - It must have been..... I am sorry, at my age of 60 my memory is not as good as it used to be.

We may come to that in due course but it is a matter of just a few years ago? - I think it is two years ago now since we actually closed the facility to him.

EXAMINATION CONTINUED BY MR. LAKE: Can I ask you now to look at Document DFRC24 and this is Reference Dl8 in J(II)? - (No answer).

LORD CULLEN: Mr. Lake, would you find it at all easier if some of these documents that are hard to get hold of are put on the imager? Would that be helpful?

MR. LAKE: I have no objection other than it might involve disclosing the name of the.....

LORD CULLEN: Oh, I see. Well, where there is no problem perhaps you might consider that.

EXAMINATION CONTINUED BY MR. LAKE: You see this is a letter written by you? - Yes.

And again it concerns a complaint made about Mr. Hamilton and Lynburn Gymnastics Club? - Well/

Well, it isn't actually about the Gymnastics Club as such. It is about his summer camp.

Can you recall what the complaint that parent made was? - It was with regard to her son having attended a summer camp and the conditions at the summer camp did not come up to what her expectations were.

What did you do in response to that? - Well, in the letter as you will see I asked the lady to come in and have a discussion with me. Unfortunately, although I phoned her twice and I wrote to her once she did not take this any further. I sent a copy of this letter to Mr. Sommerville.

MR. LAKE: I understand now that the only screens available are in the well of the court. Perhaps that document could be put on the imager.

EXAMINATION CONTINUED BY MR. LAKE: Perhaps that makes it clear that this is a letter from you to the parent concerned and makes reference to her letter of complaint and making the point there that they are a completely independent organisation and you did not have any influence over the affairs of the summer camp? - That is correct.

Did you consider withdrawing the let of the centre following on these complaints? - Well, we did actually. We had a long discussion with regard to that situation but again the situation was that there was nothing actually untoward happening within the centre. This was something that was happening without. It was not anything we advertised. If a parent had come along, we didn't encourage it, and was asking me if I would send my child to summer camp I would say No.

Did the parent who made that complaint provide you with any information regarding Hamilton? - The only information is in her letter that is actually there and as I say, I wrote to her and she didn't take up my offer.

Were you aware of any other boys' clubs being run by Hamilton in any other areas? - By that time I would say Yes. By that time I had phoned my colleagues in Lothian Region and I had information which had come from them which I again passed on to my/

my superiors.

And what was that information? - Just the situation which had happened within Lothian Region and the difficulties they had had with him and how they had stopped the use of his lets and then he had actually got his lets back again because there was nothing to actually ban him. There was no reason. That was the great difficulty. He never did anything within the facility which would give us the right to say "Right, we can't accept you because you are not following our safety lines or you are not....." I mean, that is the situation.

But you were aware of two complaints by this time of mistreatment at the summer camps? - At summer camps, yes.

Can I ask you please to look at Document DRFC53? This is reference D46 in J(II). Again, perhaps for convenience this could be put on the imager. You see that is a memorandum from Mr. Sommerville to Mr. Welsh. Is that within Fife Region? - That is correct. Mr. Welsh was the Director of Education. Mr. Sommerville was the senior assistant in charge of recreation and leisure.

Perhaps we could move in in close up to the first few lines of the first paragraph. It says there "Mr. More received a telephone call from Chief Superintendent A. Elder on 23rd July l992 to the effect that he wished to discuss concerns related to incidents which had happened involving Fife children at a camp run by the above organisation. Mr. More expressed his concern and asked me to meet with Chief Superintendent Elder. I subsequently rearranged my holiday dates and met with Chief Superintendent Elder and Mr. A. Kelly, Reporter to the Children's Panel". Were you aware of these discussions taking place? - When I received that letter I was, yes.

Look at the second page of that document and the third paragraph of it. You see there a paragraph beginning "I met.....".? - Yes.

"I met with Mr. G. Baxter, head of Community Youth at 2.00 p.m. on Monday, 24th August l992 to discuss background information on the club and/

and its involvement with camps. Mr. Baxter said he had received a complaint..... about the camp held at Dunblane High School which her son had attended. He had received an earlier visit from W.P.C. Metcalfe asking him to inform her of any difficulties with this group. As a result, he suggested (to the complainer) that she should contact W.P.C. Metcalfe". Do you recall that discussion with Mr. Sommerville? - Yes.

And you passed on information about the complaint? - Yes.

Do you remember W.P.C. Metcalfe coming to talk to you about these matters? - Yes, very much so.

When was that? - What do you mean by.....?

Can you remember what sort of date she came to talk to you? - Not date-wise, no, I am sorry.

This memorandum is dated 27th August l992. Was it shortly before that or a great deal of time before that? - I am sorry.

Can you remember what W.P.C. Metcalfe discussed with you? - She just asked about the situation with regard to Hamilton and with the running of the actual club within the centre and if there had been any complaints with regard to the club.

Was she investigating it in effect? - She wouldn't say to me. She just introduced herself, said who she was and showed me her warrant card and asked me to give details and that is what I did.

She didn't tell you.....? - She did not tell me what she was actually doing because I asked. Being who I was, I asked but she wouldn't give any details.

What information were you able to supply her with? - Just the information that I could tell her about the actual club and the running of the club and how we actually monitored the situation and the/

the complaints that had come in with regard to the summer camps.

Can I ask you please to look at Document DFRC72? The reference for this is D57 within J(II). Again, perhaps it would be convenient if this could be put on to the screen. Do you see that this is a letter headed "Boys' Sports Club Group Committee" and it appears to be from Thomas Hamilton and is dated the l8th September l992? - Yes.

Have you seen this letter previously? - Yes.

3.25 p.m.

Could you look at a passage on page 3 of that letter; would you start by looking towards the top of the page and you see Hamilton has made reference to forming a committee and proposing a standard type Constitution which was agreed and adopted and he says "I then left the Woodmill Club in favour of other commitments elsewhere. However, within a week a contingent of six parents representing the committee, visited me at the Dunblane Club to ask me if I would return to Woodmill to run the club under a new arrangement offered by Mr. Baxter". Are you aware of any of these events? - There was a meeting actually with the parents and Mr. Hamilton and the parents decided that Mr. Hamilton was no longer going to run the club and they suggested that he would be an active figurehead but wouldn't do any teaching. At this Mr. Hamilton walked out and the parents were then left and they decided they would run the club and as you can see as it says in the letter there the parents then decided that they couldn't run the club properly and they asked him to return but there was no suggestion I had made, no suggestion from me, to run the club; that was something that Mr. Hamilton had added in the letter.

So you are saying that the parents had asked him to return? - The parents had asked him to return.

So you are saying that the parents had asked him to return? - The parents had asked him to return.

You see, the paragraph goes on to suggest that the arrangements for a new club are that it would become part of the Woodmill Centre's community education programme and all weekly fees would be collected and handed into the office; are you aware of any arrangement being made? - No, that arrangement wasn't made.

Do you see in the second paragraph on the page there is reference to you finding a teacher to assist Hamilton in place of Mr. McIntosh? - That would be a school teacher, actually a PE teacher was actually.....

Did/

Did you make that arrangement? - I made an arrangement for one of the school PE teachers.

There is reference to you paying the wages of that teacher to assist him; do you have any recollection of that? - No, he had to pay the wages out of the income from the actual club.

In the next paragraph it is stated that you made no effort to maintain the committee or hold any AGM meetings; did you have any responsibility for maintaining the committee? - Again that was outside the club which we had no juridiction over therefore we wouldn't have anything to do with AGMs or committees or anything else.

CROSS-EXAMINED BY MR. CAMPBELL: Just briefly if I may, Mr. Baxter, would you accept that the fact the club was being held in a Regional Council facility such as your own would to an outsider bestow an air of respectability about it? - I should hope so.

So far as the club which was being run in your Centre is concerned we know that that was a means of recruiting boys for the camps that you have been discussing in your evidence? - Well, as I say we didn't know about the camps to start off with, it was something we didn't encourage; we keep records of everything that happened within the Centre.

You came to learn of the camps about which there were so many complaints and the camps were for boys in the club? - And other boys as well.

However, if it seems to have been the case that the complaints related to incidents at the camps rather than incidents at the club there would be no jurisdiction for you or the Council taking any action? - As I say Mr. Hamilton was collating the facility from us and during the let we were responsible for anything that went on within that building. As regards the camps, anything with regard to that I actually passed on to my seniors and this was a situation that they agreed with; providing everything was under control then the actual facility, we really didn't have any control over that.

So whatever Hamilton got up to in the camps/

camps the clubs could continue? - This is a difficult one for me to answer; I have followed my orders from above.

Could you look please at a document which is B227, also D4B/I1; it is in the file I which is called Chapter I Continued although there is only one Chapter I.

LORD CULLEN: Can you give us the date of the document?

MR. CAMPBELL: The date of the document I wish to refer to is the 29th of July, 1992 although it is in the bundle which begins with a letter from the Procurator-Fiscal's Office from Detective Chief Superintendent Ogg, the 10th of April, 1996. I am sorry, I am corrected, it is from the Procurator-Fiscal to Chief Superintendent Ogg.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: This is a copy of a memorandum from the Fife Regional Reporter, Mr. Kelly dated the 29th of July, 1992 to the Director of Education and specifically for the attention of Mr. Sommerville which you have mentioned in your earlier evidence; have you seen this memorandum before? - I can't even read it, I am sorry.

Perhaps I could take you through it.

LORD CULLEN: If you have a point to make about it could you express what it is because I think the witness will have some difficulty following it on the imager.

MR. CAMPBELL: I think I will have to give a rough explanation to the witness.

LORD CULLEN: Perhaps if you could.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Perhaps if I could indicate to you before we read the specific points on this relating to the incident which was investigated by the police, an incident at Dunblane High School in the summer of 1992 when three young boys left that camp in the evening, do you remember that? - Yes, I do remember.

Do/

Do you remember being asked some questions about it; there is also reference to other concerns expressed by parents at the time but if we turn to the second page of the memorandum, particularly the first paragraph at the top of the second page. If you take it from me that reads as follows, the Regional Report Mr. Kelly said that "In the event the children came to no harm is no guarantee of children remaining unharmed should a similar event associated with this kind of summer camp managed in a light manner recur and I feel that the events of 29th June, 1992 in Dunblane in a sense serves a warning. If the kind of circumstances as described are allowed to continue without some kind of intervention, I consider that other children may be placed at risk. In like situations arising unchecked I fear that a tragedy to a child or children is almost waiting to happen" . Were you made aware by Mr. Sommerville of the Regional Reporter's concerns on this matter? - After this letter we actually closed the let of Mr. Hamilton, that was the finishing of his let, we told him that the let was no longer available, we felt we had reached the situation where we couldn't encourage him.

This was the last straw? - This is correct.

Just finally for the record do we see at the foot of that page that the memo was copied to Chief Superintendent Alexander Elder of Fife Constabulary, Western Division Headquarters, Dunfermine? - Yes.

CROSS-EXAMINED BY MR. TAYLOR: When you had an opportunity to view the manner in which clubs were being operated by Mr. Hamilton did you form a view as to the discipline which he was able to exercise? - Discipline to me is actually something which should be happening whenever someone is teaching; everything went on very, very quickly, there was never any discipline required; if the children were kept busy that is the best way as far as there is any trouble, it just goes on. There didn't seem to me to be any strong discipline, it was just kept going.

RE-EXAMINED BY MR. LAKE: What options were open to you in your position in the Centre when you/

you were given information such as that contained in Mr. Kelly's report? - Well, again I had discussions along with my seniors and we discussed the situation of who would give the go-ahead to close the facility off and tell him that the facility was no longer available. I think I wrote to him and said that he had the facility for a certain number of years and we felt that the facility was to be let in another area.

Were you able to take that decision on your own? - No, I got that from up top.

Who did you have to consult with? - Mr. Sommerville.

BY LORD CULLEN: Just one small point I think I asked you before about -- the name of the club. I think you said Lynburn went to the end? - Yes.

One of the letters we looked at dated the 18th September, 1992 and I won't ask for that to be shown anywhere but in the course of writing that Mr. Hamilton said that the club was later renamed as the Dunfermline Boys' Sports Club; is that a name that is known to you or not? - No, I always termed it Lynburn Gymnastics Club. Whether that was when he approached the parents but it was always known as Lynburn Gymnastics Club.

That letter was written after the let had come to an end? - Yes.

DEREK BAIN ANDERSON, Sworn:

EXAMINED BY MR. LAKE: What is your occupation? - Police Constable.

That is stationed at Linlithgow? - Yes.

What is your age? - 44.

For how long have you been a police officer? - 19 years.

You said that you were presently stationed at Linlithgow; were you stationed there between 1978 and 1990? - I was, yes.

During your time at Linlithgow did you come to know a Mrs. Haggar? - Yes, by neighbouring disputes, etc.

What sort of disputes? - Neighbouring disputes, that kind of thing.

Did you have cause to speak to her often? - Not myself often but officers at the station were regularly attending there.

Similarly while at Linlithgow did you have cause to deal with a Mrs. Janet Reilly? - Yes.

Why did you have cause to deal with her? - For a similar nature.

A neighbouring dispute? - Yes.

Did you have any dealings with either Mrs. Haggar or Mrs. Reilly in relation to Thomas Hamilton? - Yes.

Are you aware of either Mrs. Haggar or Mrs. Reilly ever reporting a matter involving Thomas Hamilton and firearms? - Firearms -- I was aware of investigations, I think it involved Mrs. Haggar's son.

Can you say what that investigation was about? - Through our officers I believe it involved Mr. Hamilton but I had no actual dealings with/

with the matter.

You didn't know of the subject matter that the complaint was about? - No.

And you didn't carry out any investigations? - No.

Did you have cause to deal with any other complaints against Mr. Hamilton? - No, apart from Mrs. Mowbray sent a letter to Mr. Dalziel which was forwarded.

Perhaps if you don't refer to names of anybody making a complaint; what was the nature of the complaint made on that occasion? - She was concerned about her boy attending a camp which was being held at Loch Lomond.

What was her concern? - I can't remember whether she had withdrawn the lad from the camp or had not let him go to the camp because she had heard stories about Mr. Hamilton.

Did she say what stories she had heard? - One story I can recall was that Mr. Hamilton had stood at the entrance to showers; I think this had been at Linlithgow Academy on the pretext that he was standing there to stop any trouble while the lads were having a shower.

Did the woman who made the complaint indicate where she had received this information? - I can't remember whether it was her son had been one of the youths or whether he had heard this amongst his friends.

Was that the whole nature of the complaint that was made? - Yes, because of the stories she was uneasy about sending her son to Loch Lomond and after having withdrawn the lad or not let him go she had been sent letters from Mr. Hamilton and I can recall being shown a letter from the Ombudsman.

3.50 p.m.

Were you aware of any other camps being run by Hamilton? - No.

What did you do in response to the complaints by this complainer? - Contacted initially Strathclyde. I thought Loch Lomond was covered by Strathclyde but I was informed that the island in question was just covered by Central Scotland and I telephoned Stirling Police who seemed to be well aware of the camp and well aware of Mr. Hamilton.

Did they say what they knew about Hamilton? - It is difficult thinking back but I am sure they said that the police were actually at the island at the time or had been at the island. The person I was talking to knew of the person and the camp.

Did you discuss with the police, Central Scotland Police, the complaint that had been made to you? - Yes, I passed on Mrs. Mowbray's concern and he seemed to be of the same opinion.

Did you take any further action in respect of the complaint? - Mrs. Mowbray's complaint was in letter form as far as I can remember which had been passed to Mr. Dalziel so I would have completed a memo to my senior officers with all the action taken after Mr. Dalziel informed of what action would be taken.

Did you speak to Mr. Hamilton? - No, Mr. Hamilton was at the camp at the time. Shortly after that the Academy Club got packed up. The Academy seemed to be aware and were trying to get Mr. Hamilton out of the Academy.

Just one last question. The complaint you referred to, can you remember when it was made? - Mrs. Mowbray's letter?

Yes? - I can't recall whether it was l988 or l989 but it was round about the May period, the start of the summer.

And how soon after that letter did you speak to Central Scotland Police? - The same day I think/

think I spoke to Mrs. Mowbray.

CROSS-EXAMINED BY MR. CAMPBELL: If I heard you correctly you told us you contacted Stirling Police about Hamilton after this particular complaint and they told you that they were well aware of Hamilton? - Yes.

What did you understand by that? - Of course I can't remember the exact words but I told him, it was a male, this person of Mrs. Mowbray's concern and also that specific item about standing at the entrance to the showers and also that generally Mrs. Mowbray had a bad feeling about Mr. Hamilton and the person seemed to back that up. Not by any specifics but seemed to be of the same opinion of Mr. Hamilton.

Who were you speaking to? - I can't recall. It was somebody at Stirling, Stirling Headquarters. I told them where the loch was and where the island was.

And the information you were giving came as no surprise to the person on the other end of the telephone? - Yes, the person seemed to be not at all surprised with this information.

The impression you had was that not only the person you were speaking to but the police in Stirling generally were well aware of Mr. Hamilton? - That was the impression I got from that individual. From that police officer.

CROSS-EXAMINED BY MR. TAYLOR: You indicated that Mrs. Haggar was a person who was known to you and also known to other officers in the Force. Can you indicate how it came about that you were aware of the involvement of her and other officers? - I really can't recall whether I am remembering this after the event or whether being aware of it at the time but thinking back there was something about an investigation with Mrs. Haggar that involved Mr. Hamilton. I am sorry, I can't be any more.....

Before that however I got the impression from the evidence which you gave in-chief that there was a certain knowledge of Mrs. Haggar amongst your colleagues? - Yes.

Can/

Can you tell us a little bit about the involvement which the police have had with Mrs. Haggar prior to this incident which we are looking at today? - In relation to this incident?

No, prior to? - Prior to? There was domestic matters. She stayed with, at one point.... do you want the name?

LORD CULLEN: Mr. Taylor, are we going into a string of events?

MR. TAYLOR: I don't wish to go into detail of any one occurrence. I would like the witness to tell me if he can generally comment.

LORD CULLEN: All right.

THE WITNESS: Okay. She stayed with a male on and off who would be occasionally put out of the house or would cause bother round about the place, trying to get back with her. I can remember that. Well, at least I had a couple of incidents like that. There seemed to be a continual..... I have dealt with several calls where she along with Janet Reilly would complain about another family who stayed above Janet Reilly when Mrs. Haggar used to visit Janet Reilly and also vice versa.

When you say vice versa, does that mean complaints from the other family about Mrs. Haggar and Mrs. Reilly? - Yes, they would complain about Mrs. Reilly and Mrs. Haggar causing an annoyance through drink, etc.

Was that drink on the part of Mrs. Haggar or drink on the part of the others? - Both Mrs. Haggar and Mrs. Reilly was drink related. The complaints against the person upstairs from Mrs. Reilly as far as I can recall were related to noise from children, etc. Household noise.

Are Mrs. Reilly and Mrs. Haggar reasonably well known to yourself and your colleagues? - Yes.

Moving on to one other topic. You indicated that the concern expressed by Mrs. Mowbray was that Mr. Hamilton had been standing at the entrance to the showers when children were having their/

their showers. Is it possible that the concern was in relation to some other matter such as the removal or the requirement to have the children remove their tops while carrying on gymnastic exercises? - That may have been part of it. The thing that sticks in my memory was this standing at the showers which made the boys feel uneasy.

No re-examination.

DOUGLAS/

DOUGLAS GEORGE JEFFREY (40), Sworn:

EXAMINED BY MR. LAKE: Who do you work for? - For the City of Edinburgh Council Community Education Service.

Where do you work for them? - In Edinburgh at 40 Torpichen Street.

What is involved in your employment as Community Education Officer? - My job title is Development Officer for Youth and Children's Work which requires me to work with voluntary organisations and youth work services in local government.

In the course of that work have you had cause to deal with voluntary organisations run by Thomas Hamilton? - I did.

When did you first have cause to deal with an organisation run by Hamilton? - In May of 1988.

In the course of some of the questions which I will be asking you that relate to complaints made by parents of children who attended these clubs, as far as possible if you could avoid using the names of the parents who made the complaints or the children to preserve their privacy? - Of course.

What was the nature of your involvement with the club run by Hamilton in 1988? - At that time I was the senior youth education worker in West Lothian in relation to youth and children's work development. My superior officer, Mr. David Sinclair, had received a complaint from a parent, I believe it was a phone call, and had also received a note of concern from a district councillor, Councillor James Clark. Mr. Sinclair asked me, in my capacity as worker working with youth work, to call in and visit the club that had recently become established in Linlithgow Academy.

Did he tell you who was running the club? - We just knew a single name, Mr. Hamilton. I was to ask for Mr. Hamilton when I visited the club.

Did/

Did you or the District Council, as they were then, have any information regarding Mr. Hamilton at that time? - None, apart from the material that he had circulated to the schools giving information about this new club that was being established in Linlithgow.

Did you have copies? - I did not at that time but I did very quickly after my visit.

When did you visit the club? - It was late May that year and it was a Tuesday evening because the club was only operating on Tuesdays.

Did you give Hamilton prior notice of your intention to attend? - No.

What did you see when you got there? - My recollection is somewhat.....it was eight years ago but I do recollect simply seeing Hamilton in a small school gym with about 30 young boys in what would be classified as PE kit.

What exactly were they wearing? - Shorts, I believe they had T shirts on and sandshoes.

What age were the boys? - Between 8 and 11.

What were they doing? - It was a football exercise in terms of running back and forward across the gym in terms of a training exercise.

Was there anything in what you saw that caused you concern? - Nothing outwardly in terms of what I saw caused me concern at that point.

What was the subject matter of the complaint you were investigating? - I was informed that the complaint was in relation to the summer camps that Hamilton was operating and the fact that a parent had signed up for that camp and had subsequently said to the son that he couldn't attend and that Mr. Hamilton was therefore seeking monies that were due to him in relation to the booking for this camp.

Did you discuss this with Hamilton when you/

you attended at this club on the 24th May? - I discussed with him the arrangement for the camps, the programme for the camps, the nature of the activities and the connection to parents at the camps.

And what response did he give in answer to your queries about how he ran his clubs? - The responses raised a question in my mind about the appropriateness for the age range of these boys.

When you say appropriateness, what do you mean by appropriateness? - In terms of it being offshore if you like, on an island on Loch Lomond with no access to parents and his only kind of connection would be telephone access to parents.

Did you form any impression of him when you spoke to him? - I was uneasy in his presence.

Why? - I have asked myself that question often since March of this year and I can only say it was some kind of hair tickling at the back of my neck as I have described it to colleagues since that point. It wasn't objective.

Was he hostile towards you when you attended at this club? - He was immediately defensive in relation to the fact that I was a representative of the Regional Council coming forward to ask questions about his club. He was immediately asking who had complained to me about him and whilst saying that he had no cause for concern about the Regional Council making an investigation, he was certainly defensive. I was a little taken aback.

Did you tell him who had complained? - Certainly not.

Did you tell him what the complaint was about? - Certainly not.

Were there any parents present at the club when you were there? - Not that I can recollect.

Were you aware of any parental involvement in the club in the Academy? - There was/

was none. There was no indication of such when I visited and Mr. Hamilton indicated that it was his intention that there would be a parents committee formed because that was part of my questioning in relation to the overall management committee of such a club, the creation of a voluntary organisation.

So what were you asking him for? - Asking him about the details of his constitutional status, his involvement and the committee members of parents.

What did he say the constitution status was? - That he would be forming a committee because at that point in 1988 this was a club on a trial period basis as with other clubs in Central Scotland and that based on the success as he would determine at that point he would be moving forward to have a club committee established.

Why did you ask him about the constitution of the club? - Any organisation I deal with has charitable status and that is recognised by the Inland Revenue and it is that status that we recognise as a voluntary organisation within the local authority.

What is the significance of it being a voluntary organisation? - That it would have a constitution which indicated it was a democratic organisation and it involved more than one person and that it had connections perhaps to other national agencies, both in terms of boys clubs of Scotland or youth clubs or the national networks.

Did that make any difference in relation to getting lets of school premises? - Not at that time.

What was required in order to get a let of school premises at that time? - It was the authority's policy to make premises available as broadly as possible to the community and the only point of reference was a kind of register form which was signed to indicate that a certain proportion of members were under the age of 18.

Can I ask you please to look at document DLRC CE 62 which is document D1 within folder J(III). Have you seen this before? - Yes.

What/

What is it? - It is an application for use register and the terms for use of educational premises.

I see in the top left hand corner it has been date stamped as you see? - That is correct.

The date there is the 6th April, 1988? - Yes.

Is this all the information that someone requires to be registered as a youth group with the Regional Council as they then were? - Yes.

You see at the top there is a requirement to state the name of the applicant body and it has been filled in with "Linlithgow Boys Sports Club"? - Yes.

Do you investigate any of the clubs in respect of which a let is sought? - It was the practice of the Regional Council for lets to which no one had any prior knowledge of an applicant to make a visit in the same way as I did to Thomas Hamilton's club.

4.10 p.m.

Was it common for an application to be made in the name of the club rather than an individual? - Yes.

The second point is the aim of the body for the purpose of the let -- it is stated sports training; was that the kind of common purpose for which the let was sought? - Yes.

The next heading refers to officers of the applicant body; that is what you are referring to by the Constitution of the club? - The Constitution and its committee structure I was looking for information on.

Do you see that in reference to that? - It is said that the Chairman and the Secretary and Treasurer are to be quoted.

And the name given to the leader in charge is Thomas W. Hamilton? - Yes.

To whom would that form be sent? - At that time it would have been sent to the Letting Department of the Education Department in Edinburgh.

What would they do with it? - They would have approved the let and they would have sent that form for registration as a youth group to the Community Education Service who would have sent it out to the area office for approval by the local area or for a visitation to take place.

You said there "to get registration as a youth group"; is it necessary to be registered as a youth group to get the letting of local authority premises? - No, it is simply a means of getting cheaper, less costly access to educational premises.

What are the criteria for registration? - It is 75 per cent of the constituent members are under the age of 18.

You referred to approval or a visition to be made; in what circumstances would simple approval be given? - If the applicant was already known to community education perhaps as an ordinary employee.

If/

If a visit was to be made when would that take place? - Normally before it was signed as a registered youth organisation.

Would that be a visit to the club or a visit to the individual in charge of it? - Usually the club where we would expect to meet the individuals who were responsible for running the project.

Can you tell in this form whether or not a visit took place or whether it was approved? - In this particular situation an administrative hiccup had occurred and it had been sent before it had been seen by the West Lothian Office hence I was receiving a request to make a visit immediately on receipt of the application.

I think that the next page of that document is headed "Lothian Regional Council" and in the top right-hand corner "Permit 2358"? - Yes.

Is that what is granted in response to the first form? - That is correct.

Turning to the discussion with Mr. Hamilton when you visited him in May, 1988 did you discuss with him his activities with youth groups physically? - I think I got information from him about his other clubs; I had known that he was operating in Dunfermline, in Stirling.

Did he say whether he ran any summer camps? - Yes, he gave me information about summer camps as well.

After you had met him did you actually take any steps to verify what he told you about these clubs and summer camps? - Yes, I did indeed.

What did you do? - For the rest of that week I followed up the prospectus that he gave me and he subsequently sent me that week further information and he told me.....he had indicated he had been a warranted Scout Leader and I made contact with the Scout Association in Edinburgh.

Can you remember who you spoke to in the Scout Association? - Mr. Alan Willoughby.

What/

What did you ask him? - Whether or not Thomas Hamilton was a warranted Scout Leader.

Did the Scout Association provide you with that information? - He informed me that his warrant had been removed.

Did they say when? - No.

What inference did you draw from the fact the warrant had been withdrawn? - That an established organisation like the Scouts wouldn't remove a warrant for trivial reasons and the application was subsequently viewed with a degree of concern and it should be passed on to my superiors.

When did you make your enquiry of the Scout Association? - It was that week, the week of that visit in May, 1988.

Did you make any report of your findings after your visit? - I made a verbal report to my superior, Mr. David Sinclair, at the end of that week.

After your visit did you receive any correspondence from Hamilton? - I continued to receive correspondence from Mr. Hamilton. I received a bundle of payment papers almost within 24 hours of my visit which I found to be unusual in the circumstances. It was a very detailed letter indicating aspects of his programme and what he intended to be doing, photographs of the boys at the previous camps, a copy of a letter indicating that he had a let from Central Regional Council which hadn't been approved and he had appealed to the Ombudsman and the Ombudsman had found in his favour and also a copy of the letter to his local M.P.

Could you look at the document DMRC CE 31 which is D2 within folder J(III); is that the letter that you received? - It is indeed.

And you see in the third paragraph of that letter there is a reference to the formation of a committee? - Yes.

And Hamilton states that he doesn't wish to rush forming a committee? - Yes.

Were you happy with that answer to your query? - No.

Why not? - I would expect that an organisation of this nature to be operational involving parents and the local community far before this point in its history.

Again you said that the letter goes on in some detail and raises various matters; were you aware of any letters sent by Hamilton as a result of your visit to the club? - Yes, there were subsequent letters came in which indicated that he found my visit peculiar and he subsequently talked about..... found out who had complained about him.

And I refer you to Document DMRC CE4 which is D3 within the folder J(III); do you recognise that letter? - Yes, I do indeed.

Did you receive that? - I did.

You see it is a letter dated the 26th May, l988? - Yes.

You see in the third paragraph Hamilton states that he discovered that a complaint was made and he regards you as having him checked out? - No complaint had been made directly to me, I was investigating on behalf of the authority that had received the complaint.

And the complaint was what you referred to regarding financing? - Yes.

And payments? - Yes.

Did that complainer make any other complaints to you about the way that her child was treated? - No.

Did you draw any conclusions from the terms of this letter? - My conclusions were both based on correspondence so that I was being..... There was a force coming from this person that was trying to prevent my further involvement, letters from/

from the Ombudsman, letters from the MP, indicating that this person had been checked and was approved and was okay, his own checking out to find out who had been complaining about him and making subsequent comments about the complaints he was dealing with which I found out of the ordinary within my previous experience in working in the organisation.

Did you do anything as a result of that? - I completed my investigations that week having spoken to Mr. Baxter in Dunfermline; I spoke with Mr. Beaton of the Boys' Clubs of Scotland; again out of interest as I made telephone contact with these people they were saying "I would rather speak to you in person about this matter rather than over the phone".

Why do you think they were saying that? - They were preferring to say to me face-to-face their concerns about this man's clubs.

You said you made enquiries of the Boys' Clubs of Scotland; what information were they able to provide you with? - Certainly in my conversation with Mr. Hamilton that Tuesday night I asked him about insurance cover for the club operating there and he indicated that he didn't feel the need for insurance at that time and I asked him whether he was affiliated to a national agency which would potentially have given him a reduced insurance rate for the activities he described; he indicated he wasn't likely to have any affiliation to such a body which surprised me; as I was aware of the organisation, the Boys' Club of Scotland, and this was an organisation called the Boys' Sports Clubs I made contact with Mr. Les Beaton and asked about him and he invited me to meet with him face-to-face and gave me information that suggested that he had some concerns about an organisation calling themselves the Boys' Sports Club which was not, in actual fact, boys' clubs under this affiliated term.

What was his concern? - There seemed to be a range of concerns about the nature and range of activities that had gone on in the previous clubs and was not prepared to back this club to me in terms of his knowledge of it.

Could you be a bit more specific about what his concerns were? - Again it was not a specific/

specific concern, it was more uneasiness in terms of the operation and in terms of his refusal to be connected to any organisation larger than the range of different clubs operated by Mr. Hamilton.

Did Mr. Beaton of the Boys' Clubs say that he had received intimation of any concerns regarding Hamilton? - I received a copy in that discussion of a letter which had been received from Mr. Phinn who, I believe, was involved with the Boys' Clubs of Scotland which gave again details of some uneasiness rather than specific concerns.

Adjourned until tomorrow
at l0 a.m.

.....

SIXTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

WEDNESDAY, 5th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayer (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

Page.

DOUGLAS GEORGE JEFFREY,
Examination continued by Mr. Lake..... 4
Cross-examined by Mr. Gibb..... 9
Re-examined by Mr. Lake..... 14

MARGARET ALAND,
Examined by Mr. Bonomy..... 16
Cross-examined by Mr. Campbell..... 23
Cross-examined by Mr. Gibb..... 24
Cross-examined by Mr. Taylor..... 24
Re-examined by Mr. Bonomy..... 27

GEORGE GUNN,
Examined by Mr. Bonomy..... 29
Cross-examined by Mr. Campbell..... 51
Cross-examined by Mr. Taylor..... 59
Re-examined by Mr. Bonomy..... 61

DOREEN HAGGAR,
Examined by Mr. Bonomy..... 66
Cross-examined by The Dean of Faculty.... 87
Cross-examined by Mr. Campbell..... 107
Cross-examined by Mr. Taylor..... 115
Re-examined by Mr. Bonomy..... 122

JAMES KEENAN,
Examined by Mr. Bonomy..... 122

_____

WEDNESDAY, 5th JUNE, 1996.

SIXTH DAY.

DOUGLAS GEORGE JEFFREY,

EXAMINATION CONTINUED BY MR. LAKE: You said yesterday afternoon that you made enquiries of Mr. Beaton at the Boys' Club of Scotland. Did you make any other enquiries regarding Hamilton? - I spoke to Mr. Baxter of Fife Regional Council in Dunfermline.

What made you approach Mr. Baxter for information? - The fact that there was a club of a similar type in operation in Woodmill Centre.

How were you aware of that club's existence? - By information that Hamilton himself had supplied.

What was Mr. Baxter able to tell you? - Virtually it was exactly the same story as was emerging throughout the rest of that week when I was talking to people. It was a situation of unease about the approaches and activities with the fact that the person that I was told would be helping in the Linlithgow Club was no longer operating, the woman was no longer operating in the Dunfermline Club which raised my suspicions further.

Did Mr. Baxter indicate whether he had any complaints regarding Hamilton? - He indicated that there had been some complaints around aspects of a camp which had been investigated by our Rights Office in Dunfermline.

Were you aware prior to that that there had been camps run by Hamilton? - Oh, yes.

Did you make any other enquiries? - I believe I spoke on the phone..... my memory fails me in terms of the name of the person in Central Region's Youth and Community Service.

What were you asking them? - Basically their knowledge of Hamilton and his activities. Basically we had been given information about the Ombudsman's/

Ombudsman's investigation. That was another piece of information that I did go and get, a copy of the Ombudsman's final report into Central Regional Council's actions and findings.

What was the purpose in obtaining that report? - That it struck me that we were potentially going to be in a similar situation in that we had unsubstantiated to an extent innuendo and unhappiness rather than objective details that we could take action on and I felt it was important to get, in terms of the papers that I could hand on to my superiors, detail of the Ombudsman's findings.

Were these all the enquiries you made or were there others? - That was the extent in that week.

What did you do with the information you had obtained? - I met with my senior officer, Mr. David Sinclair, and went through in some detail my findings from discussions with colleagues in other Regions and indicated my professional concerns about the club and its operation. Mr. Sinclair then sent a note to the head of the Community Education Service in Lothian at that time.

What was the purpose of that note? - To inform the senior officer of our concerns and to raise with him the potential for ensuring that Hamilton would not operate further in Linlithgow Academy.

Can I ask you please to look at Document DLR3/CE/7/1. That is Document D5 in Volume J(III). Do you recognise that? - I do indeed. That is the document that was sent as a result of my detailed conversation with David Sinclair.

Do you see in the first paragraph there Mr. Sinclair narrates that you have inspected the club and then he goes on to make certain reports in respect of it? - Yes.

He first notes that he had no assistance in running the club. Do you see that? - Yes, I do.

Do you see over the page at Point 7 in sub-paragraph (a) there is reference to the fact that/

that Hamilton's warrant had been withdrawn by the Scouts? - That is correct.

And that was on the basis of information which you had received from Mr. Willoughby? - That is correct.

And in sub-paragraph (c) there is a reference to the Ombudsman's report. Do you see that? - Yes, I do.

And the reference there is to the effect that Hamilton, as it is put, "survived the scrutiny" of the Ombudsman's report in that connection? - Yes, indeed. Certainly in my conversation with staff from Central Region certainly indicated that their Legal Department had a view that they could not make further comment but they had, as it says there, "severe reservation" and they would not recommend his clubs to me.

You see on the third page of that letter at the foot of the page there is a recommendation that the Boys' Club is deregistered forthwith. Do you see that? - Yes, indeed.

And I think there are four reasons given. The first is the ratio of leader to members and the second is that there was no Parental Committee? - Yes.

The third is that other Regions do not or cannot recommend Hamilton's clubs. The fourth is that Hamilton is not affiliated to the Boys' Club of Scotland and the fifth is that there is no insurance. Were these all matters that you discussed at your meeting with Mr. Sinclair? - They are indeed.

Were there any other reasons for you reaching the view that the let should be discontinued? - No, these were the reasons that we were putting forward.

I referred yesterday to correspondence you received from Hamilton regarding your investigations of the complaint that was made to you. Do you recall that? - I do indeed.

Do you recall Hamilton copying to you his correspondence/

correspondence with the woman who had made the complaint? - No. Sorry, yes, he did copy a letter that he had sent in relation to that complainant.

Can I ask you please to look at Document D4 of Volume J(III) which is DLRC/CE/5. Do you recognise that? - This is the first letter that I received from Hamilton. It was just immediately after my visit to him.

Is that letter addressed to you? - It is indeed.

BY LORD CULLEN: What is the date of that letter please? - 25th May l988.

EXAMINATION CONTINUED BY MR. LAKE: Can I ask you please to look at Document Reference DLRC/CE/5. The reference for that is D4 of J(III). Do you recognise that? - Yes.

Is the first page of that a handwritten letter to you from Mr. Hamilton? - No, the first page of this is a letter to the person who made the original complaint.

Perhaps I should have my copy put on to the imager to make it easier. The first page please? Can you see the top of the page? Do you recognise that document? - Yes, I do.

Is that a letter received by you? - It is indeed.

From Thomas Hamilton? - On the 3lst May.

Can we see the second page of that document please? Was that a letter attached to the handwritten letter we have just seen? - It was.

And did you have a chance to consider that letter when you received it? - Yes.

And without going into the tone of that letter, the letter is sent to the woman who had complained objecting to the fact that she had complained? - That is correct.

I think if you look at the very foot of the/

letter, the last paragraph, Hamilton threatened her there that he will seek recovery of costs from her? - It was in my view an intimidatory letter.

Did the fact that Hamilton had written such an intimidatory letter influence your deliberations on the question of whether he should have a let of the school? - It was my opinion that such an approach to parents was not warranted and certainly influenced me in my view of this person being an appropriate person to use school premises.

LORD CULLEN: Mr. Lake, can I be clear. You referred a moment ago to the letter from Mr. Hamilton which is supposed to be the first one after the visit and apparently dated the 25th May. What is the number of that letter?

MR. LAKE: The two references for that are D2 in Volume J(III) and the alternative reference is DLRC/CE/3/1.

LORD CULLEN: Thank you, yes.

EXAMINATION CONTINUED BY MR. LAKE: What action did you take in respect of Hamilton' let after your enquiries? - To an extent my actions were at a conclusion at that point. I had conducted the investigation as requested by Mr. Sinclair and reported to him.

Are you aware of what was done in relation to the let? - My understanding was that the decisions were that we were in a similar position potentially to Central Regional Council and whilst we had the concerns raised in the four points in David Sinclair's letter, we did not have enough hard evidence to move to making a withdrawal of the let. It was at that point only a matter of a couple of weeks before the end of the school term and we were of the opinion that we in the Community Education Service required full use of Linlithgow Academy for the term after that summer for our own Community Education Evening Class programme.

So what was the effect of that? - That there would not be available school gym accommodation for Mr. Hamilton's club.

And/

And that would be in the following year? - In the September of l988.

So is it correct to say although you didn't cancel the let you were able to make sure he didn't gain a let for the next year? - At the point at the end of my investigations that was our intention.

CROSS-EXAMINED BY MR. GIBB: One of the remits of this Inquiry is in relation to the vetting of those involved in the supervision of under l8s. You have obviously worked in this area for most of your career presumably? - Entirely, yes.

Clearly you had a gut feeling about Hamilton and you took an individual initiative but am I right in thinking there was no protocol as such within the Region about vetting or going about checking of prospective applicants for let of school premises? - That is correct.

You will recall in evidence-in-chief it was suggested to you that the fact that someone was using school premises of itself gave them an aura of respectability which they might not otherwise have. Maybe it wasn't you. Maybe it was a previous witness. Is it perhaps the fact that if they are using local authority premises parents may have an understanding that such people have the approval of the local authority? Could that be a legitimate understanding of parents, do you think? - It would not be my interpretation, no.

I know but you could understand parents who felt that since it was in school premises it somehow had the imprimatur to some extent of the local authority? - I can see what you are saying but I would not necessarily accept it.

Oh, I know you wouldn't accept it. Even on the question of insurance, clearly in such clubs an accident could happen quite easily and at that time there was no requirement for those letting school premises to even exhibit a certificate to show that they had public liability insurance? - That is correct.

Indeed, there was no vetting process at all in place? - At that time.

Is/

Is there a vetting process in place now? - There are procedures which we have put in place but they are not detailed as of yet. There are detailed discussions ongoing at the present moment in Edinburgh and work on detailed procedures for working out use of educational premises, including school lets.

But/

10.20 a.m.

But there was no general protocol which had been put together for the assistance of local authorities? - No.

Do you think such a general protocol might be of use to local authorities? - I think it would be of certain use to local authorities and to volunteer organisations, legitimate volunteer organisations, all of whom wish to ensure that the best interests of children and young people who use the services are maintained.

Might it therefore be a possibility, as far as local authority premises are concerned for a recommendation to have a general protocol to assist local authorities? - It would indeed.

And that assistance, one of the requirements might be to exhibit, prior to the let, a certificate of insurance? - That would be an indication of an organisation prepared to offer protection to the staff and volunteers for young people.

You also mentioned concerns that there was no parent committee as such, no parental involvement; again would it be of use if that matter was investigated before a let was granted? - Yes, I think parents and interested adults in the community, not necessarily only parents.

I think as far as you were concerned there was no involvement of parents at all in the Linlithgow enterprise? - That is correct.

Mr. Jeffrey, you spoke in evidence- in-chief of your name coming up I understand, and your involvement in this Inquiry is looking into the whole matter; is there anything you wish to assist the Inquiry with in terms of vetting procedures other than what I have asked you? - Since my investigations, my job duties since I have been involved in the development of training in child protection procedures with the community education staff both full time and part-time, that work has led me to contribute to a major submission to Lord Cullen, a written/

written submission based on national agencies and Scottish wide agencies and from ourselves in terms of the local authority we contribute a major written submission in terms of possible ways forward in working with children.

BY LORD CULLEN: In what particular name has that submission been made or has it to be made? - It has yet to be made, it is in the final stages of draft under the name of Scottish Education Council for Voluntary Youth Organisations.

You have been asked some questions about procedures for vetting arrangements being made for these lets; do I take it that local authorities such as those you have been involved with will have a procedure for vetting those who are employed or to be employed by them? - Every employee through a local authority who has substantial access to children is deemed to be, under terms of the guidance of the Scottish Office, under reference to the Scottish Crime Records Office checks. None of the volunteer organisation staff are covered by those and there are differences in approach between the Departments of the same authority because guidance comes from the Social Work group of the Social Work Department and the Scottish Office Education Department.

At the moment authorities have access to records which are not available to voluntary organisations? - That is correct.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: In terms of interviewing someone before they take a let is that part of the consideration being given to the submission to the Inquiry as to a number of more detailed steps that could be taken to investigate someone's background and satisfy yourself? - Yes, the submission is looking at the more detailed use of volunteers in total to ensure that certain people who would have access to children would not have unsupervised access immediately; in order for there to be continual development someone could be monitored rather than go immediately unsupervised to have access to children.

Clearly you have concerns right from the outset but then you had your concern about the Ombudsman's involvement and you thought you might be going/

going down the same route? - We had exactly the same concerns as Central Region and certainly from the correspondence from Mr. Hamilton it was likely he would take this to the Ombudsman which he did do eventually after his let was cancelled but the Ombudsman held in Lothian Region's favour at that time.

BY LORD CULLEN: Does your submission cover the situation where there is more than one local authority that might be involved; for example, a let is taken at Linlithgow Academy but the organisers have a trip to Loch Lomond where something is taking place, some excursion; is there some contemplation of co-ordination between different authorities where activities might take place in different areas? - In my opinion there should be some Scottish, if not UK wide, register of people involved with young people operating in transferring information across local authority boundaries; it was difficult enough before the 1st April but it is going to be more difficult now.

I was thinking in particular, for instance, monitoring where you have an activity of an organisation in more than one local authority area; you would need co-ordination of some sort so you are getting the full picture? - Yes.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: Is it contemplated at all, I appreciate I am pre-judging the submission which I have no involvement in, that the local authority might have any involvement in vetting those who will be involved with young people but not necessarily using local authority premises -- for instance, using church halls or premises which are not subject to the control of the local authority? - It would not be my view that the local authority had a role to play in that respect -- it is not local authority premises and a local authority service; I think that the view of the submission is that there are potential parent bodies or umbrella organisations within the voluntary sector that could have a part to play in such organisations; I wouldn't wish to be involved in discussions about either the Scouts group or the Boys Brigade company in the whole of the City of Edinburgh, I am one person.

It might be perhaps it is possible to distinguish what one might call a mainstream organisation/

organisation but here we have a man who was certainly not a mainstream organisation; there must be people who are not under the Scottish Association of Boys Clubs and it might be if they had no mainstream organisation it would be difficult for them.....? - In every community in Scotland there are a number of adults who wish, for the best reasons, to give their services to support young people through very difficult times in view of their transition from childhood to adulthood; I wouldn't want these people, who give their time freely and to the benefit of the community, to be deterred from that work, that is a concern of mine, that we have an over-reaction with people serving young people being suitable rather than simply protecting them.

Had you any involvement at all with the question of school security, either in your present post or in another post? - None.

RE-EXAMINED BY MR. LAKE: You said that Hamilton made a complaint to the Ombudsman in relation to the cancellation of his let, of which you were responsible; when was that complaint made? - It is my understanding and I was peripherally involved -- this happened one year after I carried out the initial investigation into Hamilton's clubs in Linlithgow; despite our best efforts in June, 1988 Hamilton continued with that let at Linlithgow Academy into the next year, into 1989; by this time I had left my job at West Lothian and was now working in Headquarters of the Educational Department with a regional remit in respect of Bathgate Community Education Office and there was an incident report in 1989 where Hamilton had been technically, I believe, assaulted in terms of a concoction of suncream oil thrown at him; I received a report about Linlithgow Academy and I also received Press cuttings indicating that incident; in the Press cuttings it was acknowledged that there was a police investigation into the activities of the camps in Loch Lomond the previous summer; when passing that information on to my superiors within the Education Department a decision was taken to cancel the let at this point because there was a police investigation into Mr. Hamilton.

So the assault that you have been referring/

referring to, that took place in the context of one of the clubs run within the local authority premises? - That took place in Linlithgow Academy almost one year on from when I conducted my initial investigation.

You said you carried out your initial investigation in about May? - May, 1988.

So this would have happened in May, 1989? - Yes, May, June, 1989.

So when you said that the community education programme had taken on the let of the school that wasn't that same time? - It was my understanding that at that time we had programmed Linlithgow Academy to the full; however, it would appear there was an hour left which was not programmed which Mr. Hamilton got and continued to operate his club from.

So he was operating the club continually up until May, 1989? - Presumably from August, September, 1988.

When was the decision actually taken to terminate the let? - In April, June 1989 when I received the information from the Press cuttings.

And there was information in the Press cuttings that led to the termination rather than what you had uncovered previously? - That is correct.

When did Hamilton make a complaint to the Ombudsman? - I understand it was thereafter in terms of his complaints about the authorities cancelling his let.

What was his complaint in relation to the cancellation? - That he had not had an opportunity to put forward his side of the case.

What did the Ombudsman do in relation to that complaint? - I didn't see any details of the Ombudsman's finding; my only understanding is that he found in Lothian's favour.

Was there any subsequent lettings to Hamilton? - No.

MARGARET ALAND, Sworn:

EXAMINED BY MR. BONOMY: You are a Social Worker? - Yes.

You work within the Balfron office of Stirling Council? - Yes.

Before the change in local government what authority did you work with? - Central Region.

In the same office? - Yes.

What age are you now? - 46.

How long have you been qualified in Social Work? - 16 years.

Have you been working as a social worker throughout that period? - Yes.

I think you became involved as one of the liaison teams to tell families of the deceased children about the death of their children? - Yes.

Were you teamed up with two police officers for that exercise? - Yes.

And did you deal with one family only? - Yes.

When were you first brought along to the school? - Before going into the school we were sent first of all to a house where the parents were and then we were told to go to the house on the other side of the road and I think it was about one o'clock we were taken up to the school.

So you must have been at one of the houses at 11 o'clock? - Yes, just after 11.

And then about one o'clock up to the school? - Yes.

While you were in the second of the houses was there a feeling of anxiety, of concern rather, that not enough information was being conveyed? - There was certain concern, I think there/

there was a lot of anxiety and I think people were quite honestly stunned; I presume if the information was available we would be given it.

How long do you reckon it was that the group of Primary 1 families spent in the second house? - I can't say, I was aware when we were in the other house that we saw transport, minibuses, taking them up to the school.

Were you not actually in the second house? - When I arrived at the school my colleague and I went to the police cordon and we were directed to go into the white house which I think was called Rockvane; when we arrived there we met up with the rest of our team; I think it was Detective Sergeant Moffat advised us that the parents were in the house and directed us to go to the house on the other side of the road where we waited together with the nurses and psychologists there.

And then were a group of Primary 1 parents brought into that house? - No.

At no stage? - No, not that I am aware of.

So I had better go back to the starting point; when you arrived about 11 o'clock you are met by a number of colleagues, is that right, your own colleagues? - Well, I travelled with one colleague from Callander to Dunblane; when we arrived we walked up to the school, the cordon was there, there was a police on duty and we identified ourselves and he advised us to go to the white house which I think half the Primary 1 parents had been directed to.

Would you recognise the house in a photograph if you saw it? - Yes, I think so.

I/

10.40 a.m.

I wonder if you would look at R3, which will be put on an imager and shown on a screen to you. Now, do you see in that photograph the house you went to when you first arrived? - It would be the house -- I can't see it entirely. It is the one in front of the janitor's house.

Can we come down that photograph a bit -- or is that it? Can you go over to the imager please and point to roughly where the house is that you were in? - It would be this house here.

So that is on the right-hand side of the road as you look at the photograph? - Yes.

And that was about 11 o'clock? - Just after 11.

Now, can you point to the house where you understand the parents were -- that is beside it? - No, the same house.

So that is the house you go to at first? - At first, but we were quickly redirected to the other house.

And which is the one you were redirected to? - That one there.

And when you went over there it was professional people and medical people that were there? - Yes.

Roughly what time was that? - I think it would be roughly about 12 o'clock.

Could you sit down again please? When did you first, or when were you first in the presence of parents of the children in that particular house? - I wasn't.

Not at any stage? - No.

So you were aware of parents being taken by bus up to the staff accomodation in the school? - Yes.

And where did you go at that stage? - We were/

were escorted up into the school.

Now, what happened at the school? - When we arrived at the school we were shown into a classroom, and there were police officers and social workers present. And I think it was round about half past 1 or quarter to 2, or between that time, there was a briefing, and we were advised at that point there was 18 fatalities, and the parents at that point didn't know who had been killed, and that there had been problems with identification, and they were planning to draw up teams of three for each family.

And how long did it take to assemble the teams? - It didn't take very long at all, because we had given our names in. It was just a matter of matching up the names.

And is it after that you first meet the parents that you have to convey this information to? - Yes.

Now, what time was it that you first met the parents that you had to deal with? - To the best of my recollection it was 3.30.

Sorry? - 3.30.

Before you ever met them? - Yes.

Now, between 2 o'clock, say, just after the time you were briefed, and 3.30, what was happening? - I think it would be round about
2 o'clock the first teams were called out. The process seemed to go fairly quickly.

Round about what time, sorry -- I missed that? - It would be between quarter to 2 and
2 o'clock the first teams left to see the families. Initially it went quite quickly, but then it slowed down and I was -- our team was the last team to leave the room.

This is a classroom that all the professional people are sitting in -- or the police officers, rather, and the social workers? - Yes.

At any stage while you were there were you checking the time? - Yes.

By/

By your watch or clock or what? - I wasn't wearing a watch that day. There was a clock in the classroom, and my colleague in the office, Marie Sinclair, had the second-last family to be seen. So she and I naturally were together, and I can recall after 3 o'clock we were both sharing anxiety, naturally, about the task we had in hand, and also the fact that time was marching on.

She and the officer she was with left the room before you? - Yes.

Can you tell me what time that was? - It was a few minutes before we left.

And what time did you leave the room? - I can't be exact. I know that I saw the family at 3.30. I don't know whether that was because I looked at the clock in the classroom or I looked at the clock in the staff room when we arrived in the staff room; because our family was the last family we actually saw the family in the staff room, we didn't need to take them through to another room.

Were you aware, or are you aware now, of having checked the time at all on the clock? - Yes.

At what times did you do that? - I was aware at quarter to 2 we heard how many fatalities there had been, and the fact that the parents had not been told. That is fixed in my mind.

Did you check the clock at any other time between then and half past 3? - Yes, around -- it was after 3 o'clock my colleague Marie Sinclair and myself -- we talked and shared our anxieties about the fact it was now after 3 o'clock and we hadn't seen the families.

And that was after 3 on a clock in the classroom, was it? - Well, it was also by my colleague Marie Sinclair's watch.

But was there indeed a clock in the....?
- There was a clock in the classroom.

So you never actually had to leave the classroom to carry out the task you had, you did it in that classroom? - No, no, sorry. The other workers/

workers had to leave the classroom, go to the staff room, ask the family to come with them, and then escort them to a private room where they could give them the news. Because our family was the last family we walked to the staff room and saw the family in the staff room.

In the staff room -- right. Now, who were the police officers who were with you? - P.C. Pearson and P.C. Clair.

How long do you reckon you spent in the staff room? - Not more than 20 minutes.

And where did you go to after that? - The family -- we separated, because the family had arrived in two separate cars. They did not wish to drive home and P.C. Pearson arranged for transport, and accompanied them home. On the way home he dropped P.C. Clair off to collect one of the cars, and he dropped myself off to get the other car, the family car, to drive up to the family house.

And who actually took both parents home? - P.C. Pearson.

So they remained in the same car as it left the school? - Yes.

And each of the other two of you drove their car? - Yes. We were dropped off by P.C. Pearson, who had the family in the car.

How far was it home? - I would say no more than five minutes, but in Dunblane at the moment there is roadworks over a bridge, and you can get held up at the traffic lights.

Do you know what time the family got home? - I couldn't be sure, but I know when I got into the family car the clock was round about 4 o'clock.

Are you conscious of any particular problem in locating the cars or making arrangements for getting the car home? - I think there was a slight delay in getting the car. At that time P.C. Clair and myself, because we were in the staff room, we were able to make tea for the family, a cup of tea for the family. When they finished that we left.

So/

So when you say "difficulty", was that in relation to getting a car that would come to the staff room and take you home? - Yes.

No problem in actually identifying or locating the other two cars or making any particular arrangements in regard to them? - No. The parents were able to give us the exact location of them and the registration numbers.

And Pearson was able to drive to where these cars were? - Yes. It was on the way to the family's home.

And were the cars parked in Old Doune Road? - No. One was parked -- I don't know the name of the road, but it is just off the main road near Tesco's, and the other car was parked in Tesco's car park.

Now, do you know why there was a delay in you being put in contact with the family you were to deal with? - I think there was four social workers left at half past 2. Two went between half past 2 and 20 to 3, which left two of us in the classroom. My recollection is that someone at some point went into the classroom and said words to the effect that there was a problem with accommodation, and they were trying to remedy it as soon as possible.

And that was at what time? - I can't really say. It was after the other two social workers left, and went to see their families, so it was after quarter to 3.

Once the other two social workers had gone and there were only two of you left would I be right in drawing a conclusion

that there must have been two families in one staff room and two social workers in a classroom? - Yes.

And therefore two rooms available and two families to be told? - Yes -- I hadn't thought of that at the time.

But that is how you imagine, at least, or conclude the situation must have been by that time?
- Well, I know that the two families were sitting in the staff room and the two social workers were sitting/

sitting in the classroom.

CROSS-EXAMINED BY MR. CAMPBELL: Is it Mrs. Aland or Alland? - Aland.

Since the events of that terrible day I think you have continued to be in contact with the family that you were assigned to? - Yes.

And without going into any details have you also had some contact and communication with the family groups as a whole? - Yes.

Can you help us with this: everybody appreciates that all of those involved on that day were operating under great strain in the most terrible circumstances, but have you become aware that the families were deeply unhappy about the way in which they were treated that day? - I can only speak about the family that I liaised with. They certainly have made it clear to myself and the police officers that they were very unhappy about the delay, and the reason for the delay in being told news of their child. The feedback I have had since then is that since being told they feel the level of support offered to them was appropriate.

Yes. I think there is no complaint in relation to support since then, nothing but praise, but so far as the events of the day themselves are concerned, do I understand, at least so far as the family you are concerned with, there is considerable concern about the delay in giving the information to that family about the death of their child? - Yes. I have been more aware of that since

the Inquiry started.

Have you been made aware of any concern relating to the giving of information about what has happened to a child to persons other than the child's parents, in advance of giving that information to the parents themselves? - I am sorry, I don't understand the question.

It is a very bad question. I will try it again. Have you become aware of a deep unhappiness about the events of that day, and in particular the fact that information about a child was given to other persons before that information was given to the child's parents? - I have been aware of it in one/

one case, but I think it happened more.

Are you aware of any concern relating to a delay in giving information to the parents of injured children, is that a matter really outwith your knowledge? - I couldn't comment on that. I only dealt with my own parents.

Given your participation in that day's events and your qualification as a social worker, can you help us with any lessons that might be learned should, heaven forbid, some similar tragedy occurred elsewhere -- I am thinking particularly in terms of how to deal with those most affected by the events? - I think if I do -- I wasn't involved in -- I didn't know what was happening, except from the briefing, but I think with hindsight an important factor is -- I think the setting up of the police and Social Work team is a positive thing. I feel that that worked well, and was able to cover a variety of issues for the parents; but I thought it would have been better had the parents been told earlier. I don't know whether that was possible or not, but they should be told as soon as possible.

CROSS-EXAMINED BY MR. GIBB: Can you tell me, was there an officer who appeared to be in charge of the line of communication to the parents, or was there anyone apparently with that specific task on the day? - I couldn't comment on that. We were waiting in the classroom and knew what our task was, and I wasn't aware of what other people were doing.

Who did the briefing, can you remember? - I honestly can't remember the name. I know that D.S. Moffat was there and Chief Inspector Hughes, and I think it was Superintendent Holden.

Yes, but did you have any further dealings with

Superintendent Holden other than the briefing? - On the day?

On the day? - No.

CROSS-EXAMINED BY MR. TAYLOR: I take it that you would agree that breaking news about tragic death such as occurred on the 13th is a matter which requires a degree of sensitivity? - Yes.

And/

And would it be fair to say that some thought has to be given as to what is to be said to the parents, how it is to be said, and the circumstances in which -- sorry, the surroundings in which the news is to be broken? - Yes.

And it would be appropriate, would it not, for there to be appropriate support given to the parents? - Yes.

Would you agree with the proposition that the news ought to be broken to the parents as privately as is possible? - Yes.

It wouldn't be good practice, for example, to read out a list in a large assembled company? - No.

And is it also appropriate that some time must be spent with the parents after the news has been broken, in order to discuss the issues which arise with them? - Yes, if that is what the parents wish. I think it should be offered.

And on the occasion which you unfortunately had to deal with on the 13th March, you told us in your evidence-in-chief that a variety of issues had arisen with the parents which you were able to deal with because of the creation of the liaison teams. Approximately how long did it take to discuss these issues? - I think it was an ongoing process, and when we took the family home we spent some time with them in the house and then we left them, with the understanding we would be back later, and take them into the hospital to see their child; and then from then on we had daily contact, and it was an ongoing process.

And/

ll.00 a.m.

And did that involve yourself and the police officers as well? - In the first day it was the three of us. Thereafter it was P.C. Pearson and myself.

And have you continued in contact with the parents up until the present time? - Yes.

I think on the day in question there was a bit of a delay in obtaining a car to take the parents home? - I was aware of P.C. Pearson leaving the room to get transport. P.C. Fair and myself made the family a cup of tea and I couldn't honestly say how long after that it was that the car was available.

If it was P.C. Pearson's recollection that it took him approximately 20 minutes to go and collect a car and come back, would you agree with that? - I wouldn't have thought it was as long as that.

Approximately how long would have elapsed before P.C. Pearson left to collect the car after you had broken the news to the parents? - It was quite quickly.

Would a period of time in the order of 20 or 25 minutes accord with your recollection? - It would be. On the day when we told the parents every minute seemed to be a long time and looking back probably he left after about five minutes to get the car and my recollection is that the interview didn't last more than 20 minutes so it was probably l5 or 20 minutes I would have said.

Do you recall the mother of the child at any point commenting that the time was now 3.30 and that she had been there since about l0.30 that morning? - They commented on the wait. I can't honestly say I remember her saying it was 3.30 but my recollection is that it was 3.30.

And am I right in thinking that all five of you as it would be travelled in the one car at first? - Yes.

Were there still people milling about the/

the school at that point? - Yes.

Did that cause any delay in exiting from the school? - No.

And your recollection is that it was in the order of 4 o'clock when you reached the parents' house? - Yes.

Can you say when you left the house? - It would be an approximate figure. I think we were there about half an hour.

So that would be approximately 4.30 you would have left the house? - Approximately, yes.

Was there any particular reason why you left at about 4.30? - I think the team felt that the parents needed time to themselves. They were all so anxious to go to the hospital to see their child and we were returning to the primary school to find out what arrangements had been made. Before we left, P.C. Pearson telephoned the family GP and asked them to visit at the family's request.

Can you recall if the family was expecting a visit from relatives? - Yes, the grandparents were travelling from England.

And can you recall what time it was estimated that they might arrive? - They were expected to arrive around 5.30.

Is it a possibility that discussions which you had with the parents in the staffroom would have commenced at about 2.45 or 2.50 that day? - No.

You just don't admit to that possibility at all? - No, because I am aware of being in the classroom with my colleague, Marie Sinclair, and discussing the fact it was after 3 o'clock and we hadn't seen the families.

RE-EXAMINED BY MR. BONOMY: After remarking on the time with your colleague, was there a significant lapse of time before you met the family? - It is hard to say what is significant. It seemed a long time.

What/

What I am trying to establish is how you are so confident about the 3.30 time? - I have a recollection of seeing a clock. Other times I can remember looking at the clock but I can't remember looking at the clock, whether it was in the classroom or the staffroom, but I am very certain in my own mind that I was with the family at 3.30.

I doubt if there will be any dispute about that but do you mean with the family in the staffroom? - Yes.

Commencing the job of telling them at 3.30? - I couldn't honestly say whether it was commenced or five or l0 minutes into the interview.

The other thing I want to ask you is this; you were asked and said you were aware of a complaint about information being given to other people? - Yes.

Before it was given to the families. Now, can you tell me the type of person or who the people were to whom information was being given before it was given to the families? - I understand it was a relative.

So that is the complaint that you have heard of and is that a complaint about a relative being told officially by police officers about the death before the family were told officially? - I understand that the relatives received information from the hospital. That is my understanding.

And do you know if that was about an injured or a dead child? - A dead child.

Now, can I take it so far as you are concerned the setting up of these teams, both for the purposes of conveying the dreadful news and then supporting the families afterwards, was a good idea? - I believe so.

And can I take it that to enable the team to work properly it was necessary for the team to be briefed with as much information as possible about the death of the family's child before speaking to the family? - Yes, the briefing did not take long. I think really we only needed to know the basic facts.

So/

So we have a short briefing telling you the basic facts about the death of the child? - Yes.

And were you told what you needed to know? - Yes.

And no more than that? - I think we were given sufficient evidence to see the parents. I don't know what other information could have been given at that stage.

Well, do you think it could be said you were given more information than you needed to have? - No.

So were you simply given what you needed? - We were simply told the number of children who had died and the fact that we were to be put into teams and that these teams would go to tell the family and continue to work together and support them.

GEORGE GUNN (39), Sworn:

EXAMINED BY MR. BONOMY: Are you a Constable in Central Scotland Police? - Yes.

Are you still based at Dunblane? - Yes, I am.

Were you based in Dunblane on l3th March of this year? - That is correct.

Where were you based in l988? - Balfron Police Office.

How long have you been with Central Scotland Police? - l5 years.

Now, I think that you have two boys at Dunblane Primary School? - That's correct, yes.

And you had been on the night shift on the 12th into the l3th and I think roused by a phone call from your wife? - That is correct, yes.

About/

About l0.l5? - It would be round about that time.

And you were at the school? - That is correct.

I don't want to ask you about that beyond establishing that fact. What I would like to ask you about is your duties on the evening of the l7th July l988 when you worked at Balfron? - Yes.

Do you remember that evening? - Yes.

And I think you got involved in the saga of Thomas Hamilton as a result of a telephone message to your police office? - That is correct.

Is that the first you had ever heard of Thomas Hamilton? - Yes, that is correct.

Who did the phone call come from? - I don't recall the name of the person but it was a parent whose child had been at a camp on one of the islands in Loch Lomond.

Well, was it a parent on the phone to Balfron or was it another policeman? - I believe it was actually another policeman. The parents had called at Drymen Police Office and he was relaying the message to ask us to call over at Drymen Police Office.

Did you go to Drymen? - Yes, we did.

When you got to Drymen what did you have to do? - I interviewed some families, some parents and children, and obtained statements from them relating to the camp which had been held on Loch Lomond.

How many families were there? - I don't recall.

Roughly? - Four or five or six. I'm not sure.

And was that parents of the children who had been at a camp of Thomas Hamilton? - Yes.

Where had the camp been? - Inchmoan, Loch/

Loch Lomond.

And this was a Saturday night, was it? - I believe it might have been.

Was it at the end of one stage of the camp as it were? - Yes, they had left the camp and that was them returning home.

And the parents would have to go and collect these children from the camp? - That is correct.

What was the gist of the complaint they were making about the camp? - They weren't happy regarding the conditions of the camp and in particular that some of the boys had been chastised by Hamilton.

In what way? - Smacked across the bottom with a table tennis bat.

So far as the conditions of the camp were concerned, were they more specific than simply bad conditions? - Just simply that it was untidy and bad conditions.

Did you take certain statements at that stage? - Yes, I obtained statements.

Have you been unable to locate these particular statements since? - Yes, unfortunately the notebooks from that period have been destroyed.

So these were statements written in a police notebook at the time? - That is correct.

Now, the camp had been on Inchmoan Island. In whose jurisdiction is Inchmoan? - It is within the Strathclyde Police area.

So effectively who had to carry out the investigation into this complaint? - The initial investigation, yes.

But who had to do that, though, thereafter? - I took the initial statements and contacted the police office at Dumbarton and they sent a Detective Constable through to Drymen to carry out enquiries.

Who/

Who was that Detective Constable? - I believe it was Detective Constable Harold.

And did you pass the statements you had got to him? - Yes, I did.

You would keep your own notebook and write them out in some other form? - That is right, I wrote them out on a sheet of paper for him.

So you are out of it at that stage? - That is correct, yes.

But you are back in pretty quickly? - Yes.

What happened? - On the 20th July Chief Inspector Hay from Dumbarton CID contacted myself at the Police Office in Drymen and asked if I could attend at Inchmoan Island on their behalf to inspect it.

Why should they get you to go to Inchmoan and not do it themselves? - Chief Inspector Hay informed me that they had problems getting a boat to take them out to the island and believed it might be easier for myself because the Balmaha mailboat operates from Balmaha and does the rounds of the islands.

And that is in your jurisdiction? - That's correct, yes.

Did you go to the island? - Yes, I did.

When did you go? - Later on that afternoon. I can't remember exactly.

So that is Wednesday the 20th of July. Who did you go with? - Constable Sloan or Duncan as she was at that time. She is now married.

Is Inchmoan inhabited at all? - No.

Is it very big? - No, it is quite a small island.

Do you know roughly its dimensions? - Possibly half a mile to a mile by quarter of a mile to/

to half a mile. It is not a particularly big island.

When you got there were there boys to be seen? - Yes, there were some small boys playing on the beach.

Ages? - Round about nine years of age.

Consistent with the ages of the children you had seen earlier? - That is correct, yes.

The week before. Now, what were these children doing? - Just playing on the beach as young boys do. Throwing stones into the water and just generally playing.

Were they in the water? - Paddling. Not swimming but they were in padding.

Were they dressed for the water? - They had swimming trunks on, yes.

Was that all they had on? - Some of them had T-shirts on.

How far from there was the camp? - Probably about 20 or 30 yards. It was more or less on the shore.

Could you see it when you landed? - Yes.

Did you find Mr. Hamilton? - Yes, I went to the camp. The boys took me.

Was he there? - Yes, he was within the camp.

Were there any other adults within the camp at that time? - No.

How many children were there? - l3 I believe.

Throughout the time you were there that day investigating, were there any other adults turned up? - There were some other adults camping on the island but they were not part of Mr. Hamilton's camp.

So/

So no other adult connected with this camp turned up? - No.

How many tents were there? - Three tents.

Did he welcome you? - Yes.

Did he show you round? - Yes, he did.

Were you in all the tents? - Yes, I was.

Can you tell us the general state of the camp site around the tents and the general state of the tents themselves? - The camp site I found generally to be untidy. There were tables set up obviously where the boys ate and they were strewn with dirty dishes. The camp site was generally messy. The tents, again they were messy and the sleeping bags within the tents I found slightly damp to the touch and generally I just got the impression it was not a particularly well-run camp.

Were these three tents assigned to particular purposes? - Yes, Mr. Hamilton said they were.

Could you see that these were the purposes? - Yes.

Now, what were they? - One of the tents was used as a store tent where they kept their foodstuffs and another tent was what Mr. Hamilton called the mess tent which was used for general eating in if the weather was bad and the other one was sleeping tents. However there were sleeping bags in all the tents. All the tents were used for sleeping.

So it looked as though there was somebody sleeping in all of them? - They were all slept in. Hamilton said they had been using them all to sleep in.

Did you determine where he slept? - I can't recall specifically which tent but he said he did sleep in a tent with the boys.

What did you make of the foodstuffs that were/

were available to the children? - I was not particularly impressed with it. It was all mainly dried foodstuffs. I couldn't see any fresh food at all.

When you say dry food, do you mean tins? - Yes, tins and powdered food. Sort of powdered milk. Just powdered foodstuff.

What about basic things like potatoes? - I didn't see anything like that.

Cereal? - There might have been something like cornflakes.

Did you speak to the children? - Yes, I spoke to them all.

How did you go about that? - It was just a general chat with them.

Was that apart from Hamilton? - Yes, it was.

When you were talking to them did you notice anything about the general state of them that concerned you? - They all appeared quite cold. It wasn't the warmest of weathers the day I arrived and they were all a bit chittery and cold. They were all dressed in what I would have said was not proper clothing for the weather conditions and they had scratches on their legs. Obviously they got them from having gone through the bracken on the island.

Did you ask them why they were dressed the way they were? - Yes, I did.

What reaction did you get? - They said Hamilton told them to dress that way.

Did you ask them about even putting on trousers? - Yes, I did.

What reaction did you get? - Hamilton said he didn't let the boys dress in trousers because if they were running in the bracken then the trousers or jeans would get wet and it would be harder to dry them than it would be to dry their legs.

Did/

Did you find out whether of the l3 boys any of them were enjoying themselves? - Yes, I asked them all if they were enjoying themselves and I think three said unreservedly that they were enjoying themselves and the rest of them were generally homesick and complaining about the food and lack of being able to contact home.

Were you able to establish how long they had been there? - If I recall it was two or three days.

Now, I suppose homesickness can take a number of forms and be to a number of degrees. In this case, could you tell whether any of them were particularly upset and wanted home? - I would say none of them were particularly upset. I did ask if anybody wanted to be taken home and none of them wanted home.

So they all chose to stay? - Yes, they did.

11.20 a.m.

Were there ever any complaints about communication home? - Yes, they said that Hamilton wouldn't allow them to telephone home on their trips to Luss.

How did they get to Luss? - On a boat, there was a boat on the island.

What kind of boat was it? - It was an old type rowing boat, sort of type lifeboat.

Did it have an outboard? - No.

How did they get to Luss? - Row.

Was it not a long way? - I am not exactly sure how far but it is fair distance.

Luss is on the Strathclyde side? - Yes, that is correct.

Were you concerned about the equipping of the boat with lifejackets? - Yes, I was.

Did you check on that? - Yes.

What did you discover? - I can't remember the exact number of lifejackets but there were not enough numbers for the children present.

How long were you on the camp site? - About two hours.

Was Hamilton pleasant or unpleasant to you? - He was pleasant enough.

And when you left what was your general view of the set up? - I didn't think the children were in any particular danger as such but I thought it was a particularly badly run camp and not of the standard that I would have liked any of my children to have gone to.

Were you concerned about him at all? - Yes and no, there was something about him I didn't particularly like but nothing that I could put my finger on.

Now,/

Now, on this occasion, this is the 20th July, did any of the children complain about being struck? - No.

The complaints that you had got on the previous Saturday night about being struck by a bat, did you discover where on the bodies these children had been hit? - They had been smacked across the bottom.

Did you regard that as an assault? - Yes.

Or did you regard that as a chastisement of a child that was reasonable? - No, I would say it was an assault on that occasion.

I think you went back to your own office at Balfron? - Yes.

Did you report that to Mr. Hay? - Yes, I did.

Did you send him a statement? - Yes, I did.

Could you look at Production D1K which is SPOL9; now, that is a substantial report, is that right? - Yes.

You have been given two documents; what is the one on the left? - The one on my left, that is a statement of mine.

That is your own statement? - Yes, but it is not in the form that I sent it to Strathclyde police so I haven't actually read this one.

Could you look at it just now and tell me if that is in the terms in which you reported? - Yes, I would say that is a fair assessment of my report.

You did mention that there was dried food but you also mentioned potatoes there in that particular report; you saw no fresh fruit, vegetables or meat? - Yes.

You also say that Hamilton told you that he/

he slept.....no, I am misleading you, I think he told you that there were sleeping bags on the floor and Hamilton said that some of the children also slept in the same tent as the mess tent? - Yes, that is correct.

You mentioned in the report on the third page about challenging Hamilton about the lack of lifejackets? - Yes.

And he agreed that was the case but he said that the boys were good swimmers and could do without? - Yes, the ones that were good swimmers didn't require them.

You also say "In your opinion the camp was in a dirty, untidy condition with inadequate drying and sleeping facilities for the children"? - Yes.

That was your view at the time? - Yes.

The food was unacceptable to young children spending their time out of doors all day? - Yes.

And then the last part, supervision of the children while at the lochside is inadequate; you mentioned that earlier; did you think it was inadequate that children were left at the lochside without supervision? - Yes, the children should be supervised at the side of the water.

He was 30 yards away? - Yes, he was in the main body of the camp.

You go on to make a remark "If a child of my own had been at this camp I would have no hesitation in taking him away"? - Yes.

Did that remark cause any difficulty at a later stage? - In what respect?

Was that regarded as a personal comment rather than.....? - Yes, that was a personal comment.

Rather than an investigation comment? - No, that was a personal comment.

You/

You didn't charge him with anything? - No.

No offence? - No.

Is it the case it wasn't really up to you? - Yes, that is correct, I was just asked to go and inspect the actual camp site.

If that had been up to you could you have put your finger on an offence that was being committed? - There may have been a contravention of Section 12 of the Protection of Young Persons Act.

In what respect? - Inadequate supervision and no proper foodstuffs.

Not giving proper care to children? - Yes.

Did you later learn that, in fact, the whole investigation became the subject of a report to the Procurator Fiscal in Dumbarton? - Yes, I did.

And that was with a view to his considering whether there should be any proceedings taken in Court? - I understand that.

Did you also learn that the Procurator Fiscal in Dumbarton decided to take no proceedings in respect of that camp? - Yes.

I think that production should stay with you for the moment. Now, could you go to the first page of the Production D1K and is that the first page of the report that was prepared for the Procurator Fiscal? - I haven't seen this document before.

Could you look and see if it is, in fact, and if you go to the second page can you confirm to me that it is addressed to the Procurator Fiscal at Dumbarton? - Yes.

And it is compiled by Detective Sergeant McBain? - That is correct.

Were you aware of Detective Sergeant McBain's/

McBain's involvement in this investigation? - No.

He is a Strathclyde officer and not a Central police officer? - That would be correct, yes.

Now, could you just look at the first page of that and can you confirm to me that the second paragraph deals with Sunday evening, the 17th July, 1988? - Yes, that is correct.

And that indicates that the police at Alexandria were advised or were notified that a summer camp on Inchmoan was being run improperly? - Yes.

That is when you first became involved? - Yes.

I think the third paragraph mentions one particular set of parents being most vociferous in their criticism of the camp and demanding that the police take immediate action against their two sons who just arrived to go to the camp? - I am not aware of that.

But that is what the report says? - Yes, that is in the report.

I think that the next paragraph, No. 4, deals with the situation after you had reported back to Mr. Hay so we are at Thursday, 21st July? - Yes.

And does it say that after contacting 10 sets of parents I, that is McBain, arranged for them to meet their respective sons and judge for themselves first hand if anything untoward was taking place? - Yes.

Does it go on to say that only six sets of parents, including the ones that were mentioned in the previous paragraph, attended at Dumbarton Police Office and spoke with their respective sons? - Yes.

And then does it go on "Four boys, including one of the families, refused to leave the camp and had no complaint to make"? - That is correct./

correct.

So we have a family split at that stage? - Yes.

"Indeed none of the boys interviewed at this time made any complaint, but several felt homesick and were taken home, in some cases reluctantly, by their parents"? - Yes.

Does it go on to say "All the parents present spoke with Hamilton who was quite happy to speak with them"? - Yes.

Does it then say "None of the parents present were prepared to make any complaints or malign Hamilton in any way"? - Yes.

"Indeed, some praised him"? - Yes.

That wasn't the end of your involvement? - No.

What was the next you heard about the whole business? - My inspector informed me that Hamilton had made an informal complaint about my statement which I had submitted to Strathclyde Police.

Who was your inspector? - Michael Mill.

What was Hamilton's complaint about you? - I had basically told a pack of lies.

So you had to give an explanation to Mr. Mill, I take it? - Yes, that is correct.

Did Hamilton go further than simply giving an oral complaint to Mill, did he start writing to the police? - Yes, he started writing numerous letters to Inspector Mill and to other officers at the Central Scotland Police.

What was the general tenor of the letter? - That I was an incompetent officer and told a pack of lies.

Did he also try to explain how he ran his camp and clubs? - Yes, he did.

Was/

Was any one of these letters circulated widely in your own area? - Numerous of these letters were circulated throughout Dunblane.

Mentioning you or just an incompetent officer? - No, mentioning me by name.

Did that correspondence get, to your knowledge, as far as his local MP? - Yes, I believe it did.

I think one of the senior officers in Central at that time was Chief Inspector Gunn? - Yes.

No relation of yours? - No.

Did he get involved? - Yes.

In what way? - He was the officer in charge of the division in which I worked at that time and Hamilton complained to him regarding my conduct and Mr. Gunn then carried out his own investigations regarding it.

So you could say that Mr. Hamilton tended to correspond with fairly senior officers or communicate with fairly senior officers in your Force? - Yes, he did.

Now, did he ever try to contact you? - Yes, he did.

When? - I can't remember the exact date but he called out at Balfron Police Office on one occasion.

Was that a reasonably short time after July? - Yes, within the month or so.

What was the purpose of his visit? - He wanted to discuss the statement which I had submitted to Strathclyde Police.

Did you discuss it with him? - No, I told him I was not in a position to do that.

Did you have any difficulty getting him to go? - Yes.

What/

What did you do? - He refused to go, I had to repeatedly tell him to go and eventually I told him if he didn't leave he might well be arrested and at that point he did leave.

Did he call on another occasion that you heard about when you were not there? - Yes.

What did he do that time? - He sat for three hours to wait to speak to Sergeant Moir.

Outside your office? - Balfron Office.

Was it outside or inside? - Outside.

Letters were continuing to be written? - He wrote numerous letters.

It got worse? - Yes, he seemed to get more and more obsessive about the incident.

It got worse for you? - Yes.

What was the next major thing that happened? - Regarding the complaint?

Yes? - He made it an official complaint.

What does that mean? - It then becomes an official complaint where it gets investigated by the Discipline Officer.

When did he make that complaint? - I believe it was December, 1988.

In February did you, in fact, get served with formal discipline papers at the instance of the Chief Constable? - That is correct.

I think that the man responsible for the complaints and discipline investigation matters would be the Deputy Chief Constable? - That is correct.

He would have to assign an officer to look into Hamilton's complaints against you? - Yes.

Who/

Who was that officer? - At that time it was Inspector Keenan.

Can you tell me what the charges were against you? - I believe there were three charges; one was that I had made a misleading statement to Strathclyde Police and the second charge, I can't remember the exact wording -- I had been uncivil towards him.

Is that just the two charges? - I think there were three.

What is the third? - I can't recall.

What was the uncivil remark? - I think it was along the lines about I had sworn at him and thrown him out of the office at Balfron.

Did you swear at him? - No.

Did you have to throw him out of the office? - I had to threaten him with being thrown out.

I think you were insistent that Mr. Keenan should speak to a wide range of witnesses in his investigations? - Yes, I was.

And as far as you were concerned did he do that? - I believe he did.

That would mean that Mr. Keenan would speak to all of the people that he could identify, I suppose, who had been involved in the complaints which were investigated back in July? - Yes, I

gave him a note of all the children I had spoken to on the 17th July at Drymen Police Office and also the names of all the boys that were on the island on the 20th July.

It may be that I am guessing a little here but some of these represented parties here will want to know some of the details of these statements; I suppose Mr. Keenan would be the best person to ask about what was in the statements made in 1988, 1989? - Yes, he will; I would imagine they will be recorded where my own notebook at the time, we destroy notebooks after five years, it is not available.

You/

You only spoke to the witnesses that you have told us about so far? - Yes.

Whereas we have seen already McBain's report and he had been sent out to conduct a much wider investigation? - Yes.

I take it you would assume that Keenan would have access to Mr. McBain's report? - I would have thought so, yes.

Now, after February, 1989 when you got your papers served on you when was the next time you encountered Hamilton? - There was a time when I was off duty I encountered him at Stirling; I was off duty with my wife and my young children in Stirling and I can't be specific of the dates but I had called in to Burger King within Stirling Town Centre; seated in there there was Hamilton.

What happened? - I didn't know he was actually there; I was sitting with my wife and family and we were having burgers and my wife looked uneasy; I didn't think much about it at the time but as we were leaving I noticed Hamilton sitting behind me and when I actually asked my wife what was wrong with her she said that the man behind had been sitting staring at her and made her feel uneasy; knowing Hamilton I turned to speak to him and to ask him what he was playing at but he had left the shop.

Did you retain any further interests in Hamilton's activities after that? - Yes, I was still working out at Balfron and I became aware he was running camps at Milarrochy Bay caravan site.

What did you do about that? - I made him aware of the fact that I knew he was running these camps, I would go into the camp site and drive around.

That one isn't on an island? - No, it is not.

Was it on your patch? - Yes, it was.

And in 1989 did you do that? - Yes, I did.

How many times did you do that? - I am not/

not sure, maybe once or twice a week.

Off your own bat did you do it? - I was not ordered to do that, no.

Your own initiative then? - Yes.

Can/

11.40 a.m.

Can I take it that in 1989 his camp was of a similar style -- let's take the word "style" for a moment -- to 1988? - In some respects. It was actually within a proper caravan site on this occasion.

But I take it it was still in tents? - But there was still two or three tents, and young boys. We never actually spoke to Hamilton or inspected the camp. I just drove around the caravan park, which I would do in any event -- we were often invited in, and asked to patrol the caravan park by the owners at that time.

Was one of the things you had in mind to let him see you were maintaining an interest? - Yes, to make him aware the police were still around.

And was one of the other things you had in mind to see what the conditions were like? - Yes and no. I was never that close to see within the tents or anything, so I wasn't inspecting it as such. I was just driving by to make him aware the police were around.

By that time were you aware that there were no proceedings in relation to the year before? - I can't recall if I knew then or not.

I mean, was it a surprise to you, for example, that he was still running camps, and can you explain why? - I was surprised he was running camps at all, to be honest.

Why? - Because the state of the camp, I felt that there should have been some form of governing body to run boys' clubs, and there didn't appear to be one at that time.

And yet some parents who went to the camp sites, from what we have just read, seemed to leave their children there? - Yes.

Even after they had seen them? - Yes.

Over what period in 1989 did he run the camp at Milarrochy Bay? - It was in the summer, the closed school term, the summer months.

For/

For the whole summer holidays? - Yes, I believe he was probably there for about eight weeks or so -- maybe slightly less.

Was the 1988 camp as long as that? - I don't know how long it went on for.

Can I take it the boys went and stayed for maybe a week and then another lot came? - Yes. I remember from what Hamilton said the children paid for one week and they could have the second week free, or some kind of deal along those lines.

Did he do the same thing in 1990? - Yes. No, I am not sure if he was there the following year. He may have been, but I can't recall.

So, so far as Loch Lomond was concerned, do we stop at 1989? - Yes, I think possibly.

But you have come across his activities once more? - That is correct.

When was that? - That would be 1991 I think it was in Dunblane.

I take it that you are going to tell me about something that you first came across -- a boy you first came across in Old Doune Road in Dunblane? - That is correct.

Could that have been in 1992? - It may have been. I didn't actually record it, so I don't remember.

Can you take a minute just to think about that because there is evidence before the Inquiry about events that sound very similar to what you are going to tell us about in 1992 rather than 1991? - I can't think of a way of pinning it down.

Even in relation to the ages of your own kids at the time you discovered it, or some stupid, some silly way of working out the time? - I have thought about this previously, obviously, before coming today.

So we are not going to improve on 1991 or 1992? - No, I'm afraid not. It could have been 1991 or 1992.

When,/

When, in whatever year it was, did this happen? - Pardon?

When did this happen? - I think it was 1991.

Yes, but what time of year, sorry? - Sorry, the summer. I can't remember when.

Were you on duty? - Yes, I was.

And by that time were you based in Dunblane? - That is correct.

The time of the day? - It was the evening, possibly 8/9 o'clock at night.

And what did you encounter? - Two young boys walking down Old Doune Road in their pyjamas.

Only two boys? - Yes, only two.

Again we have a report of an incident with three boys, but this is only two? - Definitely only two.

Walking along the road in their pyjamas? - That is correct.

Anything on their feet? - I think they were barefooted from memory, yes.

Not an everyday occurrence in Dunblane? - No.

What did you do about it? - Obviously I stopped and approached the boys and asked what they were doing, and they informed me they had been at a boys' camp being held at the Dunblane High School and that they were wanting to go home, basically, and they were making their way down to the phone box to try and contact their parents.

Apart from the way they were dressed, did they look

as though they were upset? - Not particularly. They weren't in tears or anything.

Were you on your own? - At that time, yes.

What/

What did you do about it? - Obviously I placed the boys within the police vehicle and took them up to Dunblane Police Office and made arrangements to contact their parents.

Did you find out from talking to the boys why they wanted to go home? - Yes. They were generally homesick and they didn't like the discipline that was being imposed upon them at the camp they were at.

Did the parents come and collect them? - Well, I believe they did.

Was that done at the school? - I think they came to Dunblane Police Office. I am not sure. Once I heard Hamilton was involved I passed it on to another officer to deal with. I felt it best if I didn't become involved with Hamilton.

Who was the other officer? - That evening? Constable Jack McGregor.

Now, could you answer this yes or no for the moment. Do you remember the names of these boys? - No.

Do you remember where their parents had come from? - I believe it was possibly the Dunfermline area.

Did either of them make any complaint to you about any form of violence towards them? - No.

Did they mention anything that you could formulate as a sort of criminal charge? - No.

BY LORD CULLEN: Can you tell us what time of year it was you met these boys? - It was summer.

Just summer -- you can't go any further than that? - No, just summer -- June or July.

CROSS-EXAMINED BY MR. CAMPBELL: If I could go back to the beginning, you were telling us about your investigation of the camp at Inchmoan in Loch Lomond? - Yes.

Thereafter/

Thereafter you submitted a report and in due course you were the subject of a complaint and then an official complaint by Hamilton? - That is correct.

And if I have understood your evidence correctly, the gist of that complaint by Hamilton was that you had told a pack of lies about him? - That is correct.

And that you were incompetent? - Yes, that is correct.

Now that complaint I think was subsequently fully investigated and you were wholly exonerated? - That is correct.

What does the fact that Hamilton made this complaint about you tell us about his character? - I don't know what it tells you, but it tells me that he is a liar.

Would you agree that it tells us he was an untrustworthy individual? - In my opinion, yes.

That he was vindictive? - Yes.

Wholly unreasonable? - Totally.

Malicious? - Yes.

And obsessive? - Yes.

A few points of detail, if I may. What was the name of the Deputy Chief Constable who was involved in serving the disciplinary papers in early 1989? - McMurdo.

When you were investigating the camp at Inchmoan -- this is not an easy matter -- I am not here talking about any sexual impropriety or anything of that nature, but did Hamilton appear to display any natural affection or kindness towards the boys in his care? - I don't know, because I never actually saw him with the boys as such.

The complaints that were made in relation to the punishment on the bottom -- can you remember, did those complaints relate to hitting on the bare bottom or just the bottom with trousers on? - The bare/

bare bottom was never mentioned, so I assumed it was on top of the trousers.

Did you, or were you aware, of anybody else, ever giving consideration to whether what was reported amounted to a breach of the peace on the part of Hamilton? - At that time, or later on?

Well, I am thinking particularly of at that time at the moment? - No, not really, no.

Subsequently? - I believe the Deputy Chief Constable took the investigations made against myself -- I believe he took that down to the Fiscal at Dumbarton with a view to having proceedings re-instituted against Hamilton.

When was that? - I'm not exactly sure.

This is after the.....? - After the investigation had commenced, yes.

So Mr. McMurdo took the matter back to the Fiscal at Dumbarton for a reconsideration? - Yes.

And was breach of the peace mentioned at that time? - I don't know the charges.

And the outcome of that request? - I believe the Fiscal again said no.

So on two occasions the police placed a report before the Fiscal relating to the events at Inchmoan? - I believe that, yes.

Could you look again please at the front page of D1K, which was the report to the Fiscal from Strathclyde Police? - Yes.

We can read this for ourselves, but if we turn the page, could you possibly read out please the pargraphs seven and eight? - "Although many of the complaints are non-criminal in themselves, it does seem that the camp conditions are extremely primitive, with the lack of ease of access and communication being a prime concern. In this respect it could be argued there is serious concern for the boys' moral and physical wellbeing. As yet no charges have been preferred". Paragraph eight: "I respectfully request that this report, together with/

with the attached statements and accompanying leaflets in connection with the summer camp, be forwarded to the Procurator-Fiscal, 3 High Street, Dumbarton, and the Reporter to the Children's Panel, McLean Place, Dumbarton, for their information and any further action they may deem necessary."

The view from that: "It may be argued that there is serious concern for the boys' physical and moral wellbeing" -- would you quarrel with that as an assessment? - Well, I didn't actually fully investigate that aspect of things, so I don't think I could possibly comment on that fairly.

Reverting to the statement which you did provide to Strathclyde Police? - Yes.

Which my learned friend Mr. Bonomy asked you to look at earlier, could you have that in front of you again please? - Yes.

Just before I go on to that, I am sorry, there is something I meant to pick up when we were in the context of the previous document -- has it been taken away from you? - Yes.

D1K again, and paragraph eight, the last paragraph that you read out? - Yes.

Do you see there that in addition to the matter being reported to the Procurator-Fiscal, I think the matter was also reported to the Reporter to the Children's Panel in Dumbarton? - That is correct.

Now, this may be something which you are unable to help me with, and if so please just let me know, but would it be normal practice if there is complaints relating to the care given by a non-parent to a child -- somebody like Hamilton towards the young people in his care -- for that complaint to be brought to the attention

of the Reporter to the Children's Panel? - I don't know.

Would it be standard practice to do that if there was a concern or a complaint relating to the conduct of a parent towards his or her child? - If there was a report being submitted, if there were offences, yes -- and likewise if there were offences by a non-parent, it would be to the Reporter; but I don't/

don't know if there were no offences, if it was just for information -- I don't know if that would be done to the Reporter.

Are you aware as to whether or not the Reporter makes a difference, or distinquishes in some way between complaints, on the one hand, of parental abuse, if I could put it that way, and on the other hand complaints relating to third parties such as Hamilton? - I have no idea.

So if, for example, Hamilton had had children, and if one of his children had been a member of the camp, you are unaware as to whether that would have made any difference to how the Reporter would have responded? - I have no idea how the Reporter would have responded.

Well, that is obviously a matter we can pursue with others, but thank you for your help with that. Can I turn again please to the witness statement which you provided to Strathclyde Police in connection with the Inchmoan Island episode -- I take it you simply prepared this yourself and sent it through? - Yes, although as I say this is not the statement I sent, but it is a copy.

Is it an accurate copy of what you sent, the best of your recollection? - Yes, I think so.

It purports to be your witness statement? - Yes. I mean, it is accurate.

It has simply been transposed on to a Strathclyde Police Witness Statement Form; is that right? - Yes.

If we turn to -- again we can read this for ourselves to a large extent, but if we turn to the bottom of the second page, do you say that you spoke to the children that were at the camp? -

Yes.

All were dressed in black swimming trunks supplied by Hamilton? - Yes.

Some of them also wore tee shirts? - Yes.

You then say they all looked extremely cold/

cold and wet? - Yes.

And you were told that Hamilton had indicated that they were not allowed to put on trousers? - That is correct.

He said because their trousers would get wet? - Yes.

You obviously investigated the state of mind of the children, and you tell us that of the 13 children only three said that they were enjoying the camp? - That is correct.

And most of them, you tell us -- the words you used were "were extremely homesick"? - Yes.

So far as food is concerned, my learned friend Mr. Bonomy has taken this from you in the main, but we do see that they had no supper or warm drink prior to retiring for the evening? - That is correct.

And a number of the children complained of feeling cold and wet all the time, and had not been allowed to phone home or write postcards on their visits to Luss? - That is correct.

Did that cause you any concern, that the children were being prevented from making contact with their parents? - Yes, and I challenged Mr. Hamilton about that. He said if the children phoned home it made their homesickness worse, so he felt it best not to allow them to phone home till towards the end of their stay.

You/

12 noon

You tell us towards the foot of that page that in your opinion the camp was in a dirty untidy condition with inadequate drying and sleeping facilities for the children? - Yes.

Did you investigate the toilet facilities? - I was aware that there was a chemical toilet but I didn't actually go into it.

What was the position so far as drinking water was concerned? - I don't recall.

The episode in Burger King, did that disturb you? - Not so much disturb but annoy.

How did Hamilton behave on that occasion? - Well, he was sitting behind me so I don't know what he did actually at first-hand but my wife told me he was just sitting staring intently at her and my children.

And that was after the complaints and the investigation? - That's correct, yes.

You were asked certain questions relating to the events in Old Doune Road in Dunblane when children were found wanting to make contact with their parents and the parents came to collect them. Were you made aware at this time that the camp they came from was being run by Thomas Hamilton? - Yes, the children told me it was Hamilton who was running the camp.

What happened about this? - I don't know. As I say, I passed this on to Constable Jack McGregor I believe and then I went off duty. I think I was on backshift or whatever. I went off duty and the next morning I was aware that the Sergeant had gone up to the camp site or the school and had spoken to Hamilton regarding how to look after the children. You know, how could two young children get out of the school without him knowing it and I'm not exactly sure what was said obviously but I believe it was along the lines of he can't have eyes in the back of his head or something like that. I don't know what the Sergeant said to that. I'm not aware.

So/

So was there any follow up investigation or any action taken as a result of this episode? - As I say, I believe the Sergeant went up the next morning to speak to him but as regards any further action after that, I don't know.

LORD CULLEN: Mr. Campbell, it may be, I don't know, there will be other evidence about this. I don't know if you can pursue it much further with this witness if it is out of his ken.

MR. CAMPBELL: I am simply taking up the point as there is some dubiety I think as to whether this was the same incident that was mentioned.

LORD CULLEN: Oh, I see. Yes.

THE WITNESS: I don't believe a report went in if that is what you are getting at. I don't believe there was any formal report.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: You knew Hamilton? - Yes.

Well by this time? - I wouldn't say well. I didn't have many conversations with him.

I don't mean it that way but you were well aware of Hamilton and what type of person he was, is that correct? - Yes.

There was the incident when three young boys were wandering about.....? - There were only two boys the night I saw them.

Two boys wandering about the street from one of these camps at night. Now, I take it that was a matter of concern for you? - Yes.

So did you make it your business to find out what, if anything, was done as a result of this incident? - Yes, as I said, I spoke to the Sergeant the next day and he told me he had gone up to see Hamilton. I then left it to the Sergeant to deal with it. I didn't check up on him as such so I don't know what was said to Hamilton.

But leaving aside your ignorance of what was said to Hamilton, do you know what happened in general/

general terms as a result? Was any action taken to your knowledge? - Not that I am aware of.

Would you have expected to have known or to have been informed if any action was being taken? - Not necessarily, no.

Not even although you were the officer who found the children in the first place? - Had there been action taken I dare say I would have been told about it but, as I say, I don't know the extent of what action the Sergeant took. I don't believe a report was submitted if that is what you are getting at. I don't think there were any charges preferred against Hamilton. I am sure I would have been aware if there had been.

CROSS-EXAMINED BY MR. TAYLOR: As I understand it, after you had made your visit to Inchmoan in l988 you passed the papers on to Strathclyde Police Force? - That is correct.

And at the time you passed the papers to them you believed that there was a possibility of some charge being made under the Children and Young Persons (Scotland) Act? - Yes, I would assume there would be.

And presumably that would have required some investigation before a final view could be taken? - Yes.

But that investigation was undertaken by Strathclyde Police? - That is correct.

And they then, if I have understood your evidence correctly, submitted a report to the Procurator-Fiscal at Dumbarton, is that correct? - Yes, I believe that is correct.

And the Procurator-Fiscal's decision was to take no proceedings? - I believe that was the case, yes.

And following that, Mr. Hamilton took issue with the manner in which you had investigated the incident? - He took issue prior to no proceedings being taken.

Prior to the investigation which Inspector/

Inspector Keenan conducted, and which you have told us about, was there any informal investigation undertaken by Central Scotland Police? - Yes, there was.

Can you tell us just a little about that? - Well, Inspector Mill informally investigated it by obviously asking myself and Constable Sloan what had taken place.

Constable Sloan who was at that time Constable Duncan? - Duncan, that is correct. Thereafter Chief Inspector Gunn also questioned myself and Constable Sloan regarding the incident on the island and again that was if you like an informal investigation.

And then there was an investigation by Inspector Keenan, is that correct? - Yes, that is correct.

And presumably you had to be interviewed by Inspector Keenan in the course of that investigation? - That is correct, yes.

Was there any further complaint to your knowledge made by Mr. Hamilton in relation to the conduct of Central Scotland Police Force? - Yes.

Can you tell us what that was? - I believe he complained that Inspector Keenan's investigation was a whitewash and was not getting to the truth.

And I think Mr. Moulson then investigated the matter on behalf of the Inspector? - Yes, I believe that is correct.

Did that involve you being interviewed by Mr. Moulson? - No, I was not interviewed.

Following the circulation of the letter by Mr. Hamilton in which your name appeared, did you contemplate any action on your part? - Yes, I did.

Can you tell us what action you had in mind? - I had a view on possibly pursuing Mr. Hamilton through the Courts for defamation of my character.

And/

And did you take such a course of action? - No, I did not.

Can you say why you didn't take such a course? - Yes, I requested an interview with the Depute Chief Constable obviously to explain my feelings regarding the matter and we discussed it at length and we formed the opinion that there would not be much point.

And you were happy with that decision or you accepted it? - I was prepared to accept it, yes.

So by this time would it be fair to say that Mr. Hamilton had become what might be described as a bit of a thorn in your flesh? - Yes and No. His actions were becoming a pest by the circulation of his letters. I mean, I have no personal dealings with the man, just the fact he was putting these letters around and just wouldn't seem to let go.

Might it be that you would not be able to take the most objective view of the man's character given his activities? - Yes, I would say that is fair.

Now, if I can ask you a question about the incident at Dunblane in l992. If a report had been sent to the Reporter to the Children's Panel following that incident in Dunblane in l992, might that have happened without your knowledge? - It may have done but I would have thought had a report been submitted I would have been asked to submit a statement regarding my part in it.

RE-EXAMINED BY MR. BONOMY: You said something about one matter being sent back to the Procurator-Fiscal to reconsider? - Yes.

And that was by whom? - The Depute Chief Constable, Mr. McMurdo, I believe took the investigation which Inspector Keenan had done against myself down to the Procurator-Fiscal because obviously he had re-interviewed all the witnesses concerned.

And that would be the Dumbarton Procurator-Fiscal still? - That is correct, yes.

Now/

Now, if you could look again at DlK which is that report by Mr. McBain and can you look at the second page and the last paragraph and can you confirm that it does say that it should be submitted to the Reporter to the Children's Panel? - Yes.

As well as the Fiscal? - Yes, it does.

Now, the Burger King incident you referred to, did you report that to anyone? - No, I never.

MR. BONOMY: Sir, there is being circulated just now a document which has the number D4/I(I) and on the backing is the number DFRC/3l. You will not find it in any of the volumes. A copy is hopefully coming to you, sir, to try and clarify the position about the Dunblane High School camp.

RE-EXAMINATION CONTINUED BY MR. BONOMY: Now, will be put in front of you and you will see that that is dated the 3rd July l992 and is a Central Scotland Police document from Sergeant Fleming at Dunblane to the Chief Superintendent of 'A' Division. Was Sergeant Fleming the Sergeant you were referring to? - That is correct.

You will see the second paragraph says "About l0.l5 p.m. on Monday, 29th June, l992, Constable 340 Gunn, Dunblane, came across three young boys dressed in pyjamas sitting on the pavement in Old Doune Road at its junction with Doune Road, Dunblane. The officer stopped to investigate". Is Constable 340 Gunn you? - That's correct, yes.

Do you think you might be wrong about the number of boys? - Yes, I might well be.

Because we also have three names as well and that they all came from Inverkeithing so this must be the same situation but it is not as I recall it.

It does say that one was barefoot and the other two were wearing shoes? - Yes, that would be fair.

Does that ring any bells? - I still recall/

recall it as I have said but I wouldn't argue that is more accurate.

It also says that one was clutching a tube of toothpaste? - I don't remember that.

And it also says "They had already telephoned their parents and were waiting outside the telephone box for them to arrive"? - No, they had not contacted their parents.

That is wrong, is it? - Yes, I believed we phoned them from the police office.

Then I think it says in the next paragraph "Contact was made with Force Control Room and it was established that the boys' parents had left for Dunblane"? - Again, it may well be the case, yes, but as I recall it either myself or Constable McGregor telephoned.

In any event, if we move on you will see a large paragraph which says "About ll.30 a.m. the following day, Tuesday, 30th June, l992, accompanied by Constable Smith, I called at Dunblane High School and spoke to Mr. Hamilton"? - Yes.

That is Sergeant Fleming reporting to the Chief Superintendent? - Yes.

He then goes on to say that he, that is Hamilton, "informed me that he had spoken to the parents the previous evening and the three boys would not be returning"? - That is correct.

And then he goes on "On enquiring about supervision, Mr. Hamilton said that all the boys slept in sleeping bags on the floor of the dining hall and that he slept on chairs in the corner. After a head count all the boys were seen to be in bed and instructed that they could not go anywhere without his permission except to the toilets which were in the hall immediately outside the dining room"? - Yes.

Does it also go on to say "Mr. Hamilton explained that the three boys had gone to the toilet together and had probably left the building by the fire exit next to the toilets"? - That is correct.

What/

What does Sergeant Fleming then say? - "At that time I was satisfied by the explanation given by Mr. Hamilton. Constable Gunn did express the opinion that he thought the boys were homesick. Taking this into account and the fact that the camp only commenced the previous Sunday, I took no further action".

So we have there an indication of no further action at that stage, is that right? - Yes.

Can you then read the last paragraph? - "On Thursday, 2nd July, l992, Constable Metcalfe from the Child Unit, Dunfermline, reported that she had received a complaint....."

Don't give me the name of the next person. Just read past that? - "That she had received a complaint (from a person) regarding her son who had been attending the camp at Dunblane High School. (The person) had removed her son, complaining about the regimentation and lack of supervision. Constable Metcalfe was informed of the incident involving the three boys as described above and is making arrangements to have statements obtained from them."

Does it go on to say "The Child Protection Unit at Bannockburn have been informed and they are in contact with their counterparts in Fife"? - That is correct, yes.

Do you know who was in the Child Protection Unit at Bannockburn at that time? - No, I can't recall. I can see by obviously the handwriting down below it says D.C. Brown and I am aware D.C. Brown would have been in it round about that time.

I think at the very bottom there is a note by a Detective Sergeant and Detective Chief Inspector Hughes which says "Copy to Mr. Harris, Reporter, for information"? - Yes, that is correct.

So does that sound like the same incident? - I would say almost certainly.

As the one you were speaking about? - Yes/

Yes.

BY LORD CULLEN: Just for the notes, I think there is a stamp on the front page showing that the Reporter received that on the l0th August? - Yes, that is correct.

That is the Reporter for Fife Region? - Fife Region, yes.

DOREEN/

12.20 p.m.

DOREEN HAGGAR, Sworn:

EXAMINED BY MR. BONOMY: Are you now 46 years of age? - Yes.

I think you stay in Aberdeen? - Yes.

When did you first ever hear of the name of the person, Thomas Hamilton? - It was 1988 when my son went to one of his boys clubs.

Where was that club? - Linlithgow.

As a result of your son being at the boys club did your son also go to a summer camp? - He had only been at the boys club a couple of weeks when he got a form stipulating that to remain in the boys club he had to go to this adventure camp.

Did you allow him to go to the camp? - Yes.

What age was your son then? - 10½.

What was the price? - It cost altogether £110 for two weeks.

Did you meet Mr. Hamilton before the camp took place? - Yes.

Where did you meet him? - At the gym hall.

That is where the club was taking place? - Yes.

That is at Linlithgow Academy? - Yes.

Did you watch any of the activities? - Well, you went up to collect them and we saw them through a glass door just throwing a ball about and running about.

On any of these occasions when you went to collect your son did you speak to Hamilton? - Yes.

How/

How did he appear to you at that time, was he pleasant? - He was quite jolly, yes, the kids were all excited about the camp.

Did you inquire of him what the camp would be like? - Yes.

What did he tell you about it? - He told me that it was on an island, they had indoor facilities if it rained for the boys, they had radio contact off the island in case of emergencies, he said there was showers and indoor cooking facilities if it rained, it seemed okay.

Did you know or did you get at that time a name for the island, where it would be? - No, it was just an island on Loch Lomond.

Did you take your son to the camp? - No -- well, we had to take him to Balmaha boatyard.

Was Mr. Hamilton there? - Yes, with a boat.

Did he take all the kids away over to the island on the boat? - He took all the children who were allowed on the boat, you had to say goodbye to them at Balmaha.

That was about when -- the beginning of July, 1988? - Yes.

He was supposed to be away for two weeks? - Yes.

Was he? - No.

When did he come back? - Less than a week.

How did he get back? - I never met the person who brought them back, I wasn't at home when he was brought home; it was a female that brought him home and left him with Uncle Jimmy and Uncle Jimmy had spoken to the police officer on the telephone that said that he would be coming home.

Sorry, Uncle Jimmy spoke to? - A police officer when he telephoned he told him that he would be coming home.

So/

So he got a warning he was coming? - Yes.

Now, did you see your son as soon as you got home? - He was at home when I got home, it was later I got home.

What state was he in when you saw him? - Tired, he looked very agitated.

Did he say anything about the camp? - It was horrible.

Anything more specific than that? - He said that they had been in a cinema and the police came into the cinema and took them all out and asked the boys names and if they wanted to go home they could go home.

Was he able to tell you how many of them went home? - No.

The following day did you get any more information out of your son? - Sorry?

The following day did you get any more information out of your son? - I waited till he had a sleep and then he told me about thrown off a boat into the loch; when they arrived on the island Hamilton made him take all his clothes off, took off all their kit and their money and they put shorts on.

What kind of shorts? - Skinny things like swimming shorts.

Did he say whether he was able to wear anything on his upper body? - No, just his shorts, they were told to strip completely naked and that is all they got back was a pair of shorts.

Did you find out whether any of the boys had been hit at all by Hamilton, according to your son? - Yes, he told me that if they didn't eat the slop they were being fed they were hit with a wooden spoon.

Did he say where they were hit with the wooden spoon? - The legs.

Did/

Did he ever get that done to him? - He said he got hit once when he refused to eat smash.

Did he tell you about something that had happened with a boat and been thrown into the water? - Yes, they had to go on the boat with their shorts on and there was one towel between them all and they were given a lifejacket and they had to stand on the edge of the boat and jump in and I said to Andrew.....he said "I was terrified" and I said "But didn't you tell him you were terrified?" and he said "I was trying, mum, I told him and he pushed me off the boat with his foot into the water"; my son has a great fear of water.

How did he get him back on the boat? - Just pulled him.

With what? - Just lifted him in; they were all frozen he said.

Now, we are now at the day after your son comes home; at that stage did you do anything about this? - Well, at first I thought Andrew never had been away from home, I put some of it down that he might be over-reacting, a bit homesick; he didn't tend to go out of the house a lot anyway, he didn't have many friends, he didn't know any of the boys at the camp and I thought maybe he was blowing it up a bit in case he had to go back.

Were any of his belongings missing when he returned? - Yes, he didn't have his own clothes, somebody else had his jumper and that and I said to him "Where are your clothes?" and he said "Hamilton has got them all, he took them all off us" and he didn't get anything back.

Did you not do anything about that? - Well, I couldn't get hold of Hamilton; Hamilton phoned the next day and said that if I wished to go out to collect my son's stuff he would explain about the place, about what happened, explain it all to me.

And did you go? - I made an arrangement, he said he would take the boy's stuff to Balmaha so we went down; Andrew wouldn't go, Andrew flatly refused to go with us; I got there and Mr. Hamilton didn't have his stuff; he then said/

said to us "Look, all the stuff is out on the island, if you come out we can have a cup of tea and I will explain in detail what has been going on".

Were you on your own? - No.

Who was with you? - My daughter and Mr. Sam Davie.

Did all of you go over to the island? - Yes, we went on to the island.

When you got there was Hamilton the only adult there or were there any others? - Yes, except for a young teenager.

Aged about what? - 16, 17.

Did you ask him at all about the incident involving your son in the water? - He said it was necessary for lifesaving drill, they had to be able to fit a lifejacket, know how to use it; I had told him I didn't think that was necessary to push somebody into the water.

What was Hamilton's reaction to that? - It was necessary, everybody had to do it.

Did he not say anything about it being a stupid thing to do in hindsight? - I told him that Andrew had nearly drowned when he was little, he had an absolute terror of water because he fell into a harbour and he said it might help him to recover and I said to him that he was terrified.

So he didn't accept that he had made a mistake? - No, I asked him about where the showers were and where the chalet buildings were supposed to be and he said oh, he was supposed to get another island but at the last minute somebody had let him down.

So there were no showers? - There was nothing.

What was the state of the camp? - There was a couple of tents, a wooden fire, a railway sleeper and a couple of boxes and where the boat came in it was filthy with rubbish.

Did/

Did you offer to do something to help him? - No, he said to me.....I asked him about food, you know, and he said that somebody was supposed to come with him but his foot or his leg got broken and he let him down at the last minute; he said that the police had raided his camp, he was really uptight about that, he kept going on about it; he needed some adult help in case the police came back; he offered myself and my daughter and my son a holiday and the whole camp would be free and everything would be provided if I would help him with the cooking.

Did you do that? - I said to him I would think about it because I hadn't been too well myself, I wouldn't manage it all myself; I told him I would go and discuss it with my friend, Janet, and if she was willing to come I would come, I didn't want to be the only female with all his boys and that so when I went back -- I left the island, I went back and I said to Janet.....Hamilton had already said that Janet's son could come but Janet didn't want to bring her boy.

So did you go back with Janet, did you and Janet go back? - We went back.

Who all else went with you? - Mr. Davie, my daughter and my son.

What age was your daughter? - 7, she was 7.

And your son at that time? - 10½.

How many days after you had left the island was it you went back? - I am sorry?

How many days after you left the island was it you

went back? - About three, three I think.

How long did you stay? - Quite a few weeks, four or five weeks.

How did you get on over that period of time with Hamilton? - I didn't.

Why did you stay? - I am a mother, I couldn't leave these kids.

Did/

Did you stay till the end of the camp? - No.

What made you leave? - He threatened me once too often.

What was the threat? - I told him I wanted off the island first thing in the morning, there was no discussion this time, I wanted off, I was going to the local authority, the police, anybody else that would listen and tell them what he was doing to these children and he just calmly turned round and said the very words "I hope your tent doesn't catch fire tonight" and that was it.

Where did you go to when you left the camp? - I asked the boy to take us away in the early hours of the morning, he took us across to Balmaha in a boat to the boatyard.

Where did you go from there? - To the car, it was locked so we had to stay there all night and then drive to Alexandria.

Was that the police office? - Yes.

Did you speak to Sergeant McBain? - I can't tell you the man's name -- yes, I did speak to a policeman.

Did you also, once you got home, get a phone call from the police to get more information from you? - I am sorry, I have to see your face.

When you got home did you get a phone call from the

police for more information? - From Alexandria?

Yes? - They told me it was being looked into; I phoned Alexandria several times and I began to feel a nuisance.

Do you remember when you actually got to the Alexandria Police Office and you were looking for a Detective Sergeant McBain? - Yes, because I think that is the one Hamilton kept ranting and raving about.

And did you find him? - No.

Did/

Did you speak to another policeman? - I spoke to a policeman.

Do you remember McBain phoning you later when he came on duty? - I think it was Detective Inspector Hay I spoke to.

What was it you were reporting to the police? - The condition of the camp; when the children found out.....they had heard me saying I was going and the children wasn't to go too, they didn't want to be left on the island with Hamilton; some of them were crying, the youngest ones were upset, they wanted me to take them with me which I couldn't do; I told the kids, I said "I can't take you but I will go straight to the police station and I will tell the police officer you want to come home and they will come for you and take you home".

So/

12.40 p.m.

So what was the general nature of the complaint you were making to the police at that time? - His thumping kids.

Thumping the kids -- you saw that happen? - Yes.

Whereabouts did he hit them, whereabouts on the body? - One boy got a right slap on his leg with his hand, and another one got punched between his shoulder blades, because his fingernails were dirty.

Did you ever see him slap anyone on the face? - Yes. It was at the top of the camp by the water.

Sorry? - He was at the top of the camp, he was away from the fire and he started roaring and shouting at the top of his voice at these boys for speaking. He didn't like the children speaking.

And did he strike any of them on the face? - Yes, he slapped that boy.

One boy? - Yes.

Have I rightly noted you as saying that he, Hamilton, was the person who threatened you before you left the camp? - Yes.

And he threatened you that you should watch out in case your tent was burned? - Sorry?

Did you say he told you to watch out in case your tent was burned? - Yes.

Now then, after you went to the police did he contact you? - He was at the camp.

Did he phone you at all? - There was a phone call.

What was that about? - I really can't remember, it is that long ago. A couple of times when the man phoned I told Uncle Jimmy "Just tell him I am not here".

Did/

Did you get the impression that Hamilton felt victimised by Detective Sergeant McBain? - No. He was sitting laughing about it. He said "Aye, the clod came, but they went away with their tail between their legs". He said "I outsmarted him".

I am reading at the moment from a statement which McBain took from you -- this is a note of your statement on the 26th of August, 1988 when he phoned you to take the statement. Now, do you remember McBain taking a statement from you then? - Over the telephone?

Yes? - No. I remember discussing with one policeman certain aspects of the camp.

One of the things that it says in this statement is that "During my ten-day stay". That suggests you were ten days at the camp? - Sorry?

Do you think you were longer than ten days at the camp? - I was longer.

Well, the statement says "During my ten-day stay I only saw one child being chastised by Hamilton, and in my opinion the boy deserved punishment as he had been bullying other children"? - No. What I have told him was he wasn't bullying other children. He was Hamilton's friend.

The statement also says that you left at 4 a.m. on Sunday, 6th August. Now, 4 a.m. would be the time when you actually left the camp site; is that correct? - During the night.

Just as it got daylight? - Sorry?

Just as it got daylight? - It was pretty dark when I left.

And the reason you gave to the police for leaving was that two other people, not Hamilton, but Williams -- somebody called Williams or William -- Davie and Willie sat drinking cans of beer, and Davie came into our tent very drunk and tried to pull Janet's sleeping bag off her camp bed as he couldn't find his

sleeping bag", and that it was Davie that threatened Janet that he would put an axe in her head. Now, did you report that to the police?/

police? - That was part of a statement. That isn't my reason for leaving camp. That was part of a statement, and that concerned the drunken barbeque party that Hamilton and his friends had on the island.

You see, the statement went on to say "Williams" -- this is a person called Steven Williams -- "said he would sit up all night and make sure that Davie wouldn't harm us"? - No. That is for Janet. Janet used to speak a lot to Steven. It was him that we persuaded to take us over on the boat.

Yes. "At 4 a.m. Steven Williams took Janet and I and our childrenn off the island" -- so that bit is right, but was the nature of the complaint you were making.....? - He wouldn't take us earlier, he said he was waiting to make sure Hamilton was sleeping.

So your fear wasn't of Davie, it was of Hamilton? - It was of both of them.

Is it possible you didn't mention the Hamilton threat to the police? - I am sure I did. I don't remember making a statement over the telephone. I do remember going into a room at Alexandria and making a statement.

This statement also makes it clear that you were disgusted by the camp -- would that be right, you were disgusted by the camp? - Yes.

And that you did intend to go -- you told Hamilton you did intend to go and report him -- that is right? - I told him when I left the island I would report him, and that is when he said about my tent getting fired. I had a few stand-up fights with the man concerning plasters for the children's feet, etc.

After you got back from Inchmoan Island you were at home. When was the next time you saw Thomas Hamilton? - I don't know if it was a week or a couple of weeks after we left the camp.

Where did you see him? - He came to my house.

Why did he come? - To tell me he didn't like people talking to the police about him, making statements/

statements to the police.

Did he say anything else? - He said he had friends that didn't like people doing that.

And who were the friends he was referring to? - I don't know.

And what else did he say? - He told us he had guns.

Was that the first you had heard about guns from him? - No.

You had heard before? - Well, he used to rattle on at the camp fire about a lot of things, and I just thought he was a windbag.

On this occasion what did he say about guns? - Just that his friends didn't like people talking about him.

And who did you think he was referring to as "his friends"? - His guns, because he told us at camp the guns were his friends.

Did he frighten you at that stage? - No.

What did you do? - I told him I had nothing more to say to him.....

BY LORD CULLEN: I am sorry, we are missing that. The shorthand writer has got to hear clearly what you are saying, so could you repeat yourself and try to speak as slowly and distinctly as you can. (Shorthand writer repeats uncompleted answer). What did you say after that? - .....and he had better leave.

EXAMINATION CONTINUED BY MR. BONOMY: I

think that you do have an illness that makes it difficult for you to communicate; is that right? - Yes, my hearing.

And also to speak very clearly? - Yes.

What was the next time after that that you saw Hamilton? - After I had a visit from Inspector Keenan.

Now,/

Now, when was it that you reckon Inspector Keenan came to see you? - January, 1989.

And what was his reason for coming? - He was investigating complaints.

Against whom? - Mr. Hamilton.

Yes. Who had Hamilton complained about? - No. People had made complaints against Mr. Hamilton.

That is how you understand it -- you didn't realise he was investigating a complaint against a policeman? - No.

Or in fact against two police officers -- you didn't get that impression? - I didn't know that.

What people in your family did Mr. Keenan interview? - Myself and my son.

Now, in the course of interviewing your son, did things emerge that you hadn't heard about before? - Yes.

What things emerged? - Well, what he had asked the boys to do.

Well, can you tell us what it was he had asked the boys to do, please? - Rub suntan oil all over him.

And was that something you were hearing about then for the first time? - Yes.

Now, in all the weeks that you were at the camp did you see that happening? - No. Our tent was a good bit down from his. He slept in the same tent as the boys.

After the visit of Mr. Keenan you say that you had another encounter with Hamilton? - Yes.

Where was that? - Bridgend.

And where is Bridgend? - Linlithgow, West Lothian.

What/

What happened then? - Janet Reilly and me were coming back from the shops and we were just getting into my gate when a van slammed up at the pavement and I turned round and it was him, Mr. Hamilton.

What kind of van was it? - A big van -- a Transit.

Do you remember the colour? - No. I know it was light-coloured.

And it was Hamilton that was in it? - Yes.

What happened then? - He rolled the window down and he said "I hear you have been making statements about me to Keenan?". I said "That's right". I said "I just told him about the state of the camp, how you treated the kids, and my own personal opinion of you". And at that he leaned forward, his face was all puffy. When he used to get in a rage his face would go puffy, would blow up and really bulge.

And then what did he do? - He leant forward and I thought he was away to start the engine up, after the mouthful I gave him, and the next thing I heard a click of metal hitting glass, and I looked down and there was a bit of metal there. It didn't register with me right away, and I just looked at him and he said "My friends don't like it".

And then what did you realise? - I looked again and that is when I realised that was a barrel, and I said "Dinnae point that f'n thing at me. I will ram it down your throat". And he just got really bulging and never said a word, off he went.

His face was bulging; is that what you are saying? - Yes. When he got in a temper his face would blow up and he would stare at you -- not stare -- like his eyes coming together, you

know.

How long after Mr. Keenan saw you was this? - I can't pinpoint the exact date on that, because Uncle Jimmy died in April, and I went through a distressing time and didn't go anywhere, and I can't really pinpoint the time.

Well,/

Well, was it before or after Uncle Jimmy died? - I think it must have been after.

Do you know the date of his death? - April the 1st.

1989? - Yes.

Was it long after that? - I can't even say truthfully if it was before or after. I can't remember, because Uncle Jimmy took a stroke in the middle of February and I was virtually nursing him 24 hours a day.

What time of the day was it? - It would be between half 2 and 3 o'clock, because we picked Vicky up -- the school bus used to drop Vicky in the main road of the village, and I used to meet her.

And what time did the bus drop her off? - She would be in the village about quarter to 3, 10 to 3.

And she was with you at the time? - Janet?

Yes. Was Vicky with you when it happened too? - Yes. When we came back we picked her up.

And was Janet beside you? - Janet was standing -- she would be at the back of me nearer the gate than I was.

And was that the gate to? - To the house.

So this is right outside your own door? - Sorry?

Right outside your own door? - Yes.

BY LORD CULLEN: What age was Vicky? - Sorry?

What age was she at the time? - Seven.

EXAMINATION CONTINUED BY MR. BONOMY: Now, do you know what day of the week it was? - Sorry?

Do/

Do you know what day of the week it was? - I can't -- I have a feeling it would be the beginning of the week.

Was there any other reason for you being in the street other than to pick up your daughter? - No.

When Hamilton's van drew up, was it on the same side of the street as your own house? - Yes.

Which window of the van did he open? - The driver's side -- he was driving the van and I was here and he was there.

Was the driver's side right beside you? - Yes. His van was facing up the way, up the crescent.

So it would be on the wrong side of the road then, so that the driver's door was at the pavement? - It would have come up the way, up from the bottom of the crescent towards my house.

But was the driver's door at the pavement side of the road? - Yes.

And this all happened at the driver's window? - Yes.

Now, what did you think he was doing with whatever it was that you saw? - I didn't think anything. I thought the man was a complete idiot. He didn't bother me. We treated him as a joke, a pathetic joke, a bully.

Did you do anything about this incident? - Sorry?

Did you do anything about the incident? - I went into the house.

Yes? - And I said to Janet -- I says "That's not legal. He shouldn't be running about with a gun in his van". And I said "I don't know much about gun laws or that, or anything about guns", but I said "I don't think you can go about, driving about pointing guns"; and we both agreed that we call the law, phone the police station.

And/

And did you? - Yes.

Now, what was the result of phoning the police station? - We got a visit.

Who came to see you -- who came? - Police officers.

In/

1 p.m.

In uniform? - Yes.

More than one officer? - There was a couple of them.

More than one officer came? - Yes.

And do you know the names of these officers? - No.

Which police office had you phoned? - It would be Linlithgow.

Well, was it? It is important to be clear about this. Was it Linlithgow? - I'm sure it would be Linlithgow unless it was unmanned and I couldn't get an answer which it often used to be so we would either have phoned Falkirk or Livingston. I really can't remember which office we phoned.

And you don't know the names of the officers who came from wherever they came? - No.

Can you give me any description of them that would help identify them? - Just police officers. One of them was taller than the other.

Significantly? I mean, was there something significant about the height of either officer? - Not really, no.

What did you tell the police? - I told them about this chap Hamilton. I told them that he had just been up at Bridgend and he had a gun in his van. I said he pointed it out the window. The police officer asked me what kind of van it was. You know, the colour. He asked me why I thought it was a gun, what colour it was, what length it was and did I see the handle. What kind of gun. I couldn't tell him. I don't know one gun from another. I knew it wasn't a rifle because they are big. I told him it was a darkish grey and I told him it was round and he said "That's fine, we'll go and check it out". He asked me if I felt threatened and I said "No, I didn't because he never scared me".

Did he also ask if he had threatened to shoot/

shoot you? - I said no he hadn't.

So as far as you were concerned, this was not a threat? - Hamilton just put a bit of metal there. He never said to me "I'm going to shoot you" so he didn't threaten to shoot me but I took it that I was meant to be a bit worried about him.

Just lastly for the moment, I will continue after lunchtime, did the police come back? - Yes, I am sure it was either the next day or the day after that.

What did they tell you? - They told us that they had looked into it and that he was going to a gun club and he was moving the gun from A to B and didn't mean to scare us.

LORD CULLEN: Mrs. Haggar, we are going to break now and resume at 2 o'clock. You must be sure you are back in time to resume your evidence at 2 o'clock.

THE WITNESS: 2 o'clock, yes.

After an adjournment for lunch:

2 p.m.

EXAMINATION CONTINUED BY MR. BONOMY: If we can now move on from the incident that we were discussing. Can you tell me when you next after that had dealings with Mr. Hamilton? - Sorry, can you say that again?

Yes, what was the next occasion on which you had dealings with Mr. Hamilton? - When I went after him at Linlithgow Academy.

Do you know when that was? - It must have been in May.

In May of 1989? - Yes.

So does that mean that the incident we have just been dealing with was between the 2nd April and the date on which you went after Mr. Hamilton at Linlithgow Academy? - Yes.

So/

So the incident when he turned up at your house in the van must have been some time between these two dates? - Yes. It wasn't the last two weeks in February and it wasn't on to April.

Could it have been in March? - It could have been. No, sorry, it would not have been because Uncle Jimmy took the stroke the third week in February and I was constantly nursing him. I never saw anybody.

Could it have been before the third week in March? - Yes.

Well, if we can now turn to the incident at Linlithgow Academy which was on the 16th May. Now, why were you going after Mr. Hamilton at the Academy? - Because I had been told he had organised another boys camp.

That would be for the summer of 1989? - Yes.

What were you trying to do about that? - Stop him because he was going to get his hands on them.

How were you going to stop him by going after him? - Trying to expose him.

What did you think would happen as a result of what you intended to do that night? - I was told by doing that I would end up in Court and a judge would listen to what I had to say and a proper investigation would be ordered.

What was it you did? - I threw buckets of stuff over him.

What was in the bucket? - Sun tan oil, liquid manure, vinegar, flour and fish manure. Any rubbish stinking stuff I could put my hands on.

Who was with you? - Janet Reilly.

Did you have more than one bucket? - We had a bucket each.

Did you both hit him? - I went after him/

him first and I let him have most of mine and then Janet let him have hers and then I emptied the rest of mine on him and kicked him up the backside.

Did he report it to the police? - I didn't. I believe the school janitor did. He phoned the police.

What did Mr. Hamilton do when the police contacted him? - Sorry?

Do you know what Hamilton did when the police contacted him? - No, I just drove home with Janet and waited to see if the policemen came and they did come and they said they had spent more than half an hour with Hamilton and asked him to charge us and he wouldn't so we weren't being charged. I said "Well, that's ridiculous" and Janet said "Are we not even getting cautioned?" and he said no and that was it.

Did the camps go ahead in the summer? - Not that I know of. They withdrew his.....he wasn't allowed to have his boys club in Linlithgow Academy.

Do you know what happened about the camp? - No.

Do you know if by that time people were taking their children out of the club anyway at the Academy? - I don't know because after we hadn't been charged we didn't know anywhere else to go to get him. I had done all I could.

Now, I would like if possible to avoid getting into names of other people involved but I think you were aware of Hamilton having his guns in another family's home in Linlithgow, is that right? - Mrs. Smith was on the phone to me and told me that she had been out somewhere, come back and Hamilton was in the house with her sons and he had either two or three guns.

Can I ask you not to name names now please. Can we avoid if possible disclosing the names of anybody involved in this?

- Yes.

The lady in question, was she a friend of yours? - No.

How/

How did you find out about it? - Her son was at the boys camp.

In 1988? - Yes.

And how did you get to know about Hamilton visiting the house with his guns? - She phoned my house and I told her to report it to the police.

Do you know if she did? - No.

Did you not actually report it to the police? - No, I couldn't. I didn't know where the woman stayed.

After the incident at Linlithgow Academy did you see Hamilton again? - No.

Did you ever hear anything of his activities again? - No, just that some authorities had taken away his lease, you know, for the schools.

LORD CULLEN: Yes, Dean of Faculty?

THE DEAN OF FACULTY: My lord, in the light of the evidence-in-chief I would ask to become a party at this stage in respect of this particular matter. I should advise your lordship that those instructing me have this morning received instructions on behalf of Lothian & Borders Police and they are satisfied that as far as this particular matter is concerned there is no conflict between the police force and those for whom I was originally instructed and I have been instructed to represent both interests in this matter. The nature of the evidence, my lord, does tend to indicate that there may as a result of this evidence be criticism either of officers or the police.

LORD CULLEN: Is this purely for the purposes of

putting questions to this witness or is it for some further purpose as well?

THE DEAN OF FACULTY: Well, my lord, at this stage it is for the purposes of cross-examining this witness and depending on what transpires as a result of cross-examination, consideration may require to be given to see whether further evidence should/

should be led through the Crown.

LORD CULLEN: So for the time being are you content that it be limited to your role in putting questions to this witness on behalf of the interest that you have explained to me?

THE DEAN OF FACULTY: Yes, my lord.

LORD CULLEN: Yes, I'm quite happy that you should proceed, Dean of Faculty. Would you prefer to take some other seat? There is a space over here which has been vacated, if you would like to have that, and bring whatever papers you have with you. Now, are you ready, Dean?

THE DEAN OF FACULTY: Yes.

CROSS-EXAMINED BY THE DEAN OF FACULTY: Can you hear me all right? - Yes.

Can I just be quite clear; you have told the Inquiry about the incident when Mr. Hamilton came in his van and had a gun. Do you remember that? - Yes.

Was there only one incident where a gun was produced? - Janet said that the first time he came to the door she thought he had a gun in his pocket, in his anorak pocket, but I didn't see that.

Well, I think that is quite important. What I am interested to know is what you yourself saw? - I didn't see it.

So the only occasion on which you saw a gun was in the van, is that right? - That is right, except at the camp he had a rifle.

Sorry? - Except for at the camp he had a rifle.

At the camp he had a rifle? - Yes, at the camp.

Now, was there an occasion when Mr. Hamilton came to your door, actually on the doorstep of your house, and you sent someone to go for Janet? - I sent one of the children to go down for Janet because I saw him coming.

And/

And is that the occasion that you say that Janet mentioned some time afterwards that there was a gun? - Yes.

Or she thought there was. Can we go back then to the van incident? - Sorry?

Can we go back to the incident where he is in his van. You have told us that your Uncle Jimmy died on the 1st April of 1989? - Yes.

And for some time before that you were nursing your Uncle Jimmy and really were not out of the house, is that right? - To the supermarket and that, yes.

Now, can you think back and can you remember whether your Uncle Jimmy was alive at the time that the van came to the house? - I'm sorry, I can't. He was alive the first time Hamilton came.

This was when he was on the doorstep, was it? - That's right.

What I'm interested in is the time he came in his van and sat in his van that you have told us about. Was your Uncle Jimmy still alive then or had he died? - I couldn't say for certain.

Have you been asked about this by other people, by police officers? - Yes.

Can you remember what you told them as far as the date is concerned? - No, we tried to work the dates through but we still weren't satisfied. The officer said somewhere about then and I said it could have been.

And was the best that you could do that it was probably after your Uncle Jimmy had died? Was that the best that you could do at that time? - As I told the officer, I couldn't tell him.

At any rate, you are quite clear that it was before the incident in Linlithgow Academy? - Oh, yes, because I never saw him after that.

And was it some time before that? - Yes.

A/

A good few weeks? - Yes, it would have been.

Now, thinking to the incident at Linlithgow Academy and trying to work back to the time that the van came to your house, are you able to say that we are talking about weeks rather than months? - Well, when he came I know it was after Inspector Keenan had been because he said he knew we had been talking to Keenan. I think it must have been before Jimmy took the stroke which would have been at the end of February.

So we are talking now about a time span of somewhere between February and the 16th May if that was the date of the Linlithgow Academy incident? - It would have been weeks before Linlithgow. It would have been because after Uncle Jimmy died I was emotionally upset because he was like my father and I rarely ventured out anywhere.

Now, as far as the time of day is concerned that this van came to your door, you have told us that it was in the afternoon after you had collected your daughter from the bus, is that right? - Yes, that is right.

Was that always your recollection or did you ever think it was a different time of day? - No, because the bus used to come an hour later and Vicky's school finished and she would be home just before three.

No, I don't think that we are thinking about the same point. You have given a statement about this matter to other people, is that right? Police officers? - Yes, I have.

And when you gave a statement to the police officers

did you think that it was in the morning or the afternoon? - No, the only reason I might have said it was in the morning was if Vicky had not been at school, if she was off unwell then she would have been with me but otherwise, to come back from the bus at that time, it would have been when I picked her up from the bus.

So there is no doubt in your mind that it was the afternoon that this incident took place. If anyone else suggested that it was the morning that/

that the van was there, would that be wrong? - I couldn't truthfully answer that yes or no.

Have you spoken to Janet about this incident since it happened? - There was a woman from London actually badgering me to go on a programme and I wouldn't. She got somebody down there to get Janet to phone me to try and persuade me. That was the first time I knew she had heard from Janet. I wouldn't.

You say that after this incident you contacted the police, is that right? - Yes.

Was it you who telephoned the police? - It would have been me that phoned. Janet didn't have a phone.

Was Janet present when you telephoned the police? - Janet was in the house, yes.

Before you went back into the house you say that Janet was standing nearer the gate than you, is that right? - She was standing with my daughter. She would be back from me.

And would your daughter and Janet be able to see the van window? - If they were looking at him, yes.

So if they were looking they should have been able to see the gun as well? - They would have seen the bit of metal in the window, in the glass.

A bit of metal in the shape of the barrel of the gun? - That is right.

BY LORD CULLEN: Just to be clear; where was this bit of metal inside the van? - It was about that much just hanging over, you know, the window. The window was wound down and there was about that much of glass still up and the metal was resting on the window.

CROSS-EXAMINATION CONTINUED BY THE DEAN OF FACULTY: So the metal would be partly inside and partly outside? - Most of it was inside.

But it would be just sticking out? - About/

About that sticking past the glass on the outside.

Indicating what, about 2 inches or something? - A couple of inches, yes.

Yes, so it was clearly visible to you? - The metal was, yes.

And it would be quite clearly visible to Janet and your daughter if they were looking at the driver, is that right? - Yes.

Would it surprise you that Janet does not appear to have any recollection of seeing a piece of metal although she does speak about looking into the van? - No, it wouldn't surprise me.

Why not? - Janet and I had a conversation on the telephone about that.

When did you have a conversation on the telephone about that? - A week ago.

Now, how did you know that there was a difference in the story that you were giving and that Janet was giving about this piece of metal? - Because the policeman from Stirling told me.

And when you were told that, did you telephone Janet? - No, I can't telephone Janet.

Well, how did you come to speak to her on the telephone? - She always phones on a Monday from the pub and I said to her what the Stirling policeman had said to me and she said "That's a load of f---ing rubbish" and I said "Well, you better phone Stirling and get it sorted then and if they are telling lies or is it just the fact that you are doing the same as you did before".

What/

2.25 p.m.

What do you mean by that? - Well, there was a big case in England where Janet changed her testimony at the last minute but when she went into Court she admitted that the statement that she gave, chopping and changing, was because she was frightened of people.

Well, Mrs. Haggar, why did you think it necessary to mention this difference in your evidence when Janet telephoned you? - I just wanted to hear why she did it, that's all.

Apart from speaking with Janet about this matter have you spoken to anybody else? - I spoke to Steve about it.

Who is Steve? - A friend of the family.

As far as you know is he on the List of Witnesses for this Inquiry? - No.

Anyone else? - Netta.

Who is Netta? - My friend.

As far as you know is she on the List of Witnesses for this Inquiry? - No.

And just for the record are you aware that Janet is on the List of Witnesses? - She phoned me up on Friday telling me she wasn't f'ing going, she said the only reason she told Stirling or she said that she would go was she wanted no part of this.

Can you answer the question; are you aware that Janet is on the list of witnesses whether she is coming or not? - Yes, I am.

Have you spoken to anyone else who is on the list of witnesses about this matter? - No.

What about your daughter? - No, well, she would hear the conversation in the kitchen and on the telephone.

So apart from hearing the conversation between/

between..... is that a conversation between you and Janet? - Yes.

Is that a conversation that you say took place last Monday? - Last Monday?

Yes? - It was either last Monday or the Monday before.

Is your daughter always in the kitchen when you were on the telephone with Janet? - Well, my daughter usually answers the telephone or Steve -- in fact, it was Steve that answered the phone on Friday.

Let me just concentrate on the telephone conversation that you were telling us about that you had with Janet; was your daughter in the kitchen when you had that conversation with Janet? - The kitchen or the dining room.

What I want to know is have you spoken to your daughter about the evidence that you are going to give at this Inquiry about that incident in the van? - My daughter and I rarely speak.

Would you like to answer the question? - No, I didn't.

Have you spoken with your daughter about the incident, about the evidence that you were going to give relating to the incident in the van? - No.

Are you aware that your daughter gave a statement to police officers? - Yes.

How old is your daughter now? - l5.

Are you aware that a statement was taken from your daughter at your home by Detective Constable Mitchell on the llth April l996? - By whom?

By Detective Constable Mitchell, a police officer? - Is that from Stirling?

Yes? - Yes.

Are you aware that your daughter said that she didn't remember ever seeing the incident in relation/

relation to the van but depended upon what you had told her? - No.

Well, did you tell your daughter about Mr. Hamilton coming to the house in a van on the occasion you have spoken about? - No.

Did you tell your daughter that Mr. Hamilton had a gun? - No.

So are you saying that at no time between l989 and the present day did you tell your daughter that Mr. Hamilton had come in a van and had had a gun? - My daughter was there.

Well, listen to the question and remember at the beginning you took a.....? - She would have heard me saying.....

Could you let me finish please; can you remember that you took an oath to tell the truth today; did you between l989 and today at any stage tell your daughter about Mr. Hamilton coming to the house in a van? - My daughter was there when he came in the van, I didn't have to tell her.

Do you understand the question, Mrs. Haggar? - No.

Can I repeat it and could you answer it Yes or No please; did you at any stage between l989 and today tell your daughter that Mr. Hamilton had come to your house in a van? - No.

Would you answer this question Yes or No please; did you at any stage between l989 and today tell your daughter that Mr. Hamilton had a gun when he was in the van? - No.

Before asking you more questions about the van incident could I ask you about one or two other matters. Was your house one which was frequently visited by police officers following upon requests made by you for the police to attend? - Yes.

And in case anything wrong is read into that did that mostly relate to difficulties with neighbours that you had? - Yes and No.

Well/

Well, let us leave that then; can you give the Inquiry some indication of the frequency of attendances of police officers at your house? - When Uncle Jimmy was..... that is the man I looked after, I got the police then, when Uncle Jimmy crashed his car, when the hunt got my cat, when Janet was on a bender, when the windows..... when Janet's windows were smashed and my windows were smashed, when the next door had a broken greenhouse, a fire, I had a fire, when I got my bench and table stolen out of the back garden, my son had a motor bike thing, a scrambler he shouldn't have been on, my daughter being on a digger which she shouldn't have been, when a police officer got attacked and Mr. Davie, when I phoned the police about him when he assaulted my son -- that is about it.

And is it fair to say that you got to know the local police officers quite well as a result of their not infrequent visits to your house? - I knew some of them by sight, Janet knew them all by name, she would tell me which one was which.

And once you had been involved in an incident of whatever type was it your practice to phone up to find out how things were going? - Yes, when Davie was badly kicked when he was burning his stuff out the back because the man was taunting us all the time and I asked one of the police officers could he put a stop to it.

No, what I am suggesting to you is that once you made a complaint or asked the police to come to the house you then phoned up for a progress report to find out how things were getting on as far as the police were concerned? - No, not always I didn't.

But that happened quite frequently, didn't it? - When I wanted to find out what was going to happen to Uncle Jimmy because he had a stroke seemingly when he was driving I had to phone them then because police officers told me if I hadn't approached them to let them know I had the hassle with David getting taunted and I wanted to know what they were going to do about it; the police came to my house when my son was attacked at the Youth Centre; I told a boy off and I was charged with it, my nails caught his neck so I was charged/

charged.

I don't want to go into that but as far as Mr. Hamilton is concerned did you contact Inspector Keenan at Stirling Police Station after you had been at the camp? - Would that be Central?

Central, yes? - Yes, I did.

And you wanted to find out what progress was being made about your concerns about the camp? - No, I wanted to find out what was happening.

About Mr. Hamilton's behaviour at the camp? - That's right.

Is that right? - Yes.

Now, that was after the incident involving the van that you have told us about? - Sorry?

That was after the incident involving the van? - Yes, it would have been.

When you spoke to Mr. Keenan to get progress did you mention to him that you had been threatened? - I actually couldn't tell you.

So just to be quite clear, did you mention to him that Mr. Hamilton had had a gun in the van outside your house? - I may have done, I couldn't tell you.

Well, after the incident that you have told us about with the van there was an incident at Linlithgow Academy, is that right? - Yes.

And before that incident, between the incident of the van and the Linlithgow Academy incident, you contacted a reporter, is that right? - I had spoken to someone who told me that he had another camp organised and it was suggested that he should expose.....

He should what? - It was suggested he should be exposed to try and stop the camps.

Well/

2.40 p.m.

Well, I wonder, Mrs. Haggar, if you can just listen to the question, and if possible answer it yes or no, subject to any explanation you feel necessary. Before the Linlithgow Acadamy incident but after the incident you have told us about with the van you contacted a reporter at the Lothian Courier newspaper; is that correct? - Yes.

Was that someone called Butterwick? - It may have been.

Was it a man or a lady? - A woman.

And when you spoke to that lady did you tell her about Mr. Hamilton's camps and your concerns about the camps? - Yes.

Did you tell her about Mr. Hamilton having a gun outside your house in the van? - No.

Why not? - Because I wanted the woman to come to Linlithgow when we went and threw that stuff so that she would put it in the paper and parents would see it, read it and make up their own minds whether to send their children there any more.

But if Mr. Hamilton had pointed a gun at you, do you not think this is something that parents would have been concerned about and would have stopped their children from having anything to do with him? - The time that was taken for investigations -- time was running out, to stop the camp.

Mrs. Haggar, because time was running out presumably you would be anxious to tell the reporter about all the bad things that Mr. Hamilton was doing and why parents should not send their children to his camp? - I would tell the woman about his treatment of the children. They were my main concern.

But didn't you think that his having a gun and pointing it at you was also a matter of concern which parents might take on board? - No, because to molest a child is worse.

Very well. At any rate, after you had contacted/

contacted Miss Butterwick at the Lothian Courier you explained to her on the telephone your concerns and then she came to see you; is that right? - No. We met -- yes, she did come.

She came to your house? - Yes.

So there were two opportunites, there was a telephone call and then there was a detailed interview at the house, before Linlithgow Academy? - She didn't stay long.

But there was an opportunity for you to say what you wanted? - About the children, yes.

About anything you wanted? - No. My concern was the children.

But if you had wanted to you could have said about the gun? - I could have, but the children was my main concern.

Well, when you went to the Academy the Press were there and took photographs of the incident; is that correct? - I didn't see anybody taking photographs.

Were you annoyed when the police decided not to take any proceedings against you? - Yes.

Was that because you were anxious to have a platform from which you could decry Mr. Hamilton? - Yes. I wanted to be arrested. I was told if it was brought into court I could say what I knew and what I had heard my son say and that somebody, the judge, would order an investigation. That is what I was told, and that is the reason I did it.

And when you discovered that you were not to be prosecuted and that you didn't have this opportunity, did you speak to Miss Butterwick again with a view to getting a further article in the newspaper? - I don't remember. I think I asked her why it hadn't appeared in the paper.

And is it fair to say that you have never mentioned to Miss Butterwick in any of your interviews or conversations with her about this incident in the van? - This incident?

In/

In the van? - No, I didn't.

And the first time that you mentioned this alleged incident in the van was on Friday or Thursday, rather, the 14th of March of this year, and a report of your allegation appeared in the popular Press on Friday the 15th of March; isn't that correct? - It was my daughter that said first.

Well, Mrs. Haggar, the first time that you mentioned to the Press about this allegation relating to the van was the day after this tragedy, the disaster that we are enquiring into; isn't that right? - Yes.

And it appeared in the popular Press on Friday 15th March of this year; is that right? - Yes.

And in one newspaper you were quoted as having said that the gun was held to your head? - That is right.

Now, was that true? - No.

I want you to think carefully about this, Mrs. Haggar. As far as the alleged incident involving the van is concerned, you have told us that that was some time in the afternoon, and certainly after 3 o'clock because that is when you picked up your daughter, at quarter to 3; is that right? - If she was at school, yes.

Yes. And as far as the time is concerned, are you talking about somewhere between 3 and half past 3 or what? - At quarter to 3 -- well, the bus would have got to the village at quarter to 3. It could have been 3 or just after.

Just after 3 o'clock? - 3.

And this incident at the gate wouldn't take very long, would it? - No.

A matter of a few minutes? - Yes.

And then did you go straight into the house? - Yes.

And/

And did you phone immediately to the police? - No. I think I talked -- I was a bit thingummied and I talked it with Janet.

You were a bit what? - Fed up, annoyed at him.

And how long did you talk with Janet about it? - About five minutes.

So that you would telephone the police what -- certainly before half past 3, on that time scale? - About half past 3.

And do I understand that you would normally phone Linlithgow Police Station? - That is right.

If you ever had any complaints to make? - Yes.

So your recollection would be that some time about half past 3 you phoned Linlithgow Police Station? - Yes.

You see, you mentioned other police stations in your evidence-in-chief? - Sorry?

When you were giving evidence this morning you mentioned the names of other police stations -- Falkirk and Livingston? - No. If Linlithgow Police Station -- if you couldn't get through, you phoned Livingston.

And can you remember if you could get through that afternoon? - No.

Do you know whether Linlithgow was usually manned in an afternoon because it was linked to the Sheriff Court? - Sorry?

Did you know whether Linlithgow Police Station? - Yes.

Was the office which dealt with the local Sheriff Court? - They are next to one another.

Next to one another? - Yes.

And do you know that the Linlithgow Station/

Station is usually manned during the week in an afternoon? - No, I don't know.

So that if it was manned and you phoned Linlithgow at 3.30 then the likelihood would be that you would speak to someone at Linlithgow? - Yes.

Are you aware that there was a system of logging calls at Linlithgow at that time? - I don't know the procedure.

Would it surprise you that there is no record of any call having been received from you relating to an incident at a van? - No.

Why not? - Because I have already been told there isn't.

Well, doesn't that suggest to you that there wasn't any such call made? - There was a call made.

You see, might it be with your frequent involvement with making calls to the police about different matters, that you are confusing this with some other incident? - No.

And that in fact at no time have you reported to the police in Lothian and Borders that Mr. Hamilton had a gun or anything that looked like a gun and pointed it at you from his van -- you just never reported that at all, did you? - I did phone.

Would you accept that if you made such a report, that that is something which would be -- which should be taken seriously by police officers anywhere? - Sorry?

Would you accept that the pointing of a gun at someone is something which should be taken seriously by police officers? - Yes.

Would you accept that in the context of Linlithgow it is

an event which would probably stand out in the memory of police officers, the use of a gun? - Yes.

Would it not therefore surprise you that there is no record of any such incident having been reported?/

reported? - No.

Why not? - Because I have been told there isn't.

Is that the only reason why it wouldn't surprise you? - Yes.

So when you were told that there was no record of this call or this complaint by you, were you surprised? - Yes.

Did it occur to you that you might be confused with the passage of time and the distress caused by the report of the incident at Dunblane? - Could you say that last bit again?

Were you distressed when you heard about the incident at Dunblane Primary School? Were you upset? - Yes.

And did it occur to you that this upset might have caused you to think that you may have reported an incident relating to Mr. Hamilton when you hadn't? - No.

I think I put it to you earlier that you spoke to Inspector Keenan at Central Police Office. Was that in early May, before the Linlithgow incident, before the Academy incident? - He came to my house at the end of January.

Yes, but you also telephoned him about May shortly before the incident at Linlithgow Academy; is that right? - The last time I spoke to him, he phoned me.

Well, there was a telephone conversation between you and him sometime at the beginning of May shortly before the Academy incident? - That is right.

And in the course of that conversation did you ask him

how investigations were going into the complaints about the camps? - Yes.

And is it also the case that you never, at that stage, made any mention of the van incident? - I didn't.

I/

I think my learned friend Mr. Bonomy, the first gentleman who asked you questions, asked about the identity of the officers that you say came to your house about the van incident. Now, can I ask you a few more questions about that? You knew many of the officers from Linlithgow; is that right? - By sight.

By sight. And isn't it also the case that on occasions if you didn't get a satisfactory answer when you phoned up about one of your outstanding complaints, you would ask to speak to another officer by name? - The one that I knew was dealing with it, yes.

But if he didn't give you the right answer would you not also ask to speak to someone else, by name? - No. He wouldn't know what I was talking about.

Do you know a Sergeant Lynch? - Yes.

What is his first name? - I don't know. I know him by his face.

What about his face? - It is like burned.

He has got a burn mark on his face? - I think it is burned.

Was/

3.00 p.m.

Was he one of the officers who came? - No.

Are you quite sure about that? - Yes.

If anyone else was to suggest that the officer with the burn mark came to the house that would be a mistake? - It wasn't Lynch.

Now, you were asked this this afternoon about a telephone call made to Central Scotland Police about Mr. Hamilton having taken a gun to somebody else's house; I don't want you to name names but do you remember being asked about that? - Yes.

Was that about the 20th May, l989? - I couldn't tell you.

Wasn't it you who made that telephone call? - No.

If the caller gave the name, Mrs. Haggar, can you explain that? - No.

If the caller said that she was concerned that Mr. Hamilton was in Linlithgow with a gun and would use the gun against her, that is the caller, having given the name Mrs. Haggar can you explain that? - No, I would have to give an address and I didn't know the person's concerned address.

What about Janet Reilly, would she know the address of the person concerned? - No, Janet didn't really know people outside the village.

Did it surprise you, having reported this matter as you say, that is the matter about the van, to the police, did it surprise you that you didn't hear of any action apparently being taken? - I told the officers, it was a couple of days later, there was two officers came back to the house and said they had looked into the matter and he was a gun club member and he was transporting the gun and it wasn't meant to frighten anybody.

Did that surprise you, that explanation, that/

that no action was being taken? - No, because he never threatened me with a gun.

Well, he pointed it at you, according to you? - But he didn't say he would shoot me and he was laughable anyway.

Are you saying that you didn't treat it seriously? - No.

Just to be quite clear, did you treat it seriously? - No.

Well, I have to suggest to you that whatever happened outside your house in relation to the van incident, if anything happened, that there was no report ever made by you to officers of Lothian and Borders Police; that is what I am suggesting to you? - Well, you are free to do that.

And for whatever reason you have decided to come forward after the tragedy at Dunblane and disclose this matter to the National Press? - It wouldn't have been brought out if it hadn't been for my daughter saying it first.

And if your daughter has no recollection or didn't see any such gun or anything of that sort and is basing her version of events entirely on what you have told her.....? - My daughter made a complaint about the way the first statement was taken from her by Stirling Police.

And that Janet Reilly has indicated that she didn't see any gun on the occasion that the van was there and certainly not any gun being pointed at you? - Janet Reilly spoke about the gun on the programme..... to a World in Action reporter.

Have you received any benefit as a result of your statement to the Press? - Sorry?

Have you received any benefit as a result of your statement to the Press? - I was offered several sums of money; the photographs that first came out in the newspaper without my permission, I came to an arrangement with the newspapers that all the money that came from that was to go to the Dunblane Fund and I haven't received/

received one penny and I don't want any money.

There was an offer of money? - I was offered money.

And something was published without your permission, is that right? - That's right.

It was in that context of the publication of something without your permission that you secured an arrangement that the money would be paid to the Dunblane Fund? - That is correct, everything.

CROSS-EXAMINED BY MR. CAMPBELL: Without going into the details of this I understand that you are suffering from quite a serious illness, is that right? - It is multiple sclerosis.

That has affected your hearing? - It has affected my sight a bit and my legs and my arms and I have accidents now and again and my waterworks.

Just to let you know I understand that this isn't an easy experience for you and if you don't hear anything I am saying or understand what I am saying please just take your time and I will repeat matters for you -- okay? - Yes.

Could we go back to the camp on Inchmoan Island at Loch Lomond; I think that you were asked some questions earlier on today in connection with a statement that you gave to Strathclyde Police, Alexandria, about your experiences and about Hamilton at the camp? - Inspector Hay.

No, I am going back to the Alexandria Police, back to the camp, the summer camp, that you attended with Hamilton and the boys; you will be provided with a copy of that statement which is in Kl; now, we can read this? - Yes.

If you take it from me this is a statement that is prepared by the police in Alexandria after their conversation with you and if you look please at the fourth page of that document, the top of the page there, it is recorded that you make reference to drinking water facilities that were on the island? - Yes, fresh water.

You/

You say there that "There was no fresh water on the island. A bucket of water was drawn from the loch and this was used for washing and cleaning teeth. Another bucket was used for drinking water, but the water wasn't boiled first and one cup was shared by everyone when they wanted a drink"? - When they were cleaning their teeth they had to pass the cup along.

And is that an accurate summary of the arrangements on the island for drinking water? - Drinking water, he just took the bucket out of the loch.

What were the toilet arrangements? - They had to go to the woods until Mr. Davie dug a hole.

There is reference in your statement here to a dry chemical toilet in a filthy-smelly condition? - Yes, that is correct, Mr. Davie fixed that.

If we turn on to the next page of your statement please towards the bottom of the page, do you see it? - Yes.

There is a reference to some alcohol drinks being brought to the island; do you see that, just look at the statement with me; there is a reference to bottles of Bacardi, Vodka, a bottle of Martini, l5 to 20 cans of beer and they offered a drink but you refused because you don't drink -- do you see that? - I do drink Bacardi but they only had beer and spirits.

What I want to ask you is whether Hamilton or others would bring drinks on to the island? - They used to go off at night; it was a laugh, they used to say they were away for dry firewood but they were away to the hotel for a drink; the only night there were boxes of drink brought on was that night when there was a barbecue when strangers were there.

You then became concerned about what was happening in the camp when Andrew was sent home and told you what was happening? - Yes.

And then at a later stage Inspector Keenan/

Keenan was in your house asking Andrew some questions about his experience at the camp, do you remember that, do you remember Inspector Keenan coming to your house? - I remember I got a shock today when he told me why he was there, that is not what he told me.

You remember you told us that one of the things that Andrew said happened was that Mr. Hamilton would ask the boys to rub suntan lotion over his body? - Yes.

What clothes did Hamilton have on when this was being done, according to Andrew's recollection? - Pants.

I am sorry? - Pants, underpants.

So Hamilton had some clothing on when this was being done? - Sometimes not.

Sometimes not -- so sometimes are we to understand that according to Andrew's recollection Hamilton sometimes asked the boys to rub suntan lotion on his body when he was naked? - Yes.

Whereabouts on his body? - All over.

I am not talking about anything improper here but did Hamilton appear to have any natural affection or show any kindness towards the boys; what was the general attitude towards the boys, as you saw it? - He had affection for two, the rest he bullied, made their lives a misery.

You have been asked a lot of questions about an incident when Hamilton had a gun in his van and I think you told us that you saw the barrel of the gun? - Yes.

I want you to think very carefully, can you remember anything else about the barrel of the gun; was there anything about it in particular that you remember? - It had a bit sticking up at the end of it.

Well/

3.15 p.m.

Well, you are indicating -- how big was this thing sticking up? - It was small.

Was it on top of the barrel? - Yes, at the end of it.

At the end of the barrel? - Yes, because at first I thought it was just a bit of metal.

What did it look like to you? - It was round.

How big was it? Can you give us any indication how big it was -- I know it is difficult after this long time? - About that length.

Are you referring there to the piece of metal on top of the barrel, or the length of the barrel itself? - No, sorry, the length of metal that I could see.

I just want to be clear about this. There are two things we are talking about. One is the barrel of the gun itself and the other is the piece of metal on top of the barrel. How big was the piece of metal on top of the barrel? - About that.

About half an inch? - Just sticking up.

How long was that piece that was sticking up, can you remember, roughly? - Just about that.

About the same again. You remember you were asked certain questions about the occasion when a lady made mention of Hamilton taking his gun to her house. Perhaps trying to measure it by reference to the Linlithgow Academy incident, how long before -- this was before the Linlithgow Academy incident; am I right? - I think it was.

How long before? - I couldn't tell you.

Was it a long time before, or was it round about the same time as the Linlithgow incident? - I really can't remember.

Could you look please at Production D76L? - Sorry?

The/

The Production will be given to you -- D76L, which is in Volume L(iii). Now, this is a copy from an incident log of Central Scotland Police, and you will see in the top right-hand corner it is dated the 20th May, 1989 and it bears to be from Doreen Haggar, 57 Auldhill Crescent, Bridgend, Linlithgow -- do you see that, in the top left-hand corner? - Yes.

And then there is a telephone number there? - Yes.

If you look over that document, does this help you at all -- do you have any recollection of this? - Can I read it?

Yes, take your time? - No. This doesn't mean anything.

There is a reference at the bottom of that document to an incident that happened in October, 1988; do you see that -- it just says at the bottom "Incident happened October, 1988". You may be unable to help us with this, but now can you recollect what that is a reference to? Can you help us with that at all? - Sorry?

Can you help us -- what is that referring to. If you can't help us, just say, but there is a reference there in this log dated 20th May, 1989 at the bottom of the page to an incident that happened in October, 1988. Now, the main comment relates to the lady who had the visit from Mr. Hamilton bringing the guns -- do you see that, in the main body of the document, and then at the bottom of the page do you see the words "Incident happened October, 1988". If you can't help us, please just say, but do you know what that is a reference to? - No.

Did you ever know what kind of guns Mr. Hamilton had? - No. I am reading this here, but I couldn't tell you one from the other. All the woman said to me was he had three guns in her house
-- two or three.

You see the document says again, just towards the bottom of the main paragraph, just about halfway down: "Mrs. Haggar thinks Hamilton could become violent and use weapons against her as she was/

was involved in reporting Hamilton for complaints involving children"; do you see that? - Yes, I see it.

Now, is that something which you said to the police, or has somebody else told the police this? - When the woman phoned me, I advised her to contact the police.

I am sorry? - When the woman phoned me and told me about these things I advised her to contact the police. She said she would discuss it with her husband, and that is the last time I heard about it. I don't know where that woman stayed. I knew she was from Glasgow, but I didn't know -- all I know is it is one of the better areas.

Again I know it is very difficult at this long remove in time? - Sorry?

I know it is difficult because these are events a long time ago we are talking about. Can you help us with this: the document says "Mrs. Haggar thinks Hamilton could become violent and use weapons against her as she was involved in reporting Hamilton for complaints involving children". Now, we can read that on the document. It would appear the police officer has written that down as a result of the report which was made to the officer. What I am wondering is: do you recollect ever saying that to a police officer at that time, May, 1989, in a report relating to this lady? - No.

I think you told the learned Dean of Faculty earlier that you don't recall contacting the police at all about this incident when the lady had a visit from Hamilton with the guns? - I couldn't, because I couldn't tell anybody where she stayed. All I had was the woman's phone number.

So if that is right, it must follow that somebody else made this report and said what we read here; is that right? - The man from Stirling told me.

You have told us about the time when you decided to take action yourself and throw unpleasant material over Mr. Hamilton. At that time did you have a concern that nothing was being done about Hamilton? - I was told by Keenan that he had 40 statements/

statements taken from boys. By the time they got to his superior and then to the CPS, if they were going to prosecute him, it would be too late to stop the camp, and I said "Well, you have got to do something".

We heard this morning that as a direct result of your action Lothian Region decided to stop Hamilton from using their premises? - Yes.

Were you aware of that? - Not till later. I had phoned Melville Gray before that, and I told him what I had heard by son say, and Melville Gray said to me "We had heard something like that, along the lines, before" -- about Mr. Hamilton, but he hadn't any proof.

Now, going back to the incident at the van when you saw the gun, I think you have told us that you yourself didn't feel threatened -- in fact, I think you told us you said something like you would ram the gun down Hamilton's throat if he didn't stop pointing it at you? - I said "pointing that thing at me".

Now, after the terrible events of the 13th of March this year did this incident seem to be more important than it was before? - No, because it was always a threat to children. You haven't been there and seen him. He was in his glory when he got a child crying. I had many a stand-up fight with him.

You have told us that you didn't tell the Linlithgow Academy incident reporter about the time when Hamilton pointed the gun at you? - That is right.

I think you have told us that at that time your main concern related to his conduct towards young boys? - Sorry?

I think you have told us that at that time your main concern was his conduct towards young boys? - What I heard my son say.

But after the terrible events of the 13th March did you think back about the time when he pointed the gun at you? - No, I thought about the camp, those kids at the camp.

When/

When you were being asked questions by the learned Dean of Faculty, he reminded you I think about a quote in the newspaper after the events of the 13th March, when a newspaper quoted you as saying that Hamilton had held a gun to your head? - That is right.

That was quoted in the newspaper? - Yes, that is right.

Did you say that to the newspaper reporter? - No. I phoned him up and asked him why he had printed the rubbish. I even consulted a lawyer about the Sun, the P. & J. and the Record -- the Press and Journal.

The officers who came to see you about the incident with the gun in the van, do you know whether they came from Lothian and Borders Police or from Central Scotland Police? - That is what I have been trying to rack my brain, but at the time -- are you referring to at the time?

Yes, you had the incident, the gun was pointed at you. You saw the gun in the van, you reported it to the police. Police officers came responding to your call. Did you know at the time whether they came from Lothian and Borders or from Central Scotland Police? - I said to the chap at Stirling "It bugs me because that is why I can't remember the names, because I should have remembered the names".

What I am wondering is whether at the time you knew which police force they came from? - I took it it would be Linlithgow, if I phoned Linlithgow.

I think you have told us that you told them you didn't feel threatened by this incident? - No.

And I think you have told us today that you didn't treat it as a particularly serious matter yourself? - No.

Did you gain any impression as to whether the police officers were treating it seriously -- did they regard it as a serious matter? - They did ask questions about it, yes.

Did they seem to be -- if you can't remember, please just say, but did they seem to you to be regarding this as a serious incident? - I can't remember.

Can/

3.30 p.m.

Can you remember how your son found out about the boys club at Linlithgow? - It was a leaflet, there was lots of leaflets put in the primary school, someone was handing them round.

And you allowed him to go? - There was nothing else for him to do and I thought it would be good for him.

Did you think because it was being held in the school premises that it had been checked? - At first I thought it was to do with the school because he had brought it home from school; it wasn't until the next week that I found out that it was not anything to do with the school, it was a private run thing.

Did you think at that time because it was in the school that someone would have checked it out before it was allowed to happen? - Yes.

LORD CULLEN: Now, Mr. Taylor, this witness has already been cross-examined fairly thoroughly.

MR. TAYLOR: Yes, my lord.

LORD CULLEN: Are there any questions that you wish to put particularly directed to Central Scotland Police.

MR. TAYLOR: Yes my lord but I don't wish to trample over ground already covered.

CROSS-EXAMINED BY MR. TAYLOR: Mr. Haggar, can you tell us why it was you sent your son to the camp in the first place? - It was an adventure, he liked being out in the country, it was a holiday and other boys there, you know.

Did you think that the camp might toughen him up a bit? - Well, it is an experience for him, hiking and making him stronger, keeping them away from t.v. and that.

Did you consider that at the time before your son was sent that he might be in need of a bit of toughening up? - Yes.

And/

And when your son returned am I right in thinking that his principal complaint was one of homesickness? - I thought it was because it was the first time he had been away from home.

You have told us you then visited the camp and had spoken to Mr. Hamilton and agreed that you would return some days later? - I am sorry?

You have told us after your son's return to home you then visited the camp and at Mr. Hamilton's request agreed to go back to help out? - Yes, I went over there to pick up my son's stuff.

And you agreed after that to go back and stay for a period of time at the camp? - Yes.

When you visited the camp for the first time to see Mr. Hamilton and collect your son's stuff did you form an adverse view of it? - I asked him where all the stuff was and he said it was on the island and I asked him about throwing him off the boat and I asked him about the food he was giving them and that is when he told me he had been let down, the person who normally does the cooking wasn't there and he couldn't get the bit he was supposed to go to with the buildings, the indoor facilities; I believed him.

And you then returned presumably to help him, is that right? - Yes.

And you spent, as you told us this morning, some four to five weeks at the camp and you told us again today and to a question put to you by Mr. Campbell a few moments ago that the camp was, in your view, not a very hygienic place; is that a reasonable way of putting it? - When we first arrived the boys clothes and everything was dumped lying on the ground.

Did the camp improve when you were there? - Yes.

Was your son pleased to return to the camp? - He would only go back with me on the condition that he wouldn't have to go anywhere with Hamilton, he wouldn't have to sleep in Hamilton's tent.

You/

You were accompanied by Mr. Davie? - Yes.

Who is he? - Mr. Davie?

Why did he accompany you? - He and I had a friendship for a while, he drove us there.

Mr. Campbell asked you if you would read part of the statement which you had given to Strathclyde Police; I wonder if you could have before you, I think one finds it in D1K, I think we see on the third page which in my copy is 61 at the top right hand corner there is a reference to there having been no food and no fresh fruit or vegetables, do you see that?

LORD CULLEN: What it says is "Hardly any food".

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: Sorry, there was hardly any food, no fresh fruit or vegetables, do you see that? - I am sorry.

LORD CULLEN: I think the witness's eyesight is not very good; could you put the point without forcing her to read.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: I have just realised that, my lord. I think when you visited the camp you formed the view that there wasn't a great deal of fresh fruit or vegetables, is that correct? - That is correct.

And one of the conditions which you stipulated for you to remain on the camp was that fresh fruit and vegetables were purchased? - If I made a list he would get them.

By virtue of the fact you remained such fruit and vegetables were obtained? - Yes.

LORD CULLEN: I am not sure what your interest in this, Mr. Taylor; are you protecting Central Scotland Police Force by asking questions about food.

MR. TAYLOR: Perhaps I was taking it slightly longer than I needed to.

LORD/

LORD CULLEN: It did strike me that way.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: When you were at the camp what was it that the boys were wearing when you were at the camp? - Like swimming trunk things.

And that is what you had been told by your son I think and when you were there that persisted, that they were wearing swimming trunks and not much else? - Nothing else.

Now, it was also suggested to you that there was some drink taken on to the island? - It wasn't suggested, I saw it.

Am I right in thinking that Mr. Hamilton didn't consume that alcohol to any extent? - No, he didn't.

It was others who consumed the alcohol? - Yes.

Did you say to the person who took the statement from you that the only occasion on which you saw a child being chastised by Hamilton was on one occasion and that he deserved the punishment, that he had been bullying other children? - No, I told him about a boy getting his face slapped when they were talking, he didn't like them talking together and I told him about seeing that boy in the tent getting hit with a hairbrush.

Were these two incidents which you have referred to incidents which shows that these children were, to some extent, misbehaving? - Talking together is not misbehaving, he didn't even allow them to talk to each other at the table.

Put it this way, for breaking his rules? - Yes.

And these were the two incidents which you told Inspector Keenan of, you say? - Yes.

Was it Inspector Keenan or was it Sergeant McBain you told that? - Inspector Keenan in January I told and I told, I couldn't tell you who it was in Alexandria about his bullying and ill-treating/

treating the kids and I wanted him off the island, the kids wanted the police to come and get them.

When you met with Inspector Keenan you told him about there having been two boxes of suntan oil which were kept by Mr. Hamilton? - There was suntan oil in his tent and in the box outside his tent.

Did you tell Inspector Keenan that Mr. Hamilton used to rub that suntan oil on all the boys and they in turn had to rub suntan oil on to Mr. Hamilton's back? - My son made a statement about suntan oil, he had rubbed suntan oil on the boys.

Did they then have to rub suntan oil on his back? - No, I never saw them rub suntan oil.

Now, you will remember that you have been asked some questions today about an article which appeared in the National Press which had headlines to the effect that a gun was pointed at your head and you have told us you made a telephone call to the reporter after that article had been published? - Yes, that's right.

Can you remember the name of the reporter to whom you spoke? - Sandy Gall.

In the course of the conversation you had with Mr. Gall what did you say to him? - I said "What is the big idea printing that rubbish in the headlines" and he said that he wasn't responsible for the headlines, somebody in Glasgow does the headlines.

Did you say to Mr. Gall in the course of that telephone conversation that Hamilton had, in fact, been across the street from you? - No.

At the time when the gun was allegedly shown to you? - No.

You didn't say that to him at all? - No, I did not.

Now, you have informed us today of an incident in which you threw some flour, etc. over Mr. Hamilton? - Yes.

Am/

Am I right in thinking that this incident was on the 16th May, 1989? - Yes.

And from the evidence you have given I understand that to be after the event which you say took place at Bridgend in relation to the van and the gun being shown to you by Mr. Hamilton; were you there at Bridgend? - Sorry, could you repeat that?

The incident involving the flour, am I right in thinking that was after the incident when Mr. Hamilton showed you a gun? - Yes.

I think you were visited by the police sergeant that evening, is that right? - I think so, I can't be certain who came to the house.

Could it be the case you were visited.....? - I think there were two.

There may well have been two and I think you were in the company of Mrs. Reilly at the time? - Yes, Janet Reilly.

And it was on that occasion that you were informed that Mr. Hamilton was not to make a formal complaint? - That's right.

How did you react when you were told that there was to be no complaint? - I was really annoyed because it was like banging a head off a brick wall.

Did you start to tell the police sergeant at the time about the manner in which Mr. Hamilton ran his clubs? - Yes.

And generally you attempted to blacken Mr. Hamilton's name, if I could put it that way? - No, I tried to explain to the police officer why I did it and why I wanted charged, I broke the law.

You didn't mention to Sergeant Carson at the time anything to do with the incident at Bridgend, about being shown a

gun? - No.

That would have been an opportunity for you to do so if you had chosen? - If I thought it was important enough, yes.

Could/

3.45 p.m.

Could you have Production D76L in front of you again? - Sorry?

D76L. It is a Production which will be shown to you. That is a document which was shown to you when Mr. Campbell was asking you some questions a few moments ago, and we see in that document in the top left-hand corner your name, and I think that is also your address, is it not? - That is right.

And then we see what would appear to be a telephone number? - Yes.

Is that your telephone number? - I couldn't tell you.

LORD CULLEN: Read the number out if you want to put this point.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: Well, can you tell us what your telephone number is.....

LORD CULLEN: Is there any difficulty about that?

MR. CAMPBELL: It is actually her former address. The witness now lives in Aberdeen.

LORD CULLEN: Perhaps it is of no moment -- do you want to read out the number?

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: The number which would appear there is 0506 834996. Is that your telephone number when you stayed at Bridgend? - It might have been.

But you can't recall? - No, I can't remember.

On hearing the evidence, it would appear that there are two incidents, one of which you say you reported to the police, but no record can be found of it, namely the incident at Bridgend in relation to the van, and the other incident is in relation to Mrs. S. whose children were shown some guns, which you say you didn't report -- is that the sum and substance of it? - I would have have to know/

know what is written here. I didn't know all these names of guns and I didn't know where the woman stayed. All I know, she stayed in Linlithgow, but not the street. I only ever went to Linlithgow to the supermarket in the Centre and to the school.

Could it be that you are confusing which of the two incidents you reported to the police? - No, because I did not have anything to do with this.

RE-EXAMINED BY MR. BONOMY: Two points only. First of all, while you were at the camp was there any illness? - Sorry?

While you were at the camp was there any illness? - Any?

Illness? Was anyone unwell? - Just boys' blistered feet and that, and cuts -- and I had a bad bout of 'flu. That is all.

That is all? - That is all, except for the odd upset stomach.

Well, that is really what I was wondering. Was there no outbreak of upset stomachs? - No, it was just the odd one.

And the only other matter I want to ask you is: you mentioned that the person who first told the Press about the gun incident was your daughter? - Sitting in the living room, yes.

Were you there? - I was sitting there.

What did she say? - She said "Do you remember he pointed a gun at you".

That is what brought it up? - It was her.

JAMES KEENAN, (45), Sworn,

EXAMINED BY MR. BONOMY: I am a Superintendent with Central Scotland Police based in Clackmannan.

How long have you been in Central Scotland Police? - 24 years.

Prior/

Prior to December, 1988 had you heard of Thomas Hamilton? - No.

How did you first come to hear about him? - When I was spoken to by then Chief Superintendent Mr. Gunn at Stirling.

And what did he say to you about him? - He told me that there had been an ongoing informal complaint for some months made by Mr. Hamilton against officers of Central Scotland Police, and he requested that I contact Mr. Hamilton and take a formal statement off him.

Did you do that? - I did.

Where did you contact him? - I contacted him at his home address in Kent Road, Stirling.

Do you remember when that was? - It was I think the first week in December, 1988.

And what did you do with the statement? - I submitted the statement through Mr. Gunn for the information of the Deputy Chief Constable.

And following on that did you get further instructions? - I did.

What were they? - On the 13th December I was advised that I had been appointed investingating officer into the complaints made by Mr. Hamilton.

Against whom? - Against two officers, Constable George Gunn and Constable Donna Duncan, both of Balfron.

And can you summarise the complaints for us? - The complaint basically from Mr. Hamilton was that both these officers, at the request of Strathclyde Police, had called on the Island of Inchmoan in Loch Lomond on the 20th of July, 1988 to make observations on the conditions of the camp, and to report these back to Strathclyde Police.

But what was it alleged they had done wrong? - Mr. Hamilton alleged that they had used unlawful and unnecessary exercise of their authority in the investigation of his camp.

By/

By doing what? - Basically by speaking to boys outwith his presence and the presence of other leaders, and going round the camp observing conditions.

What other complaints were made? - That he alleged they had made a false, misleading and inaccurate statement regarding their observations on the camp to Strathclyde Police.

And then there was another one tagged on the end? - Yes. When I was given correspondence relating to the complaint, there was a further complaint made by Mr. Hamilton to Mr. Forsyth, M.P.

What was that one? - That Constable Gunn had been uncivil towards Mr. Hamilton in September, 1988 at Balfron Police Office.

Did you have occasion to interview Hamilton again in the course of your investigations? - No. I was aware that he wished to see me on a number of occasions throughout my enquiry but on the advice of my Deputy Chief Constable I had no further contact with him.

And the Deputy Chief at that time was Mr. McMurdo? - It was.

On the occasion you did interview Hamilton how did you get on? - I had been given quite strict guidance on how to deal with Mr. Hamilton by Mr. Gunn, and my instructions were that I was not to enter into any conversation or discussion, or pass any views or opinions to him, but merely to take a statement of his complaints from him. So I had no conversation with Mr. Hamilton.

And was that an easy exercise? - Mr. Hamilton appeared to know exactly what he wished to say, and spent about three hours telling me it.

Now, as a result of your investigations were there grounds established for disciplining either of the two officers? - No.

Was it a narrow decision? - That decision ultimately was taken by the Deputy Chief Constable. My opinion was there was insufficient grounds to justify the complaint.

And/

And was that clear, in your view? - It was, in my view.

Who were the two officers? - Constable George Gunn and Constable Donna Duncan.

And can I take it that following your report to the Deputy Chief Constable the complaint was dismissed? - Yes it was.

Did it get any further than him -- for example, to the Fiscal? - The Deputy Chief Constable, in view of my report, advised me that he would be submitting it to the Procurator-Fiscal at Dumbarton.

Who actually made the decision on it, do you know? - To send it to the Procurator-Fiscal?

No, no, to dismiss it? - The discipline complaint?

Yes? - The Deputy Chief Constable.

He made that decision? - Yes.

And as far as you are aware he then submitted the papers to the Fiscal? - He told me he did.

Could you now have a large bundle of papers in front of you called D2/K? Are these the papers relating to your investigation of the complaint? - They are, yes.

Now, a lot of them have a number at the top right-hand corner? - Yes.

And these numbers run from 1 to 275? - Yes.

And these are statements? - Yes.

So you have got 275 pages of statements; is that right? - That is right.

Before that there is an index, there is lists of witnesses, there is a summarised version, and there is some odd, or there are odd bits of paper and correspondence? - Yes.

And/

And that all goes to the Deputy Chief Constable for him to make a decision? - Yes. There was three files -- statements, and two documentary Production files.

And this is the lot there? - No, it is just the complaint, not the documentary Production files.

What else did you have? - Two documentary Production files.

What did they include? - Various letters and correspondence from Mr. Hamilton to various people.

How long did the investigation take? - As I say, I was appointed in December, 1988, but I then became involved in a major enquiry, and it wasn't until February, 1989 that I commenced enquiries, and I concluded these in May, 1989.

Now, would I be right in thinking that the result of your investigation was submitted to the Deputy Chief Constable on the 14th of May? - The 22nd of May is the date of my report.

That is the final date? - Yes.

Right. Before you submitted the report did you have a telephone conversation with a lady called Doreen Haggar? - I did.

Had you interviewed her in connection with the investigation? - I interviewed her and her son.

And did you interview her on only one occasion? - Yes, that is correct.

Did you interview her daughter at all? - No.

Was the daughter in the house when you interviewed her and her son? - I am not sure. There was a family friend there.

So can I take it it is subsequent to that interview of her that you spoke to her on the telephone? - She spoke with me, yes.

Well,/

Well, who contacted whom? - She phoned me.

Now she has told us that you phoned her? - No.

Any doubt about that? - None at all.

Do you remember the date of that call? - Not exactly, but within two or three days prior to the 16th of May, 1989.

What happened on the 16th of May? - Well, if I could take you to the telephone conversation, I will explain the basis of what happened on the 16th of May.

Well, we have heard something of that. I take it you are referring to the incident when she threw stuff at Hamilton? - That is correct.

That is 16th May? - That is correct.

Right. Tell us about the telephone conversation? - She telephoned me, as I say, three days before that, asking on the progress of my enquiry and my view of whether there would be any criminal proceedings against Mr. Hamilton. I had explained at the time I took the statement from Mrs. Haggar that it was a discipline enquiry I was conducting and not a criminal inquiry against Mr. Hamilton, and so any evidence of criminal conduct would be a matter for the Deputy Chief Constable to send to the Procurator-Fiscal. I told her my enquiry was reaching a conclusion. She was concerned that Mr. Hamilton was still running his boys' club at Linlithgow Academy, that we were nearing the summer for the 1989 camp, and she felt that if the various authorities could not prevent Mr. Hamilton running his club and camp, that she would do something about it personally. She told me that "If he likes suntan

cream that much, I will show him exactly what I think about him and his suntan cream at his next club at Linlithgow Academy", which she told me was to be the 16th of May. She left me in no doubt that she would be attending that meeting, and that basically was the end of the conversation. I tried to counsel her, obviously, that that conduct could get herself into trouble, but she seemed to believe that if that was the/

the only way that she could bring Mr. Hamilton to the attention of the court, that she was prepared to do so.

Was any arrangement made for a police presence at the club? - Following my conversation with Mrs. Haggar I was in no doubt, as I have said, that she was capable of attending that club to disrupt it, and I contacted the duty inspector at -- I am not sure, I think it was Livingston Police Office that day, and gave him the background to my enquiry and the content of the conversation I had just had with Mrs. Haggar. I suggested that it may be appropriate if there were a couple of police officers available, that they attend the club meeting at Linlithgow Academy on Tuesday 16th May; and he said he would put a note in the log book at Linlithgow Police Office to that effect.

Did/

4.05 p.m.

Did you follow the matter up later? - Yes, again I am not very sure of the exact date but it would be days after the 16th May, I didn't hear anything back and I contacted the same inspector again and asked him if there had been any incident at the club and he was able to advise me that there had been an incident involving Mrs. Haggar and another female with Mr. Hamilton.

Do I take it you didn't follow this up at all by contacting Hamilton? - No.

Now, had the question of suntan oil arisen earlier in the course of your investigations? - Yes, it had.

Did it arise in the context of speaking to Mrs. Haggar and her son? - When I spoke to her son, yes.

He said something about Hamilton and suntan oil? - Yes.

Can you remember what that is? - Yes, I can.

Can you tell us? - During the taking of the statement from Mrs. Haggar's son he said to me that when we were talking about the sleeping arrangements at the camp he said the majority of boys slept with Mr. Hamilton in one of the bigger tents in the camp and most evenings in his presence and in the presence of other boys there one of the boys in particular had been asked most evenings by Mr. Hamilton who was lying on his cot bed to rub suntan cream into Mr. Hamilton's head and shoulders for about 15 to 20 minutes each evening.

Was that a reference to other boys rather than him doing it? - It wasn't him, no -- it was another boy in particular.

This was done by, was it one boy in particular did it most often? - That is correct.

Did you form the impression that there was something indecent about that? - Suntan oil was only the head and arms, it was a question of interpretation,/

interpretation, there was nothing other than that.

At what time of day did he say it was being done? - It was in the evening when they were all bedding down for the night.

When the sun doesn't shine in Loch Lomond? - That is exactly what Mrs. Haggar said.

Could I now ask you to look at the AD2A form which is your report of 22nd May, 1989; now, is this the summary of the results of the 275 pages? - Yes, it is.

We will do our best not to get to the 275 pages and to look at the summary and hopefully if there is something you think is in the list you can interject to tell me? - I will do my best.

I think that as part of the background here we had a record that Mr. Hamilton was in charge of the boys sports clubs in Dunblane, Linlithgow and Dunfermline at that time? - Yes.

In that he was also reported to be operating in Falkirk? - Yes.

I think you also record information that you were getting from Hamilton about the purpose of his camps? - Yes.

What did he tell you the purpose of these were? - Basically to develop independence in boys, to organise boat trips, outings to the mainland, character forming.

I think on the second page you indicate that the camp was for 12 boys a week supervised by three leaders? - Yes.

And are for sports training and leisure time activities as well as an adventure holiday camp? - Yes.

Now, did you ever establish in this Inquiry whether there were other leaders in the true sense of the word involved? - There were two teenage boys assisting Mr. Hamilton with his camp at the time that I was involved in when Constables Gunn and Duncan called at the camp.

You/

You then refer to the complaints that the parents made on the 17th July, 1988 which was in fact a Sunday, is that right? - That is right.

And by this time you have established that there were actually six boys who had just come back off the camp whose parents were making complaints, is that right? - You say I established that.

No, by the time you got to your investigations you were able from all the material before you to conclude that there was six complainers? - Yes.

And they were complaining about the organisation of Mr. Hamilton and they were alleging assaults by him? - Yes.

And the refusal to allow the boys to phone home or send postcards? - Yes.

They were complaining of the general condition of the camp and the poor food? - Yes.

And also concerns that came from the parents that the boys were issued with black swimming trunks and were expected to wear these at all times in the camp? - Yes.

Now, can you tell us and we may need to look at the details but if we can avoid it it would be helpful, can you tell us the nature of the assaults that you discovered had been complained to you? - These assaults, basically, as I understand it related to slaps on the side of the face for not standing to attention or standing in line, for being cheeky, again slaps on the backs of the legs and there was a suggestion that a wooden spoon was used as well to hit some of the boys.

You discovered that the matter had been investigated under the supervision.....well, by effectively Strathclyde Police and you had all the papers from that investigation? - I asked for these and they were sent to me, yes.

Now, can you go towards the foot of page 3 and we will try to fill in the gaps that Constable Gunn hasn't already told us about; you record at the/

the foot of that page Sergeant Moir instructed Constables Gunn and Duncan to go to Inchmoan on Wednesday, 20th July? - Yes.

And he briefed him to interview all the boys at the camp and to check the condition and facilities at the camp? - Yes.

What was the other thing or things that Sergeant Moir emphasised? - Sergeant Moir said to the officers that if they thought any of the boys were in immediate or physical moral danger to contact him direct and he would make arrangements to have the CID at Dumbarton informed and the boys removed from the island.

Following the report back by Gunn and Duncan what steps did Sergeant Moir take? - He instructed these officers to report their findings to Detective Chief Inspector Hay.

Was he the man who had decided what to do? - Yes, that is correct.

I think just after halfway down page 4 we get the result of their investigations into that? - Yes.

What do you describe? - Constables Gunn and Duncan were asked to prepare statements regarding their visit to the camp and these were submitted to Strathclyde Police.

Was it Hay.....? - Chief Inspector Hay subsequently requested that Detective Sergeant McBain contact the parents of the children that had gone over to the island basically to explain that there was concern about the running of the camp and to make them aware of it and to go with the Strathclyde officers to the camp to inspect it for themselves.

Sorry, tell me that again, what exactly were Hay's instructions to McBain? - Well, Chief Inspector Hay's instructions to Sergeant McBain were to contact as many of the parents of the boys on the island and invite them to go with the Strathclyde police detectives over to the island to see their sons.

You/

You see in the next paragraph "Detective Sergeant McBain advises that none of the boys interviewed that day had any complaints to make"; how did the boys get to Dumbarton Police Office? - The Strathclyde detectives and a number of the parents attended at Balmaha Boatyard to be ferried across to the island only to find out, I think it was, from one of the youth leaders at the camp that the boys had been taken by Mr. Hamilton to the pictures in Alexandria.

What did the police do? - There were a number of anxious parents by this time so they decided to take everyone to Dumbarton Police Office and to make arrangements to have Mr. Hamilton and the boys taken from the cinema to Dumbarton Police Office.

Did they find them in the cinema? - Yes.

In Alexandria? - Yes.

Where had they been before they went to the cinema? - I think they had been to the swimming pool.

Now, the boys were taken to Dumbarton Police Office? - Yes.

And were they interviewed? - Yes.

Now, did any of them make a complaint about Hamilton's conduct? - No.

Did any of them want to go home because they were homesick? - Quite a number of them, I think nine of the l3.

Was Hamilton at the police station? - Yes.

Were the parents able to speak to him? - Yes.

Did any of them make complaints about him? - No, I think they had a lot of questions to ask of him.

If you go to the last three lines on page/

page 4; what you have recorded there is the report you got from Strathclyde Police? - The report from Strathclyde Police is that "None of the parents present were prepared to make any complaints or malign Hamilton in any way. Indeed, some parents praised Hamilton and his running of the camp."

Now, I think McBain then gets information from Hamilton himself about what he was doing at that stage in the way of running clubs, is that correct? - Yes.

You have already told us that at one of the points Hamilton said that the club in Dunblane had been in existence for almost l5 years? - Yes.

Now, if you could turn to the second paragraph on that page, at the bottom, can you read out what you established where McBain's conclusions at that time? - "Detective Sergeant McBain concluded that although he felt many of the complaints were non-criminal in themselves that the camp conditions were extremely primitive with the obvious lack of ease of access and communication being a primary concern as it could be argued in this respect that there was a serious concern for the boys' moral and physical wellbeing".

Now, did he submit the report to the Fiscal at Dumbarton? - Yes, he did.

And that had the statements from the boys who came off the camp on the l7th July? - It did, yes.

What action did the Fiscal take? - I was advised that the Fiscal took no proceedings.

Now, you then on page 7 record the enquiry you made initially, interviewing people whose names had been given to you by Hamilton? - Not directly by Mr. Hamilton but they were in correspondence that he had previously submitted to our Force.

These were people who largely camped in the same area as he had his camps, is that right? - That is correct, and I think somebody who had a cruiser on the loch as well who visited the camps from time to time.

In/

In general terms what was their view of his camp, of his conduct of his camps? - They spoke highly of his organisation, food and equipment in the camp and of his capabilities as a leader.

Now, I think thereafter you have summarised a number of statements, many of which have complaints to make about Hamilton's conduct on his camps and his conduct towards the boys? - Yes.

And in these do we find evidence of the assaults, for example, that you have referred to? - Yes.

And do you have a view yourself about whether these assaults were simply a reasonable chastisement of children misbehaving or whether there was more to them than that? - My personal opinion that there was more to them than that.

It went beyond the point of reasonable chastisement? - My boys at that time were nine and l0 and I didn't smack them.

At all -- here we are talking about smacking them on the face and using something against them like a wooden spoon? - Yes.

I wonder if you could now have a brief look at DlK which is a report by Mr. McBain of his original investigations; do you see there that report is dated 30th August, l988? - Yes.

And is headed "Complaints received by Police in relation to Summer Camp held on Island of Inchmoan on Loch Lomond"? - Yes.

Signed by McBain and sent to the Sub-Divisional Officer but for the Procurator-Fiscal? - Yes.

Now, can you just confirm to me that in the course of that investigation at the foot of the page McBain recorded that Hamilton did not deny striking some of the children maintaining that he had only enforced discipline in the absence of the boys' parents? - Yes, he told the parents that as well.

And did he also go on to say why he had to/

to discipline these boys? - Yes.

Why was that? - Because they were being disruptive, bullying and being cheeky.

Now, there were allegations of indecency made in the course of that investigation; is that right? - Yes.

Can you confirm that these allegations were not made against Hamilton? - They were against the two youth leaders.

And these were never established, were they? - No.

Adjourned until tomorrow
at l0 a.m.

SEVENTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

THURSDAY, 6th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayer (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
JAMES KEENAN,	
Examination continued by Mr. Bonomy.....	5
Cross-examined by Mr. Campbell.....	10
EDWARD McGRANE,	
Examined by Mr. Bonomy.....	16
Cross-examined by Mr. Campbell.....	24
Cross-examined by Mr. Gibb.....	29
Cross-examined by Mr. Taylor.....	30
Cross-examined by Dean of Faculty.....	31
Re-examined by Mr. Bonomy.....	33
FIONA KIRKPATRICK,	
Examined by Mr. Bonomy.....	35
Cross-examined by Mr. Campbell.....	38
Cross-examined by Mr. Taylor.....	38
IAN McBAIN,	
Examined by Mr. Bonomy.....	39
EILEEN NIMMO,	
Examined by Mr. Bonomy.....	44
Cross-examined by Mr. Campbell.....	49
ARCHIBALD CARSON,	
Examined by Mr. Bonomy.....	50
DOUGLAS LYNCH,	
Examined by Mr. Bonomy.....	53
CHARLES MITCHELL,	
Examined by Mr. Bonomy.....	53
Cross-examined by Mr. Campbell.....	59
Re-examined by Mr. Bonomy.....	59
SUSAN JANE OVENSTONE,	
Examined by Mr. Bonomy.....	60
Cross-examined by Mr. Campbell.....	63

MARGARET THOMSON LAIRD BUTTERWICK,
Examined by Mr. Bonomy..... 63
Cross-examined by Mr. Campbell..... 67

CHARLES ALEXANDER GALL,
Examined by Mr. Bonomy..... 69

ROBERT McMILLAN,
Examined by Mr. Bonomy..... 73
Cross-examined by Mr. Campbell..... 73
Re-examined by Mr. Bonomy..... 74

DUNCAN CAMERON McARTHUR,
Examined by Mr. Bonomy..... 74
Cross-examined by Mr. Campbell..... 76

JOHN WILLIAM RICE,
Examined by Mr. Bonomy..... 77

PAUL CARROL,
Examined by Mr. Bonomy..... 77

ALISTAIR McKENZIE,
Examined by Mr. Bonomy..... 78

CALUM ROSS,
Examined by Mr. Bonomy..... 79

RANALD ROSS-WATT,
Examined by Mr. Bonomy..... 80

JOSEPH HOLDEN, (Recalled),
Examined by Mr. Bonomy..... 83
Cross-examined by Mr. Campbell..... 95
Cross-examined by Mr. Gibb..... 102
Cross-examined by Mr. Taylor..... 103
Re-examined by Mr. Bonomy..... 108

PAUL HUGHES, (Recalled),
Examined by Mr. Bonomy..... 110
Cross-examined by Mr. Campbell..... 129

.....

THURSDAY, 6th JUNE, 1996.

SEVENTH DAY.

JAMES KEENAN,

EXAMINATION CONTINUED BY MR. BONOMY: Good morning, Mr. Keenan, you had yesterday before you a document which I think is best simply described as D2/K and it would be helpful if you had that document again in front of you. One of the things I asked you yesterday was whether there was some supporters for Mr. Hamilton and you told me the supporters were other people camping in the same area? - Yes.

I think if we turn to page 7 of your summary of the evidence of the witnesses we will see that these were adult witnesses whom you interviewed largely aged in their twenties and thirties although one gentleman who was a boatyard manager at Balmaha was 57? - Yes, there are some pages missing from this report.

Which pages do you have? - 8 to 16.

I am told there has been a copying problem, it might be if you just go forward a few more pages you will come to the ones which are numbered 7 to 16 which seem to have got out of place. There is another copy winging its way and if you could just check it please? - Yes, that is the original.

It is in the right order? - Yes.

You understanding was there were witnesses camping in the area, largely adults in their twenties and thirties and in addition you interviewed a boatyard manager at Balmaha who was 57? - Yes.

These witnesses were largely supportive? - Yes.

And they were, for example, a motor mechanic, a product specialist, a quality control inspector, a company director and this boatyard manager? - Yes.

Now,/

Now, I think that you interviewed a good number of witnesses that Mr. McBain and his team hadn't interviewed? - Yes, that is correct.

And you, in fact, had got some specific allegations from the children that you interviewed? - I had.

And again if we just look very quickly at your summary I think you can confirm that this was the first time that allegations of rubbing suntan oil had come out? - Yes.

And there were specific allegations of boys, not necessarily identified boys, but boys having been slapped on the face? - Yes.

There was more than one witness who told you about that? - Yes.

There were also two boys who made claims about being slapped on the legs very severely? - Yes.

And there was also evidence of the use of a wooden spoon I think described by the boys, is that right? - Yes.

So there was material indicating, I suppose, fairly rough handling of the boys in certain circumstances in the course of the camp? - I considered so, yes.

Now, could you please look at page 70 of the report, this is all the numbered witness statements, and confirm to me that that and the subsequent pages are the statement you took from Mrs. Haggar? - Yes.

And you took that statement at 4.55 on Tuesday, 14th February, 1989? - Yes, I did.

That was in Bridgend near Linlithgow? - That is correct.

Could you just look at pages 73 and 74 of that; at the foot of page 73 are we on page 4 of the statement? - Yes.

And does it say or did Mrs. Haggar say to/

to you about the boys being mistreated and "I only saw Mr. Hamilton striking one boy while I was there"? - Yes.

She then names the boy? - Yes.

And that boy is linked or is in the family of the lady about whom a claim is later made on a document apparently by Mrs. Haggar that Hamilton had taken guns to that family's home in Linlithgow? - Yes.

It is the same family? - Yes.

Does it go on to say "He had been cheeky and abusive to Janet and I"? - Yes, she did.

"I expected Mr. Hamilton to reprimand him at the time but Mr. Hamilton did nothing that day until about 11 p.m. at night"? - Yes.

And she goes on to say in the statement that "He woke the boy up, took his trousers down and put him across his knee and forcefully slapped him six times on the bum"? - Yes.

Did she go on to say "I believe in discipline but that was over the score. It happened well after the incident"? - Yes.

Can you then go to, please, page 166 of the same series of statements and is that page 2 of the statement that you took from the boy? - Yes, that is correct.

Was that statement taken at 4.50 p.m. on Monday, 13th February, 1989? - Yes, it was.

At his home? - Yes.

Did he say in the statement to you towards the foot again "I was slapped once on the holiday on the leg by Mr. Hamilton because it was said by Mrs. Haggar that I had been cheeky to her"? - Yes.

"It was a sore slap"? - Yes.

Does he go on to talk about "Seeing a couple of other boys when we first arrived in the camp/

camp being slapped by Hamilton"? - Yes.

Now, did he tell you about being put over Hamilton's knee and slapped six times severely on the bum? - No.

This report at the beginning also contains some correspondence and if you could find, I think it is before even the summary we were looking at, a letter from the Deputy Chief Constable of Strathclyde and the Deputy Chief Constable of Central dated 24th October, 1989? - I would need to look for that in another file.

We have copies all under the one reference at the moment; have you got that one? - Yes.

That is a letter from the Deputy Chief of one Force, Strathclyde, to Central dated 24th October, 1989 and the heading is "Complaint against police -- Thomas Watt Hamilton? - Yes.

That is what you were investigating? - Yes.

Your report was to McMurdo to whom this letter is also addressed? - Yes.

And does it say "I refer to your report dated 22nd May, 1989 in the above regard and have to advise that the circumstances of this complaint were reported to (1) Mr. James Cardle, Procurator Fiscal at Dumbarton", does it say that? - Yes.

And does it go on to say "who advised that no criminal proceedings would be taken in respect of Thomas Watt Hamilton"? - Yes.

That indicates that your material was considered by the Fiscal in the context of a complaint against Hamilton, albeit you had been investigating a complaint against two police officers? - Yes.

This was the Fiscal taking a second look at the circumstances of the camp, is that right? - A different set of boys.

But McBain had reported it to the Fiscal?/

Fiscal? - Yes, but boys from a previous camp.

The same summer camp but boys at a later stage in the camp? - Yes.

And secondly does it go on to say that it was reported to Mr. Robert Lees, Regional Procurator Fiscal at Paisley who decided that no proceedings would be taken against the police officers concerned? - Yes.

Does it enclose a copy of the letter intimating Mr. Lees' decision? - Yes.

Is that the copy over the page? - Yes, it is.

In Mr. Lees' letter does it say "I confirm that in my view there is nothing of a criminal nature brought out in the report and I have accordingly marked the papers 'No Proceedings'"? - Yes.

He is talking about nothing of a criminal nature in the conduct of the two police officers? - This is my first sight of this letter.

If you just look at the heading you will see that is what he is dealing with? - That is correct.

Now, this all didn't end there, you got reported? - I did, yes.

Who were you reported to? - Her Majesty's Chief Inspector of Constabulary.

Was the Chief Inspector investigating your conduct of the investigation of complaints of Hamilton against the police? - Yes, I think a superintendent.

A superintendent from one of his staff? - Yes, a staff officer.

What was his name? - I think Superintendent Molson.

Did he interview you in the course of his/

his investigations? - No.

What did he do then? - From my understanding all I was told was that there was an investigation into my inquiry and I presume he reviewed all the papers.

That is your assumption? - Yes, that is my assumption.

Can I take it he was satisfied of the way in which that investigation had been carried out? - I believe so.

CROSS-EXAMINED BY MR. CAMPBELL: Inspector Keenan, you may not be able to help me with this in which case please just say so but I am interested in any potential role of the Reporter to the Children's Panel in relation to allegations against Hamilton which you, albeit, indirectly investigated. If Hamilton had had children and if one of his children had been on the island subjected to the treatment which you investigated would you then have been obliged to report that matter to the Reporter to the Children's Panel? - Yes.

An incident of parental abuse? - Yes, I would.

And does the Reporter to the Children's Panel have access, to your knowledge, to any general file of information which would have details of any previous incidents of parental abuse by the same person? - I don't know.

We are dealing with another Force area here, Strathclyde, maybe it is outwith your experience; anyway, you can confirm it would be the practice in the case of parental abuse to report the matter to the Reporter? - Yes.

Does the same apply to the type of alleged abuse with which we are concerned here, namely by a third party towards another person's child? - Yes.

And are you aware of any difference in approach which would then be taken by the Reporter to such an incident -- namely, a distinction drawn by that Reporter of parental abuse and third party abuse?/

abuse? - It depends on the age of the abuse but I think it would be wise to investigate it.

On a separate matter do I understand correctly that you were investigating complaints by Hamilton against two police officers and the outcome of that complaint was that the police officers were exonerated? - Yes.

And then there was a subsequent complaint by Hamilton to a further authority about your inquiry? - Yes.

I think to Her Majesty's Inspector of Constabulary? - Yes.

And so there was then a further investigation by somebody else into your inquiry and in due course you were exonerated? - Yes.

At any time during your investigations were you aware of the fact that Hamilton possessed a firearms certificate? - Yes.

Did you consider whether in the light of your findings or the result of your investigations you should make any recommendation in relation to Mr. Hamilton's firearms certificate? - No, not in connection with the inquiry I was conducting.

Why not? - As I said mine was a discipline inquiry, not a criminal inquiry against Mr. Hamilton and what I was concerned with was Mr. Hamilton's fitness and propriety to be in charge of a boys camp.

How did you come to be aware of the fact that Mr. Hamilton had a firearms certificate? - I think it is in one of the correspondence documentary production files where he puts a PS regarding something to do with his certificate to the Chief Constable.

But it never occurred to you to consider your findings in relation to whether or not Mr. Hamilton was a fit and proper person to possess a firearms certificate? - No, it was his fitness and propriety to run boys clubs that I was concerned with.

If/

If someone has a firearms certificate is there a special file relating to that person? - There will be.

What is the purpose of that file? - To record all information relative to the firearms certificate holder and information about him.

BY LORD CULLEN: Just to be clear about that point, is that a file that is held by a particular branch of the police? - Yes, my lord, there is a Firearms Administration Department in each Force including our own.

Have you experience of working in that particular branch or not? - Yes.

So what you are describing to Mr. Campbell is your understanding of how that branch works? - Yes.

10.20 a.m.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Presumably it would be helpful, to put it at the very least, if that file contained all relevant information which the police had ingathered about the relevant person -- take Hamilton in this case. It would be helpful if that file contained all relevant information relating to Hamilton as a person who might be an unsuitable person. Would you agree with that? - I think somebody should have access to all information about a Firearms Certificate holder, yes.

Did it occur to you at any time to pass on the information which you had ingathered to whoever had responsibility for that firearms file relating to Hamilton? - My file goes to the Deputy Chief Constable, who I worked with in connection with that enquiry, so he would have that information.

Is that Mr. McMurdo? - Yes.

BY LORD CULLEN: Just to be quite clear about that point, you have described to us what you were doing, what your function was, but supposing you had come across a piece of information that might at least raise a question as to the suitability of Hamilton to hold a Firearms Certificate, would you have considered it, in certain circumstances anyway, to be your responsibility to draw that to the attention of the officer to whom you were making your report? - Yes.

So does it really depend then on whether you come across a piece of information which does raise a question? - Yes.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Did you apply your mind to the question as to whether or not the information which you had investigated did or did not raise a question as to Hamilton's suitability? - It did not raise a question in my mind at that time regarding his Firearms Certificate. It raised a question in my mind, as I have said, about this fitness and propriety to run a boys' camp.

The question I asked you was whether or not/

not you specifically asked yourself the question at the time. Did you consider specifically whether or not you should pass on your information in the context of Hamilton's Firearms Certificate? - No.

No? Was there any standing instruction or training or procedure requiring officers investigating a matter in the knowledge that the subject held a Firearms Certificate, to consider whether or not the result of that investigation raised questionmarks as to the suitability of the holder of the Firearms Certificate? - Yes, if I thought that was a relevant issue I would have recorded it.

LORD CULLEN: I think actually that wasn't the question you were asked. I think it was: was there an instruction, a training to that effect? I think Mr. Campbell is looking at it as a matter of routine.

MR. CAMPBELL: Yes. I am obliged.

THE WITNESS: I am trying to think of any formal training. It would be my understanding if it was an issue relevant to the Firearms Certificate then I would know I would have to report that -- so, yes.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: So the answer is yes? - Yes.

What form did this instruction or training take? - I think it is basically your training and experience in the various roles you have been in, that if there is something you are concerned about, you would report it.

So it was really left to your discretion? - I think so, yes.

Whether or not to consider the matter or not? - Yes.

Sorry? - Yes.

But if I understand the main gist of your answers to my

questions, you considered the primary issue which you were investigating was the complaints against the officers, and the events in the/

the camp? - Yes.

CROSS-EXAMINED BY MR. TAYLOR: Do you still have the report which you made in front of you? - Yes.

Just for the avoidance of any doubt, I wonder if you could tell us precisely the nature of the complaint which was made by Mr. Hamilton against the police officers? - Yes. Mr. Hamilton basically complained that two police officers from Central Scotland Police had visited his camp on behalf of Strathclyde Police, and during their visit they had used unlawful and unnecessary exercise of their authority, and disrupted his camp; had then submitted a false, misleading and inaccurate statement regarding conditions in the camp to Strathclyde Police; and there was a further complaint in a letter to Mr. Forsyth, M.P., that one of the officers had been uncivil to Mr. Hamilton at Balfron Police Office in September, 1988. That was the nature of my investigation.

There was no suggestion of incompetence on the part of the officers? - No.

Now, you told my learned friend, Mr. Bonomy, that in the course of your investigations you went further than the investigation which had been undertaken by Strathclyde Police Force; is that correct? - Yes.

And I think in regard to that you made a recommendation in your report which we find at page 17; is that right? - Yes.

Can you tell us what that recommendation was -- page 17 of your summary? - 17?

Yes -- we find at the top of that page in the second paragraph you saying that "In the event numerous points have been elicited which may be worthy of consideration by officers in Strathclyde Police"? - Yes, that is correct.

So that was really a suggestion that your report should be remitted back to Strathclyde Police? - Yes. I think I say that again somewhere else.

You/

You were making this report to the Deputy Chief Constable, Mr. McMurdo? - I was.

Do you know who it is in Central Scotland Police who is responsible for signing Firearms Certificates on application and on renewal? - The Deputy Chief Constable.

So in making this report to the Deputy Chief Constable you would be aware that its content would also be going to the person who had responsibility for the issuing of Firearms Certificates? - Yes I did.

And in the course of your investigation had you found anything which would have reflected on whether Mr. McMurdo should have revoked or failed to renew his certificate you would have included it in your report; is that right? - If I thought it was relevant I would have included it, yes.

And in the course of your investigation, in your opinion did you find anything that you considered to be relevant in that regard? - No.

No re-examination.

EDWARD McGRANE, (46), Sworn,

EXAMINED BY MR. BONOMY: I am a Sergeant with Lothian and Borders Police now based at West Calder.

How long have you been with Lothian and Borders Police? - I have been with Lothian and Borders 24 years.

Now, I think in 1989 you were stationed elsewhere? -

That is correct.

Where were you in April, May and June, 1989? - In 1989 I was stationed at Bathgate.

Did the office at Bathgate at that time have any general operational responsibilities for Linlithgow? - Bathgate was a larger station. The Division is divided into sub-divisions and I would say Bathgate was the sub-divisional headquarters at that time, and Linlithgow was contained within that sub-/

sub-division.

Was Bathgate an office manned 24 hours a day? - The office wasn't manned 24 hours a day, but the town was staffed 24 hours a day.

What about the office at Linlithgow? - It also was staffed 24 hours a day, but the office itself was not manned.

Can you tell me, what were the manned hours of the Linlithgow Office around that time? - Linlithgow around that time was I think 9 a.m. till 10 p.m.; and we also were -- I think we were about 8 a.m. till 10 p.m.

Now, in the course of the present investigation you were interviewed as a witness? - That is correct.

You were shown a number of documents? - That is correct, yes.

And it is, I take it you agree, fairly clear from looking at these documents that you had some involvement in the subject matter of these documents? - Yes, I did.

Have you any personal direct recollection of the investigation that they relate to? - My recollection is very, very vague.

Well, that is something. You do remember something of it, do you? - Yes.

I think the best thing then is to ask you to look first of all at a document to which I will give two references for the scholars among us. First of all DCD275, which is also known as D80L. Now, that should be an AD2a; is that right -- have you got that? - Oh, yes I have got AD2a.

Now, you will see that it is dated the 30th of June, 1989, and it is an internal document from an inspector at Stirling to the Chief Superintendent of Central Police 'A' Division? - That is correct.

And it mentions you? - Yes.

In/

In the third paragraph it says that Inspector Nimmo contacted Sergean McGrane, Bathgate, and requested he visit a family and obtain statements regarding Mrs. Haggar's allegation? - That is correct.

And you will see it is dated the 30th June? - Yes.

And it then refers to "Attached statements and photographs", and they are forwarded for information; is that right? - That is correct, yes.

Now, are the photographs and the statements attached to what you have been given? You have these, do you? - Yes, that is correct.

Now, there are two statements there; is that right? - That is correct.

Now, for those with the volumes that we are following, they are D77L and D78L, and I think you have got a set of photographs, which we have as D77L. Now, do you remember taking these two statements? - Yes, I do.

Do you remember getting an instruction to go and take them? - The instruction I think came by way of a fax message.

And that was presumably from Inspector Nimmo? -

That is right.

Now, the statements record that they were taken at 7 p.m. on the 20th of May? - That is correct.

1989. Now, in the course of interviewing the lady and gentleman in that household in Linlithgow were they able to tell you about Thomas Hamilton bringing guns to their house? - That is correct.

Around December, 1988 or January, 1989? - That is correct.

Now, the guns were described to you by name? - That is correct.

What/

What were the descriptions you got? - May I refer to the statements?

Yes, please? - The guns were a Magnum revolver, a Browning FN revolver, and a Beretta semi-automatic machine gun.

Do you know what "FN" means? - I am sorry, I do not.

Now, if you look at the photographs, can you confirm that you took these photographs from the family at the time? - Yes, I did.

And what do they depict? - They depict the children of the household holding, one, a pistol and the other child is holding what I presume is an automatic rifle. It is a rifle with a magazine on the bottom.

Who took the pictures? - I believe Thomas Hamilton took the pictures.

Now, if you look at the statement of the lady, and look at the bottom of the first page.....? - My apologies.

Does that not describe differently? - My apologies. That is my mistake.

Who took them? - It was Mr. Smith.

The man of the house? - The man of the house.

"My husband took six photographs of my children and I with the guns"? - Yes -- my apologies.

And did the lady go on to say "At no time was I concerned or distressed by Hamilton's behaviour"? - That is correct.

Did she or her husband indicate whether either of them had actually made a complaint to Central Scotland Police? - Neither Mr. nor Mrs. Smith had made any complaint to the police at all.

And were they making a complaint to you? - No.

Was/

Was there any discussion at all about how on earth you came to be knocking at their door investigating this? - Yes.

What was the sum and substance of that discussion? - I think I told them that I had been informed by Mrs. Haggar that she had become aware that he had taken these guns to Linlithgow.

You had been informed? - No, that the police had been informed -- if I use "police" to cover both Lothian and Borders and Central Scotland -- had been informed that Mr. Hamilton had taken these guns to Linlithgow.

What was your understanding then of how the police had got that information? - Mrs. Haggar had reported the matter to Central Scotland Police.

Where did you learn that? - From Central Scotland Police, from Inspector Nimmo.

And you didn't speak to Mrs. Haggar? - No.

So I take it having taken the statements and the photos, you sent them back to Central Scotland Police? - That is correct.

And you were sending them back on the basis that nobody was actually making a complaint?
- Yes, that is correct, yes.

Well, at least the householders there weren't? - The householders there weren't making any complaint, yes.

They/

10.40 a.m.

They were obviously happy to take photos of their kids with the gun? - Yes.

Am I putting words into your mouth? Please tell me if that is not the position? - From what I recollect, and I think the husband took the photographs, my recollection was that they were making no complaint regarding Hamilton coming to the house and while they posed for the photographs, they were not at home with someone bringing guns to the house, albeit just to take photographs. They were not at ease with him.

Now, I wonder if you would look at the statement which you took from the man that he didn't know the exact names of the guns but he did describe one as a semi-automatic machine gun and he said "He allowed my children and my wife to handle these weapons but he did not bring ammunition with the weapons. He allowed me to photograph the wife and kids holding these weapons. I was not worried or concerned by Hamilton's behaviour during this visit". Did he say that to you? - Yes, he did. It was still my

impression that they were not at home with him bringing these guns to the house.

Can you also have before you DCD275 which is also D76L? - I am sorry, can you tell me what it is without the numbers.

Sorry, it is an incident log headed "Central Scotland Police". Have you got it? - Yes, I do.

And does that bear to be an entry in a Central Scotland Police incident log indicating that a Doreen Haggar with her proper address and telephone number made the report which led to your investigation? - Yes.

There is something written at the bottom you will see? - Yes.

Which is "Incident happened October l988". That is not the result of your investigation? Your investigation was it was December l988 or January l989? - That is correct, yes.

Apart/

Apart from this investigation, had you ever heard the name Mrs. Haggar? - No.

You had no dealings with her in the course of your work at Bathgate? - No.

Did you know anything of an incident only a few days before the date of this log you are looking at where I think two ladies had doused Thomas Hamilton with offensive material at Linlithgow Academy? - No, I have no knowledge of that at all.

So it wasn't even widely known in West Lothian at that time? - It wasn't known to me at that time, no.

Can you now have quite a separate Production? I think this time FA53 which is also D75L? - Yes, I have that.

Now, that is not your writing either, is it? - No.

In fact we have not seen anything that is your writing so far, is that correct? - That is correct.

But your name is on this one as well? - Yes.

And it is a note of you communicating with Central Scotland Police apparently? - That's correct, yes.

And it has got the name Thomas Watt Hamilton, is that right? - That is correct, yes.

It has got a date of birth for him, is that right? - Yes.

A place of birth at Glasgow? - Yes.

And an address? - That is correct, yes.

And the query seems to be whether he is the older of a firearms certificate? - That is correct.

Issued/

Issued by CSP which I assume is Central Scotland Police? - That is correct.

And it looks as if it has been sent by someone then to the Firearms Department so that they can advise Sergeant McGrane what weapons Hamilton is authorised to possess? - Yes.

Now, do you remember making that query? - No.

You will see the date is the l9th May? - That's correct, yes.

Which is the day before the incident log we were looking at a moment ago? - Yes.

Which led to your other investigation? - Yes.

So have you any recollection of having to check up on Hamilton before, immediately before, you were asked to go and visit the family in Linlithgow? - No.

So on this one you don't even have a vague recollection? - None at all, no.

Following the investigations then at the family at Linlithgow, did you have reason to try to get firm information about Hamilton's firearms status? - I can't recall. I might well have contacted Central Scotland Police after having obtained the statements from Mr. and Mrs. Smith.

But that would not be consistent with the date on this because your statements from Smith were..... remind me of the date? - 20th May.

So can I take it you can shed no more light on this entry? - No, I am sorry, I can't.

Can you look now please at FAE97 and that we don't have another reference for because it is a police notebook? Is that your notebook for the time? - Yes.

Is there an entry for the 20th May when you were carrying out the investigation at the home in/

in Linlithgow? It is the 20th May we are looking for, l989? - Would you bear with me a few moments?

Certainly? - I have found it. Thank you.

Now, do you record in there the taking of the statements from the family? - From Stanley Smith.....

Well.....? - Yes, from the family.

Can you tell me if there is anything in your notes that prompts any further recollection of what went on in the course of your investigation? - No.

Nothing beyond what you have told me so far? - No.

Is there an entry on the l9th at all that might explain the other note we have seen about Hamilton's firearms? - No.

You are going back through a number of pages there? - Yes.

It was a busy time, was it? - I wanted to make sure but there is nothing else there.

Can you go right back to the l6th I think which was the date of the mud-slinging? - Yes.

Anything there? - Nothing there at all.

So you have no entries in your notebook that would help you to remember something that might explain all this? - I do not.

CROSS-EXAMINED BY MR. CAMPBELL: Look again at D75L, the note for your attention from the Firearms Department. The copy we have is a poor one. It is the l9th May l989, a memo. Who has signed that? - I am sorry, I don't know.

Can you make out the signature? - I don't know who that is.

It/

It has come from a Firearms Department? - It has not come from Lothian and Borders Firearms Department.

It has not come from Lothian and Borders? - No, I don't think so.

You really know nothing about this document? - No.

You were telling us about the investigations which you carried out with the family concerned? - Yes.

In your view so far as Hamilton's conduct here was concerned, is that kind of behaviour acceptable conduct by the holder of a firearms certificate? - The same circumstances occurring within my Force area I would report to our Firearms Department.

For what reason? - Just to seek their opinion or their advice as to if that is correct procedure.

What would your view be? - It is not..... I would not consider it to be normal behaviour.

Acceptable behaviour? - Yes, perhaps.

By the holder of a firearms certificate? - I find it quite difficult to answer that question.

You are taking a long time to think about it? - Well, I have difficulty trying to divorce what has happened and remaining objective. Could you repeat the question? My apologies.

Would you try to divorce the details but just look at it in the generality to help you. Is it in your view acceptable for the holder of a firearms certificate to behave in the way Hamilton did on this occasion? - I don't think he should have behaved like that. I don't think a firearms certificate holder should do that.

And if Hamilton had held a firearms certificate in Lothian and Borders Police you would have/

have reported the matter to the responsible authority? - Yes.

Did at that time Lothian and Borders Police have any laid-down system for the reporting of information relevant to the holder of firearms certificates? - If a firearms certificate holder comes to the attention of Lothian and Borders Police in unusual circumstances or breaks the law then automatically a copy of whichever report is sent to our Firearms Department. As standard, whatever report you have it is sent and the standard was in force at that time.

Did you receive instructions in such a system? - That system has been in force almost as long as I can recall.

And during your training would you receive instructions in the operation of that system? - Yes.

You would be informed that it existed? - That is correct.

Would there be any laid-down orders? - Yes.

Standing Orders to that effect? - Yes.

So to see if I understand the matter in the generality; if a Lothian and Borders police officer comes across information in whatever circumstances which raises a question as to the suitability of a firearms certificate holder to possess such a certificate, that officer would be required to make an appropriate report to the responsible authority? - That is correct.

Would the matter be left to you as the officer who discovered this information to decide whether or not any action should be taken about the firearms certificate in the light of that information? - No, it would be the Firearms Department who would decide what action, if any, would be required to be taken.

Would there be a system or was there a system in Lothian and Borders Police where all such information would be kept on a central register or file/

file relating to that firearms holder? - Each firearms holder I believe, and this is not my area of specialist knowledge, each firearms holder would have a file on them and if there were any reports they would be filed with that individual licenceholder.

BY LORD CULLEN: Can I perhaps just take that questioning a little further? In this particular case you were looking into an alleged incident which did concern firearms? - Yes.

And therefore you might want to find out what the position was, if that person did or did not have a certificate. You have agreed I think that you would pass on any information that raised a question as to the person's suitability? - That is correct.

But if you were investigating an incident which has nothing to do with firearms, might there be a situation in which you would want to find out if that person had a firearms certificate or would that not arise really in the normal way? - In the run-of-the-mill thing, something very, very minor, it is perhaps possible that you could..... I am thinking of a minor breach of the law in some form, that you could submit a report unaware that the person holds a firearms certificate. Yes, I think that is possible.

I am sorry? - You would submit a report. If I am interpreting what you are saying, you could submit a report perhaps to the Fiscal unaware that the person had a firearms certificate.

And you would not as a matter of routine ask for information as to whether that person did or did not have a firearms certificate? - I personally wouldn't but again there is a possibility that there is maybe a check in our system that I am not aware of. I know that all other reports go through our Court and Records Branch which have some form of computer system but whether they do individual checks or not I am not sure.

So far as somebody in your position is concerned where an incident does not have anything to do with firearms you yourself would not ask for a check/

check and it would follow from that presumably that you would not make any suggestion as to whether any question was raised as to fitness? That wouldn't arise? - That wouldn't arise.

But there might be somewhere else within the Force or a level at which some investigation is carried out? - There may be an area of the Department I have never worked in. There may well be.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Can I develop this just a little further. Let's suppose you are investigating an incident relating to a person and you are aware that he is a firearms certificate holder. Although the purpose of the investigation by yourself may not be directly related to that, if you know the person is a firearms certificate holder, are you required to send a copy of your report to the Firearms Department? - Yes, that is correct.

Whatever the subject matter of the report? - Perhaps a minor traffic offence would not be sent but any of the type of things..... even traffic offences that would affect them, if they were drunk driving, that would be a factor. If there was violence, if they were poaching offences, gun offences, these would all very very high in order of preference. The Licensing Department must be notified.

11.00 a.m.

Suppose you investigate a matter of that nature, drunk driving, poaching, that kind of thing, but you were unaware of the fact that the person possesses a firearms certificate would the system pick up the fact that this investigation had taken place and ensure that the Firearms Department were aware of it? - I have to go back -- I am not 100% sure whether that Records Department have a system to pick that up; drunk driving, I wouldn't see me personally checking to see whether the person held a firearams certificate.

Your feeling is that when you stop somebody for drunk driving you wouldn't, as a matter of routine, ask him whether or not he holds a firearms certificate? - No.

And you are unaware as to whether or not there would be any procedure in place to ensure that somebody notices that a report had been made about a firearms certificate holder? - Yes.

In that connection? - Yes, I am aware of that.

Clearly it would be desirable if such a system were in place? - Yes.

CROSS-EXAMINED BY MR. GIBB: On that point it seemed to me perhaps quite remarkable that if a motor vehicle is stopped that the police quite often have information about the registered keeper of that vehicle before they have even got out of their motor vehicle and approached the driver but there doesn't appear to be any central record that can enable a check to be made of a firearms certificate holder; it wouldn't appear to be difficult to put that in place? - My experience in computer and computer systems is not very good but I do believe the Force computer does contain that and could be accessed by our police room at Force Headquarters.

That wouldn't have helped here whether the firearms certificate holder was resident in another Force district? - Yes.

Perhaps there is something to be said of a/

a central register? - A central computer firearms register.

For firearm certificate holders? - There might be merit in that.

CROSS-EXAMINED BY MR. TAYLOR: Do you still have Production D27/L in front of you; this is the statement you took from the mother of the child or children? - Yes, I did.

And in the first paragraph of that statement you record that Mr. Hamilton visited the house or the family on occasions? - Yes.

Do we then see in the final sentence of the first paragraph that it is stated that "During these visits he mentioned his interest in guns and when our children showed an interest in them he offered to bring some to our house and show them"? - Yes.

Is it reasonable to imply that having made that offer the offer was accepted? - Yes.

And we find in the next paragraph it recorded that this event had taken place some months earlier? - Yes, five or six months earlier.

So given the frailty of human recollection it wouldn't be beyond the point of possibility that the incident which is referred to in D76/L -- do you have D76/L before you?

LORD CULLEN: It is the handwritten log.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: It is the handwritten log, you have referred to it already? - Is that it?

Yes, you see D76/L records at the bottom, I think it is something like "The event happened October, 1988 or the incident happened October, 1988"? - Yes, that is correct.

And the incident which you were investigating when you visited the house at Linlithgow was said to be December, 1988 or January, 1989? - That is correct.

They/

They are not that far apart in the time frame? - No.

So is it possible they are one and the same incident which is being referred to? - Yes.

I think we see in D76/L that there is a reference to somebody taking guns to an address in Linlithgow? - Yes.

We see the name in brackets? - Yes.

I think that name is the same person as you were interviewing when you attended at Linlithgow on the 20th May? - That is correct.

And the address is the same? - Yes.

When you had concluded your investigations what did you then do? - I sent the statement and photographs to the Central Scotland Police.

THE DEAN OF FACULTY: I wonder if I may clarify two points with this witness, my lord?

LORD CULLEN: I was just wondering what points you are wishing to make and how far it goes.

THE DEAN OF FACULTY: I am representing the interests of Lothian and Borders Police and there may be some discrepancy between the two documents that have been put to the witness and I wonder if I could seek to assist the Inquiry hopefully by asking one question to see if I can clarify that discrepancy and secondly, another matter has been raised by Mr. Campbell about the question of what the officer did or might have done or should do in connection with firearms and reporting firearms.

LORD CULLEN: I think there might be some usefulness in some of that as far as the Inquiry is concerned. I will give you that opportunity.

CROSS-EXAMINED BY THE DEAN OF FACULTY: Sergeant, can I ask you to have in front of you again D76/L and D80/L which are both within file DCD275, do you still have these in

front of you; D80/L/

D80/L is a memo from Central Scotland Police, Inspector Nimmo? - I have D80/L.

D75/L is a handwritten note dated 19th May? - Yes, I have both.

Can I ask you, before you were contacted by Central Scotland Police in May of 1989 had you heard of Mr. Hamilton? - No, I hadn't.

Had you had any dealings with Mr. Hamilton? - None at all.

In particular did you know anything about Mr. Hamilton, whether he possessed a firearms certificate or not? - No, I didn't.

When you went to the house in Linlithgow and spoke to the householders there was it apparent from their statements that guns had been brought to the house by Mr. Hamilton? - That is correct, yes.

If Mr. Hamilton's firearms certificate didn't authorise possession of this particular gun would that be an offence? - Yes, that would be an offence.

Would that offence have been committed within your jurisdiction? - That is correct.

Would you have an interest therefore in knowing whether a gun in the house at Linlithgow was actually covered by Mr. Hamilton's certificate, whatever the reason for them being there? - Yes.

In that regard would the only way in which you could find out that information be by making contact to the licensing authority, namely Central Scotland Police? - That is correct.

So if one looks at the dates on these two

documents, given that the date on your notebook discloses that 20th May is the date on which you spoke to the householders and coincides with the memo, the internal memo, of Central Scotland Police suggesting that you had contact or that Mrs. Haggar had contact would it appear that this document is incorrect as far as the date is concerned? - It would appear that an error in the date would explain it/

it to me.

LORD CULLEN: I thought you were going to open up another topic; have you had second thoughts?

THE DEAN OF FACULTY: Perhaps I can take one thing from the witness. I have had second thoughts.

LORD CULLEN: I thought it was a rather promising avenue that you were going to explore.

CROSS-EXAMINATION CONTINUED BY THE DEAN OF FACULTY: Sergeant, as far as the question of firearms was concerned have you had any direct involvement with the licensing procedures of firearms in your own Force? - No, none at all.

In so far as you have expressed a view in your evidence about firearms are these personal views as a police officer? - These are my own personal views.

And are there particular officers within Lothian and Borders who would be better qualified to explain to this Inquiry about the procedures within the Firearms Department and about the computerisation of records? - Yes, there certainly would be.

RE-EXAMINED BY MR. BONOMY: If that was the inquiry you were making about Mr. Hamilton's authority to hold these weapons have you any idea where you get an answer? - I can't recollect this but I can see this as being a natural thing for me to do in these circumstances, given the gentleman had been at the house in Linlithgow with this gun and with people in the house I would contact the Central Scotland Police to see if he was

authorised to have this weapon.

But the note doesn't reflect the identity of the weapon, it is simply a general request to know what weapons Hamilton was authorised to hold? - That is correct.

You did indicate that, and I may have misunderstood this and that is why I want to be clear, that if someone was behaving in this way, that/

that is the way that Hamilton was behaving in your area was the way you put it you would draw that to the attention of the Firearms Department? - Yes.

If it was not your area? - No, if a person was resident.....if a person resident had a licence issued in our Force area and was behaving in such a manner I would notify the Firearms Licensing Department of that.

Do you think it is possible he was committing an offence? - I don't know about an offence, just a concern for public safety and the use of firearms.

Is there an organisation or an object known as the Police National Computer? - Yes.

What is it? - It is a computer that holds information on criminals, stolen vehicles, etc.

When you do a stolen vehicle check or indeed a check of someone's licensed status in a road traffic inquiry do you regularly contact or get in touch with the police national computer? - Yes, we regularly use the police national computer.

Does it record whether or not the person holds a firearms certificate? - I don't know.

Well, have you ever yourself contacted the computer? - No, not at all.

How do you make this check? - By contacting the

individual Force itself.

But if you had stopped someone on drunk driving as you have described -- --? - Yes.

And you want to check the licence? - Yes, the driving licence.

Would you contact the police national computer? - No.

Who does that? - For a driving licence we contact the DVLC in Swansea.

In what circumstances would you get in touch/

touch with the police national computer? - More or less for stolen vehicles, checking out persons if they are wanted or warranted.

So you would check if people have a warrant through that system? - Yes.

Can you tell me whether the system records whether or not a person holds a firearms certificate? - No.

It doesn't or you don't know? - I don't know.

FIONA KIRKPATRICK (36), Sworn:

EXAMINED BY MR. BONOMY: You are a Constable in Central Scotland Police? - Yes.

Based in Alloa? - Now based at Stirling.

How long in Central Scotland Police? - 18 years.

Could you look at a document which is No. FA53, also D75; whose handwriting is on that document? -

That is my handwriting.

Are you good on dates? - In what respects?

When you record a date do you usually get it right? - Usually.

I suppose police officers should? - They should, yes.

You have written a date on this document? - Yes, I have.

What is it? - 19/5/89.

You then sent the document somewhere? - Yes, I have.

Where? - To the Firearms Department in/

in our Police Headquarters in Stirling.

You have asked them to advise Sergeant McGrane what weapons Hamilton, Thomas Watt Hamilton, is authorised to possess? - Yes.

You record at the top that the inquiry came from Sergeant McGrane of Lothian and Borders? Yes, that is correct.

Do you remember this? - I am afraid I don't.

Absolutely nothing about it? - Nothing at all.

In/

11.20 a.m.

In May, 1989 where were you based? - I was station officer at Stirling Police Office on that date.

So it would make sense for you to have got the message and sent it to the Firearms Department? - Yes, that is correct.

Were you also the station officer on the 20th? - I can only assume I would be.

That was your regular duty around that time? - Yes, that is correct.

Have you actually checked up that you were on duty on the 19th? - No.

You just know that was a duty you did at that time? - Yes, that is right.

CROSS-EXAMINED BY MR. CAMPBELL: What is today's date? - 5th June?

CROSS-EXAMINED BY MR. TAYLOR: Is the Firearms Department open seven days a week? - No, it is not. It is 9 to 5, Monday to Friday, closed at the weekends.

If a phone call came in regarding an enquiry as to somebody's Firearms Certificate, would you normally make a note of it if the Firearms Department was open? - If the Firearms Department was open, I would not normally receive the call at the extension that I was working at.

So if this call which you have recorded on D75L was made on a Saturday, the call would come through to you? - Yes.

If it was made Monday to Friday, it would go to the Firearms Department? - Yes, that is right.

And would it therefore suggest that perhaps this call was made on a Saturday or perhaps a Sunday? - Perhaps, but also it could have been made in the evening after the Firearms Department were closed.

Could/

Could you have a look please at Production 78L? Do you find there a statement of an individual -- you don't need to mention the individual's name? - Yes, I do.

And we see that the date is Saturday 20th May, 1989; is that right? - Yes, that is correct.

I think it would reasonably be implied that the memo bears to record it as being 19th, and that that would be a Friday? - That is right.

And if the call therefore was made during normal working hours on the 19th you wouldn't have received it? - No, that is correct.

No re-examination.

IAN McBAIN, (44), Sworn,

Are you a Detective Sergeant with Strathclyde Police? - I am now a Detective Inspector with Strathclyde Police.

Sorry, Detective Inspector. Where are you based? - I am presently based at Dumbarton Police Office.

How long have you been with Strathclyde Police? - 25 years' service.

Would you look please at Production D1K? Do you recognise that as your report into complaints about Thomas Hamilton's summer camp at Inchmoan in July, 1988? - I do.

And is the report dated the 30th of August, 1988? - It is indeed.

Now, if you go to the second page can you confirm that it was a report to your superiors destined for the Procurator-Fiscal at Dumbarton? - That is correct.

Now, I think you have recorded on the first page of

that that following events which we have heard about already, arrangements were made for parents to come to collect children on Thursday the 21st July, 1988? - It was a case of contacting parents/

parents to allow them access to their children, to make up their own mind. It wasn't necessarily a case of collecting their children.

A number came, though? - They did indeed, yes.

And the children were located at a cinema; is that right? - They were indeed.

And they were taken to a police station? - Brought to Dumbarton Police Office.

And I think in paragraph four, towards the end, you have recorded "All the parents present spoke with Hamilton, who was quite happy to speak with them"? - That is correct.

"None of the parents present were prepared to make any complaints or malign Hamilton in any way"? - That is correct.

"Indeed, some praised him"? - That is correct.

Nevertheless, your investigation threw up some material that you thought the Procurator-Fiscal should look at? - Correct.

Can you tell us the general nature of that? - In relation to the condition of the camp on the Island of Inchmoan. The conditions were extremely basic, to say the least. There was also one or two allegations in relation to children being slapped by Hamilton, and there was I believe one or possibly two allegations, where he had I think touched himself or rubbed himself.

Well, was that not in fact an allegation to other people in the camp, not him -- I think you reflect that on the second page in paragraph six? - Yes, that is correct.

It wasn't him at all? - It wasn't him.

Would it be fair to say that anyone viewing this might have seen certain problems about corroboration for any specific incident? - That is correct.

That/

That is not to say there isn't any, but that would have been a problem that someone looking at this carefully would have to consider? - Correct.

In the course of this Inquiry I think you took a statement from Doreen Haggar? - I did.

Can you try and find it -- are your pages numbered? - No, they aren't. I beg your pardon, some are numbered and some are not.

Well, it is towards the back of the statements. I have got a No. 59 at the top that someone has written on mine? - Yes, I have just found it, No. 59, yes.

Now, is that the start of a statement that you took from Doreen Haggar on Friday the 26th of August, 1988? - That is correct.

Do you remember how you took it? - I took it by telephone. I had previously called at her address through in Linlithgow without success, and as I said I took it subsequently by telephone.

Now, could you go to the page numbered 65? Is that a continuation of the statement? - It is indeed.

Now, do you actually remember the statement being taken? - I took the statement, yes.

And you remember doing it, do you? - I do, yes.

I think on that page, from just about halfway down, she is dealing with the circumstances in which she left the camp on Sunday the 6th of August? - Yes.

And I think that she told you that there had been bother and someone was behaving in a threatening manner -- if you go to two lines from the foot, can you confirm that? - Yes, that is corrct.

Now, just read through that paragraph quickly to refresh your memory and then tell me what you/

you remember she was telling you was the nature of the threatening behaviour, who was making it, and whom it was directed to -- can you tell me? - It refers to a man "Davie".

And do you remember being told about this? - I do, yes.

Was there any allegation made by Mrs. Haggar that she had been threatened by Hamilton? - At that time, no.

Does this account relate to a threat by a person Davie towards Mrs. Hagger's friend Janet? - Correct.

Have you any recollection of her telling you that she left because Hamilton had threatened to set fire to her tent? - I have no recollection of that, no.

If you go further up the page, the immediately preceding paragraph says "During my ten-day stay I only saw one child being chastised by Hamilton, and in my opinion the boy deserved punishment as he had been bullying other children"? - That is correct.

Is that what she told you? - Yes.

You can part with that document now, and could you look at a document which is DINTEL F1 D4, which is an intelligence log entry which has been copied for everyone this morning. At the top it says "D4 I(iii)". Now, this appears to be a document completed by you in your previous life as a detective sergeant dated the 18th of July, 1988? - Correct.

Do you remember this? - I don't remember that actual form, but I remember the basic content of the information.

You were actually based at Alexandria then? - I was.

There is no doubt it is you that this relates to? - Correct.

And it is an intelligence log input

form/

form -- is that a fair description? - That would be a fair description.

Now, who would you send this intelligence to? - My Divisional -- first of all I would send it to my Divisional Intelligence Officer and he in turn would obviously then liaise with our Force Criminal Intelligence Officer who in turn then would liaise with his counterpart in Central Scotland Police area.

Is there a backing, a documentary Production backing sheet? - I only have the one sheet of paper here, sir.

All right. There is a file I think from which this comes, and you are now being given the file from which that was extracted. Can you tell me where these documents were found? - They were found at Police Headquarters, Randolphfield, Stirling.

Which would suggest that the system worked and that the intelligence got through to Central Police? - Correct.

Now, can you read out the intelligence entry please? - It is submitted by myself, D.S. McBain, stationed at Alexandria: "I have received complaints from a series of boys' parents whose sons were camping on a Loch Lomond island under the auspices of an organisation run for boys by Thomas Hamilton, 7 Kent Road, Stirling. Nothing sexual took place, although Hamilton ran a very authoritarian regime and assaulted the boys by punching and slapping them for misdemeanours. He seemed to enjoy pushing the boys about. Parents have complained to the police and I noted statements from eight boys describing the events, although it is my opinion that some may be exaggerating. Do you have anything recorded against Hamilton?" -- and an answer which replies "Information passed".

And what does that mean? - I take it from that that I received a reply from Central Scotland Police.

"Anything recorded against Hamilton" would be an enquiry about what? - In relation to -- well, the boys' club and anything known about his past/

past history.

Yes, recorded where? - In Central Scotland Police area.

So we are not just talking about Scottish Criminal Records here? - We are not, no.

We are looking for an intelligence reply, I suppose? - We are indeed, yes.

You are looking for such intelligence as Central have on Hamilton? - Correct.

Now, that document is dated 18th July, which is actually before you speak to a number of witnesses; is that correct? - Yes. It is only my assumption, but 18th July was the date I first became aware of this enquiry, and that may be one explanation as to why it is dated 18th July.

Well, could it possibly be something you did at the very early stages of the enquiry to find out if indeed something was recorded against Hamilton? - That is also possible, yes.

Have you any recollection of what information if any came back to you? - From memory I don't think there was anything came back to me at all about Thomas Hamilton.

Well, that could be "We have nothing", because that would be something, or it could be that you heard nothing. Have you any recollection of which it was? - No. I think what it was was that they certainly were aware of the gentleman, but they had nothing, you know, recorded either by way of convictions against the man or information against the man.

No cross-examination.

EILEEN NIMMO, (51), Sworn,

EXAMINED BY BONOMY: I think you are now retired from the Force, but were an Inspector latterly with Central Scotland Police? - That is correct.

And/

And how long were you actually a serving police officer? - 30 years.

I think you now stay in Dunblane? - Yes.

Could you look please at a document -- you will be given all the documents just now, and I will identify them in a moment: DCD275 -- if you can look at the one which is D76L, which I think is the one with your handwriting on it? Is there a handwritten document you have there -- in fact it may not be yours, it may be someone else's handwriting. If you can just find the handwritten document. Do you have that? - Yes, I have the handwritten document.

And does it have the name "Doreen Haggar" at the top? - That is correct.

And is it an incident log recording a report to the police at Stirling? - That is correct.

And it suggests that the complaint is made by Doreen Haggar? - Yes.

Now, is that in fact your handwriting? - No.

Have you any idea whose it is? - It is Officer -- I see here it is Officer 436.

So if we identify who No. 436 was we will have the writer of the document? - Yes.

Do you happen to know who it was? - No, I am sorry, I don't.

But it was sent to you, I think? - Yes.

It is dated the 20th of May; is that right? - That is correct.

And have you any direct recollection of this? - Not particularly, no.

Well, any at all? - I remember it now that I see it in front of me.

Now, there is writing also at the bottom. Is/

Is that the same handwriting, do you think -- and if that is an impossible question, please say so? - I couldn't definitely say.

Is it your handwriting? - No.

ll.40 a.m.

Now, do you have any recollection of receiving this incident log and doing anything about it? - Yes, I contacted a Sergeant at Bathgate and requested him to make enquiries with the Smiths regarding this incident.

Now, can you look at AD2A which is part of that bundle? Is that in fact your report dated 30th June l989 to your Chief Superintendent? - Yes.

What was his name? - Malcolm Gunn.

Now, you report here to Mr. Gunn that you have got statements back from Sergeant McGrane? - That is correct.

Statements and photographs and you are sending all these papers to the Chief Superintendent? - Yes.

Was it for you to give any detailed consideration of this or were you just passing it on to him? - Yes, I was passing it on to him.

Without really considering the circumstances yourself? - That is correct.

Now, there is then handwriting on the memo. Is that your handwriting? - It is my signature above the words "Inspector" but none of the other writing is my writing, no.

The handwriting there starts DCC as if it is addressed to a person known as DCC? - That is correct.

Who is that? - The Depute Chief Constable.

Do you recognise the writing after that? - Yes.

Whose is it? - It appears to me to be Malcolm Gunn's.

And what was he writing to the Depute Chief Constable? - "May be quite a harmless display/

display of weapons but nevertheless an action which leaves a lot to be desired".

Now, why would something like that be submitted to a Depute Chief Constable? - I would consider it would be up to him to decide what action, if any, to be taken.

Why him? - Because he was a Depute Chief Constable.

Yes, but was this an area that he in particular had responsibility for? - Yes, he had to do with the issuing of firearms certificates.

You see, the word "harmless" is used in that note and I would not imagine that harmless actions would normally be the subject of reports to the Depute Chief Constable. Now, why should the action of the type described in the report go to the Depute Chief Constable? - I am sorry, I can't answer that. I don't know what was in Mr. Gunn's mind at that time.

Was it not because he had a particular responsibility for firearms? - Mr. Gunn or the Depute Chief Constable?

No, the Depute Chief Constable. Is that not the reason why it would go to the Depute Chief Constable? - I am sorry, can you repeat that?

Would the reason why it went to the Depute Chief Constable be that he had special responsibility for firearms certificates? - I would imagine so, yes.

But you don't know that that would be the reason? - I don't know that that would be the reason.

Why then did you send it to the Chief Superintendent? - It was for his information and attention as to whatever further action he required to take on it.

Well, the Inquiry here will wish to try and establish what hierarchy within the police authority deals with the types of complaint that are relevant to this case and here we have something being/

being described as harmless and going up through the chain of command to the Depute Chief Constable. Now, you must have had something in particular in your mind when you sent it up the chain to the Chief Superintendent. Why did you send a complaint of this type or an investigation report of this types to the Chief Superintendent? - It was for his information and, as I say, for any further action he wished to take on the matter.

And what action did you envisage might be taken? - I have no idea what action he might want to take.

You held a fairly senior rank at that stage as an Inspector. Did you not apply your mind to something like that when it came across your desk? - yes.

Well, what thought did you give to this report before deciding it should go to the Chief Superintendent? - Well, I was looking for directions, if he wanted any further action taken.

Did you think further action should be taken? - It wasn't up to me to say whether further action should be taken, if any.

Well, who was it up to? - My superior officer.

So why is it that this type of complaint, and I am really back to the same question, why is it that this type of subject matter was up to your superior officer and not up to you? - Well, I think in view of the fact..... in my opinion, in view of the fact that there was already enquiries ongoing, that is why I submitted this report in the way I did.

Well, now we are maybe making some progress. What enquiries were ongoing? - I understood that Inspector Keenan was making enquiries regarding Hamilton.

So you were aware of that at that time? That is the 30th June l989? - Yes.

Now, we have already seen Keenan's report which is dated May of l989? - Yes.

So/

So were enquiries still ongoing? - I have no idea.

So are you really unable to help me by telling me what was in your mind and what were your reasons for sending this report to the Chief Superintendent? - Well, as I say, having in mind the enquiries that were already ongoing, I felt it my duty to report the matter to the Superintendent for his information and attention.

Can you tell me if there was anything in the content of the report you got that you were particularly concerned about? - Just the fact that he had taken these weapons and shown them to the children.

What was your concern about that? - I felt it really wasn't a very wise thing to have done.

CROSS-EXAMINED BY MR. CAMPBELL: What it comes to is that the reason that you reported this matter to Mr. Gunn was because it concerned a gentleman who was at that time making a complaint about the police? - Oh, I didn't know if he was making a complaint about the police.

Well, if you look at your memo again to the Chief Superintendent of the 30th June l989 at the second paragraph. "I was aware that Inspector Keenan, Stirling was investigating a complaint against the police made by Hamilton in which Mrs. Haggar was a witness"? - I beg your pardon. I was thinking about another matter.

And if I have understood the thrust of your evidence so far, it is to the effect that the reason why you reported this matter up the chain to the Chief Superintendent was because it concerned a gentleman who was making a complaint against the police? - That is correct.

It might be thought that the fact that this report concerned a man with a gun and children should in itself have been sufficient to require a report to a superior officer? - That is what I did.

Whether or not the gentleman was making a complaint against the police, this is something which/

which should be reported to a superior officer? - That is correct.

However, the reason why you reported it was nothing to do with the fact that it was a man with a gun and children but because Hamilton was in the course of making a complaint? - No, it would have been reported in any case.

Why did you tell my learned friend, Mr. Bonomy, that the reason why you reported this up the chain was because of the complaint made by Mr. Hamilton against the police? - It would have been reported in any case, whether Mr. hamilton had made a complaint or not.

You see, one might think that the fact that Mr. Hamilton is making a complaint against the police should really be neither here nor there in the context of a report such as this? - That is correct.

What did you understand your role and function in this matter to be? - To report this matter to my superior officer.

Did you consider that it was any part of your function to think about this report? - I did think about it.

Prior to this had you received any training from your employers in firearms licensing procedures? - No.

No re-examination.

ARCHIBALD CARSON (53), Sworn:

EXAMINED BY MR. BONOMY: Are you still a Sergeant with Lothian and Borders? - I am.

How long in the police? - 24 years.

And are you still based at Livingston? - I am.
Now, you spent a period in Linlithgow? - Yes.

When/

When was that? - From approximately September l988 until l994.

Can you tell me roughly how many officers were at any given time based at Linlithgow during that period? - Approximately it varied between l0 and 12 officers I would say.

And who would be in charge of that station? - There were two sergeants and an inspector in charge.

And the rest constables? - Yes.

Any CID officers? - Not directly based at Linlithgow, no.

All uniform? Every one a uniformed officer? - That is correct, yes.

Can you tell me what the manned hours of the police office were during that period? - We were normally covered from half-past 8 in the morning until 9 o'clock in the evening. There were two civilians worked alternate shifts, day shift and back shift, Monday to Friday.

Let me get that. Half-past 8 in the morning until.....? - 9 p.m. in the evening.

Manned by civilians? - Two civilians normally on duty, yes.

But Linlithgow itself as a community would be manned 24 hours? - Yes, there was a police presence in Linlithgow 24 hours a day.

Now, were you a sergeant between l988 and l994? - Yes.

Can you look please at your own notebook which is LBSAl08? Is that one of your police notebooks? - Yes.

Which period of time does it cover? - It covers from March l989 until September of l989.

During that period did you receive any complaint from Doreen Haggar that a firearm had been presented to her out of a van by a person called Thomas Hamilton? - No.

Did/

Did you hear of any such complaint being made during that period? - No.

Is that sort of complaint one that a sergeant at Linlithgow was likely to hear about if the incident took place in Linlithgow and was reported to a Linlithgow officer? - Yes, it most certainly would be.

Would you be surprised not to hear about it? If it happened and had been reported and you did not hear about it, would that be unusual? - Yes, it would.

Do you know Doreen Haggar? - I do.

Was there one particular incident around that time that you were involved in which Hamilton was involved in? - Yes.

What was that incident? - This was an incident that occurred at Linlithgow Academy.

We have heard about something on the l6th May when noxious liquid was tossed over Hamilton. Is that the incident you are talking about? - Yes.

And that happened at Linlithgow Academy? - Yes.

Were you one of the officers who investigated the incident? - I was.

Were you there when it happened? - No, I arrived shortly after it had happened.

Did you speak to Hamilton? - Yes, I did.

Did he want to make a complaint? - No, he refused pointblank to make a complaint.

Did you tell Mrs. Haggar and Janet Reilly about that? - Yes, they were both made aware of that.

And their reaction? - They were surprised. They were all for a complaint being made. They wanted a complaint to be made.

12.00

DOUGLAS LYNCH, Sworn:

EXAMINED BY MR. BONOMY: Are you a Sergeant with Lothian and Borders Police? - That is correct.

Based at West End in Edinburgh? - That is correct.

What age are you? - 33.

How long with Lothian and Borders Police? - 10 years' police service.

I think that you spent some time at Linlithgow? - That is correct.

When was that? - It would have been the period from December of 1987 to approximately December, 1990.

Was your whole time throughout that period spent at Linlithgow? - Yes, it would have been.

Did you on any occasion during that period of service get a complaint from either Doreen Haggar or Janet Reilly to the effect that they had been subjected to threats or anything that happened in relation to a firearm in the hands of a man called Thomas Hamilton? - No.

Did you know Doreen Haggar? - Yes, I did.

Did you know Janet Reilly? - Yes, I did.

Were you aware of an incident at Linlithgow Academy on the 16th May, 1989 when material was thrown over Thomas Hamilton? - Yes, I would have been aware at that time.

If you could concentrate on that period of time; in the few months around that time was any complaint that you recollect made by either of these woman about Hamilton's behaviour with a firearm? - No, nothing.

Could/

Could you have in front of you a notebook LBFA90H and 107; now, are both of these your notebooks? - Yes, they are.

What period of time do they cover? - One note book covers from the 31st January, 1989 to Sunday 19th January, 1990 -- '89, I beg your pardon -- and the second notebook was the 14th June, 1989 to the 28th August, 1989.

So there is a gap there between March and June? - That is correct.

Do you know where the notebook is for the intervening period? - I have no idea.

No. 106, is that it? - From 19th March to the 12th May.

So we have now a gap of from the 12th May to when? - The 12th May to the 14th June.

You don't know where the one for that period is? - No, all these notebooks were submitted by me after I had completed them.

How many did you submit? - Approximately it would be once every six weeks I would get a new notebook.

When you finish you put your notebook in? - Yes, once you have completed using that for any statement purposes or inquiry you just submit your notebook.

In connection with Central Scotland police inquiries in this case were you interviewed? - Yes.

Were you shown your books? - I was shown a number of notebooks.

Do you remember how many? - No, I can't remember.

Did you look through the books you were shown to see if there was a record of a complaint of a firearm by either of these ladies? - Yes.

Was there one? - No, there wasn't.

There/

There has been reference in the statements and indeed in the questions put in the inquiry of a Linlithgow officer with a mark on the side of his face like a burn; is that you? - Yes, I would think that would be me.

You have no recollection of any complaint by either lady to you? - No, I never received any complaint.

Made by a phone call resulting in a visit to Mrs. Haggar's house or Mrs. Reilly's house? - No.

Are you quite sure about that? - Definitely.

In the books that you did go through with a Central Scotland police officer were there entries relating to Mrs. Haggar? - Yes, there was a number of entries.

Were there any in relation to Mrs. Reilly? - Yes, I believe there was, Mrs. Reilly's details were also noted.

But nothing to do with presenting a firearm? - No, there was a number of complaints that I had dealt with from Mrs. Haggar, none in relation to a firearm.

CHARLES MITCHELL (26), Sworn:

EXAMINED BY MR. BONOMY: Are you a Detective Constable with Central Scotland Police? - Yes.

Based in Stirling? - That is correct.

How long in Central Scotland Police? - Seven years.

When did you first become involved in this Inquiry? -

On the 13th March.

I think on the 18th March you were given the/

the role of part of the team investigating Hamilton's background in relation to the possession of firearms? - Yes, I was instructed to assist in that regard.

Your inquiries were directed in that direction thereafter? - That is correct, yes.

I think on Wednesday, 20th March you learned of an allegation that appeared in national newspapers made by Doreen Haggar about an incident in 1989 involving Thomas Hamilton? - That is correct, yes.

As a result of getting that information what was the first inquiry you made? - I was briefed on the newspaper articles and I travelled to Aberdeen to interview Mrs. Haggar.

Did you interview her on more than one occasion? - I did, I interviewed her twice.

When was the second time? - The second time was about a fortnight later after I interviewed an associate of hers, Janet Reilly, who had apparently witnessed the incident referred to by Mrs. Haggar.

Did you examine log books kept at Linlithgow Police Office? - Yes, I did, I initially examined two log books that had been retained by a colleague; latterly with the assistance of Lothian and Borders Police we recovered the remaining log books which span the period of June, 1988 to late 1989.

Were examination of the log books carried out in the full knowledge of the allegation that Mrs. Haggar and the allegation Mrs. Reilly was making? - Yes, that is correct.

Could you find anything recorded in the station log book relating to this? - Nothing at all, no.

What sort of things were recorded in these log books? - In relation to Mrs. Haggar?

In general? - In general -- a wide variety of calls, incidents relating to thefts, road accidents,/

accidents, disturbances reported to Linlithgow police and also calls which had gone to Livingston Police Office but which required to be attended by Linlithgow officers.

Was it the system that if the station at Linlithgow was unmanned the call was made to Livingston? - It is my understanding Linlithgow was covered 24 hours a day but there was not always a person present in the office; however, the text was directed to Linlithgow office which would have been entered in the book prior to attendance there or retrospectively.

If we look at log book LB FA 109, is that an example of a log book? - That is correct.

What period does that one cover? - The 11th April, 1989 to the 16th May, 1989.

Perhaps you could also have 110 as another example; what period does that one cover? - This is the period immediately following the 16th May, 1989 to the 26th June, 1989.

And in these are there apparently complaints recording phone calls made to the Linlithgow Police Office? - Yes, that is correct, there is notes, the text of calls made there and also the action taken in respect of these calls.

Are there also signs of entries that have gone to Livingston and been relative to Linlithgow? - Yes, I believe on checking these these are marked with the letters from DHQ.

Was there any sign of complaints of the type that Mrs. Haggar was relating to? - No, not in relation to a firearm.

I think that you also tried, as far as you could, to check the available police notebooks of officers who were serving at Linlithgow during the period you were interested in? - Yes, that is correct.

Was there any obvious policy being operated in relation to the retention or destruction of/

of notebooks? - I believe in general there's a five year destruction policy; we were fortunate at Linlithgow that there were boxes containing notebooks that were due for destruction prior to that period and this hadn't been carried out.

Is it fair to say you have recovered a number of notebooks from a number of police officers at Linlithgow but not all of them? - That is correct.

Could you have in front of you a series of notebooks that you did recover -- that is LBFA running from 98 through to 108; are these the notebooks of the Linlithgow officers in the following order and if you can check them off with me -- Lynch? - Yes.

Anderson? - Yes.

McArthur? - Yes.

Hamilton? - Yes.

Hamilton again? - Yes, that is correct.

And Hamilton, a third one? - Yes.

McKenzie? - Yes.

Carrol? - Yes.

Two more for Lynch? - Yes.

And one for Sergeant Carson? - Yes.

First of all, do these cover the period around May, 1989? - Yes, some were earlier that covered a longer period but they did generally cover that period.

In any of these was there an entry reflecting the

complaint Mrs. Haggar was now making to you? - No, none of them contained such an entry.

Now, we have heard from some of these officers already but one of them and I refer you to Hamilton who is a constable and his books are 101, 102/

102 and 103 -- can you tell me the period covered by these books in particular? - Yes, the first one covers the 21st February, 1989 to the 18th April, 1989, we have the 18th April, 1989 to the 1st August, 1989 and we have the 2nd August, 1989 to the 11th September, 1989.

Do any of these contain any entry that remotely resemble the one you were looking for? - Nothing -- some of them did contain entries in which Mrs. Haggar featured; however, they were minor complaints which bore no relevance to Thomas Hamilton or anything to do with a firearm.

CROSS-EXAMINED BY MR. CAMPBELL: Did I understand you correctly that as far as the log book entries are concerned the system, as explained to you, was that the entries would be completed either in advance or retrospectively? - If they had come from Divisional Headquarters; if the officer was able to he would record it in advance of attending the call; however, if this wasn't possible, after attending the call they would appear to have fully updated the log book and with the text of the call and the action they had taken.

I understand the exercise you had carried out was simply to look through the various log books in looking to discover whether or not any entries relating to this matter existed? - That is correct.

And if it was to be suggested that the conclusion to be drawn from your investigation was that no visit or no report was made as suggested by Mrs. Haggar that would depend upon those log books being a comprehensive record of everything that the policemen did? - As I say we were obviously aware of the fact that this might not be totally comprehensive, yes.

RE-EXAMINED BY MR. BONOMY: Did you interview

any of the Linlithgow officers? - I was involved in interviewing some of them, yes.

Can you remember which ones? - Lynch -- I believe I interviewed P.C. Lynch -- if I could check there.

Are any of these books not there? - Yes,/

Yes, there were officers whose books were not present; P.C. Anderson I was going to say but I see his books were present; we interviewed all the officers who we could find were at the station at that time but I wasn't responsible for interviewing all of them.

From what you know did any of them recollect this incident? - None of them, no.

SUSAN JANE OVENSTONE, (40), Sworn:

EXAMINED BY MR. BONOMY: I think you are a Journalist? - Yes.

You work with an agency in Aberdeen? - Yes.

You interviewed a lady called Doreen Haggar? - Yes.

When was that? - The day following the Dunblane tragedy.

What was it that alerted you to the fact that she had information? - It came by two sources -- one was that there was a small article in the Press & Journal newspaper in the morning relating to Mrs. Haggar and a Glasgow based newspaper newsdesk phoned me up and asked me to go to her house and interview her.

And/

12.20 p.m.

And did you read the Press & Journal afterwards? - Yes.

Did it say anything about a firearm? - No.

Do you remember what time of the day it was you spoke to Mrs. Haggar? - I got to her house about half past 8 in the morning.

Was there anyone apart from her in the house? - There was her daughter Vicky, two younger children and a man.

Was she the only person you interviewed? - For most of the time, yes. Her daughter Vicky came through towards the end of the time that I was there.

Did you regard her as contributing any significant material to the piece you were doing? - Vicky?

Yes? - Not a lot, no.

How did you go about interviewing Mr. Haggar? - I went to her house, asked to speak to her, went through to her lounge, and the two of us just sat.

Was it a question-and-answer session, or did she tell you a story, or what? - I think she told me -- mainly a question-

and-answer.

Now so far as the subject matter is concerned, it would be easy for you to state the basic reason for being there, but did you leave it to her just to tell you in general terms, or did you focus on any particular angle from the outset of the interview? - No. I just asked her what her experience and acquaintance and knowledge of Mr. Hamilton had been, and it sort of developed from there.

And what sort of things did she concentrate on? - The episode which involved her son at camp, the episode outside Linlithgow Academy where she and her friend had thrown items over him, and/

and a gun-related incident outside her house at Bridgend.

And what did she tell you about the gun-related incident? - She said that after the camps she had made various complaints to the police and had been speaking about Mr. Hamilton to people and he had come outside -- as she and her friend were coming out of her house one day he had pulled up in a van and had said "I hear you are bad-mouthing me?" -- something to that effect -- and she had said her reasons why she had been doing that. And she said that he then leant under the driver's seat of the van and pulled out a gun and pointed it at her, and had said something along the lines of "It's amazing how people change their minds when one of these is pointed at them", and made it clear to her that it was loaded; and she had responded that he could shove it, she wasn't frightened by him.

So she said to you -- and this is clear in your recollection -- that Hamilton made it clear to her that the gun was loaded? - Yes.

What part was her daughter playing in the interview at that stage? - She wasn't there at that stage.

Were any other journalists there? - When I arrived at her house at 8.30 I was there on my own, and I was with her for about an hour when another journalist from another newspaper and

a photographer turned up. Now, she had gone through the whole story with me once, and I was nearly on the point of leaving when he turned up; and I wasn't going to leave whilst he was there, so I sat with him till he left; and she went through the whole thing twice. I really got two bites of the cherry, as it were.

Was your story published? - Yes.

Who by? - The Daily Star, the Sun, the Herald, the Daily Mail and the Daily Express.

Was there any payment involved for her? - No.

Are you likely to know that that is the case, or could that have happened outwith your knowledge?/

knowledge? - I would be fairly certain in saying that no payment was made to her through any of the papers I represented. When I went to her house in the morning I was acting for the Daily Star initially only. By the time I left her house other papers had expressed an interest, and it changed.

CROSS-EXAMINED BY MR. CAMPBELL: The incident concerning the gun -- did she tell you whether she had reported it to the police? - Yes, she said she had.

She said she had reported it to the police? - Yes.

No re-examination.

MARGARET THOMSON LAIRD BUTTERWICK, (41), Sworn,

EXAMINED BY MR. BONOMY: Do you still work as a reporter with the Lothian Courier? - Yes, I do.

How long have you been with them? - I have been with them over 16 years, and I am Chief Reporter.

Have you a recollection of the incident on the 16th of

May at Linlithgow Academy, when a lady, a Doreen Haggar, and her friend Janet Reilly threw material over Thomas Hamilton? - Yes.

Did you report it? - What do you mean did I report it? Oh, in the paper?

Sorry, yes? - Yes, I did.

And did you know it was going to happen before it happened? - Yes, I did.

How did you know? - I knew because Mrs. Haggar had phoned me the previous week.

And were you there with a photographer? - I was there with a photographer.

And he got the action shots, did he? - Well, he was less accurate than Mrs. Haggar! We didn't/

didn't use the photographs.

Now, what did you anticipate might happen as the result of the publicity this incident got? - I don't fully understand your question, what did I anticipate would result?

Well, perhaps I should put it in an entirely different way. Did you get the impression Mrs. Haggar was hoping things would develop as a result of the publicty? - Yes, I certainly did.

What did you think that she was hoping for? - I think she was hoping that our publicity of the event, the throwing of the bucket of gunge over Mr. Hamilton, would persuade the education authorities to revoke his lease of the facilities a the academy.

Well that worked okay? - It certainly did.

What about her expectations for other parental support for her campaign? - Yes. She certainly said that she hoped it would bring her fears about Mr. Hamilton's suitability to lead a boys' club to the attention of other mothers who had boys at the Linlithgow club.

Did that happen? - I am not sure, because I was never approached by any other mother.

When your office actually learned that the incident was going to happen did you tell the police? - No, I did not.

Was the information at no stage relayed? - Yes. I spoke to Mrs. Haggar at her home following the telephone conversation, in the next day or so, and in order to check whether what she was saying had any foundation I spoke to three police forces before we reported the story. We carried some information, some statements from I think at least one of the officers I spoke to.

So you were just checking the accuracy of what she was telling you? - That is right.

After the incident did you speak to Thomas Hamilton? - Yes I did.

And/

And what was his reaction to it? - He was very calm for a man who had been covered in some substance. He spoke quite politely and very coolly to me about his intentions for the future regarding boys' clubs.

What were the intentions? - Well, he maintained that he had no intention of stopping the club at Linlithgow, and in fact had plans for a boys' club, he hoped, in somewhere like South Queensferry or Bo'ness.

Anything you can tell us now, without -- or excluding the benefit of hindsight -- about your impression of him as a person at that time? - Not really. I spoke very briefly to him, and he followed up our newspaper story with a letter to our office, again maintaining his innocence of the allegations, except for the fact that he was very calm for a man in his situation.

Did you form the impression he was a particularly effeminate type of individual? - Softly spoken.

That is as far as it struck you? - That is as far as I would

go.

Now, after the Dunblane tragedy did you become aware of information Mrs. Haggar had imparted to other newspapers? - Yes, I did.

Did reading that information surprise you at all? - Yes, it did.

Why? - Because she had never mentioned any of her statements about guns and Thomas Hamilton to me at all at the time when she called us out to cover the gunge-throwing incident.

How many times did you speak to her? - I spoke to Mrs. Haggar three times, once by telephone, once when I called at her house after the telephone conversation to get more information, and the third time at the academy, on the evening of the incident.

And the two earlier occasions by phone and visit were how long before 16th May? - Within a week. I think she phoned me on the Wednesday morning and I went to her house either the Thursday or/

or the Friday, and the incident took place on the Tuesday, the Tuesday evening.

Now, in the conversations was she simply telling you about her plans for throwing gunge, or did she tell you anything about the reasons why she was doing this? - Oh no, we went into the reasons for why she was throwing the gunge.

Did she make specific allegations against Hamilton? - She made allegations against him, yes.

Can you tell me what these were, in general terms, now? - Yes, that she felt he was not a suitable person to be running a boys' club, because her son had returned from the summer camp that Mr. Hamilton had run on one of the islands on Loch Lomond -- Inchmurrin or Inchmoan, I think it was, and she had reason to report certain things that the boy had told her had happened on the island to the local police.

I don't want you necessarily to tell me now, but did she tell you what these were? - Yes.

Did she say anything about getting any hassle from Hamilton afterwards? - No, not at all.

In any form or at any time? - No, not at all.

Did you get the impression from your conversations with her about a strength of feeling about Hamilton? - Yes.

How strong were her feelings, and what were her feelings? - Oh, I think she felt very strongly that Mr. Hamilton should not be running clubs; that he had in some way harmed her child; and that she feared that other children may be put, at the very least, in a compromising position if they were to go on the summer camps planned by Mr. Hamilton for the summer -- 1989 in the summer.

Did she say anything about feeling the authorities -- either local or police -- were failing her in some ways? - She felt definitely that her complaints to the police -- and this was before I had spoken to the police myself -- she felt that they had been unable, for some reason, to take her/

her complaint forward, and that this, going to the newspapers, was the only way left to her to bring her complaints about Mr. Hamilton to the public, to tell mothers.

But in that connection did she make any mention of the failure of the police at Linlithgow to take forwards any complaints she had made? - Well, other than answering my question had she reported, or had she made a complaint to the local police, no, she didn't make any further complaint.

And what was the answer to the question had she made any complaint to the local police? - She told me she had.

And did she say what it was about? - Well, it was in connection with statements her son had been making following his time at the camp.

But she indicated that was her complaint to the local police? - To the local police.

Local to where? - Well, Lothian and Borders, but I started checking it out at Linlithgow.

But you found that the complaint was made elsewhere, did you? - Well, I didn't find out where the complaint had been made to, but I was told that a complaint had been made.

CROSS-EXAMINED BY MR. CAMPBELL: Was it quite clear to you that at this time Mrs. Haggar's main concern related to Hamilton's running of clubs and camps? - Yes.

You told us that you spoke to three police forces? - Yes.

Which police forces? - Lothian and Borders, which is the local one for the area; to Strathclyde Police, that is their Press Office in Pitt Street; and to Central Scotland Police in Stirling.

Was this after the incident when material was thrown on Hamilton? - No, it was between the telephone call from Mrs. Haggar and the incident taking place.

What/

What was your purpose in contacting the police? - We were about to report an incident, and as I say, we would have used a photograph of it, had they been suitable, in which one woman, who I had no previous experience of, was making fairly serious allegations about a man running boys' clubs, and I felt that it was necessary to try and check out, to try and find out if there was a foundation for her concern about Mr. Hamilton. And since she had told me that she had reported an incident involving her son and Mr. Hamilton to the police, that is where I started.

So you spoke to all three police forces before the incident when material was thrown? - Yes.

Did you tell them the reason for your investigation of them? - I don't think I did. I told them I had spoken to Mrs. Haggar

and that I was following up statements made to us by Mrs. Haggar, but I don't believe I told them what she was about to do that night.

Now, your main purpose, you have told us, in contacting the police, was to find out something about Hamilton? - Yes.

Did you get the same story from each police force? - Obviously, the stories -- the connections or the knowledge of Mr. Hamilton differed, but yes, I drew enough information from the police to realise that Mrs. Haggar had a foundation, let us say, for her concerns.

Was/

12.40 p.m.

Was the information generally the same from all Police Forces or did it differ? - All Police Forces knew of Mr. Hamilton. All police officers were aware of complaints of a sexual nature, of Mr. Hamilton dealing with boys, whether at the club or whether at summer camp. All three had knowledge of that. Each Police Force passed me on to the other, suggesting that they may have more information for me. All of my information was off the record.

But you obtained enough to come to the view that there was maybe some substance in Mrs. Haggar's complaints? - Yes, I did. That is why we used the story.

Can you remember who it was that you spoke to in the Police Forces? - As I say, all the information was off the record. I did not take names. The only person I could go part-way to identifying is a sergeant at Alexandria Police Station. It was one of the Strathclyde officers I spoke to. I spoke to a Press spokesman in their Pitt Street Press Office and then I spoke to a sergeant at Alexandria who told me that at least some of his men had to take boats across to the island to collect boys after complaints had been received from parents or concerns had been expressed by parents. That would be the l988 summer camp.

Do you remember I think a Detective Constable Mitchell coming to take a statement from you in April of this year? - I do.

Did you tell him about your contact with the Police Forces? - I can't remember if that cropped up at all or not but I am perfectly sure I would have done.

No re-examination.

CHARLES ALEXANDER GALL (35), Sworn:

EXAMINED BY MR. BONOMY: Are you a Daily Record reporter? - Yes.

Based/

Based in Aberdeen? - Yes.

A story recording an interview with Doreen Haggar appeared in the Daily Record on the l5th March and I think you were responsible for the reporting of that story? - That is correct.

On the l4th you interviewed Mrs. Haggar at her home? - Yes.

Can I take it that there was another reporter there before you got there? - Yes.

Who was that? - Susan Lumsden. Her married name is Ovenstone.

Apart from her, who else was present in the house when you got there? - When we arrived there there was a gentleman in the kitchen. I couldn't tell you who he was. Mrs. Doreen Haggar was in the living room already being interviewed by Susan Lumsden and Mrs. Haggar's daughter Vicky was present and I was accompanied by my photographer colleague, Robert Paterson.

Did the daughter contribute anything to the subject matter of the interview? - Yes, but she wasn't in the room for the duration of the interview. She was coming in and out and occasionally we were asking her some questions.

And did these questions that she was asked relate at all to seeing a firearm? - No, that is not my recollection.

So so far as the firearm is concerned, the interview was confined to Mrs. Haggar? - Yes.

Now, what can you recollect being told by Mrs. Haggar about the possession by Thomas Hamilton of a firearm in her presence? - Well, it followed a visit by Mrs. Haggar to one of these camps where she had sort of virtually gone over and rescued her son and she had come back to the Dunblane area. She lived in Bridgend in fact in Lothian. She came back with some pictorial evidence of what she had seen there and handed this over to the police. So some weeks later Hamilton, she said, had drawn up alongside her in a van, reached under the seat of the van and presented a gun at her/

her.

Did she say what type of gun it was? - No, she wasn't clear on the gun at all. I recollect she did say a handgun but I wasn't convinced that she knew really what type of weapon she might be talking about but she certainly knew it was a gun.

Did she say to you whether she understood it to be loaded or not? - He told her it was loaded.

Did she tell you of her reaction? - She told him to F-off or she would ram it down his throat.

Were you able to form any impression from what Mrs. Haggar said of whether her daughter was there when this happened? - Not really. I got the impression that she was with a friend, Janet Reilly.

But not her daughter? - I wasn't sure that the daughter was there, to be honest, but she may have been.

Now, the headline in the Daily Record the following day was "Killer Held Gun To My Head"? - Yes.

Did she tell you that? - I didn't have a direct quote as such but the conversation and the way the interview went and the circumstances as she described them left me in no doubt that he was pointing or holding a gun towards her head, yes.

Did the headline prompt a reaction from Mrs. Haggar? - Yes, it did.

Did you, as a result of her trying to get in touch, go back and speak to her again? - No, I telephoned her. I have only been in her house once and that was the day the interview was conducted. I was off duty the day after. The day that the article appeared I was off duty so when I returned to work on the following Monday there was a message for me to phone Doreen Haggar which I did. I think possibly she may have phoned me but I think I phoned her.

And/

And what went on in that conversation? - She said something like "What about the article?" and I said "What do you mean?" She mentioned the headline and as reporters tend to say, we often say "We don't do the headlines" which is true. I said "What about the text?" and she appeared okay about the text and we went on to talk about other things generally. She didn't sound like a woman who was going to pursue a complaint.

Did she not on that occasion say something to you though about where she had been in relation to Hamilton at the time of the incident? - Yes, she then sort of I think indicated that there was a bit more distance. It wasn't as close an encounter as she had earlier related but that was as far as it went. There was no sort of further mention of the thing and I have spoken to her several times since.

Did she not give you some indication of where he had been? A specific indication? In other words, how far away he had been? - Not really, no, but she certainly was indicating that the gun was not right up in her face.

And did she not indicate that he had in fact been across the street? - Well, I am aware that she is now saying that.

But that is not something that was said to you? I just want to be clear about that? - I am not sure if she said he was across the street but I was certainly clear after speaking to her that he certainly was not alongside her as she had indicated earlier.

But it would be wrong to say that the impression you got was that he was across the street? It was nothing like that? - The impression at the time of the interview?

No, at the time of the phone call? - At the time of the phone call I was pretty clear that he was not as close to her as she had suggested. There were yards between them. He wasn't on the kerb beside her.

At either the interview or the telephone conversation did the question arise of whether she had/

had reported the matter to the police? - Yes, she said she reported the matter.

Was that during your initial interview with her? - Yes.

Were you able to establish when this had happened? - When she had actually reported it? Whether she had reported it that day?

No, were you able to establish when the incident itself had actually happened? - Oh, yes. Well, in my notes she said it happened around August of l989, shortly after she had returned from this camp.

Well, the evidence we have heard in the Inquiry so far is that the camp was in July l988 or possibly maybe August l988? - Well, l989 is what I had noted.

What about the month? - August seemed to be the month in my notes.

ROBERT McMILLAN (40), Sworn:

EXAMINED BY MR. BONOMY: Are you a Sergeant with Lothian and Borders Police? - Yes.

Where are you now based? - I am stationed at Bathgate.

How long with the police? - 2l years.

Can you look please at the notebook LBFA100? Is that your police notebook? - No, that is Sergeant McArthur's notebook.

Oh, sorry. My mistake. I don't have one relating to you. You spent a period of your service at Linlithgow? - That's correct, yes. When was that period? - June l989 to February l99l.

In/

In the course of this present Inquiry, were you interviewed by a Central Scotland police officer? - Yes, I was.

And were you asked to think back to your period in Linlithgow? - Yes, I was.

Were you asked about whether you had dealt with a complaint from either Doreen Haggar or Janet Reilly about being approached by Thomas Hamilton when he was in possession of a firearm? - I was asked that question, yes.

Was any such complaint brought to your attention? - No.

Did you hear of any complaint remotely resembling that while you were at Linlithgow? - No.

CROSS-EXAMINED BY MR. CAMPBELL: Were you asked to produce your notebook for the period l988 and l989? - No, I was not.

RE-EXAMINED BY MR. BONOMY: What happens to the notebook when you are finished with it? - They are stored at Divisional Headquarters but I don't know what the period of retention is.

So production would be a matter for others, would it? - Yes, it would be.

Do you know what the policy is at Linlithgow about keeping notebooks for a period of time? - The notebooks are held at the officer's station for two years and they are then forwarded to Divisional Headquarters for retention.

Do you know whether in this case efforts were made to find your notebook over that period? - I have no idea at all.

DUNCAN CAMERON McARTHUR (60), Sworn:

EXAMINED BY MR. BONOMY: I think you are a retired police officer? - That is correct.

And you actually live in Bridgend? - I do/

do.

By Linlithgow? - Yes.

Did you spend the whole of your police career with Lothian and Borders? - Yes.

How long did it last? - 30 years.

During that career were you stationed at Linlithgow for part of the time? - Yes.

When was that? - Part of it was l969 to l973 and then l985 to l990.

Now, I wonder if you could look at a notebook please which is No. l00. Is that your police notebook? - Yes.

What period does it cover? - 29th September l989 to 3l/12/89.

September of l989 to December of l989? - Yes.

Did you see it in the course of the current investigation or are you seeing it for the first time since you handed it in? - The first time.

In the course of the present investigation were you interviewed by a Central police officer? - Yes.

And was he concerned to find out if you knew of a complaint made by either Doreen Haggar or Janet Reilly about Thomas Hamilton being in possession of a firearm? - Yes.

First of all can I ask you if you know either of these women? - Yes, I do.

Both of them? - Yes.

And did you have dealings with both of them in the course of your service in Linlithgow? - Yes.

Did both of them on occasions make complaints to you as a police officer? - Well, not entirely/

entirely to me but I had attended complaints involving them.

Both of them? - Yes.

Did you ever hear of any complaint by either about Hamilton or any other man having a firearm? - Not to my knowledge can I remember that.

What was the first you knew that there was any connection between Doreen Haggar and Thomas Hamilton? - I couldn't really recall. I can remember, and this is very vague, an officer in Linlithgow when the Loch Lomond incident occurred came to me and I don't even remember which officer it was and I said "Well, whatever information you do have you will have to pass it on to the area concerned".

1.00 p.m.

When you were in Linlithgow the second time, that is 1985 to 1990, were you a sergeant? - Yes.

If there was a complaint about a firearm being pointed in Mrs. Haggar's direction are you likely as a sergeant to have learned about it? - I would think so -- either me or the other sergeant.

Who was the other sergeant? - Sergeant Carson.

We have heard from him? - Yes.

BY LORD CULLEN: Do I take it that Sergeant Carson was the only other sergeant? - During my period there from 1985 to 1990 there were other sergeants there, Sergeant Wilson, Sergeant Purdie, Sergeant Carson and myself.

Were Wilson and Purdie there at the same period or was it simply according to the shifts that were worked? - Sergeant Wilson was there in 1985 because he was there when I arrived and Sergeant Purdie came after that.

CROSS-EXAMINED BY MR. CAMPBELL: Just as a matter of procedure in a generality, if there had been a complaint against Hamilton for carrying a gun and pointing it at somebody and that matter was reported to Lothian and Borders Police, given that Hamilton resided in Stirling and if there was a view that he should be interviewed who would carry out that interview; would it be an officer from Lothian and Borders Police or an officer of Central Scotland Police? - The procedure I would think would happen, we would immediately pass a matter of that nature to our CID and they would make that decision, whether they would go through or pass it on to

Stirling; I would imagine they would go through.

After an adjournment for lunch:

JOHN WILLIAM RICE (41), Sworn:

EXAMINED BY MR. BONOMY: Are you a Constable with Lothian Borders Police based now in Bathgate? - I am based now at Armadale.

How long in the police? - 12 years.

I think for part of your service you were based at Linlithgow? - Yes, that is correct.

During what period? - Approximately 1986 to 1989.

Was there any part of that period that you were actually moved elsewhere or were you there throughout that period? - I could be moved for short periods of time to other stations just to assist with cover.

When did you move from Linlithgow? - As far as I remember it would be March, 1989.

In the period around the time you were moving or in the few months before that did you receive a note about a complaint by Doreen Haggar or Janet Reilly that Thomas Hamilton had presented a firearm at either of them? - No.

You have never heard of such a complaint during your service? - No, I haven't.

Have you heard either of these names in the course of your period in Linlithgow? - Yes, I had.

Of any kind connected with a complaint about a firearm? - No.

No cross-examination.

PAUL CARROL (33), Sworn:

EXAMINED BY MR. BONOMY: Are you a Constable with Lothian and Borders Police? - Yes.

Where are you now? - Whitburn.

How/

How long have you been with the police? - Nine years.

Look at notebook, Production 105; is that one of your police notebooks? - Yes.

What period does it cover? - From the 11th April, 1989 to the 1st June, 1989.

During that period where were you based? - At Linlithgow.

In all how long were you based at Linlithgow? - For four years.

From when till when? - From 1987 till September, 1990.

Did you know or come to know during that period of service a person called Doreen Haggar? - Yes.

Did you know a lady called Janet Reilly? - Yes.

Did either of these ladies make a complaint to you about a person called Thomas Hamilton having a firearm and presenting it at either of them? - No.

Did you hear of such a complaint during your period of service there? - No, I didn't.

No cross-examination.

ALISTAIR McKENZIE (34), Affirmed:

EXAMINED BY MR. BONOMY: You are a Constable with Lothian and Borders Police? - That is correct.

Where are you now based? - Dryloan, Edinburgh.

How long have you been in the police? - Nine years.

During part of the nine years were you based/

based at Linlithgow? - Yes.

When was that? - From 1989 to 1991.

From when in 1989? - The summer of 1989.

Would you look at notebook No. 104, is that your police notebook? - Yes, that is correct.

What period does it refer to? - From 15/5/89 to the 31st December, 1989.

So it covers part of the period before you were at Linlithgow? - No, I started my service in Linlithgow.

On what date? - I started my first shift at Linlithgow on the 15th May, 1989.

So you were in Linlithgow from the 15th May? - That is correct.

Around that time do you have a recollection of a complaint made by Doreen Haggar or Janet Reilly about a person called Thomas Hamilton presenting a firearm at either of them? - No.

Is that something you have ever heard anything of? - No.

No cross-examination.

CALUM ROSS (33), Sworn:

EXAMINED BY MR. BONOMY: You are a Constable in Lothian and Borders Police? - Yes.

Still based at Livingston? - I am in Edinburgh at the moment.

How long in the police? - 10 years' service.

For part of your service were you based at Linlithgow? - Yes.

What/

What period? - From 1986 until 1992.

During that period did you come across the names Doreen Haggar and Janet Reilly? - Yes.

Were you ever aware of complaints made by either about a man called Thomas Hamilton presenting a firearm? - No.

No cross-examination.

RANALD ROSS-WATT (50), Sworn:

EXAMINED BY MR. BONOMY: Are you a Company Director? - Yes, that is correct.

Do you live in Dunblane? - Yes, I do.

You knew Thomas Hamilton over a period; what period? - It was a very brief period, I would say a period of perhaps three to four months and it is about 10 years ago.

About 1986? - Yes, that is correct, 1985 or 1986.

And at that time did you have a son who was in Dunblane Boys Club? - That is correct -- well, he was in the club for part of that period.

And that club was run by Hamilton? - It was.

Generally speaking how did your son get on at the club? - No problem.

That was the case throughout his period of interest in the club? - That is correct.

How did you come to get to know Hamilton? - Well, my son came home one day and said that Hamilton had been asking questions of, you know, who we were and all that sort of thing because my son was quite a new member of the club, I suppose he wanted to find out who the lads were and what the parents did and so on and I had recently.....well, for a few years I had been in the Royal Naval

Reserve and once that came to light then/

then Hamilton wanted to know if I had done any shooting which I had done a very small amount of rifle shooting; that is basically it, but he then asked my son or asked me through my son if I would be interested in taking up pistol shooting; as a result of this I actually went to a gun club with him, I drove him to this club, it was in the Larkhall area about six or seven times over a period of three or four months.

At that time where was the boys club being held? - Dunblane High School.

Was your son ever involved in going to any camps? - No, he wasn't.

Were you at that time interested in shooting? - No, not really.

Did you have any weapons? - No.

And even since then have you had any weapons? - Well, no, because certainly what happened after I had been to that club a few times I thought well, you know, if I was going to become any good I would have to have my own weapon and ammunition and my wife was extremely apprehensive about having a weapon in the house and we discussed it and we decided I wouldn't have a weapon and as such I decided to leave the club.

Had you actually joined the club? - No, I was taken in as a guest.

You didn't apply to join? - No.

Was/

Was Hamilton a member? - Yes.

What was the name of the club? - I can't remember, it is on the A71 near Larkhall to the east of the M74, I can't remember the name of it. There was some kind of Army connection in that it was supervised by the Army.

Did he say why he went there? - He said something about he couldn't get on with the people in the Stirling club.

His going there had nothing to do with the availability of full bore shooting? - I can't say; he did shoot full bore, I didn't shoot full bore; you had to gain a certain score in small bore before you were allowed to shoot full bore; I managed to achieve that score on the first night but I didn't think I was good enough to spend the sort of money on full bore ammunition so I never shot full bore.

Was Hamilton any good as a shot? - Yes, but there were others who were just as good.

Were you able to form an impression of how careful he was? - Very careful.

Did you get any impression of his sociability? - I would say that he was on polite terms with the other members of the club but he wasn't one of the lads, he wasn't really accepted but having said that he was coming from some distance away so I didn't see any particular significance in that at the time.

How did you get on with him? - Okay, I think we chatted about business in the car; I don't know what business he was involved in, that was about it really.

Did you learn from him whether he was a member of any other rifle club or gun club? - As far as I knew he wasn't a member of any other club.

Did he mention any of the clubs locally to you? - He mentioned something about Stirling and he didn't get on with them;

I presumed because he was travelling as far as Larkhall he didn't go to a local club.

What/

What guns do you remember him having? - He had a .357 Magnum revolver, he had at least one automatic weapon, I mean an automatic pistol.

Is that a self-loading pistol? - Well, I mean the type that has a magazine that goes on the stock.

There are some that you pull the trigger once and they continue firing? - As far as I know it didn't do that.

Did he ever bring any of the weapons to your house? - Yes.

On more than once? - One occasion.

What was the reason for that? - Well, it is hard to say; it came through my son; again he asked the lad would he be interested in seeing these weapons, that sort of thing and, you know, kids are interested in that type of thing and we said "Fair enough" and he brought them along and it was conducted in a safe manner. Although I have done hardly any shooting at all when I was in the Cadets at school I used to be in the RNR and you learn on these military ranges that safety is of the utmost importance and there is a lot of trouble given to making sure that there was no accidents. He seemed to have that approach to the whole thing, it was exactly as I had seen on the military ranges.

No cross-examination.

JOSEPH HOLDEN, (Recalled),

LORD CULLEN: You are still on oath, of course.

EXAMINATED BY MR. BONOMY: We have heard from you before and we already know that you are a Superintendent with Central Scotland Police; can you now tell me the general nature of the duty that you would normally be carrying out as

Superintendent but for the intervention of the Dunblane incident and enquiry? - Yes, I am part of what Central Scotland Police call the Operations Division which really means the uniformed section of Central Scotland Police. I am termed the Local Unit Commander for the Stirling Police area and I oversee/

oversee the policing activity or policing enforcement of the Stirling area. Simply put I am in charge of the Uniform Section of Stirling.

Is your office in the Police Headquarters? - Yes.

But you are not part of the Headquarters itself, you are part of the Unit in there that deals with Stirling? - Yes, it is Stirling Police Office within the Headquarters.

In 1991 what rank did you hold? - I was Detective Chief Inspector.

Whereabouts in 1991? - I was based within Headquarters, Criminal Investigation Department.

Who was your immediate superior then? - Detective Superintendent John Miller.

And had you any responsibility for the Child Protection Unit? - Yes, my post at that time covered all of the Specialist Units within the Criminal Investigation Department and one of these was the Child Protection Unit.

What name is now given to that Unit? - The Family Unit.

In 1991 who was in charge of it? - Detective Sergeant Paul Hughes.

Did he report directly to you? - Yes, he did.

Now, we have heard evidence in this Inquiry already from a Chief Inspector Hughes; is that the same person? - Yes.

So he was a detective sergeant in 1991? - Yes.

In 1991 what was, in general terms, the function of the

Child Protection Unit? - It was a Unit that had been created two years before and was responsible for the joint investigation of all child protection matters, joint investigations with the Social Work Department and the then Central Regional Council.

In/

In 1991 did Hughes get involved in an investigation which involved Thomas Hamilton? - Yes, he did.

And did that investigation stem from a complaint by a parent about the activities of Hamilton at one of his camps at Loch Lomond? - Yes.

And that was a camp during the summer of 1991? - Yes.

Is that right? - Yes.

Could you now have before you the Production D3/K which is a substantial bundle of papers relating to that investigation; now, is that Hughes' report following his investigation? - Yes, it is.

And was that destined for the Procurator-Fiscal at Stirling? - Yes, it was.

We have heard already of a report relating to the 1988 camp going to the Fiscal at Dumbarton; why did this one go to the Fiscal at Stirling? - Because the locus of the offence within this report was at Milarrochy Bay at Loch Lomond which fell within the Central Scotland Police area.

We will hear from Hughes in due course about this and about it in some more detail but for present purposes can you confirm that one of the things Hughes did was compile a list of all charges that he thought the Procurator-Fiscal might consider preferring against Thomas Hamilton? - Yes, that is correct.

I think that it was ten in number? - Yes, it was.

Can/

Can I take it Hamilton was not actually charged by the police with any offences? - No, he was interviewed but not charged.

Now, before that report went to the Procurator-Fiscal did you read it? - Yes, I did.

It is fairly substantial; did you read it all? - Yes.

In fact, I think the statement pages are..... maybe they are not all numbered but is there a number at the top of all the statement pages? - Yes, it starts with page l3.

And goes to? - l44.

What was your view about whether that should go to the Procurator-Fiscal? - I felt the substance of it was enough that it should go to the Procurator-Fiscal.

Did you give any instructions about how it should actually be delivered to the Fiscal? - Yes, slightly out of the normal Detective Sergeant Hughes had had previous discussions with the Procurator-Fiscal in regard to this case and I felt that the case was sufficiently complicated enough to warrant a personal visit to the Procurator-Fiscal to present and explain to him the officers' in charge of the enquiries feelings.

Did that visit result in further action being taken? - Yes.

What was that action? - I recollect that the Fiscal at that time asked for Hamilton to be interviewed but only on a voluntary basis.

And was an attempt made to interview him on a voluntary basis? - Yes, there was.

And did he agree to that? - No, he made it clear by telephone to Detective Sergeant Hughes that he didn't wish to be interviewed.

You may have said earlier in your evidence that Hamilton was interviewed in the course of this investigation; was he at any time? - Yes, my recollection was he was spoken to and interviewed at/

at the camp during the course of Detective Sergeant Hughes's visit there.

Do you know what the Procurator-Fiscal's decision was about the proceedings? - Yes.

What was it? - That no further proceedings could be taken.

Do you know when that decision was made? - Only very roughly -- I think it was in October of that year.

Now, would you look at another document which I think has been circulated, it is DFU3A; it may also be D82/L; now, do you recognise that document? - Yes, I do.

It is dated llth November, l99l? - Yes.

And it is a report internally from Hughes to Detective Superintendent, CID; who was that? - That was Detective Superintendent John Miller.

Did this pass through your hands? - Yes.

Is that normal? - Yes.

Why would Hughes choose to refer it to Detective Superintendent? - Detective Sergeant Hughes would refer it to me and I would refer it to my immediate supervisor.

Why would Hughes address it to Detective Superintendent? - It is very normal practice within the Department within the police.

The date of llth November, does that indicate to us whether the Fiscal has already dealt with it or not? - It does indicate from Mr. Miller's notation what he believes the decision was but I am not sure.

I think if you go to the second page, I think in the second-last paragraph it says "The Procurator-Fiscal at Stirling has not yet decided on whether or not he will proceed with the case against Hamilton/

Hamilton but at the moment it appears in all likelihood that he will not"? - Yes.

That is the llth November so it may have been into November before you actually knew the Fiscal's final decision? - Yes, it may have been.

Now, can you read the heading first of all of this? - Yes. "Firearms Certificate - Thomas Watt Hamilton born l0/5/52, 7 Kent Road, Stirling".

Would you then read the text of what Hughes reported to you for onward transmission to the Superintendent? - "I refer to the above and have to report as follows. On Tuesday, 23rd July, l99l the Child Protection Unit, Bannockburn, became involved in an investigation surrounding allegations regarding the above-named's treatment of a group of children whom he had taken on a summer holiday camp to Loch Lomond. Hamilton is a self-styled 'youth leader' and as such runs boys' clubs in Dunblane, Stirling and Dunfermline. During the course of my investigation I discovered that Hamilton was no stranger to controversy and similar investigations had been undertaken by this and Strathclyde Police Forces in the past. Hamilton also features in local criminal Intelligence files. Throughout my investigation I met and spoke with Hamilton on a number of occasions. It is as a result of the impressions left with me by this man that I feel compelled to make this report. I have recently discovered that Hamilton possesses a firearms certificate which indicates that he owns a 9mm Browning pistol and a .357 Smith and Wesson revolver. He also has permission to acquire a .22 rifle and a 7.62 rifle. This concerns me. I am firmly of the opinion that Hamilton is an unsavoury character and an unstable personality. It emerged from enquiries that he, during the course of the first week of camp, seemed to become increasingly stressed and had difficulty managing the group. It was during one such moment that he became extremely angry and assaulted one of the boys. This particular child was in fact assaulted three times by Hamilton during the first few days of the holiday and was eventually removed by his parents. Furthermore, allegations were made, albeit uncorroborated, by one of the children that Hamilton induced the child to pose in various compromising positions, scantily clad in extremely ill-fitting swimming/

swimming trunks for photographs. To date these photographs have not been recovered but neither I nor the officer who interviewed the child have any reason to disbelieve that the allegations are in fact wholly true. Convincing corroborated evidence was uncovered which confirms that two boxes containing approximately 36 slides each have not been recovered by the police despite Hamilton's claims that he handed over all of the photographs taken. Mr. Hamilton has been reported to the Procurator-Fiscal in this regard for obstructing the police. The foregoing report, in part, conveys some of the concerns which I harbour about this man. I firmly believe that he has an extremely unhealthy interest in young boys which to a degree appears to have been controlled to date. It is his ploy, whenever challenged, to engage in 'smokescreen' tactics which divert attention from the focal issue and this is the purpose for the profusion of correspondence to MPs, Procurator-Fiscal, the Chief Constable and the like. I would contend that Mr. Hamilton will be a risk to children whenever he has access to them and that he appears to me to be an unsuitable person to possess a firearms certificate in view of the number of occasions he has come to the adverse attention of the police and his apparent instability. The Procurator-Fiscal at Stirling has not yet decided on whether or not he will proceed with the case against Hamilton but at the moment it appears in all likelihood that he will not. I respectfully request that serious consideration is given to withdrawing this man's firearms certificate as a precautionary measure as it is my opinion that he is a scheming, devious and deceitful individual who is not to be trusted" and it is signed Paul Hughes, Detective Sergeant.

2.25 p.m.

Now, you then added your own view and signed it on the same day, 11th November, 1991?
- Yes.

And what did you say? - My notation says, "Sir, a difficult situation. I do agree with D.S. Hughes' appraisal of Mr. Hamilton. Do we have any latitude for progress in respect of the revocation of his Certificate?"

And of course "revocation" is the right expression to use in this context; is that correct? - Yes.

You then passed that to "Sir", who was Mr. Miller? - Yes.

And Mr. Miller has added his views before sending it to the DCC, the Deputy Chief Constable? - Yes.

What did Mr. Miller say? - "DCC, while appreciating D.S. Hughes' concern I cannot recommend the action proposed for obvious reasons, i.e. Hamilton has not been convicted of crime, and it seems the PF is likely to 'no pro' the recently reported case".

We will hear from the Deputy Chief Constable in due course, but can you tell us what decision he made in relation to this? - The report was later returned with that no action would be taken.

Do you remember when that was, or does it tell us on the report? - It tells me. There is a Deputy Chief Constable's stamp with "No Action" on it, signed by him, and although it is a bit faded I think it is on the 19th of November.

This is on the front of the Production? - Yes.

In general terms what were your responsibilities at that time in relation to firearms -- that is you personally? - Only really in the investigation of firearms offences, not in firearm certification.

And/

And did Hughes have any responsibilities in relation to firearms? - None at all, other than in investigating crime.

And what about Miller? - The same. He was head of the Criminal Investigation Department.

So this is an example of an investigation into something which is not directly a firearms matter, leading to a report to the officer responsible for firearms matters? - Yes.

Asking him to look at a Firearms Certificate? - Yes.

Now, in what circumstances, in general terms, would a report be made to the Deputy Chief Constable of something that is not, on the face of it, a firearms matter, inviting him to consider it in a firearms context? - If I understand the question, the circumstances where we would have a concern in a matter that was outwith our field of expertise, and that we would pass it to him, as his area of expertise or responsibility.

Let us assume I am driving along and you catch me with a lot of drink in my system when I am driving, and I am convicted, and you know I have got a Firearms Certificate. Would you bother telling the firearms officers or those responsible for firearms about that? - If I was the officer concerned in reporting that case, that type of offence would go to our SCRO office, who conduct a safety check, and it would eventually find its way to the firearms file, as I understand it.

So your understanding is that a firearms investigation would throw up anything that was recorded in criminal records? - Yes.

But let's look at it from the revocation point of view for the moment, where something has to be initiated by the police rather than simply renewal of an application, which has to be initiated by the applicant. In that connection would your knowledge of my conviction for drink driving go to the firearms officers automatically for them to look at, or would it simply get to them by chance if they happened to check criminal records? - Not by chance. The system should ensure that if you have a/

a Firearms Certificate and you are convicted of such an offence, the system will ensure that it gets to the Firearms Department and the firearms file.

Well, can you tell me how that would happen? - As I understand it -- it is not my area of expertise till the last seven months -- that the report would be submitted on what we would call an RS2A, which is a blue form which goes with the report to the Procurator-Fiscal. It would go to our SCRO, our Scottish Criminal Records Office within Headquarters, and that SCRO record would be updated within the Scottish Criminal Records file for that person -- it has a chapter which refers to whether he is a firearms holder or not, so the system should come together at that point.

And it would then be up to whoever is keeping the criminal records to notify the Firearms Department? - Yes.

And are these criminal records kept in your own office, or are these centralised? - It is a national computer system, which is updated.

And you have someone in your own office who deals with the updating and passing on of information to Firearms? - Yes, within police Headquarters.

And was that the position in 1991? - I believe so, yes.

Now did you have a particular view of the basis -- and by that I mean the statutory basis -- on which it might be open to the Deputy Chief Constable to consider revoking Hamilton's Firearms Certificate in light of this report? - In 1991 I was very unsure of the criteria for revocation. I shared somewhat the concern of D.S. Hughes in his report to me, but to be frank, in 1991 I was not aware of the revocation criteria.

So you weren't endorsing this report on the basis that you could see yourself a statutory basis on which the certificate could be revoked? - No, I didn't have the knowledge for that.

Whose job was it to consider whether there was such a basis in this case? - I feel it is the Firearms/

Firearms Department along with the Deputy Chief.

Were you still in the same position in September, 1993? - Yes.

And at that stage who was in charge of the Child Protection Unit or Family Unit? - An officer by the name of Detective Sergeant Allan Moffat.

Were you alerted to a complaint from a family in 1993 about Hamilton's behaviour in another summer camp? - Yes.

And did you learn of that from Detective Sergeant Moffat? - Yes.

Where was that camp? - Dunblane High School.

And what was the nature of the complaint? - The nature was similar in terms in many respects to Detective Sergeant Hughes' report, which was children wearing -- being scantily clad with black swimming trunks, as well as photography which appeared to be inappropriate, to the parents.

What did you do about that complaint? - I asked Detective Sergeant Moffat to investigate it and to make preliminary enquiry and report back to me.

Did he do that? - Yes, he did.

What did you then do? - I reported back to the Deputy Chief Constable, who was aware of that complaint at that time.

And what did he decide? - He asked me to go with Detective Sergeant Moffat and interview Mr. Hamilton on two main areas, one being the organisation of his committee, and the composition of that committee, and also to make him aware of the complaint that had been received.

And when did you have that interview with Hamilton? - In October of 1993.

And can you tell us what happened in the course of that conversation? - Yes. We called at his/

his home and it was late afternoon of that day, and I conducted an interview with Mr. Hamilton in the living room of his home.

And can you tell us the general terms of the interview? - Yes. I followed the remit given by the Deputy Chief Constable and I spoke to him first of all about the complaint, which brought us on to the method that he ran the club, and the photography sections, and then we went on to the organisation of his committee, which I requested that he supply us with details of people who were on that committee.

And did you get them? - No.

How much time did you allow for him to produce that information? - My recollection was two weeks, but perhaps three weeks, this process went on, with various phone calls to Detective Sergeant Moffat.

And no list of committee members was forthcoming? - No. He eventually said that he didn't see why he should, and he didn't.

So you didn't get one single name? - No.

What impression did you form of Hamilton during that conversation? - It was my first time speaking to him. I formed the impression that the boys' club organisation that we were talking about filled most of his life, and he was quite obsessive about his methods and his manner or his method of organising the exercises within his club, and he was quite persuasive, although I didn't agree with the methods -- he was quite articulate. He was calm, he was extremely evasive when he got to the boys' club committee members, and I felt he was lying at that point.

Did/

2.40 p.m.

Did he make any concessions, accept any criticisms being advanced of the conduct of his clubs? - Not at all.

Of the dress of the boys? - No.

And did you thereafter make a further report to the Depute Chief Constable explaining what you have told us here? - Yes, Detective Sergeant Murphy prepared a memorandum, a record of the enquiry plus the interview and I reported back to the Depute Chief Constable with that report.

On a quite separate matter; you continued to have a senior role in the enquiry into Hamilton's conduct on the l3th March? - Yes.

In that connection you will be familiar with all the efforts that are being made by your officers to unearth information that might be relevant to the enquiry? - Yes.

One of the areas of enquiry has been centred on Linlithgow Police Office to establish whether or not a complaint was made by either Doreen Haggar or Janet Reilly of an incident where Hamilton may have presented a firearm? - Yes.

Do you know whether that enquiry has managed to identify all the Lothian and Borders officers who served at Linlithgow at the time that this incident may have taken place? - Yes, I believe it has.

And have they all been interviewed? - Yes.

Does any of them as far as you can ascertain

remember anything of this incident? - No.

CROSS-EXAMINED BY MR. CAMPBELL: Can we go back please to D82L which is the document of llth November l99l that you were asked certain questions about from Detective Sergeant Hughes. I wonder if I could just try to summarise some of the main features of Detective Sergeant Hughes's assessment of Hamilton. Looking at the first page we see that the/

the author was firmly of the opinion that Hamilton was an unsavoury character and an unstable personality, is that correct? - That is correct.

And then at the foot of that page we see that he was the subject of various allegations relating to inducing children to pose in compromising positions when scantily clad in extremely ill-fitting swimming trunks for photographs, which allegations the officer had no reason to believe were untrue? - Yes.

And then over the page did Detective Sergeant Hughes record that he firmly believes that Hamilton has an extremely unhealthy interest in young boys, is that correct? - Yes.

And that he engages, whenever challenged, in smokescreen tactics which divert attention from the focal issue, is that correct? - Yes.

He expresses the view that he contends that Mr. Hamilton will be a risk to children whenever he has access to them and that he appears to Detective Sergeant Hughes to be an unsuitable person to possess a firearms certificate. Do you see that? - Yes.

Now, would you agree with me that whatever else it is a matter of commonsense that a person such as this should not be permitted lawfully to possess firearms? - I don't know if I can give you a Yes or a No to that. There was only one point of the bullet points you have taken out of that report that I particularly explored in depth with Detective Sergeant Hughes. We discussed the whole of the document and it was felt where..... I am just trying to look for it. The unstable..... where he refers to Hamilton as being unstable, an unstable personality, we did discuss that at length and Detective Sergeant Hughes, who is a very able officer, explained to me that that was based on the activities or actions by Hamilton at the camp at Milarrochy Bay and he was describing at that point his reaction to dealing with a number of children which he couldn't cope with the number and that had in his view then resulted in him assaulting the child concerned. That is his understanding or that was my understanding of my conversation on unstable. At/

At that point I agreed with his concerns and I supported him in the report to pass it on to our Detective Superintendent and then to the Depute Chief Constable and quite rightly the question whether Hamilton was fit and proper to have a firearms certificate.

What I am asking you is this; would you agree with me that if this assessment of Hamilton is accurate it is quite clear that Hamilton was a person who should not have been permitted lawful possession of firearms? - No, I am afraid I would not agree. I would agree that the question had to be asked.

What is your view? Was it your view that he was a suitable person to have lawful possession of firearms notwithstanding this assessment? - No, I was concerned that there was a question about his fit and proper authority to have a firearm. I was concerned that the question had to be asked and further enquiry had to be made.

I am asking you what your view, your view, was given this assessment as to whether or not Hamilton was a fit and proper person to have a firearm? - I can't give you a view on Hamilton being fit and proper because in l99l I am depending on Detective Sergeant Hughes's report and his report to me and the best I can do and say to you is that in his report to me I could find no reason why he was not right but I can't say that Hamilton was not fit and proper.

Come now. This is not a difficult matter. We have just been through the various elements of his character assessment with which you tell us you agree. That he was an unsavoury character, that he had an unstable personality, that he was the subject of complaints about indecent behaviour towards children which appear to be well-founded, that he had an unhealthy interest in boys and that he was a risk to children whenever he had access to them and he was, you are also told, scheming, devious and deceitful. It is not a particularly difficult matter, is it? In your view is such a person suitable to be given lawful possession of firearms? - No, I would agree with you, that if he was an unstable personality I would agree with that, that he was not fit and proper but I/

I can't say he was of unstable personality. I had no connection with Hamilton at that time. I had never spoken to him personally. It was second opinion or second-hand information from Detective Sergeant Hughes.

So can you at least agree with this; that if Detective Sergeant Hughes's assessment was accurate then Hamilton should not have been permitted lawful possession of firearms? - If Detective Sergeant Hughes is correct in saying he is an unstable personality, yes, I do agree.

What about being a risk to children whenever he has access to them? - I know this is maybe an unpopular viewpoint but it depends what the risk to the children is and that is the problem for me in l99l to make that decision because I was not aware and I had no experience in the field of firearms certification.

Well, what about the last line, scheming, devious and deceitful individual. In your view, is this the kind of person who should be given firearms? - In my view?

Yes? - It is where he is a risk to public safety or he is a danger to the public.

Yes? - I know numerous people who are scheming, devious and deceitful, but I don't know if that allows us to revoke firearms certificates and I certainly don't know that in l99l.

Do you know many scheming, devious and deceitful people who have firearms certificates? - Not that I can think of, no.

You were asked about the statutory basis but would you not agree with me that this is just a matter of commonsense? The essence of it is to make a judgment as to whether a person is or is not the kind of person who should be given firearms on a lawful basis? - As I understand it, it is people of unsound mind, prohibited persons and intemperate people that form the basis of people who should not have firearms certificates under the legislation. It may be commonsense as well but there is the legislative side of it as I understand it.

If/

If a person is a liar is he a fit and proper person to have firearms? - I don't think that if a person is a liar that is the one and only basis for taking a firearms certificate off someone.

Well, it will give you a very serious question mark as to the extent to which you can trust anything he says, wouldn't it? - Absolutely and that is what I was saying about Hamilton in l99l. I shared the concerns.

Is it not a feature of our licensing regime that there is a degree of trust, that when people make a declaration they are telling the truth? - Yes.

So if somebody is a proven liar why should you trust what he says when applying for a firearms certificate? - The question you asked me is if a man is a liar or a person is a liar should he have a firearms certificate.

Yes, what is your view on that? - Well, I would contend that numerous people, perhaps the majority of people in their lives become a liar at some point in time.

Yes, let's assume I have become a liar and I applied for a firearms certificate and you know I am a liar. Would it be your view that I should get one? - I would report that I thought you to be deceitful and it would be part of the reason why you should not get a firearms certificate.

So if I was applying to you for a firearms certificate and you knew that I was a deceitful liar, your view would be that I should not get a firearms certificate? Am I right? - It would be part of the reason I would argue that you should not, yes.

Now, in l993 when you investigated another complaint against Mr. Hamilton you came to the view that he was being extremely evasive and he was lying to you? - Yes.

What action, if any, did you take in relation to his firearms certificate after that? - None.

To/

To your knowledge was any action taken in relation to his firearms certificate after the l993 investigation? - To my knowledge, no.

Was any report or recommendation made in the context of his firearms certificate? - No.

Going back to Detective Sergeant Hughes's memo, would you agree that it is a very clear and unequivocal recommendation that for the reasons set out Hamilton's firearms certificate should be withdrawn? - Yes, he says that he requests serious consideration to that.

And anybody reading that memorandum could be in no doubt as to Detective Sergeant Hughes's view on the matter? - That is correct.

Would you agree that ultimately and tragically Detective Sergeant Hughes was proved to be correct? - That he should not have had a firearms certificate?

Yes? - I don't think anybody could say that or speak against that now.

Just very briefly on the matter of the summer camp in l99l. There is an earlier report to the Fiscal in Dumbarton, D4K. I think you indicated to the learned Advocate Depute that you had had previous discussions with the Fiscal about the case before the report was submitted? - It was a report to the Procurator-Fiscal at Stirling rather than Dumbarton.

I do beg your pardon. That is entirely may fault. I apologise. The Fiscal at Stirling? - Stirling and Detective Sergeant Hughes had had previous conversations and we had had previous contact with the Fiscal.

2.55 p.m.

I noted you as saying "We had had previous discussions". Had you been involved in those discussions? - No. By "we" I meant D.S. Hughes and Central Scotland Police.

Well, no doubt we can ask D.S. Hughes as to what those discussions were about? - Yes.

But the result was, if I followed you, that you felt that, I think abnormally, the report should be accompanied by a personal visit to the Fiscal? - Yes.

And did you make that visit? - No, Detective Sergeant Hughes made that visit as the officer in charge of the case.

Why was it felt that a personal visit was required? - It is not a common occurrence, but it is not uncommon. But I felt that the report was of -- not complexity or sufficient complexity, but it was a report that was better handed over and discussed in regard to the charges. Mr. Hamilton had not been charged. He had been interviewed earlier, and that was always a question that would have to be asked, and I thought it was sufficiently voluminous to be accompanied by a verbal summary; and certainly it was what the Procurator-Fiscal wanted as well.

What was the context of the earlier discussions with the Fiscal; do you know? - Yes. The context was Mr. Hamilton had been investigated before, and that some of the allegations were repeats of allegations which had been made before, and that there was an allegation of assault, which he was alleging was in the form of chastisement for misbehaviour by the child, and that is what he had said in his interview at the camp that particular day. And I felt that was enough -- that was the context of the previous discussions. It then was produced in a report and it was logical to follow it up with a visit.

The opinion that was taken by the Fiscal was that Hamilton should be interviewed? - Yes.

But only on a voluntary basis? - Yes.

Why/

Why only on a voluntary basis? - I don't know.

You didn't receive any explanation for that? - No.

Because the consequence of that was when he refused interview, then you had no authority to compel him? - No.

And did you tell the Fiscal that Hamilton had refused to attend for interview? - Yes, Detective Sergeant Hughes did.

And what was his reaction to that? - I can only assume -- I don't know, but I can only assume that that was the end of the matter and that he had the report, and it was a question of he would deliberate on the matter.

Did it occur to you that if the Fiscal thought it important that Hamilton be interviewed, powers were available to compel Hamilton to attend? - Yes.

CROSS-EXAMINED BY MR. GIBB: Officer, I do appreciate that we all sit here with a degree fo hindsight. Was the Procurator-Fiscal told, as far as you are aware, when Detective Sergeant Hughes submitted his report, that there was a concern about Hamilton's Firearms Certificate and that this prosecution might be a means to an end to get a conviction so that something could be done about the Firearms Certificate? - No, I can't say that. I am almost sure that he wouldn't be aware of that.

He would be? - He wouldn't.

He wouldn't. Do you not think it might have been an idea to say to the Procurator-Fiscal "This man is a concern to us " -- indeed, could he not have seen a copy of your colleague's memo of 11th November -- and he might have formed a different view as to prosecution? - I don't know if he has seen a copy. I don't think he saw a copy of that report, and I am not sure if that would have been part of his decision-making process anyway.

But here we have a man who is a menace, according to your colleague, he is dangerous; but there/

there has never been a conviction, and of course Hamilton is well aware of that. I do appreciate the concern of the Crown about a prosecution here when there was such a plethora of evidence to get through, but do you think perhaps if the Procurator-Fiscal had been advised of the police force's concern about the firearms issue, that there might have been a decision to run a prosecution and see how it went? - As I say, I can only repeat I don't know if that type of thinking would have been part of a reason to proceed against a person. I am not so sure that, according to Detective Superintendent Miller's viewpoint, that a conviction was necessary to get revocation.

But you were concerned -- certainly your note indicates that you were concerned about the issue of revocation without a conviction, obviously? - No, not to my mind.

I thought that was your note? - No. I thought the circumstances were not comprehensive enough but we did not have the knowledge -- meaning I felt Detective Sergeant Hughes and I didn't have the knowledge of firearms revocation, or the criteria for revocation.

And that would be for firearms officers? - Yes.

We will no doubt hear later on as to whether this may be a matter which is taken into consideration by the Procurator-Fiscal, but you are not aware as to whether that might have made any difference or not? - I can't say.

CROSS-EXAMINED BY TAYLOR: I take it you still have B82L in front of you, Sergeant Hughes' memo? - Yes.

To be grammatically correct would it be right that there should be a questionmark at the end of your manuscript note? - Yes.

So you are really posing a question for those senior to you? - Yes, I am.

And with more experience in this field than you? - Yes.

At/

At the time when this report was put up to your superior officers did you have any feel for what the likely outcome was going to be in relation to the firearms issue? - Yes. I spoke with Detective Superintendent Miller, who occupies the next office to me -- or did at that time -- and handed it to him and explained our views, our concern, and he felt that it was unlikely that the Deputy Chief Constable would support any revocation, given the information that we had given to Detective Superintendent Miller at that point.

And did that expression of view surprise you when you heard it? - No, it didn't.

And can you say why it didn't? - From my limited knowledge -- and it was very limited knowledge -- of firearms certification, and of people having, or observing people having their certificates revoked -- that the likely answer was going to be that there wasn't enough information there, or enough evidence.

And have I understood you correctly that the aspect of Sergeant Hughes' report which caused you concern in relation to the firearms was the unstable personality statement? - Yes, I felt that -- I mean, I don't want to say it was over-stated, but what I felt was that his description of unstable personality was based on the assumed circumstances within the summer camp, and it made me question how could he come to that. I fully supported him in his question of the situation, and in my personal opinion he should have questioned it -- I fully supported that 100 per cent. I just felt that we probably did not have enough at that point in time.

You have told us that you subsequently met with Mr. Hamilton at his house. Can you describe his house to us? - Yes. It was in 1993. It was probably a touch tidier than we found it on the 13th of March, 1996. It was more of a lived-in type of house, whereas on the 13th it was quite a cold house with no ornaments or pictures on the walls. It looked very tidy. It looked like he kept the domestic side of his life intact. I think in fact he offered us tea at the time, although we refused it. I felt there was nothing abnormal about the house.

How/

How long did you stay there? - It was quite a tedious interview. It was well over two hours, probably nearer two and a half hours.

How did Mr. Hamilton react to the interview which you had with him? - He was very calm, very composed, given the nature of the complaint, or what I would have thought would have been a reaction of being quite nervous. He sat in an armchair and was questioned by me and Detective Sergeant Moffat for two and a half hours, and never moved out the armchair -- but very calm, very polite.

What were the allegations which you were putting to him? - That there was some sort of impropriety or inappropriate behaviour towards young boys in the camp; that he had taken photographs which were inappropriate; and the underlying, I would have thought clear intention of our question was perhaps some sort of sexual illegality.

And when you put to him the concerns which you had about his camp, how did he respond to these? - He was very articulate. If I asked him a short question he would spend the next two or three minutes answering it, and I would get a litany of why it was good for the boys to undergo these methods of training. And even when I said "Well, if it was children of my own I would see that as not the type of method I would like my children to undergo", he would try and then persuade me otherwise, and although I didn't agree with him, he was actually quite persuasive in his argument. I got the feeling that he had argued very many times about the same question.

If Sergeant Hughes' memo had been presented to you in 1993 after you had had your meeting with Mr. Hamilton, as opposed to in 1991, would the manuscript note which you have appended to the 1991 memo be any different in 1993? - No.

After the interview which you conducted with Mr. Hamilton did you have to report back to Mr. McMurdo? - Yes, I did. He had specifically asked for me to come back and brief him on the conduct of the interview and the result of the interview. I did that later on.

And/

And did you convey to Mr. McMurdo any view about Mr. Hamilton perhaps different from that which had been expressed in the past? - No. In fact, when I described the interview with Mr. Hamilton Mr. McMurdo commented that it was the same opinion that he had had of him in an interview that he had had in the past.

You have told us I think that for the past seven months you have had some experience in firearms certification; is that correct? - Yes.

If you were now asked whether you considered the behaviour of Mr. Hamilton at the 1991 summer camp to justify revocation, what would your view be? - It is very difficult. I think my view would still be that given Detective Sergeant Hughes' report, and given my notation at the end of it, I think it would still have been very problematic to revoke the certificate.

After having met with him were you more inclined to consider a revocation than before you had met with him? - After I spoke to him, having had personal experience of him I would have had to question the phrase of "unstable". He was evasive, he obviously didn't want to tell us who his committee members were. I am firmly of the opinion there was no committee members, so he was lying, and I thought at that time in 1993 that perhaps he was still a risk to children in regard to the methods he used, and a potential that there may have been some sort of illegality, but it was very difficult to come to an opinion on this man.

From the discussions which you had with him in 1993 did you form the view that he was unstable? - No.

You were asked some questions in relation to whether a liar ought to be somebody who is entitled to have a Firearms Certificate. Can I just explore that with you a little bit. When an applicant puts in an application either for a Firearms Certificate to be awarded for the first time, or for renewal of the Firearms Certificate, do the police just take it at face value what is stated in the application form? - No, not at all.

So if somebody was trying to pull the wool over/

over your eyes in completing the application form and being untruthful, would you expect the Police Force to be able to uncover that untruth? - Yes. The protective measures within the system should uncover that.

And you were also asked some questions in relation to the 1993 interview, and as to whether you had made a report in relation to firearms. Can you tell me who it was in 1993 had the responsibility for firearms within Central Scotland Police Force? - Ultimately the Deputy Chief Constable.

And he was fully aware, as I understand it, from your evidence, of the investigations which you were undertaking at that time? - Yes, he was.

We have heard at this Inquiry of the considerable police effort which has gone into the investigation of the events of the 13th. Would it be fair to say that you have been involved in a central role in these investigations? - Yes, I have assisted the senior investigating officer.

And have these investigations centred largely upon trying to uncover the background of Mr. Hamilton and his conduct in the events leading up to the 13th? - Yes.

Over what sort of period have you investigated? - We have looked at the whole of his lifetime, and certainly in very fine detail from his leaving school to the 13th of March.

And having carried out such an investigation are you able to say what conclusion you drew in relation to Mr. Hamilton's criminality or sexuality prior to the 13th? - Yes. My opinion from the investigation that is still ongoing is that clearly we can find no -- other than the common law assault case of slapping, no corroborated, or even uncorroborated acts of violence. The sexuality of Mr. Hamilton, it appears that we cannot find any evidence of whether his own sexuality was of homosexuality, or heterosexuality. We have interviewed very many people in regard to the running of the boys' clubs. We have, other than I think it is two isolated statements many years ago -- and I think the Inquiry has already heard from them -- we cannot find any person or persons who can give us a statement of, or describe, acts of sexuality against young boys or children. We do believe that there has been innuendo and rumour about Mr. Hamilton, principally because of his own odd method of running, and his inappropriate method and inappropriate photography. That would be my opinion of Mr. Hamilton at this moment of time.

3.15 p.m.

RE-EXAMINED BY MR. BONOMY: When you visited Hamilton's house were there any pictures on the walls showing young boys? - Not in 1993.

You were asked some questions there about revocation and you indicated current experience in firearms. What is your position in relation to firearms experience now? - Since August of 1995 it is still limited experience. I described, in relation to the post of local unit commander at Stirling and superintendent experience of renewals and grants, the system of the inquiry also went into grant or renewal and comes up through the supervisor. The paperwork will then reach my desk and I will process it to the firearms authority with out recommendation.

That would include revocation then as well as renewal and grant, does it? - Yes.

If something came to the attention of the Stirling unit it would come up through you for onwards transmission to the Firearms Department, would it? - Yes.

Now, the basis on which a firearms certificate might be revoked is what? - As I understand it it would be a person who is prohibited from obtaining or possessing a firearm. Revocation would probably come in the terms of unsound mind or intemperate habits or that type of circumstances or the conviction of a crime.

The section actually includes provision "Or is otherwise unfitted to be entrusted with such a firearm"? - Yes.

Is that not a very general provision? - It certainly sounds and reads very general.

Taking these words, "otherwise unfitted to be entrusted with such a firearm", and thinking back to the question Mr. Taylor put to you about the position by 1993, would you say it was still problematic in 1993? - Yes, I still think the position in 1991 where we questioned his fitness and quite rightly so and in 1993 the Depute Chief Constable was aware of the inquiry ongoing.

But/

But your word was "problematic". Is that a word you say still applied to the situation by 1993? - I'm sorry. Yes, it would be.

That word can be applied to determining the question whether you can be satisfied that Hamilton was of intemperate habit or unsound mind or otherwise unfitted to be entrusted with a firearm, is that right? - Yes.

Now, if the situation is problematic, your expression, which way do you go? Do you revoke it or do you refrain from revoking it? - Certainly at my level and my position in the police, I would question it and I would leave it to the officer in charge of the Firearms Department to revoke it or to go for it.

So that means we are putting the question to the wrong person? - Yes.

You have also been asked a lot of questions since I sat down about the circumstances or at least the view you formed following on Hughes report. You have provided a statement to your own officers who were investigating the case because you had played this role in the past? - Yes.

And therefore you were a witness, not just a senior investigating officer? - Yes.

Can I take it you are familiar with the terms of your statement and would have seen it fairly recently, have you? - Yes.

One of the things you say in the statement is that you believed our recommendation, and you are referring to Hughes and yourself, was based on Hamilton not being a fit and proper person to hold firearms authority? - Yes.

Well, was that your belief? - Yes, I was questioning whether he was a fit and proper person.

These are two separate concepts I think, a belief and a question. Now, which was it? Were you questioning it, his fitness, or did you believe he was unfit? - No, I was questioning it.

So/

So the statement is inaccurate? - It may be badly written but the intent of that statement is that I was questioning the man's authority to have a firearm.

So your expression "I believed our recommendation was based on Hamilton not being a fit and proper person to hold firearms authority", is that an inaccurate record of what you actually felt? - I wrote the statement and certainly what I meant by writing that statement is that I was questioning his being fit and proper.

PAUL HUGHES (Recalled),

LORD CULLEN: You are still on oath.

EXAMINED BY MR. BONOMY: When you were last here you were dealing with Hamilton's financial position? - That is correct, yes.

And before I go any further, can I ask you if you have further information as yet about the money Hamilton got from selling his business, Woodcraft, and the money he got from an insurance claim for his boat at Loch Lomond? - Yes, some further inquiry was carried out in regard to that and a subsequent report was sent to the Fiscal. I believe at the time that the business was sold Hamilton was some £16,000 in overdraft at that time. I would have to refresh my memory.

Do you remember whether the net effect was that he got about £11,000 from selling the business? - Yes, I think that is correct.

When he had paid his debts he was £11,000 richer? - That is correct, yes.

And do you remember he got about £26,000 for the insurance claim? - Yes.

Now, has anything been done yet or is it still being

done to try and establish how that money disappeared? - In order for the bank, as I understand/

understand it, to examine individual transactions, it will take some time for us to get access to the individual transactions and that is an inquiry that we are awaiting the result from the Fiscal about.

So that may be updated in due course and is an ongoing investigation? - Yes.

But is it fair to say that he would appear in the mid 1980s to have had an amount, a fairly substantial amount, of capital and by the 13th March he had nothing more or less? - That is correct.

Now, can I turn to other matters. I think that you are now a Chief Inspector? - Yes.

And you are based at Police Headquarters? - Yes.

What are your particular responsibilities there? - I am currently head of the Community Safety Department which is based in Police Headquarters.

Is that a Headquarters unit rather than the sort of Stirling local unit? - Yes, that is a Headquarters function.

In 1991, 1992 and 1993 what was your position? - I was a Detective Sergeant in charge of the Force Child Protection Unit at Bannockburn.

That is now called the Family Unit? - That is correct.

Since when? - Since I think 1994 or 1995. I think it was 1995.

In that connection, on the 23rd July, 1991 you became aware of a complaint made by one parent in particular about Hamilton's camp at Milarrochy Bay? - That is correct.

And that was a camp which he was running between

the 14th and the 28th July? - Yes.

Had you heard of Hamilton by that time? - I didn't know him.

You/

You were in the Family Unit or the Child Protection Unit, is that right? - Yes.

But you didn't actually know of him? - I didn't know him at that time, no.

You will appreciate I am just trying to get the facts of the matter at the moment before we look more deeply at it. Can I take it that means that if there was any intelligence circulating somewhere within Central about him, it never came to you? - I never saw any intelligence prior to that.

Would it be appropriate for you to go looking for intelligence or is there a system whereby it is supposed to come to you as the person in charge of such a unit? - There is a unit which deals with crime intelligence and criminal intelligence. If it is historical information it is on file within that department. If it is new information and if it is felt appropriate to circulate to the Force then it can be done by way of internal bulletin.

And would the trigger for you looking at criminal intelligence files be a name into whom you are investigating? - Yes.

So you would have no reason to go checking generally until a name cropped up and was the subject of one of your investigations? - Something would bring a matter to my attention and I would then perhaps look for information regarding it.

If, however, during your period in charge, another office in your Force or in an outside Force had occasion to report intelligence relating to a potential child abuse, would that automatically come to you as head of the Child Protection Unit? - In all probability it would come to me.

In carrying out investigations in 1991 did the police normally enlist the assistance of any other agency? - The Social Work Department at that time.

Was that a matter of policy? - That was/

was a policy matter.

Is that still a matter of policy? - Yes.

Who did you assign to the task of investigating the complaint about the camp? - One of the detective constables, Detective Constable Grant Kirk, was instructed initially along with a Social Work colleague. The Social Work colleague who was allocated it was Ron Keenan who was based at Stirling.

What did their investigation turn up in relation to the complaints? What was the nature of the complaint as they established it? - Apparently the complaint which was known at that time was an assault. There was also concern about some video material that Hamilton had been taking although that was not the principal complaint of the mother. The police officer and social worker attended at the camp and interviewed Hamilton regarding the allegation of assault under caution and he made a statement effectively admitting the assault.

Now, apart from these elements of the complaint, can you remember whether the issue of the wearing of small black swimming trunks arose? - Yes, that was mentioned at the time as well.

Did anything arise about suntan oil? - My recollection is that it did at some point during the course of the investigation but I can't recall quite whether it did at that time or not.

Now, you became directly involved in the investigation yourself? - I did, yes.

What triggered that? - It was a peculiar case. I felt that Detective Constable Kirk would require some assistance with the matter and I was a bit concerned about some of the allegations and as

time went on I began to learn a bit more about Hamilton and that the case might be a problematic one to deal with given the previous involvement he had had with the police.

What did you learn? - I learned that he was likely to complain about the police, that he was/

was likely to pay close attention to everything that the police were likely to do in the course of the investigation and that he would in all probability be a difficult character to deal with. So I decided to become involved myself.

Did anyone actually go to the camp? - On day one?

Yes? - Yes, D.C. Kirk.

That was the 23rd July? - Yes.

Did you go at any stage? - Yes, I returned to the camp I think on the Thursday which was the 25th July.

Do you mean returned? Was that your first visit? - That was my first visit. I went with D.C. Kirk at that time.

Was D.C. Kirk first of all able to establish whether there was any other assistance for Hamilton running the camp? - He was able to establish that a man by the name of William Brown had arrived the day before D.C. Kirk's initial attendance but he had only arrived on the Monday, the day before.

I think he is now dead? - That is correct, yes.

By the time D.C. Kirk had completed his investigations at the camp, did he have information in relation to a number of potential offences, what might be viewed as offences? - Yes.

Can you tell us what these were? - Well, there were concerns about the assault, there were concerns raised about the nature of photographs that had been taken and there was also concern about a trip that had been taken during the course of the same camp where the children had been taken to an island and had

been forced to take part in making a video film which was to have a theme along the lines of "Lord of the Flies". One child in particular was forced to lie in cold water against his wishes at that time and there were also some concerns about the fact that a rain shower had made the children feel rather cold and they were only dressed in swimming/

swimming trunks at the time and Hamilton prevented them from putting their clothes on.

And you have told us that D.C. Kirk actually interviewed Mr. Hamilton under caution? - Yes, initially in regard to the initial complaint regarding the assault.

Is it right to say that Hamilton admitted slapping the child who was the subject of the original complaint across the face? - Yes.

Did he try to justify that? - He did.

By saying what? - He maintained that the boy was disruptive, that he was a bully, that he had assaulted another child and he had thrown a stone which had struck another child in the eye and the child basically required chastisement.

Did he also admit slapping the same child across the back of the leg? - That is correct.

How did he try to justify that? - By having already administered chastisement to the child, he returned to the football park at that point and did the same thing again so he felt that he required further chastisement.

Did he also admit that he had grabbed that boy and shaken him? - I think he denied that actually. He admitted grabbing the boy but denied shaking him.

Once the statement was taken did Hamilton sign it? - He refused to sign it.

When you went on the 25th July, what was your principal reason for going? - Hamilton had been asked to surrender

at that time photographic equipment and photographs, negatives, that he had taken but obviously.....he had ultimately agreed to this although he was a bit obstructive initially and camera equipment was taken possession of.

Was that by D.C. Kirk? - Yes. I went along to return the camera equipment and also to meet Hamilton and have a look for myself at the circumstances of the camp.

Had/

Had the camera equipment been taken with Hamilton's permission? - Yes.

And had he been asked to provide or produce photographs which he had taken? - Yes.

What was his attitude to the request to produce photographs? - He denied that there had been any photographs, still photographs, taken.

Did he deny that to you as well as to D.C. Kirk? - He did, yes.

When you were there was there anything about the way the camp was being run that caused you concern? - Yes, I immediately became concerned about the levels of supervision at the camp. I think there was about a dozen boys there at the time but when I arrived at the actual camp area there were possibly five or six laddies running around in the camp area. There were others who were not within the line of sight of the camp and I asked where they were and Hamilton didn't know at that time. I questioned some of the other children that were running about at the time and they said some of the boys were down at the jetty which was some 400 or 500 yards away from where the camp was situated. It was not in clear view of the camp and it took me three or four minutes to walk from the camp site down to the jetty and when I got there I was concerned that a number of these laddies were playing on the boat, Hamilton's boat, jumping from the jetty into the boat and back out again. Clearly they were not being supervised. There was deep water there and none of them were wearing life jackets and I think the youngest child was just six years of age. When I questioned Hamilton, obviously he didn't know

the children were there. If anything had happened at the jetty it would have been some time before he would have been able to react to it or find out about it in the first place and then be able to react to it and I pointed these matters out to him and I rounded up the boys and took them back to the camp site.

What was Hamilton's reaction when you pointed out these things? - He was of the view at the time that everything was okay, that the children were capable of looking after themselves and he would have been able to provide any assistance/

assistance had any accident occurred. He maintained he was experienced in these matters.

Did you take action that day at all? - In regard to.....?

The camp and Hamilton. Did you take any action? - We had already contacted the parents and made them aware of our concerns and the allegations that had been made. That was done on the first day. Given the position on the Tuesday when D.C. Kirk had attended, we advised the parents of our concerns and basically left the decision to the parents on whether or not they felt it was appropriate for their child to stay there.

And/

3.40 p.m.

And did any of them remove their children? - I believe some did, yes.

Now, you interviewed these boys in due course? - Well, I interviewed some of them.

When was that done? - That was Monday, 29th July.

And was that in the presence of their parents? - Yes.

Arising out of these interviews was there any particular concern you had about the photography? - Yes.

What was that? - There was one boy in particular who maintained that he had been taken alone to an individual tent by Hamilton and had been photographed within the tent. This was the one and only mention of any child having been asked to wear red-coloured swimming trunks, and it was the contents of this boys statement that I found particularly concerning about the motives for the photographs.

And in the course of your work did you have some training in trying to detect signs of particular tendencies among adults that were the subject of complaints to you? - Some training, but

mainly experience, I think.

And what did you make of this particular episode in indicating Hamilton's character? - I felt at the time that this boy had been singled out for special treatment and was perhaps being groomed for future abuse.

Did you quiz Hamilton about this? - Yes.

What was his explanation? - He denied it.

Did he deny taking the photographs? - He denied taking the photographs, yes.

Now, did you ever get any photographs off/

off Hamilton? - Yes.

When? - On Tuesday, 30th July Hamilton came to Bannockburn Police Office to see me.

And what did he hand in? - He handed me six boxes of slides and a packet of photographs, and he told me at that time that there was one other box of slides in for processing at that time, which he was still awaiting.

So how many photos did you get? - I think at that time there was about 150 still photographs.

And did you get the other box that was in for processing? - Eventually Hamilton came back to me and handed that one in as well.

Were there many photographs of the boy you have mentioned? - Yes, there was a great deal of photographs of the one boy.

Were any of the photographs indecent? - No.

Can you tell us what they were like generally? - The majority of the photographs -- they were quite varied, but there

were a great number of the one boy in particular, and it was clear that this particular laddie was a favourite. He seemed to get a lot of plum jobs on the camp, he got to drive the boat, and he was the one who was selected I think by Hamilton as one of his leaders, the boys' clubs leaders. There were a number of photographs, group photographs and individual photographs -- some children obviously wearing suntan lotion, beach photographs, photographs of camp fires, and there were a good deal of close-up type photographs of just head shots of children as well.

Did you try to find out more about the question whether there were other photographs that hadn't been handed over to you? - Yes.

Who did you go to? - I went to the local shop in Stirling, Kilpatrick's.

Is/

Is that where Hamilton got his photographs developed? - Well, I didn't know that at the time. I just guessed he perhaps had put them there, and I went to make some enquiry and established he had in fact put photographs in there for processing.

How many? - Well, the day he had come to me and handed over six boxes of slides, he had actually been given eight boxes of slides from Kilpatrick that morning.

And did Kilpatrick also confirm that a further box had just arrived for Hamilton? - That is correct.

And did you get that box? - I didn't take possession of it at that time. Hamilton later gave it to me.

So that is the other one Hamilton was talking about? - Yes.

But there were two boxes you never got? - Yes.

Did you also find out a little more from Kilpatrick about concern elsewhere about some of Hamilton's photographs? - I did.

What did you learn from him? - Mr. Kilpatrick told me that he had been contacted by a female at the processing laboratory, the Colour Care processing laboratory in Livingston. The female had contacted him quite unsolicitedly and had expressed concern about the contents of some of the photographs that had been submitted for processing.

Presumably that was in relation to some of the photographs of the eight boxes altogether? - Yes.

And it may or may not be some that you have seen? - Yes.

Can I take it that it was also confirmed that although there were various different poses by boys in black swimming trunks, there were none explicitly indecent, according to the report? - No.

Was/

Was there also an expression of concern made to Strathclyde Police from staff in a shop in Glasgow about some photographs that had gone there for processing? - That is right.

And again were these not overtly obscene? - That is correct.

Again these were photographs that you were not told about in spite of asking Hamilton? - That is correct.

In total how many slides and photographs did you get? - I think there were 279 still -- sorry, 279 slides and 72 photographs in total that I eventually had access to.

Were any of them of the youngster wearing red swimming trunks? - No.

So you never saw any of those? - No.

Was there also contact -- this may be the same incident -- but was there contact from a constable in Strathclyde Police concerned about photographs which were being enlarged -- or is that

the same.....? - That is the same incident.

That is the Glasgow one? - Yes. It was quite coincidental.

Now, around this time did you become the target of complaints by Hamilton? - Yes I did.

To whom were these complaints made? - I understood at the time he was writing to the Chief Constable, the Deputy Chief Constable, the MP, the Fiscal, and people like that.

Did you continue with your investigation? - I did.

Did it extend beyond simply investigating the camp? - Yes, it did.

How widely did it go? - I took the opportunity of interviewing some parents of children who attended some of the boys' clubs, just to see if I could unearth any other concerns about Hamilton, but that was largely fruitless.

Did/

Did you thereafter have any contact with Hamilton? - Yes, I had contact with Hamilton on a number of occasions during the course of the investigation. He would telephone me regularly, and he wrote to me regularly as well.

What about interviewing him? - Only on the 30th July at the police office at Bannockburn, when I actually interviewed him. He did call at the police office on one or two occasions beyond that.

Did you, however, in the course of the investigation, want to interview him formally? - Yes I did.

And what arrangement was made for that? - I discussed the matter -- when I was in a position to have all the information regarding my investigation to hand, I was at the stage where it would have been appropriate or desirable to interview Hamilton regarding the full circumstances, but because I was the

subject of a complaint myself at the time I chose to seek some advice on the matter as to how I should approach it, and I discussed it with my colleagues at the time, and I also discussed it with the Fiscal at Stirling.

So when you went to see the Fiscal how much material did you give him? - It was discussed at that particular time.

You didn't have your report? - I hadn't completed my report at that time.

So what was the Fiscal's position about interviewing Hamilton? - That I should invite him to the police office on a voluntary basis, and if he chose to be interviewed then I could interview him, under caution.

What if he didn't? - Then I would submit my report to the Fiscal with all the facts as they were then known.

Are you aware of the reason behind confining interview to interview voluntarily? - Well, no, I am not aware of the reason. I could second-guess that it was perhaps on account of the nature of the report and the fact that I was under the/

the clear impression at the time that it was unlikely that the report would be proceeded with, and I think perhaps that was the reason for the advice that was given to me.

What do you think would be the purpose of any interview? - That I could put the allegations that were being made against Hamilton to him, and give him an opportunity to respond, and interview him under caution, and question him further regarding the missing photographs and the like.

Did you think it would be appropriate in all the circumstances to detain him for that purpose? - Probably under normal circumstances that is exactly how I would have gone about it.

So what was abnormal, apart from the fact that you were the subject of investigation? - That was the.....

That was the abnormality? - That was the abnormality as far as I was concerned. I was a bit guarded, to be perfectly honest, about my contact with him.

Hamilton refused to be interviewed; is that right? - That is correct.

Who was the Fiscal you actually dealt with? - I can't be sure who I spoke to on that occasion. I think it was Mr. Valentine, but I can't be sure. I did have subsequent contact with Mr. Valentine.

In what connection did you speak to Mr. Valentine? - In connection with the issue of whether or not Hamilton should be interviewed at the police office on a basis other than voluntarily.

So was that a second occasion when interview is being considered? - No. I actually had quite a lot of contact with the Fiscal over the course of that investigation, and I spoke with different people. I spoke with Mr. Valentine at some stage, and I spoke, I am sure, with Mr. Gallagher at another stage; and I also spoke with Mr. Coyne, another Depute Fiscal, towards the end of the matter, and I am just not sure who it was I spoke/

spoke to with regard to the issue of the interviewing of Hamilton.

But was it only once you spoke to someone in the Fiscal's office about interviewing Hamilton? - Yes, only once.

And that was before your written support was submitted to the Fiscal's office? - Yes.

And you didn't manage to interview Hamilton? - That is correct.

So you were then in a position to complete your report? - Yes.

Now, would you look at D3K please, which is a large bundle which will be given to you? Is that the report? - Yes, that is correct.

It includes 10 charges that have been drafted against Hamilton? - Yes.

Whose idea was that? - It was my idea.

Was that discussed at all with the Fiscal before you submitted these charges? - I can't recall if it was or not. That is how I would normally prepare a report for the Fiscal.

Including charges? - Yes.

But you hadn't actually charged Hamilton with any of these offences? - No.

When did you discover the Fiscal's decision? - Which decision would that be?

Not to proceed? - That was in November some time -- late November.

Would you just look at the charges please. The first one was a charge relating to all the children in the camp, that they were exposed in a manner likely to cause unnecessary suffering or injury to health? - Yes.

The second, third and fourth charges are charges of assault in relation to the child whose parent/

parent initially complained? - That is correct.

And the fifth one is a breach of the peace. What were the circumstances of that alleged breach of the peace? - Shouting and swearing at the children.

In what sort of way, though -- what had you made of the information you got? - When the children were asking to put their clothes on, and when things weren't going Mr. Hamilton's way with the children, he would resort to shouting at the children and swearing at them.

There are then two more cases or charges of contravening the Children and Young Persons Act, similar to the first charge, one of them relating to all the children being out in their swimming trunks in a rain shower and being extremely cold and upset; is that right? - That is correct.

And the seventh charge is one of assault or ill-treatment under the same Act, in a manner likely to cause unnecessary suffering, by forcing one boy to lie down in cold water on the shores of the island; is that right? - That is correct.

And then there are three charges, to finish, relating to Hamilton's obstruction of your investigation by failing to hand over the photographs? - Yes.

So these are the 10 charges? - Yes.

And then there is a summary of your investigation in there as well; is that correct? - That is correct.

And you I think in there summarise the various things you have been telling us you found out in the course of your investigation; is that right? - Yes.

You also submitted a report relating to Mr. Hamilton's firearms certificate? - Yes.

When did you discover he had a firearms certificate? - I can't be sure about that. It was at some point during the course of my research.

Well,/

Well, could you now have that document, DFU3A, which is also D82L in front of you? Is that the report that you submitted? - That is correct.

And why did you send that in? - Because I was concerned about the fact that Hamilton had a firearms certificate, in view of the feelings that I was left with following my investigation of him.

And what did you hope would happen as a result of that? - The purpose of the report was to bring the matter to the attention of the people in the organisation who deal with firearms certification, to make them aware of the concerns that I certainly felt were about, regarding this man, and that consideration would be given to the revocation of his certificate.

Did you yourself believe it should be revoked? - I think I have said that within the report, yes, on the second page, that I felt that consideration should be given to withdrawing his certificate.

What was your view at that stage about Hamilton's sexual proclivities towards young boys? - I felt that he had -- I suspected, I strongly suspected at the time, that I was dealing with a paedophile, and I suspected that to a degree his tendencies had been controlled, because there was no evidence forthcoming that he had actually physically abused any of the children; but I was concerned at that time that there was perhaps some other children that we didn't know about, or that at some point in the future the tendencies would manifest themselves and there would be physical abuse or sexual abuse in the future.

And what was the pattern you in fact saw from your investigation? - I certainly believed that he had singled one child out. What the reason would be for that I was only able to speculate upon, but it would certainly add to Hamilton's credibility if an allegation was made against him, that out of 25 or so boys only one had made any such allegation against him; and the fact that this child was being singled out for better treatment than some of the other children

seemed to me to be an effort on his part to engage the boy's interest.

What/

4.00 p.m.

What did you make of the violence he had demonstrated according to the information you had got? - I felt that the violence was a reaction during the course of the week. I felt that he had left himself short of staff and was having difficulty controlling the boys in the course of the week and as time went by he became increasingly more stressed and ultimately resulted in resorting to physical assaults.

Losing control of himself? - That is how it appeared.

Did you have any views about whether either sexual tendencies or these indications of violence were likely to go further if left unchecked? - That is a difficult question to answer.

Well, was that in your mind at the time? - It was in my mind at the time, yes, that certainly the sexual aspect I was concerned would develop into some form of actual abuse if it was not already occurring. In regard to the violence aspect, in the context of the assaults that I was dealing with, I didn't consider him at that time to be a particular threat, to be honest. More of a bully I think.

In the statement you provided here you do say that you believed that there was a darker side of his personality and in layman's terms I would have described him then as schizophrenic? - Yes.

"I had strong feelings at that time he was quite capable of violence and did not cope particularly well with stressful situations"? - Yes.

That sound a bit different from what you are saying at the moment? - No, not at all. I did feel that he was capable of violence. I had evidence of it. The use of the word "schizophrenic" in layman's terms was how I saw it. I think that if I could describe it; he presented as the type of person who I would have described to be as like trying to talk to a brick wall to be honest. He had no/

no intention of listening to reason. He had very much his own agenda and I was quite convinced at the time when I was speaking to him that he firmly believed that he was an upstanding pillar of the community and all the investigations and contact that he had in the past before were all designed to undermine him. I also was of the view that what I was dealing with was a paedophile and that somewhere within himself he must have recognised that he was not a pillar of the community and that he was something quite different from that and that is really how I would like to see the word "schizophrenic" seen in that context.

The word paedophile I don't think appears in your report to your senior officers. Did you discuss Hamilton in these terms with them? - I did discuss with DCI Holden regarding that report at the time.

Did you use to him the expression paedophile? - I can't recall if I did or not.

You have already told us that Hamilton was complaining about you. Did that complaint become a formal complaint? - Yes, eventually I think a senior officer was appointed to investigate me.

What were the terms of the complaint? - From memory..... I can't rightly recall. I think he was concerned that I had been spreading gossip and innuendo about him and that I had gone about my business in an unprofessional manner.

Was that investigated by Mr. Ferguson, an Inspector? - Yes, he was a Chief Inspector at that time.

A Chief Inspector, sorry? - Yes.

And were you exonerated from that complaint? - Yes, I was.

Did Hamilton complain about the way Mr. Ferguson carried out the investigation, do you know? - I believe he did, yes.

Do I take it nothing came of that and you remained exonerated? - Yes.

Was/

Was there any justification for any criticism of the way you carried out this investigation or your conduct thereafter? - No, there was not.

CROSS-EXAMINED BY MR. CAMPBELL: Can we just look again briefly at the memorandum you have just been looking at D82L, the memorandum of the llth November l99l? Now, we can read this for ourselves of course but do we see that on the second page, towards the bottom of the large paragraph on that page, you express the view that Hamilton appears to yourself to be an unsuitable person to possess a firearms certificate for the reasons which you set out? - Yes.

And your principal concern was to bring that to the attention of the responsible officers in Central Scotland Police? - Yes.

You have told us that you had discussed the terms of your report with DCI Holden? - Yes.

Did he share your view as to Hamilton's suitability to possess a firearms certificate? - Yes.

Now, in due course, the memorandum having gone up the chain if I can put it that way, according to the memorandum on the front page, the document is stamped I think by the Depute Chief Constable, Mr. McMurdo, "No Action". Do you see that on the front page? - Yes, that is correct.

At any time before that was done did any of your senior officers come to you and ask you to elaborate upon the terms of your report? - No.

I take it that if Mr. McMurdo or anyone else had asked you questions about this you would have expanded upon your report as you have done for us today? - Yes.

Did you receive any explanation from anybody as to why no action was to be taken? - No.

Did you ask for an explanation? - I think I did discuss with DCI Holden about it but he was not aware of the reason behind it either. I was left to assume that a considerable amount was already/

already known about Hamilton and Mr. McMurdo knew Hamilton fairly well with the dealings he had had with him in the past and I assumed with all the circumstances and all the information that was known that that had been taken into account when the decision had been made.

That is an assumption on your part? - That is an assumption on my part, yes.

We know I think that Mr. Hamilton's firearms certificate was renewed the following year in l992. Were you aware of that? - No.

Before that certificate was renewed did anybody come to you and ask you about this report? - No.

Are you aware as to whether this report was placed upon Mr. Hamilton's firearms file? - I wasn't aware.

You don't know one way or the other? - I don't know.

Do I understand correctly that you were prepared to write this report notwithstanding the fact that Hamilton was making some form of complaint against you? - That is correct.

Am I right in thinking that we don't see on the report anywhere "Copy to Firearms File" or anything of that nature? - The word "File" is written on the top right-hand corner. I think I recognise that as Mr. Millar's writing.

To your knowledge, was the Procurator-Fiscal's office in Stirling aware that Hamilton had a firearms certificate? - I have no knowledge of whether they knew that.

Because all of this is going on round about the same time, am I correct, as the discussions with the Fiscal as to the Milarrochy Bay investigation or have I got that wrong? Remember we were talking earlier on about your discussions with the Fiscal following upon your investigations into the Milarrochy Bay camp and eventually that was marked "No Proceedings"? - Yes, I know now that the date that the Fiscal took no proceedings was the l8th/

l8th November. My investigation was complete and my report was delivered to the Fiscal on the 6th September and it was obviously some time after that that I wrote this letter.

Did you say the l8th November was the decision to mark the matter "No proceedings"? - Yes.

That is a week after the date of your memorandum? - Yes.

Would you agree in general terms when we look at this memo that you have set out your views quite clearly in the typescript and we then have two manuscript notes below that on the second page? - Yes.

Would you agree with me that the recommendation appears to be becoming progressively diluted? Just take a moment to read what is said in the two manuscript notes? - My understanding of the comment which is appended by Chief Inspector Holden was that he agreed with my appraisal. I think he knew Hamilton before I did. Certainly nothing indicated to me at the time that he had any disagreement with my appraisal of the situation and he was basically passing it up the line for consideration.

So you didn't understand Chief Inspector Holden to be sounding a cautionary note or anything of that nature? - No, I didn't have that feeling at the time.

Did you have any discussions with Mr. Millar before he wrote the manuscript note at the foot of the page? - No, I don't recall having any discussion. I think perhaps Mr. Holden spoke to him but I didn't.

You see, there is a reference in Mr. Millar's note to what is regarded to be the likelihood that the Procurator-Fiscal would mark the recently reported case "No Proceedings"? - Yes.

Am I correct in understanding that you can't help me as to whether the Fiscal was aware of these parallel procedures relating to the firearms certificate? - I don't know that. I can't help you/

you with that. I am sorry.

You would not know whether anybody further up the chain spoke to the Fiscal about this matter? - No, I would have communicated to Mr. Holden that I was under the impression from the Fiscal that the matter was likely to be not proceeded with and it may be that in fact it probably was the case, although this is an assumption on my part again, that if Mr. Holden had discussed with Mr. Millar regarding that matter he would have told me.

Now, so far as the report to the Fiscal is concerned, was it or did it become apparent in the course of the proceedings that there was a degree of reluctance on the part of the Fiscal to prosecute? - Yes.

4.15 p.m.

When in the investigation did that become apparent? - I think it was towards the end of August that I first had a conversation with the Fiscal regarding the case, and at that time I became aware that Mr. Hamilton was not a stranger to the Fiscal. He seemed to know him at that stage. And I had a discussion with the Fiscal, when I explained the nature of the investigation and the evidence that I had at that time. I can't really remember the exact terms of the conversation, but I remember having a clear impression at the time that it was unlikely that the case would be proceeded with -- I don't know if that answers your question or not?

Well, perhaps I can just follow it up in this way: why did the fact that Hamilton was known to the Fiscal's Service -- why was that relevant to a reluctance to prosecute? - I don't know if that was relevant to the reluctance or not. I merely commented on the fact that the Fiscal seemed to know the person that we were dealing with, and I don't know whether that influenced the decision ultimately or not.

Were you told as to why it was, in all the circumstances, the Fiscal had become wary? - Not in detail -- not in detail, no.

Was this Mr. Valentine? - To the best of my recollection it was, but I can't be certain about that. I know that I had conversations with Mr. Valentine regarding this case.

At any time, either past or -- well, it would have to be thereafter -- but at any time did you receive any explanation as to why the report was being marked "No Proceedings"? - Yes I did.

What was that explanation? - I can't recall again the exact terms of it, but Mr. Coyne, the Fiscal Depute at the time, spoke to me some time after I think the case had been precognosced, and he took the time to read over to me what he had written in regard to the reason for no proceedings being taken, and it was really, I think from memory, that it wasn't felt that it was a particularly serious case or that the charges were a bit -- I don't know -- a bit sort of contrived, perhaps.

Did/

Did you agree with that view? - No, no.

Did you tell the Fiscal that you didn't agree? - I think I had made my feelings about Hamilton known during the course of my investigation, and I think everybody knew how I felt.

You told us towards the end of your evidence to the learned Advocate Depute that talking to Mr. Hamilton was a little bit like talking to a brick wall; that he seemed to be somebody who could lose control of himself was something I think you said at one point? - Well, that was based on the evidence of the assault.

Did he appear to be somebody who was able to cope with a stressful situation? - I got the impression on dealing with him on a number of occasions that he was actually quite angry when I was speaking to him, but he came across as quite calm underneath (sic), so in that respect I suppose he was coping; and I don't underestimate the job of having to look after so many boys on his own. At one point during the course of the week he evidently lost control to a degree, but I mean I don't know, he would maintain that he was acting in loco parentis, and that he was administering discipline and chastisement which was necessary to control a group of children such as the one he was having to care for. And it may well be the case, and obviously was the case, that he was maintaining at that time that he was exercising control and not in effect losing control.

In your statement that was mentioned by the learned Advocate Depute, on the last page you say that you had strong feelings at that time that Hamilton was quite capable of violence? - Yes.

And you go on to say that you felt that he tried to be intimidating in a veiled sort of fashion, and it was perhaps this that gave you most cause for concern on his possession of a Firearms Certificate? - Yes.

If anybody had asked you at the time whether you were concerned about the possibility that Hamilton might become violent, then I take it you would have readily explained this to a superior officer?/

officer? - Yes, in the context of the events that I was dealing with. I never imagined at all that anybody would have been capable of what happened on the 13th of March, and I would like that to be seen in that context.

But whatever else, you did recognise that Hamilton was an unsuitable person to possess a Firearms Certificate? - Yes.

Adjourned until tomorrow at 10 a.m.

.....

EIGHTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

FRIDAY, 7th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayer (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
PAUL HUGHES,	
Further Examined by Mr. Bonomy.....	5
Cross-examined by Mr. Taylor.....	8
Re-examined by Mr. Bonomy.....	21
JANET REILLY,	
Examined by Mr. Bonomy.....	22
Cross-examined by Miss Dunlop.....	29
JOHN PATERSON MILLAR,	
Examined by Mr. Bonomy.....	30
Cross-examined by Miss Dunlop.....	36
Cross-examined by Mr. Gibb.....	42
Cross-examined by Mr. Taylor.....	42
Re-examined by Mr. Bonomy.....	42
MICHAEL MILL,	
Examined by Mr. Bonomy.....	48
Cross-examined by Mr. Taylor.....	52
SANDRA McINALLY,	
Examined by Mr. Bonomy.....	57
Cross-examined by Mr. Jones.....	64
Cross-examined by Mr. Taylor.....	66
WILLIAM DRUMMOND,	
Examined by Mr. Bonomy.....	68

I N D E X (Continued).

ALISTAIR FRANCIS KELLY,
Examined by Mr. Lake..... 74

ALAN MOFFAT,
Examined by Mr. Lake..... 85
Cross-examined by Miss Dunlop..... 106
Cross-examined by Mr. Gibb..... 111
Cross-examined by Mr. Jones..... 114
Cross-examined by Mr. Taylor..... 118
Re-examined by Mr. Lake..... 121

ISOBEL MARTIN,
Examined by Mr. Lake..... 122

FRIDAY, 7th JUNE, 1996.

EIGHTH DAY.

MR. BONOMY: Sir, I appriecate it is for Mr. Taylor to cross-examine now, but overnight two matters have come to my attention on which I think the Inquiry could be assisted by a little further evidence from Mr. Hughes, and I would be grateful I think if I could have the opportunity of asking these questions now so that anyone else can cross-examine on them.

LORD CULLEN: Certainly.

PAUL HUGHES,

FURTHER EXAMINED BY MR. BONOMY: Just two matters I want to ask you about. The first of these is this: when you presented the actual report to the Procurator-Fiscal once you had completed the enquiry in 1991 did you actually hand-deliver it to the Fiscal's Office? - Yes.

And that was on the 6th September, 1991? - That is correct.

Did you discuss it with a Fiscal at that stage? - Briefly, yes.

Who was that? - Mr. Valentine, I believe.

Mr.? - Valentine.

And the second matter is this: could you have a Production before you which is D24J(ii)? Now, copies have actually been provided, I hope, for everyone of this document. Now, what is that document? - This is an internal police memorandum dated the 3rd of July, 1992 regarding a youth camp at Dunblane High School run by Thomas Hamilton.

Now it is from one of your officers; is that right? - It is from a uniform sergeant who was at that time stationed at Dunblane. He wasn't one of my officers at the time.

Now,/

Now, that is Sergeant Fleming? - Yes, that is right.

And who did he send it to? - He sent it to the Chief Superintendent at Stirling at the time.

And he was reporting on the findings in relation to the boys who had run away from the camp at Dunblane High School? - That is correct.

And he gives an account of going up to the school himself; is that right? - Yes, that is correct.

And at the foot of the page he says he was satisfied by the explanation given by Mr. Hamilton? - Yes.

And the Inquiry has already heard about that explanation. Now, on the second page does it say that on the 2nd of July Constable Metcalfe from the Dunfermline Child Unit reported getting a complaint from another parent whose child had gone home from the camp? - Yes, that is correct.

And that Constable Metcalfe already knew about three boys who had run away? - Yes.

Can you also have in front of you D23J(ii)? A copy will be given over to you just now. Now, that has been recovered from, as you will see, the office of the Regional Reporter in Fife Region, whose stamp is on it, is it a report from Fife Constabulary by Constable Metcalfe? - Yes, that is correct.

And at the bottom does it say "Forwarded to the Officer in Charge", Central Scotland Police Child Protection Unit? - Yes, that is correct.

Do you know if that arrived in the Child Protection Unit? - I believe it did.

And I think it has statements from various witnesses attached to it? - Yes.

And it also has some of the correspondence and flyers that Hamilton circulated attached to it? - Yes, that is correct.

Now,/

Now, could you go back to the first document I gave you, which is the D24J(ii)? I think some of your handwriting appears on that document?
- Yes, that is correct.

Could you go to the second page please where it says "Copy to Mr. Harris, Reporter, for information", signed Paul Hughes? - Yes.

So you wrote that? - Yes.

And sent it to the Reporter for Central Region? - Yes.

On the front of that at the top there is handwriting that looks similar to the handwriting with your signature on the second page; is that also your handwriting? - Yes, that is correct.

And the words there are "Copy to PF"? - Yes.

Did you send it to the Procurator-Fiscal? - Yes.

And did that include the various statements and flyers and so on we have just seen, or was it just the note from Sergeant Fleming? - At that time it would probably be the note from Sergeant Fleming that went to the Fiscal. I would have to see the file copy from the Family Unit. I would have endorsed it if it had gone to the Procurator-Fiscal.

Well, I can't help you on that at the moment. So your recollection is not clear enough to answer that question? - No.

Could I ask you to do one thing -- or at least ask the Bar Officer to do one thing, and that is swap the copy I have given you of D24J(ii) for this one, since I have written some things on the one you have got. They wouldn't be of any assistance to you in answering the question, though, I don't think? - (No answer).

BY LORD CULLEN: Just one question perhaps I could ask about D24. Can you just remind me, in case I have missed this -- who was the Chief Superintendent in 'A' Division to whom that particular/

particular memoradum was addressed? - I can't recall who was in post at that time, but he is the officer in charge of the uniformed personnel. At that time the Force was divided into two Divisions, 'A' Division and 'B' Division. 'A' Division was Stirling and the north end of the Force, and 'B' Division was the Falkirk area, and there was a Chief Superintendent in charge of the operational personnel. This report came from a sergeant of the Operational Division and was sent up the line to the Chief Superintendent in charge of that area.

LORD CULLEN: Any further questions before we come back to Mr. Taylor?

MR. GIBB: Sir, can I simply make the comment that I am satisfied that my matters of concern have already been raised in examination-in-chief and cross-examination by Mr. Campbell. I adopt these concerns. I have no further need to cross-examine.

CROSS-EXAMINED BY MR. TAYLOR: In 1991 when you prepared the memorandum which we looked at yesterday can you tell the Inquiry your experience in the field of firearms legislation? - It was very limited at that stage.

Did you have a knowledge of the relevant Statutes involving certification of firearms' holders? - Very limited.

Your concerns arose from a camp which was held at Milarrochy in 1991? - That is correct.

And can you tell us how many boys attended that camp? - Over the course of the fortnight I think there were in the region of 20 boys expected to attend. When I arrived on t he 25th of July there were about a dozen. I think the arrangement was that boys could attend for part of the time and didn't require to stay for the whole fortnight, so the numbers would have fluctuated over the course of that.

So there would be somewhere between a dozen and at the most 20 if all had turned up? - Yes.

And the ages of the children were what? - I/

I think the oldest boy was about ten or 11 and the youngest was six.

I think in your evidence yesterday you indicated that another helper had come to assist Mr. Hamilton at some point? - Yes.

Up until the arrival of that person had anybody been helping Mr. Hamilton? - Hamilton alleged when I spoke to him that he did have help from other residents on the camp site, and some of the staff who were employed nearby, but he couldn't provide names of the people, nor identify anybody to me.

So until the arrival of this other gentleman he had been on his own so far as you could ascertain? - Yes.

And that other person arrived to assist just before you became involved; is that correct? - Yes, 22nd July. It was the day before my colleague Constable Kirk had gone out. He went ot on Tuesday 23rd, and Mr. Brown had arrived on the Monday, the day before.

And if I have understood the evidence you have given correctly, your principal concern related to the chastisement of children and the taking of photographs which may have had children in compromising positions, but which you never had sight of? - Yes, and the apparent lack of supervision.

And the lack of supervision. If we can look at the issue of the chastisement of the children first, would it be correct to say that the statements which you were able to take disclosed that only one child had been chastised, physically? - Yes.

And am I correct in thinking that that child had, according to the statement, thrown a stone at another child in the camp and hit that other child in the eye? - Yes, that is correct.

Now, would you accept that such behaviour couldn't be allowed to go unchecked? - Yes.

It would require a response of some sort from/

from the person in charge of the camp? - Yes.

And the other incident which, I seemed to note again involved that child, was that he had kicked and punched another child on the football pitch? - Yes, that is correct.

And he had been chastised by Mr. Hamilton following upon that incident occurring? - Yes.

And the child had then gone straight back on to the football pitch and kicked and punched the same child again whom he had previously assaultled? - Yes.

And would it also be the case that that behaviour could not be allowed to go unchecked by the leader of the camp? - Yes.

The question of disciplining children is one which is the subject of some debate; is that fair to say? - Yes.

And there are differing views as to whether corporal punishment, physical punishment, is appropriate or not? - That is correct, yes.

And some people take one view and others take a different view; is that a fair position to take up? - Yes.

And looked at objectively, would it be reasonable to say that one view, perhaps not your view, but another view, might be that the responses from the leader of the camp on the two occasions we have talked about fell within the band of responses which might be expected of an adult? - Objectively speaking, yes, I would agree.

You framed sample complaints on the basis that there had been an assault? - Yes.

And that was passed to the Procurator-Fiscal who said what, can you recall? - I can't recall the exact terms of the conversation. I recall that Mr. Coyne, the Fiscal Depute, had written a fairly length explanation in the papers at the Fiscal's Office which basically outlined his reasons for taking no proceedings in the case, and I think from memory -- I wouldn't like to say without seeing/

seeing the notes. I think from memory he was of the view that it was a grey area and there was some doubt as to whether there was a viable case of assault.

As I understand it -- and you are probably more skilled in this area than I am -- that when decisions are taken as to whether proceedings should go ahead it can often be that it is not in the public interest, or it may be on the basis that there has been no crime committed. Which of the two do you understand that this situation fell into? - Probably a bit of both I think.

Now, of the photographs which you were able to recover, were any of them indecent in your view? - No, none were explicit.

Your concern centred on the fact that you hadn't seen all the photographs which you believed to have been taken? - Yes.

And if that was so that would be evidence, would it not, of Mr. Hamilton being untruthful to you? - Yes.

It wouldn't form any basis of evidence that there had been any indecent behaviour towards the children? - Well, not directly.

Looked at in that light, do you consider that it would be possible to examine the facts which are contained within the statement and come to the view that what was being undertaken by Mr. Hamilton at the time was simply exercising a degree of control over those who were in his charge at the camp? - Yes, I knew that would be a consideration when I reported it, but the fact of the matter was that I had received a complaint of assault from one of the parents and I felt duty-bound to investigate that and report it to the Fiscal.

Indeed, you had to? - Yes.

But looked at from the point of view of exercising control, one rational way of looking at it might be that there was control being exercised, rather than a lack of control being shown? - Yes.

You indicated in your memo that you considered/

considered Mr. Hamilton to be an unstable personality? - Yes.

And can you remind us just what you based that view upon? - I felt that he had, during the course of the week, shown an ability to lose control. That was my personal opinion. I had a clear impression on speaking to him that he was outwardly projecting as very calm about things, when underneath he was perhaps very angry. I was concerned -- I had no reason to disbelieve the evidence that had been given by one of the children in regard to the nature of the photographs that had been taken.

Would the taking of photographs indicate an unstable personality? - The nature of the photographs made me concerned about the stability of his personality.

10.20 a.m.

Might it be viewed that the taking of the photographs, if t hey be as was said by one of the children, more towards him being an unsavoury character than to him being an unstable personality? - It depends on how you look at it. Yes, I suppose that in terms of the use of the word instability it may be interpreted that this did not indicate any element of instability about his personality but these were the words I chose to use at the time because that is how I felt.

What did you understand you were conveying when you used the word unstable? - That he was a difficult person to reason with, that he very much had his own agenda, that he had an unhealthy interest in children and that he was an abnormal type of person.

You mentioned there difficulty in reasoning with him. You had an interview with him at the camp site, is that correct? - Yes, that is correct.

In the course of that interview presumably you were putting to him various faults and complaints which you had seen and heard? - Yes.

What was he saying in response to that? - He was maintaining the position that he needed to exercise control because he was looking after so many boys and their behaviour on occasions was difficult to cope with and in particular the one boy whose parent had made a complaint was a particularly disruptive child within the camp and needed discipline.

So he was putting his side of the story if you like? Is that fair to say? - Yes.

Did you consider that it was unreasonable of him to be putting his side of the story in the circumstances? - No, not at all.

Might it be one view, and a legitimately held view, that taken in the round and given the evidence you have given this morning that whilst he may be thought to be an unsavoury character it would be/

be quite legitimate to hold the view that he was not of an unstable personality? - I know that when I was dealing with Hamilton there was considerable support for him amongst the families who were involved with his boys' clubs. I can only say that I tried to convey my own opinion which may or may not have been accurate.

At the time when you prepared the memorandum which we have been looking at I think a complaint had been made against you by Hamilton to the police and that complaint was of a formal nature, is that correct? - Yes.

I take it the making of a complaint against you would not be a frequent occurrence? - No.

I don't mean to embarrass you but was this a unique situation for you to have a complaint being made? - No, it wasn't unique but uncommon.

How did you feel when you were informed that a complaint of a formal nature had been made against you? - I wasn't surprised because at the time the complaint had been made I expected a complaint to be forthcoming. The nature of the contacts that I had with Hamilton led me to believe that he would make a complaint against me and added to this I also had the knowledge of how he had responded to previous contacts with the police and that he had complained about everything basically in the past before, so I was guarded in terms of my dealings with him but nonetheless I felt that it was a bit unjustified certainly.

Would it be fair to say that if you felt that it was unjustified that you were a little aggrieved by Hamilton's actions in making such a complaint? - Yes, I think that would be fair.

How do you think that might have affected your views of Hamilton when you came to write your memorandum? - I think I said in my precognition that I wondered at the time about how my objectivity would be viewed in view of the fact I had just investigated this man and I had made my feelings about him clear. He had made a complaint about me. He was a very obstructive and difficult person to deal with. It was in my mind it might be viewed/

viewed as something less than an objective viewpoint and I wondered how that would be viewed by others who would ultimately take decisions.

Did you think that the fact that a complaint had been made against you might have affected the manner in which you framed your complaint and the objectivity which you took to the framing of that complaint? - I would like to think that it didn't.

But do you admit to the possibility that it might have done? - I admit to being subject to the same human failings as everybody else I think.

Do you accept that looking after some 12 to 20 children, however many it was, for a period of six days or so on your own would be a fairly daunting task for most people? - Absolutely, yes.

Would the children who were attending the camp be the easiest children to control, do you think? - I don't think they would be any different from an ordinary gathering of children. They were just normal kids.

I think we have identified that there were really only two incidents where the leader of the camp sought to chastise a child by the use of physical means, is that correct, in that period? - Yes, there were three allegations of assault, in particular two of slaps and one of grabbing the child and shaking him.

And that related to the incident on the boat, is that correct? The latter incident? The shaking incident? - Yes, it related to the trip to the island.

And again it involved the same individual child? - Yes.

And I think again on that occasion he had been doing something on the boat? It is unclear from the statement but something which he ought not to have been doing? - Yes, I think he had been speaking out of turn.

But that is the sum and substance, isn't it, of the physical means by which Mr. Hamilton sought/

sought to exercise control over those within his charge? - Yes.

I mean, would one legitimate view be that such amounts to nothing like loss of self control on the part of Hamilton? - Yes, one view might be.

I appreciate it is not your view but you would accept that another view, equally legitimate, might be to the contrary of your view? - Yes.

You clearly had an opportunity in the course of your interview which you had to form a view of Mr. Hamilton. To what extent did your view of him as you have described in the memo rely upon your intuition as a police officer? - I think almost entirely.

Did you accept it might be difficult to put one's finger on hard and fast evidence to support the view? It comes down to gut feel at the end of the day, is that fair? - Yes.

Now, at the time when you prepared your report you were involved with the Child Protection Unit? - Yes, that is correct.

And would your concern about Hamilton therefore have to be looked at in the context of your concerns about child care? - Yes.

Now, in the memorandum, apart from referring to the camp, I think in fairness to yourself one has to look at the fact that you also make reference to Mr. Hamilton having come to the adverse attention of the police on more than one occasion. Can you recall what these occasions were? - I think the principal episode that I was referring to was the investigation in l988.

That is the one at Inchmoan? - Yes, and the fact that intelligence submissions had been made in regard to him.

What was it that these intelligence submissions amounted to? Can you recall? - Suspicions basically about his motives for being involved with young boys.

Perhaps we should have a look at what the/

the intelligence actually amounted to. Can you have before you Chapter I and Document D3 I(III)? - I think I am on different reference numbers from you. Can you tell me what the document actually is and I will find it for you?

The other document is DIntel-F1-D3? - Yes, this is an intelligence letter submitted by Sergeant Low from British Transport Police?

That is the same one, yes. Can you recall, and I appreciate this is maybe a tall order, if that was one of the pieces of intelligence which you were able to access? - Yes, it would have been. I can't recall it but it would have been.

I think from that document we see in the conclusion perhaps in the last sentence that Sergeant Low days "I am unhappy and generally suspicious of this organisation and Hamilton"? - Yes.

And that this suspicion has arisen because of the difficulty in the Sergeant being able to get £70 back which his wife had paid for one of his children to attend a camp, is that right? - Yes. The intelligence report relates to that, yes.

Perhaps not the most objective of views? Would you accept that? - If that is why the suspicion has arisen, yes, I would say it is less than objective.

Can you just have a look at a document which on one version is known as D4 I(III) and is also known as DIntel-Fl-D4? - Yes, that is the report from D.S. McBain at Alexandria.

And again this piece of intelligence we are looking at finishes with a question in the form "Do you have anything recorded against Hamilton?" Is that the same? - Yes.

And again in the intelligence it states that nothing sexual took place although Hamilton apparently runs a very authoritarian regime and assaulted boys by punching and slapping them for misdemeanours? - Yes.

And that relates to the incident at the Loch Lomond Island, Inchmoan? - Yes.

Now/

Now, you would have known about the Inchmoan incident from sources other than criminal intelligence, is that correct? - Yes.

That would be from Central Scotland Police's own records? - Yes, I think my knowledge principally came about from discussions with colleagues who had more knowledge of it.

So you would not have been relying to any extent upon this document in relation to Inchmoan? - No.

The next item of intelligence would appear to be D5 I(III), also known as DIntel-Fl-D5? - Yes, it is a newspaper clipping of September l988.

Which appeared in the Falkirk Herald by the look of it, is that correct? - Yes.

And the headline is "Youth Leader In Police Quiz"? - Yes.

And again this is in relation to Inchmoan? - Yes.

If we move on to Document D6 I(III), also known as DIntel-Fl-D6, I think that is another Press clipping, is that right? - Yes.

And this comes from the Falkirk Herald of the l4th October l988? - Yes.

And the headline is "Leader Denies Cruelty Claims"? - Yes.

And again this is him giving his view of matters, this time relating to the running of Falkirk Boys' Club, is that right? I think you will find that in the fourth paragraph in the first column? - Yes.

So when you read it more fully it again relates to Inchmoan Island because I think it says in the paragraph "Some of the parents even travelled to Inchmoan Island in Loch Lomond"? - That is correct.

So again that is a reference to that particular camp? - Yes.

I/

10.40 a.m.

I think if you go to the next column you will find a reference to what we previously knew about £70 not being returned? - Yes.

And the next item is document D7/1(V) also known as intel F1/D7, it is a cutting from the Falkirk Herald on the 20th January, 1989; again that relates to him fighting a ban which was imposed upon him by the local authority? - Yes.

This refers to the letting of schools? - Yes, that is correct.

And if we move on to the next item which is document D11/3, intel 51/08 which is another Press clipping from the Falkirk Herald of the 31st March, 1989? - Yes.

Is that right? - That is correct.

Again this is in relation to the withdrawing of the let for the Falkirk Boys Club? - Yes, that is correct.

And this was a second probe into his activities and again this comes from complaints from anxious parents? - Yes.

It would appear to deal, in the second paragraph of the cutting, with the wearing of swimming trunks, the camp being pathetic, the children being cold, toilet facilities not being appropriate -- in fact, it all relates to the Inchmoan Island incident really? - Yes, again.

Again -- moving on to the next document we find which is D9/1(III), otherwise known as intel F1/D9 can you tell us what this was? - This is an intelligence information form from Constable Parker who was, at that time, stationed in Bridge of Allan on the 12th May, 1989 and it relates to Hamilton who is suspected of being involved in indecent practices with young boys, starting a boys club which he ran on a Wednesday evening from 6 p.m. to 8 p.m. in the sports complex at the Wallace High School.

And if we move on to the next item which is/

is D10/1(III), intel F1/1/D10 can you tell me the date of that one? - It is 1993, the 25th January, 1993 I think -- yes, I think it is 1993.

Could it be 1995? - Yes, it is 1995.

So that wouldn't be one which you had before you when you were looking to prepare your report of the 11th November, 1991? - No.

Was there anything material in these reports which you relied upon, these intelligence reports which you relied upon, when preparing the memorandum which we see in D82L? - There probably was some influence brought to bear in the fact that he was suspected of involvement in indecent practices with young boys and the controversy which had been caused regarding the 1988 investigations; I don't recall just how much importance I placed on the intelligence that was available at the time but I know that I did look to see what was known about him.

Most of it just relates to the 1988 Inchmoan Island incident? - Yes.

I think the only one that might not is D/9/1(III)? - Yes.

Might it be reasonable to infer you wouldn't have put too much weight on what was contained in the intelligence reports standing your own knowledge of Inchmoan Island, speaking to officers first hand? - Yes, I am well aware of the nature of the intelligence; there may often be suspicions unsubstantiated.

Does it come to this, that the principal basis for the report which you prepared for the 11th November was the happenings at Inchmoan Island and Milarrochy camp? - Yes.

Now, yesterday when giving your evidence you indicated that when you went to see the Fiscal it appeared that he was already privy to Mr. Hamilton and his reputation, is that right, or have I misunderstood you? - No, I am not clear about the question, to be honest.

I apologise, I will put it a better way. When/

When you went to see the Fiscal at Stirling in relation to the Milarrochy incident did you form the impression that he was already familiar with Mr. Hamilton? - Yes, I did.

Did you know how Mr. Hamilton had come to the attention of the Fiscal? - No, I didn't.

In your precognition you made reference to the view that Mr. Hamilton was schizophrenic, do you remember that? - Yes, I do.

I think that the way you explained yourself in your evidence-in-chief was that you saw on the one hand Mr. Hamilton holding himself out as a pillar of the community but on the other hand you believed there was a darker side to his personality of which he must be aware, is that roughly what you said? - Yes.

Is that a proper representation of your view? - Yes.

Would it be just as easy to categorise Mr. Hamilton as being hypocritical as that of being schizophrenic? - Yes, perhaps -- I did try to qualify the use of the word by prefixing it with layman's terms.

You don't hold out to have any qualifications in psychiatry or similar sciences? -No.

RE-EXAMINED BY MR. BONOMY: It was suggested that a gut feeling had something to do with the way in which you wrote that report; did gut feeling have anything to do with the fact that you drafted 10 charges? - No.

If you could just have your report back in front of you, that is D3/K; if you go to the first page of the summary, the foot of the page and there you record "The camp was to last for a period of two weeks and it was the understanding of the parents of the children that the level of supervision would be approximately four to six adults"? - Yes, that is correct.

You found that there were not four to six adults? - That is correct.

A/

A number of times here you refer to assaults on a boy? - Yes.

At the foot of the second page you refer to Hamilton cursing and swearing at this same boy? - Yes.

Using such words as "fuck, cunt and bastard"? - Yes.

Would that provide a charge of breach of the peace? - Yes.

And then in relation to another boy you refer to Hamilton saying to him "We're no fucking going to get this film done"? - Yes.

Was there supporting evidence for this? - Yes, there was.

Is that or is that not a breach of the peace? - In my view, sir, yes, it is.

Hamilton was alleged to have slapped a boy on the face? - Yes.

And admitted it? - Yes.

In 1991 was that an assault? - In my view, sir, yes.

The other thing that has been suggested to you, I suppose may be that you over-reacted when you drafted the report and I suppose that could also be said to be acting unprofessionally as a policeman; do you think the report you gave to the Chief Constable was a sign of acting unprofessionally? - No, I don't.

JANET REILLY (4l), Sworn:

EXAMINED BY MR. BONOMY: Do you now live in Stoke on Trent? - Yes.

Prior to moving to Stoke did you stay in Bridgend near Linlithgow? - Yes.

Could/

Could you give me the address you stayed at? - 21 Oldhill Avenue.

How close was that to the home of Dorren Haggar? - About four doors away.

The same street or round the corner? - She was in Auldhill Crescent.

Were you friendly with her? - Yes.

Closely? - Yes.

Over what period of time? - It was for quite a few number of years.

When did you move to Stoke? - Six years ago.

Before you moved to Stoke had you fallen out with her? - Oh, sometimes we had arguments.

After you moved to Stoke did you come up and stay with her from time to time? - No.

Now, in 1988 were you, for a period, at a camp run by a man called Thomas Hamilton on one of the islands in Loch Lomond? - Yes.

Whose idea was it that you should go to the camp? - Mrs. Haggar asked me to go with her.

And you agreed? - Yes.

Did any of your own family go with you? - No.

How long did you spend there? - I think it was nearly two weeks.

Might it have been just under two weeks? - Yes.

There is a suggestion that it was quite a deal longer than that? - No.

Is your recollection of the period clear? - Yes, I think so.

What was the role you played at the camp?/

camp? - She just asked me if I would go along with her for company.

What did you do when you were there? - Just helped her to cook meals and things for the kids.

Why was it you left the camp? - Because Mr. Hamilton had threatened Mrs. Haggar.

What was the threat? - Because she had asked him for more money to buy more food for the kids.

What was the nature of the threat? - He threatened.....he had a gun in his hand when he came back when I was coming down from the woods.

This is at the camp? - Yes.

So at the camp Mr. Hamilton threatened Mrs. Haggar with a gun? - Yes.

I suppose she would be frightened by that? - She was.

What did she do? - She had an argument with him.

Yes? - I can't remember the rest.

Now, there are a number of types of guns? - I can't remember what kind of gun it was.

Was it a long gun or a short gun? - I can't remember.

A handgun or a rifle? - I can't remember.

A shotgun? - I don't know.

This is at Loch Lomond? - Yes.

On Inchmoan Island? - Yes.

Something Mrs. Haggar is not likely to have forgotten about? - I don't think so.

Is that the only threats that you recollect/

recollect being the reason for leaving the camp site? - Yes.

I am going to ask you a specific question in a

moment about threats but I would like to give you every opportunity because I do want to make it clear whether there were any other threats made to either you or Mrs. Haggar at the camp site? - I can't remember.

Just have a minute -- anything else before I ask you? (No answer).

Nothing else -- you don't remember Hamilton threatening to burn Mrs. Haggar's tent down? - No.

You don't remember Davie threatening to hit you with an axe? - Who was that?

Davie? - Mr. Davie?

Yes? - I remember that but I thought you meant Hamilton.

What did Davie do with the axe? - He said he was going to kill Mrs. Haggar with it, he said he was going to set fire to the tent that night while we went in with the kids.

That is Davie? - Yes.

But not Hamilton? - No.

Who was Davie going to attack with the axe? - Mrs. Haggar.

Not you? - No.

Now, you have been interviewed a number of times in connection with the police investigation surrounding the camp at Inchmoan Island, is that correct? - Yes.

You were interviewed by Sergeant McBain? - I don't know what the name is.

Inspector Keenan, do you remember him? - I spoke to him once on the phone.

On/

On any of these occasions had you said that Hamilton threatened Mrs. Haggar with a gun at Loch Lomond? - I told them that when we went off the island, we went to the first police station and told them.

What about Mr. Keenan on the phone, did you tell him that? - Yes.

Now, I have seen a lot of papers in this case, no doubt somebody could be hiding something, and we have heard quite a lot of evidence including Mrs. Haggar's and this is the first suggestion there has ever been of Hamilton having a gun on Inchmoan Island and threatening somebody with it; can you explain that? - No.

After that camp was over did you encounter Hamilton on any other occasion? - We went to see him once at Linlithgow Academy.

What did you do then? - We just put gunge and everything on him.

Between leaving the camp site and going to that incident at Linlithgow Academy did you ever meet him? - He came to Mrs. Haggar's once.

When was that? - I don't know what date it was.

Were/

11.00 a.m.

Were you there at the time? - No, I was coming up from the shop at the time.

And what happened? - Well, he was just ready for driving away by the time I got up to Mrs. Haggar's gate.

What vehicle was he in? - He was in a van but I don't know what colour it was or what kind.

Where was he sitting? - He was in the driver's seat.

Where was the van sitting? - Outside Mrs. Haggar's gate.

Anyone else around apart from you and Mrs. Haggar? - Mrs. Haggar's daughter.

Her name? - Vicky.

Time of day? - Oh, I cannae remember -- in the afternoon sometime.

Time of year? - I don't know.

What did you see? - Mr. Hamilton had something on the passenger's seat covered up -- Mrs. Haggar said to me it was a gun.

Did you actually see the gun? - No.

You have no idea what it was that was on the passenger's seat? - No.

Did Hamilton say anything? - I don't think so -- I don't know what he said to her, because he was ready to drive away by the time I got there.

Did you see him on any other occasion? - I don't think so.

Now, a statement was taken from you by Detective Constable Mitchell on the 5th of April of this year at Longton Police Office in Stoke? - Yes.

You/

You were in a police office giving him a statement? - Yes.

It was 9 o'clock in the morning? - Yes.

Do you agree that in that statement you said to Detective Constable Mitchell "We left the camp because the way Hamilton treated the boys
there was terrible. I would say he was cruel to them. When we left the island we went to the police at Alexandria and told a uniform policeman there about the camp before we went back to Bridgend"? - Yes.

Do you agree you said nothing to him about a gun at Inchmoan Island? - I can't remember. It is nearly eight years ago.

But do you remember that is what you did say to the policeman in April of this year? - I think so.

And now all of a sudden you remember that there was a gun on Inchmoan Island? - Mrs. Haggar said he had a gun.

You didn't actually see it? - No, because I was too far away.

When did she tell you this? - After he moved away.

That day, on the island? - Yes.

Did you also say to Detective Constable Mitchell when he was asking you about the occasion you had seen Hamilton after that: "The first time would be about the end of the summer I would guess. I was sitting in my house, and I am sure it was in the afternoon near tea time. I think it was Doreen's daughter Vicky who came to the door. She was about seven at the time. She told me her mum wanted me as Thomas Hamilton was at their door threatening her mum with a gun. I didn't believe her at first as she used to tell stories, but when she started crying I thought it might be true. I went to Doreen's, and Thomas Hamilton -- he was standing on the doorstep. Doreen only had one door at the side of the house. He had his hand in his right pocket of the jerkin he was wearing. He was a three/

three-quarter length thing with big pockets. He didn't move his hand when I saw him. It was just straight down as if he was holding something. I didn't see anything in the pocket or any shape. I don't recall him saying anything. When I got there he was just ready to leave", and then "When I went into Doreen's she told he had threatened her with a gun". Did you tell the police that? - Yes.

Now, it is a bit different from coming along and seeing something on the seat of the car -- of the van -- and indeed you were telling the police constable that there were two separate occasions when you saw him at Doreen Haggar's house? - Yes.

Now, why did you only tell us -- why did you tell us there was only one such occasion? - I didn't know you wanted to know about two occasions, did I?

CROSS-EXAMINED BY MISS DUNLOP: The episode on the island, did you hear anything said by either Mrs. Haggar or Mr. Hamilton? - What about?

Well, when you were coming down from the woods you say you saw Mr. Hamilton with a gun? - Yes.

And Mrs. Haggar was beside him; is that right? - Yes.

Did you hear either of them say anything? - No.

And what did Mrs. Haggar say to you immediately afterwards? - Just said that he had threatened her with a gun, because she had an argument with him about food for the kids.

The incident where Mr. Hamilton was in a van outside Mrs. Haggar's house -- you walked up the road and saw the two of them there; is that right? - Mrs. Haggar was at the gate and he was inside his van.

You told us you didn't hear Mr. Hamilton say anything. Did you hear Mrs. Haggar say anything? - No.

In relation to the question of whether you have/

have mentioned the incident on the island before, did you mention it in the World-in-Action programme in which you took part? - What about?

The incident on the island with the gun, did you mention that in the World-in-Action programme? - No.

Can you remember when that programme was made -- was it very soon after the incident in March? - I think so.

Can you be any more specific about time? Was it a week after, two weeks after? - I can't remember.

No re-examination.

JOHN PATERSON MILLAR, (57), Sworn,

EXAMINED BY MR. BONOMY: I am a retired police officer and I stay in Dunblane.

When you retired, what rank did you hold with Central Scotland Police? - Detective Superintendent.

How long had you served with the police force? - 33½ years.

And when did you retire? - Officially on 31st December, 1991, but I didn't work very much in December. I had accumulated leave.

In the course of your service with Central Scotland Police Force did you become aware of the existence of a man called Thomas Hamilton? - I did.

Do you remember when you first heard of him? - It was some considerable years prior to me leaving the police, but the exact year I can't say.

And is it fair to say you were not directly involved in any investigation involving him? - I was never involved in an investigation involving him.

Did you ever speak to him? - Once, on the telephone, just prior to me leaving the office, when/

when he phoned asking for Productions which the police held to be returned to him.

What were these? - Photographic material, cameras and such.

And were you able to do anything about this? - I passed it down the line, and it must have been returned, because I heard no more about it.

Now, could you look at a document D5I(i) or D82L or DFU3A, which is, you will see, a memo from Sergeant Hughes, addressed to "Detective Superintendent" -- that would be you? - Yes.

And it is dated 11th November, 1991? - That is correct.

We have heard lots of evidence so far about this, and we have already been told that your input on to this memo is the handwriting at the end of the second page? - It is, yes.

And your position in passing this to the Deputy Chief Constable was: "While appreciating Detective Sergeant Hughes' concern, I cannot recommend the action proposed, for obvious reasons", and then you specify these, that "Hamilton has not been convicted of a crime and it seems the Fiscal is likely to 'no pro' the recently reported case"; is that right? - That is correct.

Now, at that time did you have any experience of administering the Firearms Department, or the work that uniformed officers had to do to service the Firearms Department? - Yes. Since joining the police in 1958 I had handled very many applications for Firearms Certificates and Shotgun Certificates, and also as a Sub-Divisional Inspector I had recommended whether or not in my view they should be granted. I never personally had to make a decision as to whether a Firearms Certificate should be refused.

And had you ever had to consider a report on the question of whether a Firearms Certificate should be revoked? - I was involved in one case while I was serving with Perth and Kinross Constabulary. We took possession of a firearm, and that/

that request was put in, and it was accepted.

And that was a recommendation to revoke? - Yes.

On what basis? - On the basis of his misuse of the firearm.

Was he convicted? - He was convicted -- I beg your pardon, no -- mental grounds, he wasn't taken to court.

But there was clear evidence, irrefutable evidence, that the firearm had been misused? - There certainly was.

However, here in the memo you seem to be expressing a view that before the police could do anything about Hamilton, who possessed a Firearms Certificate then, he would have to be convicted; is that right? - The word "convicted" is used to cover quite a wide meaning in this memo. I am aware that there is no need for a conviction, but there is a need for evidence of unsuitability, and I did not think on the basis of the information supplied to me that there was sufficient evidence -- there was no guns or involvement in guns in the enquiry, as far as I know.

So that was a crucial element of your -- or a crucial element in your deciding to advise the Deputy Chief Constable this way? - Yes. Well, I recommended that my view was that there was no grounds that would stand up in court. I was aware that it is very difficult to get Firearms Certificates revoked.

Were you clear in your mind at the time what the grounds for revocation are? - Yes.

What is your understanding of that? - That the person should be fit and proper to hold a Firearms Certificate, and not be a danger to any other person because of his holding or possessing a Firearms Certificate.

The actual wording of the provision is that the Chief Officer has to be satisfied that the holder is either prohibited -- well, we are not dealing with a prohibited person -- or is of intemperate/

intemperate habits or unsound mind, or is otherwise unfitted to be entrusted with a firearm? - Yes.

Which is a bit different from being a fit and proper person, although you may see it differently? - Well, a fit and proper person covers exactly what you have said.

"Intemperate habits", though, doesn't on the face of it appear to relate specifically to how he behaves with a firearm? - No. I never, ever heard that he was of intemperate habits. He had often been described as an oddball, and there was innuendo that he had a particular liking for young boys, but there had never been any proceedings taken against him because there was never enough evidence.

Well, Mr. Hughes of course was convinced there was evidence in this case for proceedings to be taken in spite of the Fiscal's view? - Yes.

That didn't weigh with you? - No.

As far as you were concerned if the Fiscal said there were to be no proceedings, that was it? - Well, I did in fact speak to the Fiscal. I either phoned him, or he phoned me, about another matter, and I suggested that as there had been quite a few complaints against Hamilton and those had never gone to court, I suggested that it may be possible to take a new look at the thing, and whereas one case didn't stand up, adding them together they may have been able to get a case.

But did you speak to the Fiscal on more than one occasion in these terms? - No.

Who was it you actually spoke to? - Mr. Valentine.

And what you were asking him to do was not just look at the Stirling case, but to look at the Dumbarton case as well? - Any cases he had on file at all.

And was the word you used "Look at it on a Moorov basis"? - Yes, to see if we could in fact
-- because this man was particularly coming to our notice for one thing or another, and it was in our interest to see if there was a case which could be proved.

And/

And Moorov would mean looking at it on the basis that different incidents might corroborate each other? - Yes.

BY THE COURT: So the problem he was saying was not so much the nature of the conduct but whether there was enough to corroborte it? - Yes, looking for corroboration, where one case may have corroborated another, where standing alone neither had enough evidence to go to court.

So was that in your mind when you wrote the note that you have just been referred to, that it was the lack of corroboration you had in mind? - Well, that was obviously the Procurator-Fiscal's reason for not taking.....

No, no, I am not concerned with that. I am concerned with what your view was. Did you see the problem as one of corroboration? - Not when I wrote this note.

Well, I want to be quite clear. What was it you had in mind when you wrote the note? - That there was no evidence of him being unfit to hold a Firearms Certificate. Firearms had never been mentioned, in my knowledge, in regard to any of the complaints.

EXAMINATION CONTINUED BY MR. BONOMY: We may learn, though, in due course that when the Fiscal marked his papers in this particular case, one thing he didn't write was "insufficient evidence". Two things were written on it. One was "No crime"? - Yes.

And the other was "Not in the public interest". Now, neither of these reflects an insufficiency of evidence, except in the sense that the evidence didn't amount to a crime? - I didn't know what he had written.

So was your understanding though that the Fiscal accepted there was a crime there? - No. I just asked that all the reports should be looked at together to see if one helped substantiate another.

But of course before that could begin each one on its own would have to amount to a crime? - Yes.

And/

And you didn't get the impression the Fiscal's view was that there wasn't a crime in there? - No.

Well, can you remember what Mr. Valentine did say to you was his reason for being reluctant to prosecute? - No, I didn't question his reasons. He is the Fiscal, and he made the decision.

BY LORD CULLEN: What was his reason? - Pardon?

What was his reason? - I didn't ask him. He had marked it "No pro".

EXAMINATION CONTINUED BY MR. BONOMY: It would indeed be unusual for him to tell you his reason, wouldn't it? - Yes. I wouldn't have expected him to.

And policemen would not normally ask? - No, we certainly wouldn't.

Have you any idea when that conversation was? - It must have been in November some time, and probably very close to the date I received this memorandum.

Did he tell you what he would do with your suggestion? - No.

And can I take it you never heard any more? - I never heard any more.

Now, when you passed the memo with your comments to the Deputy Chief Constable did he discuss it with you at all? - No. He was au fait with the case reported to the Fiscal -- he had been brought up to date on that by then DCI Holden, and he knew all about the case. He knew all about Hamilton, and this was left with him on the morning of the 11th and it came back down later on with his stamp on it saying "No Action".

11.20 a.m.

BY LORD CULLEN: Perhaps you could help me with one other matter; when you wrote the note we have been looking at, had you had any discussions at all with the Procurator-Fiscal? - No.

CROSS-EXAMINED BY MISS DUNLOP: When you had your conversation with the Fiscal did you say anything to the Fiscal about the fact that Mr. Hamilton had a firearms certificate? - No, I didn't.

When you wrote your note, your handwritten note, in which you say "I could not recommend the action proposed", was it part of your duty to make a recommendation Yes or No on what was in the report? - The memorandum had been directed to me and I could have left it at that but because I knew the Depute Chief Constable had ongoing correspondence with Mr. Hamilton and secondly that he was responsible for the issuing of firearms certificates within the force, I took this up to him.

In practice did the Depute Chief Constable tend to follow whatever course of action was recommended by the person below him? - No, he had a mind of his own and he always exercised it.

So why did you decide in this case to make a recommendation? - Because the request by Detective Sergeant Hughes was that we should take steps..... "consideration is given to withdrawing this man's firearms certificate as a precautionary measure as it is my opinion that he is a scheming, devious and deceitful individual who is not to be trusted". That was something that the Firearms Department and finally the Depute Chief Constable would wish to know. That is the reason it went upstairs.

But you told us that you hadn't met Hamilton at that point? - No, I hadn't. I had never met him.

Now, obviously Detective Sergeant Hughes had had considerable experience, recent experience, of Mr. Hamilton? - Yes.

Do/

Do you accept that Detective Sergeant Hughes would be in a position to make an accurate assessment of Hamilton? - I accepted that he was able to make an assessment, yes, but in my view there was nothing there in the report or the summary I had been given of the report to suggest that he was unfit. I will accept that he was known as odd but nothing and no evidence ever came to me that he was acting improperly with a firearm.

But I am still interested in this question of why you chose actively to intervene and write a recommendation contrary to what Detective Sergeant Hughes was suggesting? - Because that was my feelings on the evidence of the enquiry that Detective Sergeant Hughes had done. I didn't think there was evidence to substantiate the request for revocation of Hamilton's gun licence, his firearms certificate.

But you could have just left the memorandum and written nothing and left it to the Depute Chief Constable to decide? - Well, it would have been very unusual for me not to put some comment on. After all, the report was sent to me.

Now, the question of fitness to hold a firearms certificate; would you accept that the police will be concerned to know what sort of person it is who is applying for or holding a firearms certificate? - Yes, that is what the police enquiry is about.

And how that person behaves? - Yes.

If a person appears to be untrustworthy would you think that such a person should have a firearms certificate? - I certainly did at that time.

You thought at that time that an untrustworthy person would still be.....? - No, I didn't think Hamilton came into the category of being one who could not hold a firearms certificate.

Yes, but I am asking you a more general question. At that time, if a person had been shown to be untrustworthy, would you consider that that would make them not fit to hold a firearms certificate/

certificate? - No. Where is the proof that Hamilton is untrustworthy at the time I got this report?

That is not actually what I am asking you. I am asking you at that time if a person had been shown to be untrustworthy would you have thought that such a person should not have a firearms certificate? - Untrustworthy can cover quite a lot of ground.

What about lying to the police? - Well, that would be seen as being untrustworthy.

Would that be something that might at least suggest to you that the person was not a proper person to have a firearms certificate? - Not in these circumstances, no, I don't think so.

What about a person who was capable of violence? - Extreme violence, yes.

But not somebody who assaulted a child? - It would depend on the severity of the assault.

What about somebody who appeared obsessive in relation to the prosecution of his complaints? Would that cause you any concern? - He would obviously be feeling he was in the right and had a right to complain and we had the right to look into any complaint that is given to us.

I am really still asking you more general questions about what sort of things might have triggered some concerns on your part about the holding of a firearms certificate? - Being a drunkard, being a violent criminal who would use firearms in the commission of a crime or had used firearms in the commission of a crime. Instances along these lines or someone who had a proven mental disability.

You are using the word "proven", was there any room in your view for preventative measures? - In hindsight there possibly should have been. There was not at the time.

You didn't consider that the legislation gave you any scope for intervening in a preventative manner? - Well, it does of course but there is a case/

case where if the police think a man is a danger and unstable and unsuitable to hold, that they have the right to object but I don't know of any cases which have proved where the Sheriff has upheld a police complaint when it was put down to them for a decision.

Well, when you were looking at this particular memorandum, did you take any steps to get some legal advice about cases where an attempt had been made to revoke a firearms licence? - It was passed up to the Depute Chief Constable who had far more knowledge of firearms procedure than I had and who was dealing with them day in and day out.

So when you made your recommendation you didn't have any particular working knowledge of case law in this area? - No.

What were you concerned about if the firearms certificate had been revoked? What did you think might happen that would be something to be avoided? - The fact that had we gone or had I recommended and it had been accepted to go for revocation that it would not have held up in front of the Sheriff with the evidence that was presented.

What would have been bad about that? - We would have gained nothing.

Well, what loss would it have been to have taken the certificate and then perhaps not have won a battle in Court? - I didn't see that there was grounds that would have stood up and therefore I didn't see it would do any good. My suggestion at the bottom of this, it was a suggestion. The man who made the decision and who had to make the decision was the Depute Chief Constable.

Yes, but the worst that could have happened if the firearms certificate had been revoked would have been a red face for the police in Court? That is the worst thing that could have happened, isn't it? - The police lose many cases in Court.

So it would not have been so bad? - No.

And if Detective Sergeant Hughes was right/

right and this person should not have continued to have a firearms certificate then an outcome considerably worse could ensue if that was correct and the certificate was not revoked, couldn't it? - Yes. Then again, if his certificate had been refused and his guns were taken away from him and he still felt the way he did at the time of this terrible tragedy, there is no doubt in my mind that he could still have got possession of firearms.

BY LORD CULLEN: Perhaps I could just ask you a few questions on this point to clarify one or two things in my mind. You said to Miss Dunlop a short while ago that there was nothing in the report to suggest that he was unfit? - To hold a firearms certificate.

To hold a firearms certificate. Now, was that the reason why you made the recommendation that you did? - That plus my knowledge of Mr. Hamilton himself, although I had never interviewed him, and the complaints that had been made against him. It was innuendo more than anything else.

In other words, you thought that if there was an appeal against revocation it could not be established that the man was unfit? - Yes.

Now, if you look at your note it seems to be directed to possible prosecution and conviction of a criminal offence or offences, is that right? - I'm sorry?

If you look at the note which you have written, it appears to be directed to prosecution and possible conviction of criminal offences, is that right? - Yes, it does.

Because it says at the end that he has not been convicted of crime? - Yes.

"And it seems the PF is likely to 'no pro'" so that must be all to do with prosecution and conviction of crime, is that right? - It reads like that, yes.

And you say these are the obvious reasons why you made the recommendation you did. That is what you have said? - Yes, I have said that.

So/

So does it follow from that then that your view at the time was it would be essential for a criminal conviction to be secured? - No, I also knew that the police had the right to object to the person on the grounds of the applicant being unfit.

I understand that but what is puzzling me is that you have said that this is all to do, as I understand it, with prosecution and conviction of a criminal offence and that is why I am not quite sure I understand. There seems to be now an additional reason that is not actually stated here? - I probably worded this not in a very clear manner.

So you really mean to approach the matter in a broader way than merely looking at prosecution and conviction of a criminal offence? - That is correct.

Now, one other comment you made again in answer to Miss Dunlop was you said "What was the proof that Mr. Hamilton was untrustworthy?"? - Yes.

Does that mean that you took the view also that you disagreed with the Detective Sergeant's assessment that Hamilton was a man who was not to be trusted? - As I read it, I took Detective Sergeant Hughes's comments to mean he was not to be trusted with children.

Well, look at the last paragraph which says "I respectfully request that serious consideration is given to withdrawing this man's firearms certificate as a precautionary measure and it is my opinion that he is a scheming, devious and deceitful individual who is not to be trusted"? - Yes.

I want to be quite clear. Did you take at the time a view that at least some of that paragraph was not well founded as a conclusion or did you accept that conclusion? - I accepted his view.

You accepted what is said in that paragraph? - I accepted his view, albeit that I didn't think that from what he had said to me and what was told to me about his enquiry that all of the/

the adjectives could have applied. I accept that Hamilton was an odd fellow. I accept he was probably scheming and devious. Deceitful, many persons tell the police lies when they are being interviewed. I just felt at the time that I penned this, and I must say until I was shown the memo when I was interviewed at the end of last month, I had no recollection of the matter at all.

It is just I want to get it clear in my mind? - Yes, I understand.

As to whether there was any part of the conclusion reached by the Detective Sergeant that you yourself did not subscribe to. If that is the case I want to know? - Yes. No, I thought that the wording from Sergeant Hughes possibly was exaggerated from the evidence that he had. I think that is the answer.

CROSS-EXAMINED BY MR. GIBB: We know that Hamilton's shotgun certificate, his firearms certificate, was renewed at a date a long time before the tragedy? - Yes.

I think you are aware that a renewal is treated in the same way as a new application? - Yes.

Would it surprise you that no consideration was given to Detective Sergeant Hughes's memorandum at the time of renewal or did you have nothing to do with it? - I was off the job within a month of receiving this memo. I was retired and away.

Would you have anticipated that this memorandum would have been an element of consideration at the time of renewal of Hamilton's certificate? - I would have expected a copy of it to be in the firearms file.

CROSS-EXAMINED BY MR. TAYLOR: What was your knowledge of Mr. Hamilton at the time when you made the note on the then Sergeant Hughes's memo? - Purely hearsay.

And how would that have been formed? Who had you spoken to? - I had overheard words about Hamilton and his running of clubs and DCI Holden had/

had discussed the case as it went along and the evidence that had been gathered. I knew Hamilton ran clubs in Dunblane and in fact.....

Can I just stop you there and examine what you have told us today? We will come on to the clubs in a moment perhaps. You said you had overheard conversations? - Yes.

Now, can you tell me whose conversations was it you had overheard? - Other enquiry officers.

So that is other police officers? - Other police officers, yes.

Can you say or can you remember what these police officers had been enquiring into at the time? - No. I am sorry, I can't.

Can you tell me what the sum and substance of what you learned was? - That Hamilton was an oddball but he wasn't described as I have seen in the Press lately as a paedophile or of having assaulted children in a sexual nature.

Are you able to say how many times you overheard such discussions or is that testing your memory too much? - Far too much, I am afraid.

11.40 a.m.

You then told us about a discussion which you had with Mr. Holden? - Yes.

How intimately did you get to know the case from Mr. Holden? - I got a very comprehensive briefing on it.

Was that in relation to the Milarrochy incident? - In relation to the inquiry that he was doing at the time.

Were you aware that there had been any complaints made against the then Detective Sergeant Hughes? - No.

Had you had any discussion with any other officers like Mr. McMurdo in relation to the investigation which was being undertaken by Detective Sergeant Hughes? - No, Mr. McMurdo often mentioned that he had a letter from Hamilton complaining about this and that but it was just a mention in the passing.

Were you aware of any prior involvement of Mr. Hamilton and Mr. McMurdo, any prior interface between the two of them? - No, only that there was ongoing correspondence.

But you didn't know the nature of that correspondence? - I didn't.

You also were about to tell us something about your knowledge of Mr. Hamilton's boys clubs before I interrupted you? - Yes, I knew he ran boys clubs in Dunblane and that he seemed to have a good attendance at the clubs; some children who I know had been at the club for a week or two after it started and then hadn't gone back, but very many of them continued and he seemed to have quite a good support.

Were you aware of any adverse comment which had been made of Hamilton in relation to the manner in which he ran the clubs? - The only thing I had heard about him was that he was a bit of a disciplinarian, nothing else, certainly nothing of an adverse nature.

Did/

Did you know anything else of Hamilton from any other source? - Other than the fact that he had a shop at one time, no, I knew nothing else.

When you came to write your note did you make use of any of the information which you had or did you rely entirely upon the terms of the report which you obtained with the papers? - It is obvious what I knew about the man was in my mind at the time I wrote it.

Apart from the memo which you have before you can you remember what else was provided for your assistance? - I had a briefing about the case by D.C. Holden, now Superintendent Holden.

Did that take the form of a summary? - Yes.

Did you actually see the statements? - No.

You were asked some questions by my learned friend, Miss Dunlop, sitting at the other end of the table in relation to just revoking and letting the Sheriff come to a view on it; what did you consider the responsibilities of a police officer are in relation to the issuing of firearms certificates? - If he has any doubt on a man's fitness it should be reported and it is up to the granting officer to decide whether or not he will do anything about it.

The granting officer then requires to assess the whole position and come to a view? - Yes, exactly, he has to take everything into consideration.

Is it appropriate in your view if the granting officer has the slightest doubt he should then revoke and leave it to the Sheriff, is that a proper exercise of his discretion? - Yes.

You think that is appropriate? - If he thinks there is a doubt he would put it forward.

That is the reporting officer? - Yes.

I/

I have moved on a little bit from that? - Right.

We are now looking at the granting officer, the person who has signed the firearms certificate? - Yes.

It is he who has exercised some judgment, is that correct? - Of course.

And he has to form a view taking into account all the information before him? - Yes, correct.

RE-EXAMINED BY MR. BONOMY: The question that was being put to you and departed from there was whether if, and I think you called him the ranking officer, who would be the Deputy Chief Constable? - Yes.

Was simply in doubt about a person's fitness what decision do you consider it would be appropriate for him to make? - He would make inquiries of the people who had put in the various reports and make a decision as to whether he would look for a revocation or not.

Was that an appropriate exercise of his discretion in view that he simply felt there were doubts about the man's fitness having made all these inquiries to then revoke his certificate? - That would be his decision.

And that would be an appropriate exercise of discretion? - Yes.

In your view? - Yes.

Now, you were asked about the circumstances in which it would be appropriate to revoke and the type of conduct that should be taken into account and you have talked about people who were drunkards, violent criminals using firearms for the commission of crime. What would your position be about recommending the revocation to the Deputy Chief Constable where a person was convicted of drunk driving, for example, and failing to stop? - This would be mentioned in the report from the original inquiry officer and go to a file and again it is up to the granting officer to make his decision./

decision.

If you learned of such a conviction for drunk driving and failing to stop would you write a memo to the Deputy Chief Constable asking him to consider revocation or wouldn't you consider it appropriate to do so? - I never have had to think about that until you brought it up just now.

Give it a little thought? - It depends on the circumstances -- if it is a one-off slip up by the person you are theorising on, or was he known as a drunkard -- if he was known as a drunkard and an irresponsible person, yes, I would suggest that would be grounds.

So he would have to have previous for this before you would consider it appropriate? - Previous knowledge of his sobriety or otherwise.

You would have to have more than one conviction? - I would think it would be someone up the tree that had to make the decision.

At the end of the day your position is whether the Deputy Chief Constable was aware, it has to be given careful consideration? - Yes, I would think so.

You would anticipate that all the officers who are commenting on the memo and passing it up the tree would be relying on the Deputy Chief Constable being the one who had to give the most careful consideration? - He on behalf of the Chief Constable is the person who signs the final certificate.

Well, signing is one thing but giving consideration to it is quite another. The question I am asking you is what your anticipation was of the extent to which consideration would be given by the Deputy Chief Constable in terms of the memo? - I am quite sure he would give it the fullest consideration.

Were you aware in the historical knowledge that you had of Hamilton of his earlier battle with the Ombudsman? (No answer).

That is badly put, his battle with Central/

Central Region in which the Ombudsman became involved? - Yes, since the tragedy I have learned of this.

But you didn't know as a serving police officer? - No.

Did you know as a serving police officer of the internal investigation by Mr. Keenan into complaints by Hamilton against Constables Gunn and Duncan? - I have no recollection of it.

So was it not common knowledge in the Force? - It possibly was, I was out of the Force for three years on central service and if it happened when I was away I wouldn't have known about it.

What were these three years? - 1985 to 1988.

When in 1988? - May, 1988.

The camp in July, 1988 was the one that gave rise to the investigation of the complaint by Hamilton against Gunn and Duncan but that doesn't mean anything to you? - No.

MICHAEL MILL (52), Sworn:

EXAMINED BY MR. BONOMY: You are a former police officer with Central Scotland Police? - That is correct.

Now retired? - Yes, I am.

And you live in Stirling? - Yes, I do.

For how many years were you a serving police officer? - 21½ years.

When did you first encounter Thomas Hamilton? - I first encountered Thomas Hamilton when I was stationed at Stirling about 1981, 1980, 1981.

In/

In what connection? - He had a Do It Yourself shop in Cowane Street, Stirling.

Were you a customer? - Yes, I was.

Now, you knew him as a customer to speak to, I suppose, if you met him in the street? - Yes, I did.

Did you know something of his ownership and use of boats on Loch Lomond? - Yes, I did.

How was it you came to know about that? - I was a member of Central Scotland Police Force Underwater Unit and we trained up at Loch Lomond on training exercises on a weekly basis.

Can you tell us how many boats over the years Hamilton had at Loch Lomond? - I was first aware he had one, a speed boat, it was a small boat and it was called The Lady Sheila and he then purchased another boat which was a large cabin cruiser and that was called Tropical Winter.

What happened to it? - It caught fire and sank.

Do you know when that was? - About 1982, 1983, about that time, I am not just quite sure.

As a result of that sinking of the boat did the underwater unit have to do something about it? - The boat caught fire on Loch Lomond, on the Strathclyde side of Loch Lomond just opposite Luss; after the fire the boat drifted over towards Balmaha Bay and sank just off the island; it sank in shallow water and the boatyard or the boatman at the yard asked us if we would move the boat into deeper water because it was causing an obstruction.

Were you involved in doing that? - Yes, I was.

Were you aware that Hamilton had summer camps in that area? - Yes.

When were you first aware of this? - Probably about 1980, 1981; as I say we visited Loch Lomond on a weekly basis, we knew of the person at/

at the boatyard and they knew Hamilton as well.

In 1988 there was a police investigation into one of the camps and then an investigation into the police officers. Is it a fair summary of the position that Hamilton on a number of occasions tried to plead with you to say something, I suppose in his favour, in the course of this investigation? - I don't know if he was pleading with me to say something in his favour, he certainly initially came to see me in relation to the procedural side of it, thereafter it then became a bit more than that.

Did he visit you regularly? - Yes, he did.

Was he pleading his case? - Yes, he was.

Did you get the impression he hoped it would filter through from you into other police officers' ears? - Yes.

In 1988 were you involved at all directly in the investigations, for example, going to the camp site and seeing the state of the camp? - No, in view of Hamilton's letters to the Chief Constable I was directed to do a preliminary investigation just into events but not to go to the camp.

Was that in connection with complaints against Gunn and Duncan? - Yes, it was.

Did you speak to Hamilton in that connection? - Yes, I did.

Now, following that particular camp did you in later years at all go to the site to see what the camp was like? - Yes, I did.

When did you first do that? - After the 1988 camp he made a point of coming to see me to inform me of where he was having the camp and inviting police officers, if they wanted, to visit his camp; I went, I think, to the 1990 camp at Milarrochy Bay which was on the site of the caravan club at Loch Lomond.

Is that the first time you had actually gone/

gone on to one of the camp sites? - Yes.

What did you make of the camp in 1990? - As far as I was aware it was quite well run, the boys were all happy; I spoke to quite a few boys, I spoke to the warden at the site and I spoke to Hamilton; he showed me the layout of the site and also the food that was available for the boys.

Did he have any adult assistance? - Yes, he did.

How many people were there? - As far as I was aware there was one male person.

How many boys were there? - I am not sure -- possibly about a dozen.

Did you visit any other camp? - No, I didn't.

Was the visit you have just described the subject of any police intelligence input into the system? - Not that I am aware of; I probably would have spoken with my Chief Superintendent but on an informal basis.

12 noon

CROSS-EXAMINED BY MR. TAYLOR: When you met with Hamilton as you have described were you able to form a view of him? - In the early years?

Yes? - He certainly was maybe I would say a bit unusual, possibly in appearance, but that was basically it.

Did you find him an interesting person? - Not possibly a very forthright person. When he spoke to you on occasions, and basically when he spoke to me, if I can use the word, a very boring person.

How did he speak? - It was always very monotone, with virtually no expression at all in it.

Did he appear a happy person? - No, he didn't, no.

Did you at some time move to Dunblane as the Sub-Divisional Officer there? - Yes I did.

Can you say when that was? - I moved to Dunblane in 1987 -- 1987 or the early part of 1988. I think it was 1987.

In 1988 did you become aware of complaint against Mr. Hamilton in relation to the running of the camp at Inchmoan Island? - Yes, I did.

And did you become aware that he was unhappy with the treatment that he had received at the hands of Central Scotland Police? - Yes, he was.

How did you come to have knowledge of his dissatisfaction? - He visited me at Dunblane Police Office about the middle of August when the camp had finished and made references to the officers who had visited his camp at Inchmoan.

Did you become aware that he had taken matters up with the Deputy Chief Constable? - Not at that particular time. That was the early stages. At that particular time I didn't think he had spoken with the Deputy Chief Constable or the Chief/

Chief Constable.

And can you tell us just a little bit more of your dialogue with him at this early stage? - I was on leave and came back at the beginning of August, and because I was responsible for that particular area I was briefed by the officers, and my sergeants, and they informed me that there had been a complaint made against Hamilton by boys at the camp. The complaint was generally just the living conditions at the camp, and there was nothing of a physical nature against Hamilton. He came to my office probably the week after that and asked me if I knew of the incident, and at that time I was only aware of just generalisations and I said no, I didn't know of it, and I would find out, which I then made more enquiry into.

And you eventually became aware of some communication from Hamilton to the Deputy Chief Constable; is that right? - Yes, I did. He started showing a lot of concern about the way the police officers had handled their visit to the island. He started off, and then sent letters to me, indicating the type of things that he was doing at the camp. He sent receipts to me to show the type of food that he was buying. In the initial times he said he was making no complaint at all other than the fact he didn't feel the police officers were qualified to make a judgment. At that time I was aware also it was Strathclyde Police area, and the Strathclyde Police were dealing with the matter.

Did you have contact with anybody in Strathclyde Police? - Yes, I did. I spoke with the person who was in charge of the investigation. It was a Detective Chief Inspector Hay.

Can you tell the Inquiry the nature of any discussion you had with him? - I asked him if there was anything other than what I had heard in relation to the complaint of the conditions, the conditions of the clothing that the boys were wearing, and he informed me that there was nothing further other than that, other than the living conditions, there was no complaints of abuse of any nature.

Eventually the Fiscal at Dumbarton marked the papers with the comment "No Proceedings". From your own information did that surprise you or not? - No,/

No, it didn't surprise me at all. I think the Detective Chief Inspector prior to it going felt that there would be no proceedings taken.

Were you eventually asked by the Deputy Chief Constable to perform any form of enquiry in relation to Mr. Hamilton? - Yes, I was.

Can you tell us about that please? - He had written a letter to the Chief Constable making complaints against the two officers. The letter in itself indicated that he was not making a complaint against the police officers, but the Deputy Chief Constable then directed me to make a preliminary investigation into the officers who had visited the island.

And did you have further cause to interview Hamilton in the course of that enquiry? - I spoke with the officers, I spoke with Chief Inspector Hay. I then spoke with Hamilton, who was visiting me almost on a daily basis and sending letters.

And I wonder if you could have before you document D11K, which is otherwise known as DCD11.

MR. TAYLOR: It would appear, sir, that the Production is not readily to hand. I think the officer has just gone for it.

LORD CULLEN: I think it is there now.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: I think this is a report dated the 11th of October, 1988 and it appears to be from yourself to the Chief Superintendent of 'A' Division; is that right? - Yes, it was.

And is this the report which you prepared following the investigation you had carried out at the request of the Deputy Chief Constable? - Yes, it was.

And I think you concluded that there was nothing amiss in the manner in which Constables Gunn and Duncan had gone about their enquiries? - That is correct.

Now, I don't think the explanation and your/

your informal report were acceptable to Mr. Hamilton, and he subsequently went on to make a formal complaint; isn't that correct? - The day before I put the report in I spoke to Hamilton again about the camp, the actions of the police officers involved, and he at that particular time again still wished to make no formal complaint, and I reported that as well, in my report.

I think also at some point you were shown some photographs by Hamilton; isn't that correct? - Yes.

Can you recall when that was? - Probably two or three years later, probably about 1992.

Do you know what prompted him to send these to you? - Since this particular camp in 1988 Hamilton started off sending letters, and then there was copies of letters. He sent to me any particular letter he sent to any person, whether it was a Chief Constable or a Member of Parliament, he would send me a copy of it. Primarily they were informative letters. He also gave me photographs that he had taken of the camps.

I think you also became aware of an incident in 1992 at Dunblane High School; is that right? - Yes, that is correct.

And that was a situation where I think two or three children were found in Dunblane in the evening; is that correct? - That is correct, yes.

Were you aware of there having been complaints made about the manner in which Mr. Hamilton took other photographs, apart from the ones which you have referred to? - I was aware that there was an investigation by the Family Unit -- the Family Unit were investigating complaints with regard to photographs.

And I think your name also appeared at some point in a memorandum which was circulated by Mr. Hamilton; is that right? - Yes it did.

Can you tell us the circumstances of that? - It was a circulation concerning the starting up of a boys' club, and apart from

the normal invitation/

invitation to parents, on the back he had put contacts of persons concerning his club, and my name, along with I think the House of Commons, appeared on it, and also the Central Region.

And were you happy that your name appear on that form? - I was unaware it was on that.

How did you learn it was appearing in such a way? - Mr. Flett from the Legal and Admin. at Central Region contacted me, phoned me up about it.

And once you found out what steps did you take? - It was to have it removed.

And did you speak to Mr. Hamilton in that regard? - Yes, I did. I asked him why he had used it, and he said it was only meant as a contact, and it wasn't there to show approval of his camp, his boys' camp.

Over the period it would appear you have had quite a lot of contact with Mr. Hamilton; is that fair to say? - Yes, I have.

Were you aware Mr. Hamilton was the holder of a Firearms Certificate? - Yes, I was.

Did you at any time in the course of your conversations with Hamilton and your interaction with him have any grounds for concern that he should be the holder of a Firearms Certificate? - None at all.

No re-examination.

MR. BONOMY: Sir, I hope that the Press will respect the privacy of the next witness, whose evidence will be helpful to the Inquiry, who has volunteered to give evidence, but who still has children under 12 about whom some of this evidence -- about one of whom this evidence will be given. It would be I think unfortunate if her name were revealed publicly, widely, following her evidence today. But I do propose to call her nevertheless since I do think her evidence will be of assistance. She is Sandra McNally.

LORD CULLEN: Well, I hope that what you have said will be taken account of by the members of the/

the Press.

MR. BONOMY: It will take a moment for arrangements to be made for her to come in.

SANDRA McNALLY, (38), Sworn,

EXAMINED BY MR. BONOMY: I think you live in Stirling? - Yes.

In 1991 I think one of your family, a son, went to a boys' club? - That is correct.

Where did that take place? - It took place in Stirling High School gymnasium.

How did you find out about it? - From a friend of my son's at school who had asked him if he would like to go.

Do you know how the friend found out about it? - Word of mouth, I believe.

And was your son keen to go? - Yes, very keen.

The very first night he was there did you go to collect him? - Yes, I did. I dropped him off and picked him up.

And what time were you there to pick him up? - I can't recall the exact time, but it would be 7.30-ish or quarter to 8.

What age was he at this time? - He was seven.

Were there other people there picking up their children? - There were a few other mothers there, yes.

Could you tell how many people were in charge of the club? - No. I could see one man, and I assumed he had taken it.

And did you see him talking to other parents who were there? - Yes.

Did you speak to him? - Yes, I did.

And/

And what was the subject of the conversation? - I asked him who he was working for, if he was employed by Central Regional Council, and who he was affiliated to, because I didn't like the look of him.

Did you get satisfactory answers to these questions? - He explained who he was and what he did, but I wasn't satisfied with his answers.

Well, first of all, who did he say he was? - Well, he said he was Thomas Hamilton and that he had been running boys' clubs in the area for over 20 years, and had lots of experience of this type of work.

And did he say how these clubs -- rather did he say what sort of activities the clubs went in for? - Yes. We had a conversation about the type of games and exercises, and what the 'ethos' was, as he put it, of his clubs, and what his plans were, and what he wanted to do with the children when he had them there.

And what was the ethos of his clubs? - They did gymnastics and games in a disciplined environment.

And was this conversation at Stirling High School? - Yes. Actually we walked from Stirling High School across a park near the school towards my home, and the conversation took place during that time.

And did you part company with him at your home? - Well, I actually walked past my home because I was a bit worried that he would know where I stayed, because he just made me feel so uncomfortable; and I had two children with me.

Was the other child even younger? - Yes.

Did he give you something? - Yes, he gave me a video.

Did you play it? - Yes, I did. I played it almost as soon as I got in.

What/

12.20 p.m.

What did you make of it? - I was quite disturbed by the content of the video and it didn't seem to me to be a normal type of video at all. It was unnatural. It wasn't what one would have expected to see I don't think of children's activities, especially sporting activities in a club.

Can you be a bit more specific about what you saw in it that disturbed you? - I last saw the video four years ago.

I appreciate that. The reason I am asking you, if I can help you, is that I am going to invite Lord Cullen to look at some extracts from videos and I would like to see if they were similar to the sort of thing you saw on the video? - Right. The video was taken in a school or I thought perhaps it was the University actually but I am not sure and it alternated between boys playing football and boys having lunch and taking part in other sporting activities. The boys in the video all had shorts on at the start of the video and at the end of the video they had trunks on and they were all topless. The video camera itself concentrated for long spells of time on the boys between their waist and their knees and the boys were lined up as for a picture that would be taken for a football team and the camera moved along the row of the boys' shorts basically and back again and seemed to linger. The children towards the end of the video to me appeared to be doing exercises, physical exercises, that were way beyond the capabilities of six and seven year olds and they looked exhausted.

What sort of exercises? - They were hanging from ropes with rings on the end. It was an old-fashioned type, well I would say old-fashioned type, of..... I forget what they are called but they were hanging from these ropes and rings by their arms and they had to pull themselves up and I think it was clear that they just were not capable of it and they were being made to go on.

Was some of the video shot outdoors? - yes, bits of it were.

And that is the part you first told us about/

about where they were running about and then having a picnic or something? - No, they seemed to sort of stop for lunch. I think the video was taken at one of the summer camps or summer schools and during lunch the children were all extremely quiet, didn't speak to each other. They seemed to be just eating and drinking and at parts of the video it was like Mark Bolan or T-Rex music in the background. There was no other noise, just normal conversation or the buzz you would expect from children who were having lunch together.

Did Mr. Hamilton say anything in his conversation with you about your own boy? - Yes, he said to me that from his first meeting with Dominic he was very good at sports and had been very good in the class that evening. He asked me if Dominic would like to go to one of his summer camps and he also said that if I was working he would be more than happy to come and pick my child up and take my child to whatever venue he was going to. I just think he had sort of..... he was more interested than he should have been in my son after having met him for like an hour.

The parts of the video that showed the children eating, were they eating indoors? - Yes, it was like a dining hall.

And you referred to them as being silent. Did they appear to be sort of strictly disciplined or.....? - Yes, I would have said that they were possibly frightened.

Now, having seen the video, what did you decide to do? - Well, I decided to phone, well, a member of the family to come round and have a look at the video as well because my husband wasn't in and I was concerned about the content and I also didn't want to sort of over-react to something if there was nothing really there and I wanted to be sure that my gut feeling was correct and I was sure at the time it was. My sister-in-law came round to watch the video.

Did she agree with you? - Well, yes, I think she felt the same way.

Now, what did you then do about it? - I had a friend who had a friend who was in the police/

police force and I phoned her up and asked if she would take the video and have a look at it.

Who was the police officer? - I can't honestly remember her name. I don't know.

First name? - I think it was Elaine.

Do you know if she was a sergeant or a constable? - I don't know. She was just an acquaintance.

Did she take the video? - Yes, she did.

Did she bring it back to you? - Yes, it was returned.

What was her reaction to it? - Well, she advised me not to send my child back to the club and I think from what she said there was nothing illegal in the video.

Did you send him back? - No, he didn't go back at all.

What did you do with the video? - I got my husband to return it to Mr. Hamilton at Stirling High approximately a week or two weeks later.

Did you have any further contact with the police? - Yes, I think at that time I did actually get the police out but I can't be l00 per cent sure because the police have been up more recently when I had received some correspondence from him but I am sure I did report it at the time and I also wrote a letter to the Education Department of Stirling Council.

It has not been possible to trace the police officers that you spoke to. Are you confident you did speak to police about this? - Well, I am confident that I spoke to the police in l995. They were actually at the house.

I will come to that but at the time we are talking about, l99l? - Well, I was sure that I had or I feel sure that I did at the time.

For/

For example, did the police come and speak to Dominic, do you remember? - Yes, Dominic was questioned. He was asked if anything had happened and if he had been touched.

What did he say? - He said No, he hadn't been.

Now, you said you wrote to Central Regional Council? - Yes.

What was the subject of your correspondence? - My main area of concern was that since the evening that my son had attended the club I had found out that there was quite a lot known about this man and I was writing to ask why, if they knew so much about him and were concerned about his behaviour, they were allowing him to obtain lets to run boys' clubs.

Now, did you get a reply to that letter? - I didn't get a reply. I didn't get a written reply. I received a phone call.

From whom? - I don't know who it was from. I think it might have been from someone in the Legal Department.

And what was the subject of the phone call? - It was that no offence had been committed and there were some concerns and there had been numerous complaints and really just advising me not to let my son go back.

So that was the advice the Council gave you? - Yes, as well.

Did you hear from Mr. Hamilton at that time? - I did. I received a letter from him. I am not sure of the time span but it was after I had written to complain and also in the letter I had complained about my son being photographed with his top off without parental consent or knowledge.

That was the complaint to the Council? - Yes, that was all contained in my letter.

You then got a letter from Hamilton? - I did. I got a letter. Now, it was probably three or four weeks later.

What/

What did it say? - It said that I could have access to any photographic material that had been taken of my son.

And did that letter concern you at all? - Well, I just didn't want anything else to do with him and I didn't want to receive any more correspondence from him and I just put it away with everything else. I kept the letters because I thought there might be a problem and, you know, I would have them to refer to.

And do you still have them? - No, I destroyed them all last November.

Well, were you concerned at all by the thought that Hamilton knew about your complaint? - Yes, I was because I thought "Well, who has told him that I have complained?".

Now, have you heard from Hamilton since? - By letter again.

How often? - I have had several letters over the years.

What has been the subject of these letters? - Just that he has been running boys' clubs in the area for 20 years and would my son like to go back.

So they were specifically directed to you? - Yes.

They were not circular letters that we have heard so much about in the Inquiry? - Well, I don't know if they were circular letters or not.

Well, were they "Dear Mrs. McNally" for example? - I can't remember exactly. The most recent letter stated that there was a lot of rumour and innuendo about him and it said that we as parents must stamp out this type of false rumour and allegation. That was the vein that the letter ran in. It went on for a full page.

When was the last one? - It was in l995.

Do you know when in l995? - Roughly after/

after the summer.

Did you contact the police? - Yes, I did.

Did you show them the letter? - Yes, I did.

Did they tell you the situation? - Yes, they took the letter away with them.

Did they come back again? - No.

Did they say anything to you about whether any offence had been committed? - No. Well, no offence had been committed. I was just concerned about the content of the letter and that this man was still writing this sort of thing to people.

CROSS-EXAMINED BY MR. JONES: I wonder if you would look at a document please which I think is the letter that you wrote to the Council. It is DCRC-AL-Fl. It will be given to you. It is in Folder H(V) Continued and it is not separately numbered? - (No answer).

MR. JONES: Sir, these letters are not in any intelligible order in the folder and therefore I have arranged to have a photo-copy shown to Mrs. McNally.

LORD CULLEN: Yes, is that the letter of the 6th December l992?

MR. JONES: Yes.

CROSS-EXAMINATION CONTINUED BY MR. JONES: Do you recognise this as a photo-copy of the letter you wrote to the Council? - Yes. Well, I can't remember the exact content but.....

Do you recognise your writing? - Yes, I do.

And do you recognise your signature at the end? - Yes.

And it has your address at the time? - Yes.

And/

And the letter is dated 6th December l992? - Yes.

So does that refresh your memory about the date of this incident? I think you said earlier it was l99l according to your recollection? - Sorry. When your son is seven you think "What school year is it?" really.

It doesn't matter at all but the letter will show the correct date presumably? - Yes, I agree with that.

I think that if you just read it for yourself, you set out in the first paragraph the background to this letter which you have already explained to us in your evidence. You need not read it out. If you read it for yourself you will see that and do you then go on to say in the second paragraph, just over half-way down the page, "Parents naturally think that there could be nowhere safer for their child than a club which meets in a legitimate venue like a school and I am concerned that young children as young as P3 are being exposed to possible risk from this man". Then you go on to say "However, I have discovered from Dominic, and this is my main complaint, that he had been told to remove his top and was in this vulnerable state of undress when this man video filmed him for several minutes without my consent or knowledge. I strongly object to this and wish my complaint to be recorded officially." Do you see that? - Yes.

And I think you say a little more about that but that was clearly why you had written to the Council? - Yes.

Did you make the same complaint as you have stated here when you contacted the police? - That would have been my complaint but I am now wondering if I have actually contacted the police at that point or if I have spoken, if you can't find any record of it. I am unsure about that.

You say as a result of this letter somebody from you think the Legal Department in the Council contacted you? - Yes, by phone.

And do you see looking at the top of the letter towards the left there is a handwritten note "Tel'd"/

"Tel'd", presumably telephoned, "and discussed. Please file". Do you see that? - Yes, I do.

So that seems to be a record of that telephone conversation having taken place? - Yes.

Now, do you have any way of knowing what was then done by the Council following upon your telephone call? - No, as far as I am aware there was nothing else done. There was no more contact with myself. I just stopped my son going.

That is really what I mean. There was no contact with you but you have no way of knowing what the Council did? - No, I didn't receive any more correspondence.

There was no correspondence with you? - No.

But what they may have then done internally or in relation to this complaint, you don't know? - No, I don't know what the outcome was at all.

CROSS-EXAMINED BY MR. TAYLOR: When the video was given to you by Mr. Hamilton, was it done quite openly? - Yes.

Did you form the impression that he expected you to be impressed by what you saw in the video? - Did I form that impression?

Yes? - Yes, I did.

Do you still have the letter in front of you which you wrote to the Council? - Yes.

I think we see in the first paragraph you say that you thought it "questionable". Maybe about 12 lines down? - Yes.

That is how you described it at the time? - Yes.

And the police officer to whom you gave the video to view, this was a police officer who was a friend of a friend? - Yes, it was done informally, the handing over of the video.

This/

This was not an official complaint? - No, it wasn't. I just asked her could she have a look at it.

In her private capacity? - Yes.

Not as a police officer? - Yes.

No re-examination.

12.4O p.m.

WILLIAM DRUMMOND (32), Sworn:

EXAMINED BY MR. BONOMY: You are a Constable with Central Scotland Police? - That is correct.

Based at Tullibody? - Yes, that is correct.

How long in the police? - 18 years.

In March, April and indeed right up until now have you been part of the major incident inquiry team? - Yes, I have.

I think that you were asked to consider a number of video tapes recovered from Mr. Hamilton's house? - Yes, that is correct.

I think there were in total 37 of these videos recovered? - Yes, that is correct.

I can simply give a reference, sir -- DHE/44; I think they all have numbers? - They were individually numbered.

What was the range of numbers? - From 8 up to and including No. 44.

So no numbers 1 to 7? - No numbers 1 to 7, no.

Was there anything with each tape to indicate what was on it? - Yes, there was a piece of card, paper, which I presumed to be in Hamilton's handwriting which indicated the possible contents of each tape.

Did each tape have its own individual cardboard box? - Yes.

Just like any video has? - Just like any small video cassette tape.

Were they all VHS tapes? - Yes, they were Sony Hi-8.

Small tapes? - Yes.

They/

They were for home videos therefore? - Yes.

At least home videos in the sense that they were done by an individual on a camcorder and were not commercially produced? - Yes, that is correct.

Did you look through all of them? - Every single one, yes.

Did you then try to identify a part from each that would be representative of what would be on the rest of the video tape? - Yes, I did that later on.

Did you make up one compilation showing little more than snippets from each one? - Yes, that is correct.

Would you look at the video tape which is beside you, DHE57; is that the synopsis tape? - Yes, it is.

I think it runs for just over an hour, an hour and two minutes? - Approximately an hour and two minutes.

I think there is a feature that comes on the screen at the end of the snippet from each video to indicate that it is moving on to the next one? - Yes, to distinguish each snip.

MR. BONOMY: Now, sir, I am going to ask that this be played but the tapes contain film which identifies or from which individual children could be identified and it is not in the public interest that these need to be seen openly by members of the public attending the Inquiry. However, it is appropriate that representatives of the parties with an interest ought to see the material which you are being invited to consider. I also don't think it necessary that the whole of this be viewed by you, sir, in the public context of the Inquiry Hearings and I think it may not be necessary for you to view any more than is going to be shown just now but it is intended to lead more evidence from expert witnesses in due course who will have been invited to view this video -- for example, psychiatrists and psychologists and therefore it is appropriate/

appropriate that the subject matter that they will consider should be seen by the representatives of the parties to the Inquiry. The other problem that presents itself is that there is sound on it and the sound could be distressing to persons involved in this Inquiry so in my submission it is inappropriate that the sound should be played publicly when it is being considered by you just now, sir. What I am going to invite you to do is consider the film for the balance of this morning's hearing, decide whether you have seen enough and while it is being played I invite you to order that the larger screens round the larger hall should be turned off and the sound also turned off.

LORD CULLEN: Has anyone got any representation about that, does anyone want to say anything about that?

MISS DUNLOP: I think the only question I have which my learned friend may be able to answer is whether a copy of this would be available to be looked at by representatives; I am thinking of hearing what had been said to the children.

MR. BONOMY: I agree it is necessary for parties representing to see the whole film and to listen to it or at least to see at least part of it and to listen to it and I think the same applies to you, sir. I consider that you should also hear more of it in private at a later stage.

LORD CULLEN: Does that meet your concern?

MISS DUNLOP: Yes sir.

LORD CULLEN: I am content to accept what you suggest, Mr. Bonomy, so we will proceed on that basis and perhaps the necessary arrangements can now be made with regard to the sight and sound.

At this point the video tape was part played.

EXAMINATION CONTINUED BY MR. BONOMY: Could you just stop it there. How much of the tapes have we seen so far; is that just one tape? - That is just one tape.

Can/

Can you confirm to me that that shows a number of locations, in fact, and a number of different occasions? - Yes, that is correct.

But certainly some of that can be identified as the Queen Anne School in Dunfermline? - That is correct.

Can you confirm that these extracts are showing young boys in a gymnasium much of the time? - That is correct.

In groups carrying out exercises also? - Yes.

And in many instances standing in a pose with the chest out, hands on the hips and really forcing their chest out and their shoulders back? - Yes, very much so.

Looking very tense? - Yes.

And latterly as we watched it the camera was concentrating on two boys carring out an exercise? - Yes.

And one of the boys seemed to be attracting the cameraman's attention? - Yes.

He was focussing on him carrying out the exercises from a number of different angles? - Yes.

Focussing on various parts of the body? - Yes.

The boys, however, did appear to be doing legitimate gymnastic exercises? - Yes.

They were not doing anything that you would describe as improper in any of the snippets we have seen? - No.

And a number of them were wearing trunks? - Yes.

If we were to view right through this would we see a whole series of similar film? - Yes.

In/

In some instances would we even see boys with bathing trunks running about outside? - Yes.

At a summer camp in Dunblane High School? - Yes.

I think in one instance would we see some concentration on the back of a young boy who was more or less just standing extending his arms? - Yes.

With the camera concentrating for a considerable period on his back? - Yes.

Is it also fair to say that a number of these extracts show boys engaged in events like relay races and games in the gymnasium where they are tussling for things, running from one corner of the gym to another? - Yes, that is correct.

And indeed some show them playing football? - Yes.

And you also see boys exercising on rings and indeed doing somersaults and supporting themselves by their hands and arms on a pair of rings? - Yes.

Did these exercises appear to you to be within the capabilities of the boys doing them or was it actually difficult to tell? - I would say it was difficult to tell; however, it was quite strenuous to myself to have boys of that age doing that but I couldn't really say for certain.

Can you tell me how many hours of film you actually had to watch to compile the extract? - Approximately over 80.

Is there any way of telling the period over which this was shot? - Only from each cassette box.

What was the period? - Approximately from 1991 up to and including I think 1993, the end of 1993.

MR. BONOMY: Sir, obviously if it is felt necessary you would be able to continue now to view this but you may also consider that in so far as/

as it is necessary for your determination of the issue in this Inquiry any further viewing might be done privately and equally the parties here will have an opportunity whenever they wish to view and listen to the rest of that tape.

LORD CULLEN: Thank you. Are there any questions that any party wants to ask of this witness.

No cross-examination.

LORD CULLEN: Are there any applications that any party wants to make in regard to this tape? Perhaps that could be discussed if necessary with Mr. Bonomy over lunch if it is necessary. Do I take it you want to display any more of the tape at this stage or do you wish to wait until the afternoon?

MR. BONOMY: Even in the afternoon I wasn't intending to unless you felt it was necessary to do so, sir.

LORD CULLEN: I don't think it is necessary for the time being but if any of the parties wanted to have anything shown after lunch perhaps they would let Mr. Bonomy know that is the position.

The witness was asked to remain until after lunch.

After an adjournment for lunch.

1.50 p.m.

LORD CULLEN: I understand that none of the parties want any more of that tape played at this stage; is that right? Very well, we can release the officer and proceed to the next witness.

ALISTAIR FRANCIS KELLY, Sworn,

EXAMINED BY MR. LAKE: I live in St. Andrews.

What is your occupation? - I am now retired. I was until the end of March Regional Reporter to the Children's Panel for Fife Regional Council, and since I have been retired I am a writer.

For how long had you been the Reporter to the Children's Panel before retiral? - Since 1975 reorganisation; and could I say at the time of my retiral I was the longest-serving Reporter to the Children's Panel, having been a Reporter since 1970.

I understand you had some involvement with details arising out of a summer camp held at Dunblane High School by Thomas Hamilton in 1992? - That is correct.

Can I ask you please to have in front of you document DET2-2, which in folders is D23J(ii)?
- Yes, I already have this report actually in front of me.

So I take it you recognise that report, then? - Yes. I obtained a copy of the report when I heard of the incident in Dunblane.

Sorry. When you say you heard of the incident, you mean the incident this year? - Yes.

When did you first receive that report that you have in front of you? - I received the report -- and it has, as you will see, on the bottom right-hand of the first page "Received 17th July, 1992". That would be the date I received it.

And who did you receive it from? - I received it direct from Policewoman Connie Metcalfe, from/

from the Child Protection Unit in Dunfermline. What is the subject matter of the report? - The subject matter of the report, as you can see in the first paragraph of the first page, was regarding children that attended a summer camp at Dunblane High School, Dunblane, commencing on the 28th of June, 1992, and run by Thomas Hamilton.
Now, the report refers in particular to an incident on the evening of Monday the 29th of June, 1992 in respect of three boys.

And without giving names, what had occurred in respect of those three boys? - The three boys concerned had in fact left Dunblane High School in the evening without permission, as it were -- had absconded or run away.

And what were they doing there in the evening -- you said the boys left the school in the evening. Why were the boys at the school in the evening? - They were attending the summer camp run by Hamilton. They had arrived, because the camp commenced, on I think it would be the Sunday, 28th June.

And what time do you say they left the camp? - If I could simply refer -- it must be in the late evening they left the camp. I am looking at one of the statements.

Could you indicate which statement you are looking at please? Perhaps by the page number would be the easiest, to avoid giving the name? - Sorry, I am looking at my own particular copy.....

Perhaps the easiest thing would be if I could refer you to, of all the statements in there, that from the reporting policewoman, Policewoman Metcalfe? - Yes. I was looking through a child's statement, but I could have a look at Policewoman Metcalfe's statement, if you just give me a second or two -- do you mean her actual statement?

Yes. I think it is the last of all the statements? - Yes. I have it here in front of me. I am just trying to find a time.

I was more concerned with the date on which it occurred? - Sorry, my understanding is it occurred on the 29th June, 1992.

And/

And looking at the second page there of Police Constable Metcalfe's statement, in the third paragraph, she states that a police officer on patrol in Dunblane had come across the three nine-year old boys dressed in their night clothes seated beside a public call box, and the boys explained to the police officers that they had contacted their parents, and they were on their way to uplift them; do you see that? - I am looking at the third paragraph, and as far as I can see the third paragraph begins with the child's name.

That is the third paragraph of the second page of the statement? Is that the copy that has been put in front of you in court today or your own copy that you are looking at? - It is my own copy.

Just in case there is any difference....? - Yes, I have got it now, sorry, I beg your pardon.

And you see there the paragraph I have referred to, which records about the three nine-year old boys, dressed in their night clothes, having made a call to their parents? - That is right, I see that.

And you see that three paragraphs down below that P.C. Metcalfe says that she contacted the witnesses, and one of the parents had expressed her worries about the running of the summer camp, the lack of supervision, and the circumstances surrounding her son's absconding from the camp? - I would agree with that, yes.

Looking at the next page and the fifth paragraph, do you see there that Police Constable Metcalfe has said "It is also clear that any contact by telephone, and parental access, is discouraged, and there has been a lack of supervision. Mr. Hamilton, it would appear, was the only adult with 18 children, nine years and under"? - Yes.

And the paragraph commencing at the foot of the page, she says "It is also disconcerting that young boys, dressed in night clothes, have been wandering in a strange town, with Hamilton either failing to report them running away, or having been unable to do so because that would mean leaving the other/

other boys totally unsupervised"? - That is correct.

What did you do, having received the report? - If I can simply explain why I received the report, in the first instance, and then explain what I did thereafter, it might be helpful to the Inquiry?

Right. Tell me why did you receive the report in the first place? - I received the report because I was the Regional Reporter to the Children's Panel, and in my duties as the Reporter to the Children's Panel I do receive reports concerning children who are thought to require compulsory care. Now, in this particular instance the children concerned, I felt, were certainly not requiring compulsory care, and indeed I considered that they should not even be considered as having been referred to me on that kind of matter, because of the particular situation as described in the report; because the report in essence focussed on what had occurred in the summer camp and focussed on a complaint, as it were, in relation to Thomas Hamilton's activities. Now, this particular report -- if I may continue -- this particular report would be described in essence as a plain paper report, to use the jargon that was used within the Children's Panel system as far as the functioning of Reporters is concerned. In the role of the Reporter, if I may describe it that way, the Reporter receives reports regarding children requiring perhaps care and attention, perhaps due to other needs, such as children committing offences. Now, plain paper reports in the context of care and attention often were reports where the offence as such was considered not to constitute a crime, as it were, or was something less than a crime, because one of the categories dealt with by the Reporter is a category which is defined in the Social Work (Scotland) Act, Section 32(2)(c), and talks about lack of parental control likely to cause unnecessary suffering. So that is a little less than child abuse as described in Section 12 of the Childrens and Young Persons' (Scotland) Act, 1937. So I received this report in the context that police officers -- that there was an agreement in Fife that police officers would forward to me any report regarding any child where there was an issue of either child abuse or perhaps less -- neglect or something less than criminal neglect,/

neglect, lack of parental care. And the particular section of the police which Policewoman Connie Metcalfe was attached to was the Child Protection Unit at Dunfermline, which had a specialised interest in the concerns of children. Now, having decided that in no way could this report be described as reflecting on the care of the children as far as their parents were concerned -- in no way could they be considered really, in essence, as being referred; and the report in essence was reported to me for information purposes. Now, I felt that in the circumstances the normal reaction to receiving such a report is simply to say "Interesting, I will put it aside, but there is nothing more that I can do". Now, in a sense I stepped out of my role as a Reporter to the Children's Panel -- if I could describe the functions of the Reporter very briefly in terms of using the Kilbrandon description of the Reporter as someone having similarities to a public prosecutor. So stepping out of that kind of role I decided that I couldn't set aside this report, that I was so concerned regarding what had been described -- and you have read to me passages from Policewoman Metcalfe's statement on that, which is particularly concerning -- that I stepped out of role, and I contacted initially the police in Dunfermline at a pretty high level, Chief Superintendent Elder, and I also contacted ultimately, or quite quickly, the Education Department, and spoke to the person who had responsibility principally for school lets and general surveillance of youth work in out-of-school hours.

Well, that is quite a long answer. Can I deal with things one bit at a time now? - Right.

What was it in that report which gave you cause for concern to take it out of the ordinary? - I was concerned initially that three young boys were found in the streets of Dunfermline (sic), attired only in night clothing and in some distress.

In what way did that give you cause for concern? - In a strange town these children could have been placed at risk. I am not suggesting that Dunblane is the kind of place that children would be at risk, but what I am suggesting is a lot of traffic goes through Dunblane, and I was concerned that these children might have been at some kind of risk.

Is that risk from Hamilton or risk from someone else? - Risk from someone else, in the circumstances of their being on the streets. But I was also concerned at why they had run away, and the circumstances as described to me that were occurring at the summer camp, and these circumstances were (1), the lack of supervision, and someone in charge of 18 children overnight -- in charge alone. I was also concerned, on the same theme, of lack of supervision, that Hamilton was also responsible for doing the cooking for the camp, albeit that he had help during the day from, I understand, a Mr. Brown. I was concerned also at the arrangements for the showers, and perhaps as a reporter one has a rather suspicious mind. I was concerned regarding that. And I think reading through the children's statements, there was a little unease amongst the children regarding these kind of arrangements. I was very concerned at the discouragement of the parents from contact with their children, taking into account these children were 9 or 10 years of age, during a 10-day period in a camp. For example, they were discouraged from telephone contact -- either the parents contacting them by telephone or the children contacting their parents by telephone.

Now, one of the matters you mentioned when you were explaining the scope of your authority was the consideration that children might be harmed by lack of parental care. This incident occurred while/

while the children were in the care of someone other than their parents. Did that impinge upon the power that you had? - Yes, of course it did.

In what way? - Hamilton claimed to have the children in loco parentis. I have in my folder here a circular which Hamilton had circulated to the families prior to the camp in which he explicitly claims to be acting -- and I am not quoting him verbatim -- acting as a good father, and I think he used the phrase "in loco parentis".

But in what way was the fact that he wasn't their parent -- in what way did that affect your powers in relation to the incident? - Because in a strict legal sense they could have been considered as lacking parental care.

Well, they were in the custody of a third party? - They were in the custody of a third party. For example, another analogy would be that if a child were in the care of a foster carer, the foster carer is acting in loco parentis, and if the child were out of the control of that particular person they would be in the condition of being beyond parental control; or if the foster carer lacked proper care of the child, suffering lack of parental care.

Would that help you to approach the situation, to say this might be viewed as a lack of parental care? - In the particular circumstances of this particular case and how I treated these particular children, I thought it was unfair that these particular children should be categorised as having been referred to me. However I wanted to focus on the activities of Hamilton himself.

Turning to those activities, you have mentioned that the showers were one area where you thought the children were concerned? - Yes.

Overall was the concern arising from the children or from the parents? - I think one particular statement, not from one of the boys who ran away, but a fourth boy -- and I am speaking from memory -- of an expression of unease. Can you give me a minute whilst I try to trace it?

I think I may be able to help you find that/

that statement if you use the copy that has been put in front of you. It may be a statement beginning on the eighth page? - The copy I have been given doesn't seem to have numbers on it.

No, it doesn't. They just have to be counted? - I beg your pardon.

Without giving the name, perhaps the easiest way to say it is: is that the statement of a boy whose date of birth is 10th August, 1982? - Yes.

And this boy, who is not one of the three that ran away from the summer camp.....? - That is the one who wasn't one of the three.

And is that the boy that you considered was the one that was concerned by what was happening? - Could I read it to you, the actual page?

Yes, please? - Now, I am not sure of the page -- it must be the next page, page 9, perhaps -- "We had to shower twice a day in the morning and at night. We went into a changing room. There was nowhere private to get undressed. Mr. Hamilton came to the showers to give us shampoo, and made sure everyone washed themselves. Then he would watch us dry and make sure that we had done that properly". I was reading into that particular statement -- and this is how I read it at the time
-- that there was some concern expressed by the child, reading between the lines. That was my interpretation.

Now, in your earlier answer you said that although you did not treat this as a referral, there was matters within it that put it out of the ordinary, as far as you were concerned? - Absolutely.

Were these matters the ones that you have already referred to? - Yes.

Are you able to say what your underlying concern was arising out of this report? - My underlying concern was that children were being placed at risk unnecessarily by someone who was organising a summer camp and running a boys' club in Dunfermline./

Dunfermline.

And what sort of risk did you consider they were at? - The risk related principally to a lack of proper supervision of the boys. That is the first point. The second point, of the attitude of the person running the camp to his charges -- an attitude of a lack of proper responsibility and care. For example, one of the parents, I recollect in a statement made by the parent, suggested that Hamilton was neither up nor down regarding the three boys who had been missing on the evening of the 29th June, 1992. I was concerned regarding -- and this was a feature both at the camp and the boys' club
-- I was concerned that there was discouragement from parental involvement and participation, if I can put it that way, or even parental interest in what was actually going on, which aroused my suspicions. I was also rather concerned, as I have just indicated, regarding the arrangements for the showers.

Now, you said earlier that following your consideration of this report you had a meeting? - Yes.

And that meeting I think you said was attended by Chief Superintendent Elder? - And.....

And also the Director of Education? - No. It was Mr. David Somerville, the Senior Assistant Director of Education.

And what was the purpose of that meeting? - I can't remember whether I actually saw them both individually first, and then the meeting was the culmination of my seeing them individually, or if I simply contacted them by telephone and we arranged to have the meeting. The purpose of the meeting was to consider in detail, and principally to alert Mr. David Somerville, to the concerns expressed in Policewoman Metcalfe's report. In fact, the meeting discussed in quite a lot of detail the content of the report. I needed the police's co-operation in order to make these facts known to the education authority.

And/

And that was one of the purposes of your meeting? - Yes. Now, why I can't recollect as to whether I actually had a meeting with Chief Superintendent Elder first was that I haven't available to me my diary of l992. I kept a strict log book of what I did, and that would have recorded whether I had had a meeting or not prior to that meeting; but I certainly spoke to them both prior to the meeting, expressing concern, so that there was a bit of preparation before the meeting.

And this meeting was in the context where you were not treating the matter as an official referral? - That is correct. I wanted to concentrate on the activities of Thomas Hamilton, his summer camp and his boys' clubs.

Could I ask you to have in front of you please Document DFRC34, which also has the reference D65 in Volume H(v)? - If it might save you time, I do have possibly the document you are referring to in front of me, my own copies -- but I don't have them with your numbers.

Perhaps just for the avoidance of doubt we can wait till we get our one. Do you recognise that document? - Yes. That is the letter or the memorandum I wrote to the Director of Education, and it is "For the attention of Mr. David Sommerville, Senior Assistant Director of Education".

And in the first paragraph you refer to the meeting which you have already discussed? - That is correct.

And the further paragraphs give initially a brief summary of the event that had led to your concern? - Yes. It is in essence a brief summary of Police Woman Metcalfe's report.

You see at the top of the second page you have stated that the fact the children came to no harm is no guarantee of children remaining unharmed if a similar event associated with this kind of summer camp, managed in like manner, re-occurred. "I feel that the events of 29/6/92 in Dunblane in a sense serve as a warning. If the kind of circumstances as described are allowed to continue without some kind of intervention, I consider that other children may be placed at risk. In/

In like situations arising unchecked, I fear that a tragedy to a child or children is almost waiting to happen". Was that a view you had expressed at the meeting that took place? - Yes, because essentially this particular memorandum -- I think I agreed to write the memorandum at the conclusion of the meeting, to summarise what was indicated in the discussion at our meeting.

Now, towards the end of that paragraph you have referred to other children being placed at risk. What was the risk that you envisaged in writing this memorandum? - The risk was in the context of what had been described in Police Woman Metcalfe's report, and the risk principally related to Thomas Hamilton running camps or boys' clubs where there was manifestly, if we were to take what was described in the police report as typical, a lack of supervision which could lead to children being injured, as it were inadvertently, because of that lack of supervision. It also, if I may say so, included what I have referred to previously in my evidence.

And can I ask you now please to look at Document DFRC37, which in the folders is referred to as D32 in J(ii)? Do you recognise this letter? - Sorry, I haven't got it yet -- I possibly have it in my file, but..... Yes, there are two documents -- are you referring to a letter from Gillian Short, Principal Reporter, Central Regional Council?

Yes. Now, that is a letter to you, is it? - Yes, it is a letter really to one of my district reporters, but most of these letters came through me in any case.

And that letter is dated 6th August? - That is correct.

And attached to that letter is a second document which is a police report in respect of the items we have already discussed? - Yes. I should mention that my "Received" stamp is rather obliterated on the left, but it is associated with the document, and I am assuming that since the obliteration on the letter appears to have two numbers in the date, that in fact it was received on the l0th August.

You/

You have added a handwritten note at the foot of that letter on the first page? - That is correct.

If I can read it, indicating the action you have taken in regard to this matter about the summer camp? - That is correct. I say "Tuesday 11th August l992 at ll05 hrs. Gillian Short -- indicated what action I had taken in Fife regarding concerns highlighted" -- about the summer camp for Dunfermline children at Dunblane High School, and Dunfermline Youth or Boys' Clubs run by Thomas Hamilton. "The children are not being referred, so that there will be no return to Central regarding any disposal".

Were you aware of clubs run by Hamilton in other areas? - I was made aware of these clubs I think at the meeting which was held with Mr. David Sommerville and Chief Superintendent Elder. That was the first occasion I was made aware of it, I think.

And were you aware.....? - Although I should say in the opening -- returning to the report made by Police Woman Connie Metcalfe, in the second paragraph on the first page it says: "In view of previous concerns concerning Hamilton and his running of such a camp", so I obviously was made aware that there had been previous concerns.

Were you aware that Thomas Hamilton held a firearms licence? - No.

No cross-examination.

2.30 p.m.

ALAN MOFFAT, Sworn:

EXAMINED BY MR. LAKE: What is your occupation? - A Detective Sergeant in Central Scotland Police.

How many years' service do you have? - 12 years.

Where are you presently stationed? - Central Scotland at the Family Unit at Bannockburn Police Office.

How long have you been stationed there? - Since February of l993.

I understand that in the course of being stationed at Bannockburn Family Unit you had cause to investigate the activities of Thomas Hamilton? - That is correct.

I would like to refer you to certain of the complaints that have been made to you. For the purposes of preserving privacy I will refer you merely to Productions and not mention the names. Can I ask you firstly to look at Document DFU13. Its other reference is D3 in Volume I(I). Do you recognise that? - I do, yes.

Now, it is not either to you or from you. How did you come to be aware of that? - This report was produced by Detective Constable Taylor who was under my direct supervision at the time of the investigation.

We see in that report under the heading "Antecedent History" there are details given of Thomas Hamilton and a reference to his activities running boys' clubs. Do you see that? - Yes.

About half-way down that paragraph it says "Although Hamilton does not have any previous convictions recorded against him, on at least two previous occasions he has been reported to the Procurator-Fiscal service in both Dumbarton and Stirling, the latter case having been reported by Detective Sergeant Hughes then of the Child Protection Unit, Bannockburn". Do you see that? - Yes/

Yes.

At the end of that paragraph do you see reference to Hamilton holding a firearms certificate? - That is correct.

Do you see then under the heading "Summary of Events" there are details of particular matters which have given cause for concern and in particular on the second page it is stated "On the 26th May l993, a complaint was made concerning Mr. Hamilton's behaviour by (a parent) which gave cause for concern. (The parent's) complaint surrounds the fact that her nine year old son, had been attending on Wednesday evenings at Stirling High School with Mr. Hamilton on the pretext of five-aside football having been arranged by him. (The parent) learned from her son that, in fact, on the occasions when he had attended no football had ever taken place. Mr. Hamilton had caused her son to change into ill-fitting trunks or similar garment and perform gymnastic exercises"? - That is correct.

In the next paragraph there is a reference to that parent having attended at Stirling High School and having seen another boy there in a locked gym on his own with Hamilton. Do you see that? - Yes, I do.

Were you aware of how these complaints were made to the Family Unit? - One of the parents had contacted the Unit and DC Taylor subsequently made arrangements to interview the parents and the children involved.

Did you attend those interviews? - Personally, no. I was kept fully aware of the contents of the interviews by DC Taylor who was coming back to my office and briefing me.

Having obtained the statements what was done? - At the time of the statements coming in I then looked at the previous report of Sergeant Hughes. We decided to compile all of the known information which we had at that particular point and to summarise it and to put it to the Procurator-Fiscal for consideration.

Well, you said the previous report by Hughes/

Hughes. What was that in respect of? - That was the l99l investigation.

That is the summer camp in l99l. You said you had decided you were going to draw that together with all other information that you had? - That is correct.

What sources of information did you look for? - I did checks on our criminal intelligence system. I also made checks with the Metropolitan Police as they have a record of paedophile activities.

Is that a record kept by the Metropolitan Police for the whole of Great Britain? - It was the record which I thought would be the most complete data for that type of activity and decided to target that area.

Even in respect of activities in Scotland? - Yes.

Were there any other sources of information for you? - The local criminal intelligence on which there was no other information other than that which was already known to myself having been passed on to me by Detective Sergeant Hughes at the time of taking over at the Unit from him.

Were you aware of Hamilton's involvement with any other clubs? - I made enquiry at this point with Central Regional Council and I learned Mr. Hamilton was obtaining lets on a regular basis through the Region. He was planning well in advance a schedule of activities for boys and had clubs throughout Central Region.

And did that give you any cause for concern? - Yes, in particular with what I had learned from the report of l99l and his access to children, I felt that the access to children was giving him the opportunity to be nearer to the children, particularly the vulnerable ones which he might be able to select and then engage in activities with.

Did you receive any other complaints about this time? - Yes, there was a Mrs. Allan from/

from Doune who came forward with a very similar complaint in relation to Mr. Hamilton. The main difference being that her child who had been photographed was attending a club along with others. He wasn't selected on his own and taken to premises. He was within a group and taken individually to be photographed by Mr. Hamilton.

And do we see a reference to that on the third page of the report from DC Taylor? - Yes, we do.

You see there in the second full paragraph on that page there was particular concern about some of the exercises that were being carried out on that occasion? - Yes, the exercise which was being described struck me as being an unusual exercise to have children perform, particularly if they are going to be photographed.

LORD CULLEN: I think we have been following the practice of not mentioning surnames so if you could avoid that.

THE WITNESS: Yes, sir.

EXAMINATION CONTINUED BY MR. LAKE: You said earlier that you prepared a report to go to the Procurator-Fiscal? - This is the report which is in front of us.

This is the report? - This is the report, yes.

And that was to be submitted presumably by DC Taylor to the Procurator-Fiscal? - In the event what happened was that as soon as the report was completed we were conscious that more people were likely to become aware of the details of Hamilton and his photographic activities and as soon as the report was typed DC Taylor personally took it to the Procurator-Fiscal in order that he could discuss the circumstances with him and seek a decision as to whether proceedings would be instigated on this and also to clarify whether we would be able to obtain a warrant to attend at Mr. Hamilton's house as I suspected that if he was photographing children there may be some material there which would assist me in producing evidence for a prosecution.

Is that the purpose of the report? - It is a joint purpose within the report. I certainly did hope to gain a warrant in order to access his house and see if there was material there which would be of use but we mention within the report these activities, particularly the way in which he had taken the boy to Stirling High School on his own, isolated, that there may be grounds there for a prosecution.

Now, you didn't attend the meeting with the Procurator-Fiscal? - Not that particular meeting, no.

Did DC Taylor come back to you and tell you what the Procurator-Fiscal had said? -
That is correct.

What did he say that the Procurator-Fiscal had said? - On return to my office I was made aware that the Fiscal had viewed the report and felt that he also had concerns regarding Mr. Hamilton but did not feel that in consideration of the circumstances which had been presented to him at that time that a crime had been committed on which he could take action.

In the light of that, what did you do? - From that..... I should add I was also aware that we were made aware that the circumstances would have to be slightly more than we had in the content of that report in order for action to be taken. I felt it was essential for the police to be negotiating with other agencies who were involved with Hamilton.

You were made aware that more would be required. Who were you made aware by? - Discussions we had with the Procurator-Fiscal was that the circumstances contained within this report were insufficient in order to proceed. It would have required different circumstances on these in order to secure a prosecution.

What circumstances? - Something more which would have led to a crime that the Fiscal could proceed on.

What other agencies did you plan to exchange information with? - My first point of contact/

contact was Central Regional Council. In particular, the Legal and Admin. Department and the Sports Development Department, both of whom I felt were most involved. Firstly in the letting of premises to Mr. Hamilton and secondly the fact that he was involved with children with sports.

And what information were you seeking from them? - Anything that I could find which might assist not just the police but the Region as a whole to prevent Hamilton from gaining access to premises. I felt quite strongly that he, without the availability of premises, would not have been able to have access to children. He required the premises in order for the children to be drawn to him.

You have said you contacted the Region with a view to getting information? - That is correct.

Are you now suggesting that there was another purpose for contacting the Region? - I wished to discuss with them the actions taken by the Region and also to look at ways in which the Region could perhaps effectively deal with Hamilton in order to prevent the lets from being granted.

Can you recall when your discussions with the Region took place? - They began very shortly after the report was submitted by DC Taylor but the exact date is unknown to me.

Can you recall who you had your discussions with? - In particular it was Mr. Flett from the Legal and Admin. Department and Mrs. Chillas from the Sports Department.

Were they able to give you any information? - Yes, Mr. Flett had quite extensive knowledge of Mr. Hamilton and his involvement with Central Regional Council over a number of years. It was then I first became aware of the involvement of Hamilton with the Ombudsman and the previous removal of lets by the Council. Mrs. Chillas was able to very quickly provide me with a copy of the report that she had compiled as a result of having a video which had been given in. It somehow got into her possession from Hamilton.

Can/

Can you recall what that report said in summary? - Yes, it covered some l5 to 20 points regarding the ways in which Hamilton had been dealing with children and the activities that he engaged in and the concerns raised by Mrs. Chillas that they were not perhaps the ways in which she would have seen sports coaching effectively done.

You said Mr. Flett provided you with information about his involvement with Hamilton. What was the nature of his involvement with Hamilton? - I think Mr. Flett was slightly wary. The Region had dealt with Hamilton before and lets had been removed and had been investigated by the Ombudsman who found the reasons for the removal of let were not sufficient. As a result of that Hamilton had regained his access to Council premises and I think the Council did not want to find themselves in that position again. They couldn't understand it.

Did you make enquiries of any other agencies or bodies? - Again, contained in the Region, I spoke to members of Education services.

Within the Region? - Yes.

Were they able to provide you with any information? - Nothing other than that which I had already begun to learn.

Were you able to provide them with any information? - I certainly spoke to Mr. Flett because obviously had there been anything which I could have given him which may have assisted him in the removal of these lets then I would have tried to do that but I did not feel that there was anything which could have done that. I felt..... well, it looked to me that Hamilton was in fact making an occupation for himself out of letting Council premises and therefore bringing boys to the clubs and gaining or receiving financial payment from the boys in order to go there. I felt there could be some type of fraudulent activity or that he may have been profiting from his access to Council premises and I questioned whether that was in fact part of the remit in which he would have given concern.

Were you able to do anything further with the information you had obtained? - At this particular/

particular time, no.

Were you able to obtain any further information as to Hamilton's activities whilst at the clubs? - Well, the more I began to look at Mr. Hamilton it was simply I was realising that the way in which he dealt with children was very regimented, very strict. I had strong questions to be asked which I feel in a lot of ways comes to a personal value judgment. I personally felt that the way in which he dealt with children was not appropriate but looking at it from a slightly different perspective it was difficult to say that it was lewd but they certainly raised questions within my own mind.

You said one of the reasons you sought a warrant from the Procurator-Fiscal was to obtain photographs that you considered may exist of the children. Were you able to obtain photographs in any way? - Subsequently, within a few weeks of this report being submitted, a batch of photographs were found having been either lost or dropped or deposited in Stirling Town Centre and these photographs were handed in to the police.

What do the photographs show? - They show young boys dressed in trunks and obviously similar to the description of children who had been attending Hamilton's clubs and I took possession of the photographs which I held and subsequently took them to the Fiscal's office in Stirling in order for further discussion with D.C. Taylor and also to add that we had photographic evidence of that.

Did you consider that the photographs disclosed a crime been committed? - I think it was a personal judgment; I certainly found the contents of them quite strange, unnatural; I think I would have difficulty in saying that there was actually lewd contents amongs them.

Who did you discuss the photographs with? - It was the Fiscal at Stirling himself.

What was the nature of the discussion with him? - It was again to try further.....to continue our discussions that D.C. Taylor had regarding Hamilton's activities and his access to the boys; I felt that should there be grounds in order to obtain some form of complaint which may classify him as a Schedule 1 offender.

What was the outcome of your discussions with the Procurator Fiscal? - Again the decision was the same as had been known to Detective Constable Taylor.

Did you receive any further complaint regarding Mr. Hamilton? - Sporadic complaints were coming in but the clubs were ongoing; I believe about this time Mr. Hamilton had clubs running in different schools on almost every day of the week throughout Central Scotland; the complaints were intermittent but as they came in I decided that rather than interview the individual children who had been going to these clubs that I should speak to the parents concerned who had been made aware of.....bring concern to the parents or to the Region to ascertain from them what was being said and obviously what I was hoping -- perhaps hoping is the wrong word -- I was looking to secure some information or evidence which had been slightly more than I had previously found that would have given grounds to secure a form of prosecution of Mr. Hamilton.

If I just refer you to some documents referring to the complaints; D CRC AL F142 and that is referred to as D176 in Volume J1; you will see the front page of that is a letter to Mr. Flett with Central Regional Council and attached to it there is a note or a letter from a parent; have you ever seen that letter from the parent? - Yes, I have.

Again without mentioning any names do you see it refers to a parent's son having attended a club run by Hamilton and concerns having arisen as a result of the son's reluctance to attend? - Yes, that is correct.

On the second page of that there are three points to the letter, A, B and C giving the nature of the parent's concern and these were in respect of the child being topless, the child having to change into black shorts and photographic activity; were these concerns made known to you? - As a result of that letter being drafted, a copy was subsequently passed to the police and I attended at the home address of the parent and spent some considerable amount of time discussing the contents of the letter with them; I informed them of the involvement I had with Mr. Hamilton and the decision of the ways in which I was now dealing with the complaints in that respect; I was hoping that I may be learning something which was going to add to the circumstances which had been reviewed to me previously but there was nothing in the contents of this letter which wasn't already known to myself or which had been reported to the Procurator Fiscal and I explained that to the parents.

The parents were not able to provide you with any information? - No.

What did you say to the parents? - I informed them, as I was speaking to the parents, I continued to go over the concerned points in discussion with Mr. Taylor and indeed with the Procurator Fiscal that any concerns should be put on paper, they should be put forward to the Director of Education, to the headmaster of schools where the children were attending at the boys sports clubs and that the complaints should be formally made in order that hopefully sufficient parental concerns would be found/

found and that the Region would be able to justify stopping the lets in respect of Mr. Hamilton without him having cause for complaint.

Could I ask you to look next at document reference DCD 243 which has an alternative reference of D198 within Volume J1; have you ever seen this letter previously? - I have seen this letter from my investigations into this particular inquiry; I am aware of the subject of the letter having been involved with this particular family and myself.

So you are aware of the family making complaints in that instance? - Yes.

And perhaps I could turn to letter DFU 54 and that I haven't been able to find another reference for; a copy has been passed round this morning; you will see once again the front page is a handwritten letter dated the 16th March, 1996 but on the front page there is a letter once again relating to complaints in respect of a child? - Yes.

Have you ever seen that letter on the front page? - Yes, I have.

The complaint was that the boys were required to remove their clothing and change into black swimming briefs and photographs were taken of them? - Prior to that letter being written the mother of the child had telephoned my office and spoken to me at length on that; I subsequently advised her of the involvement which we had had and I spent a long time discussing with her what had been said to her by her son and again I found that the circumstances were very very similar to those which I had been previously made aware of; as a result I suggested to the mother that she should put her concerns on paper, they should be directed to other people that had involvement with Hamilton and his access to premises.

Is the next page a memorandum prepared by you? - That is correct.

And that was addressed to Detective Superintendent Ogg? - Yes, that is correct.

And in that second paragraph you say you have/

have relayed your findings in this inquiry to the Procurator Fiscal who said he didn't regard them as sufficient to enable him to instigate proceedings? - The findings in this particular complaint was a matter which I passed to the Procurator Fiscal at Stirling; the circumstances of the previous complaints had been passed to the Procurator Fiscal and a decision at that time had been that that in itself was insufficient and in consequence of that I was looking for additional circumstances which I could report to him regarding this type of information; I had already an internal record which I could use at a future time to add to any new information.

So the complaints from these parents referred to here were not passed on to the Procurator Fiscal? - No, the decision that had been made by the Procurator Fiscal in June of 1993 were such that unless the circumstances were different to those which had been reported he would not take further action in respect of Mr. Hamilton.

But that was something that was said to Mr. Taylor rather than yourself? - No, it was said to Mr. Taylor but it was repeated to myself when I spoke to the Procurator Fiscal having attended at his office a short time later.

He said he would require additional information? - What was being said was that the circumstances which were being reported at that time didn't amount to grounds for prosecution and it would require different circumstances to these.

Just to be quite clear, was what was said that it didn't amount to prosecution or they didn't amount to a crime? - A crime.

Was any indication given on the basis of which it was concerned that it didn't amount to a crime? - Not that I can recollect; it was said that the information we had had was very close but was not crossing the borders which would be leading to criminal activity but it was concerning.

Could I ask you to look at document D CRC ES F8; and that has the reference D199A within Volume J1; do you have there a handwritten letter dated the 13th December, 1994? - I am sorry,/

sorry, could you repeat the number?

D CRC ES F8? - This is a large folder which I have.

The backing sheet doesn't contain any other page reference but another copy is available; do you have a copy of the letter now? - Yes.

Could that be on the screen only in the well of the Court; have you seen this letter previously? - I have, yes.

Was that sent to you by the writer of the letter or was it passed to you by another party? - The author of the letter spoke to me personally at my office in Bannockburn; in addition to writing the letter she came to visit my office which is in the same village as she stays where I personally met her; again the advice was given by me that a letter should be written and sent to the people who were involved with letting of premises to Mr. Hamilton; again the circumstances which were explained to me by the author didn't vary from the circumstances which had been previously reported.

You see the circumstances referred to there on the first page, towards the foot of the page, are that Hamilton instructed the boys to fully strip and change into black swimming trunks and this took place in the gymnasium and on the second page it says that there was no attempt to provide privacy while apparently the leader prepared to take photographs and at the foot of that page it says "When the boys were dressed in swimming trunks the leader then proceeded to photograph them in various poses"; did you investigate that? - Yes, on speaking to the author of the letter.

Was any statement taken from the complainer's child? - No.

Was this matter referred to the Procurator Fiscal? - No.

Was that on the basis that you have previously explained? - Yes, as a result of the first of the attendances at the Fiscal's office by both myself and D.C. Taylor we were looking for additional information and certainly this information/

information was investigated but we were looking for additional information in order to submit further reports to the Fiscal; I think on the last page of this letter you will see that the letter has also been sent to the Director of Education and the legal and admin. at Central Regional which is a direct result of a conversation I had with the author prior to the letter being written.

Could you look at document D CRC ES F8 11 and that has the reference D200 within folder JI; you will see that is a letter, although it has not copied terribly well, on the top left hand corner addressed to Mr. Sinclair, the Chief Executive of Central Regional Council? - Yes.

On the third paragraph of that it is stated that the author did forward a copy of the complaint to the Child Protection Unit at Bannockburn and a response received but that there was insufficient evidence to persuade the police that it is likely that the Procurator Fiscal would agree to proceedings? - At that stage I was involved with quite a number of conversations with either Mr. Young or Mr. Flett; in effect, people were going to the police and I was advising people to contact the Region and the Region in turn were coming back to the parents; it became a circle of events and where the same information was being passed on more than one occasion to my office; at the time of this information coming to me or this letter being eventually made known to me I had discussed these concerns with Dr. Young and also I had personally spoken to the parents of the children concerned and that in no circumstances had events changed in any way from matters which had previously been reported to the Procurator Fiscal and they had been advised by me that he wasn't prepared to take action in the circumstances.

Could I ask you now to look at document DFU 53/5 which is D202 within Volume J1; you see that as a letter from you to Dr. Young dated 29th December, 1994? - That is correct.

In that you refer to two parents; do you see their names? - Sorry, is that the first document?

It is a letter from you dated the 29th December,/

December, 1994, a very short letter? - There are two parents referred to between 5 and 5A.

Had you spoken to both of these parents? - I had, yes; Mr. Young asked me if I would provide written confirmation to him on the outcome of this discussion and I made this brief reply to him.

In that reply you said "There is no police inquiry to be made in respect of these incidents"? - It could have been worded to say there was no further police inquiry to be made in respect of this incident; as I said this letter was formal confirmation to Dr. Young that I had received this correspondence and investigated the matter.

Could you look at D CRC ES F86 which is within the folder as D197 JI, No. 6 I think in that folder and it is slightly out of chronology; do you see that as a letter by you dated the 2nd December, 1994? - Yes, it is.

In that you say in the second paragraph that there is reference to the parents making a complaint which is already being considered in earlier correspondence? - Once again I spoke personally to these parents within my office at Bannockburn; I shared these concerns which were identical to those of other parents I had already spoken over the previous year and a half, perhaps more.

In that letter you see there is a name and address of a further parent who had made a complaint? - Yes, this parent was also spoken to by the police again within my office at Bannockburn.

3.10 p.m.

And did you obtain full details of the complaints made by that parent? - Yes.

Can I ask you please to look at document reference DCRC-SW-F3-1. Within the folders it is D212 in J(I). You will see that is a memorandum headed "Social Work Department" sent by Pam Gillespie to Ron Keilloh and it is dated 24th March, 1995. Do you see that? - Yes.

And in the head section again there is a reference to the person making the complaint and their address? - Yes.

In the final paragraph of that letter it says that Ron Keilloh contacted yourself and that a joint investigation would take place. Do you recall such contact being made in respect of this complaint? - The Social Work Department and the police have, since 1989, jointly investigated all allegations of child concerns within the Region. The name of this particular child does not immediately spring to my memory. However, the author of this is somebody who I have contact with very, very frequently and with this coming in I have no doubt that this would be an investigation allocated to one of the staff in my office to go and pursue with the Social Work Department.

But you can't recall any details of the investigation yourself? - In particular, this is not one which is immediately.....I certainly have not personally spoken to the parents of this child or I would have recollected that.

If you could have in front of you DCRC-AL-S2-25. That is D229 in J(I). Now, this is a Minute of a meeting which took place on the 21st August of last year and I think you are named as one of the persons present. Were you at that meeting? - I was, yes.

Can you recall the discussion which took place? - The meeting was basically a culmination of a lot of concerns which were held by many people in respect of Mr. Hamilton. I had been speaking on a frequent basis with members of the Region individually and they in turn had been speaking/

speaking to members of their own department individually and we felt it was appropriate that we should come collectively together to pool our ideas and see if there was anything on which we could form or arrive at any decisions we could arrive at which would effectively give us a course of action to deal with Hamilton and I think I should say that people were guarded in how they dealt with him. The local authority did not wish to find themselves again the subject of complaint and I think to the best of my belief there was nothing which was new or different in the circumstances to that which I had previously reported and I felt that we had effectively to deal with him in a different way and prevent his access to children.

Did you discuss these various complaints to which we have just referred? - Individually I would say they were not discussed to do with naming individual children but generally concerns themselves were certainly discussed in that the concerns were consistently the same.

And at the foot of that Minute of the meeting, at the end of the second paragraph, it says "It was confirmed that the Procurator Fiscal was not taking action on the reports sent to him because there was not a crime being committed. There was nothing of value in relation to Hamilton's criminal record". Was it you that had provided that information? - No. I would disagree with the wording of that part of the report. It was compiled by Mr. Steele who himself will not directly have any contact with the Procurator Fiscal and I think that he has perhaps put it in a way I would not have worded it.

In what way do you consider it is inaccurate? - It is not in itself inaccurate. The Procurator Fiscal had been made aware of the concerns known to me and he had told me he was not prepared to pursue a prosecution on the basis of that information.

That was the information up to the date on which you went to see him with a bag of photographs? - That is correct.

One last production to refer to I think which is in the same folder, No. DCRC-AL-F2-30. Within/

Within the other folder it is D232 in J(I). You see the first page of this is a memorandum? - I'm sorry, I'm having difficulty finding this particular document.

I think the reference is DCRC-AL-F2-30? - Yes.

Do you have there a memorandum to David Cobb from Alan Steele? - I have, yes.

Again it refers to an attached letter from a parent. Is a letter attached to what you have in front of you? - It is, yes.

And that is a letter from a parent addressed to Mr. Steele dated the 28th August, 1995. Have you seen that letter previously? - I may have seen this letter at some point throughout my involvement in collating material for this Inquiry but I don't believe I saw this letter as part of my duties prior to the event occurring.

Can I refer you now to your involvement in the events of the 13th March and in particular your attendance at Dunblane Primary School. Were you on duty that day? - I was, yes.

Do I take it you were in attendance at the school? - Yes.

What time did you get there? - I would estimate about 10.30.

What was your responsibility? - Prior to arrival.....being within the unit that I am, I was initially aware officers from the Family Unit who deal with children and families on a day-to-day basis, I knew we would be required but I was unsure whether it would be at the hospital or at the school itself. Having eventually been advised to make our way to the school, I in particular found myself working within one of the houses at the entrance to the school where the parents of the children from Mrs. Mayer's class were being assembled.

Whilst on duty at the school on that day, do you recall speaking to Mr. Mayer? - I did, yes.

In/

In what circumstances and at what time did you speak to him? - I think about one o'clock. 1 p.m.

Were you aware of when he had arrived at the school? - I was simply advised that Mr. Mayer had arrived at the school and was advised..... the information as I recall it, which appeared to come through a number of different officers, was that he had arrived at either the entrance gate or the vicinity of the school and was gradually being brought from that area to the school reception area and I was one of the officers there and as he was making his way I was told to meet him at his entrance.

Who told you that? - I believe it was Superintendent Holden.

Were you told to meet him at the entrance? - At this stage I was simply to secure Mr. Mayer and comfort him in any way that I could. Having met him, I decided to take him to a room where there would be some privacy in order to remove him from the bustle and the movement which was ongoing at the school.

Where did you take him? - The library which was in a corridor leading to the Primary 4 classes.

Was there anybody else with you when you took him to the library? - No.

Was he aware at that time of what had happened? - I think Mr. Mayer.....well, I have since learned Mr. Mayer had travelled from his place of employment and I am conscious he had been receiving updates from the media, from which source of the media I don't know but on arriving at the school he certainly was understandably upset and suspected that his wife was in fact one of those who had been killed.

Was that information he had obtained from the media prior to his arrival at the school or at the school? - I believe it was prior to meeting me. Whether it was in fact from the media or something on the way into the school, I don't know. I do suspect it was the media.

Did/

Did he ask you anything in relation to his wife when you first met him? - Yes, understandably Mr. Mayer was very, very keen to know if his wife was one of those who had been killed.

Were you able to tell him? - At that time, no.

Are you aware of when he was told? - Mr. Mayer was told by myself. I would estimate, having met Mr. Mayer and taken him to the library and sat some time with him, I would think perhaps 5 or 10 minutes, by that time I was aware that the liaison teams were being formed and each individual parents had been allocated two or three workers to be with them and hopefully to break any news which there was in a sympathetic way. I knew that a team would be allocated to Mr. Mayer and I told him that this would occur. Personally I knew that a teacher had been killed. I did not know which teacher had been killed. Mr. Mayer was desperately seeking that information but I felt it would have been wrong for me to have answered yes or no because I wasn't 100% sure of the information.

Did you provide information to Mr. Mayer? - I did, yes.

At what time was that? - Mr. Mayer was very upset and insisting that I give him information. I told him I would go and find out the information accurately. I then sought out Superintendent Holden and advised him that Mr. Mayer was very keen to know and he had heard in the media certain informations. I then learned that Mrs. Mayer was in fact the teacher who had been killed and I went back to the library. My method of telling Mr. Mayer was not to sit him down and formally say to him that his wife was dead. It was more confirming his suspicions, that what he suspected was in fact the case.

When you told him this, how much time had elapsed since his arriving at the school? - I was with him perhaps l0 minutes initially. It took me a further l0 or 15 minutes to find Superintendent Holden who was busy receiving official confirmation. I could have spoken to other persons but in order to get the accurate information which I required to speak to Mr. Mayer I needed to speak to one of the senior officers in charge of the case who were, in my opinion, the only ones who had the full and accurate information.

When you went away you say to find information, was anybody there with Mr. Mayer? - At this time Mr. Mayer was very very keen to contact his daughter. He had a mobile phone with him which he was attempting to use with some difficulty, I'm not sure if it was to do with the battery or just the sheer volume of communications which were ongoing at that time. I found a telephone within the library which I offered to Mr. Mayer to use but I think again he had difficulty in gaining a line with the telephone as there were very few lines into Dunblane Primary School.

Did Mr. Mayer ever say to you that if you didn't give him information he would go out and get it from members of the media? - He did, yes. That was prior to me leaving him in order to go and seek out Superintendent Holden.

CROSS-EXAMINED BY MISS DUNLOP: You have given evidence about a number of different parents/

parents making complaints which came to your ears about children at Hamilton's boys' clubs? - Yes.

But is it fair to say that although these complaints were coming from different parents they were to the same or similar effect? - Consistently. I would have liked..... again, I do not like the thought of children having been abused or assaulted or hurt in any way but eventually it struck me that the only way in which I was going to be able to deal with Hamilton was to obtain information or evidence in some way which would enable me to pursue him through the people to whom the police reported, either the Fiscal or the Reporter.

It is fair to say, isn't it, that the basis of these complaints by parents was that they were sending their sons to clubs run by Hamilton expecting some type of activity to take place and then later learning that really very different things were happening? Is that a fair way of putting it? - Well, I think that some of the things the parents expected to happen in fact took place but mixed with them were activities which the parents were not aware of and which they did not give their consent or permission for.

Can I perhaps take you back to the memorandum? I am afraid the only number I have retained for it is D3/I(I). That is the memorandum written by Detective Constable Taylor. If I can just ask you to look at page 2 of that where some of the complaints made in May l993 are summarised. If we look at the first full paragraph on page 2 we see there that one mother complained because her son had attended on the pretext that he would be playing five-aside football but in fact no football had ever taken place and when at Stirling High School the child had to change into ill-fitting trunks and then perform exercises and be photographed. That is a fairly typical complaint in that paragraph, isn't it? - Well, it was different in that this particular child was on his own. He had been isolated and was not amongst others which was the general pattern involving Mr. Hamilton.

Well, in fact in the second paragraph there is reference to this same mother attending and finding another child on his own with Hamilton and the/

the mother of that other child again did not expect that something like that would be happening? - Yes, I am sorry. I may have misinterpreted the first paragraph there. It is the second one that is in isolation.

So what we have here is firstly a parent sending a child expecting he is going to be playing football and he does not play football. He does gym exercises and is photographed. Secondly, another parent sending a child in the expectation that there would be a number of children but in fact Hamilton is alone with her son and at the end of that paragraph there is a reference to these parents being misinformed. Now, that is presumably by Hamilton? -

I/

I think that is a failure to supply full information rather than misinformed.

Well, would you agree with me that, in fact, these are examples of deceitful conduct by Hamilton? - I think Mr. Hamilton is a deceitful man, he provided the information that he wishes you to know.

Again the same is true when one reads it at the top of page 2 and on to page 3 that the justification given by Hamilton for the children wearing swimming trunks was that they were to have access to the swimming pool but enquiry reveals that wouldn't have been the case? - We discussed with the janitor of the school who was responsible for letting people into the premises and the gym hall was unsuitable for football. There is a games hall within the same school which would have been allocated for football and the swimming pool is a separate hall which is provided by the authority.

But you have already agreed with me that this conduct was deceitful; would you agree with the desciption of devious? - I think it depends on an individuals' interpretation of the words; I think Mr. Hamilton provided people with information in order that he could be with the children and then use them in the way that he chose to use them. Devious is a word that could fit that.

Or possibly scheming would be another word that could fit that, would you agree? - He certainly created situations in order to have children in the way in which he would photograph them.

That would be described by some people as scheming? - Yes, by some people.

Would you? - I think he managed to manufacture situations, that is the way I would put it.

Now, you did note that the then Detective Sergeant Hughes had prepared a very substantial report in 1991 about Hamilton and the summer camps? - I was aware of that; in fact, I put a copy of the summary report from Sergeant Hughes along with Constable Taylor's memorandum to the Fiscal.

Were/

Were you aware that Hamilton had a Firearms Certificate? - It is mentioned in the paragraph in front of the report that he had a Firearms Certificate.

What, if any, action did you take in relation to drawing this sequence of events to the attention of those responsible for Firearms Certificates? - At the time of this report being compiled I had looked at the previous report which had been submitted by the then Detective Sergeant Hughes; within the file I held at the office was that report and attached to it was a copy of the report submitted by Mr. Hughes in relation to concerns he had; I read that report and considered it and I felt that the complaints I had were perhaps to a lesser degree than those which had previously been submitted. I was aware of the result of that report and I felt that there was no need for me to reinforce that as it was to a lesser degree than I was involved with at the time.

Just so we can be completely clear, the memorandum to which you are referring is a two-page memorandum by Sergeant Hughes at the end of which he notes the revocation of the Firearms Certificate? - Yes, it had been held in a file in my office.

You saw that complete with the handwritten notes at the time? - I would have looked at the handwritten notes, yes, I see it here.

Is it fair to assume when you saw it on your handwritten notes an accurate summary of your position in relation to the Firearms Certificate would be somewhat similar to how you felt about the Fiscal, that you would really have to come up with something a bit better and not more of the same? - No, I felt it was my position as a detective to investigate all the incidents reported to me and where there were grounds which varied from those previously to report them. I didn't feel at that particular time that the circumstances we had were significantly different from that which had previously been reported leading to the result they had had.

In so far as the Firearms Certificate was concerned you mean? - Yes.

You/

You must have been influenced by the knowledge that

similar circumstances had been drawn to the attention of superior officers before and nothing had followed in relation to the Firearms Certificate? - No, the same sort of attention was being drawn again, my report was submitted internally and.....

But presumably your expectations, in light of what had happened the last time, would be that nothing would happen about his Firearms Certificate? - If I had felt that the circumstances were substantially different or that the information I had been given was such that I should have been asking for revocation at that time I would have submitted a further report.

For example, this report from Detective Constable Taylor.....? - A submission of a report within the police is such that we supply copies and they will go through the channels to our immediate superiors; the firearms file is not one which I would be personally involved in, it would be a decision taken by somebody else.

Higher up? - Yes.

CROSS-EXAMINED BY MR. GIBB: In your memorandum D31 in folder I to which you have just been making reference to speaking to a summary of events and you have spoken earlier of various letters from parents and all the letters use the word "concern" at least? - Yes.

Did you think any of the parents were alarmed at what was happening? - Certain parents that I spoke to were alarmed within themselves, they were most agitated at the conduct of Hamilton towards the children.

Were you aware that it would be a breach of the peace to do something to A which caused fear and alarm to B; in other words, if someone did someone to childen which caused fear and alarm to them at least that could be a breach of the peace.

MR. TAYLOR: I don't think that is an appropriate question for the witness.

LORD CULLEN: Why not?

MR./

MR. TAYLOR: I think first of all it would be better if

the witness gives a definition of a breach of the peace.

LORD CULLEN: Perhaps he could give an assumption, an accurate assumption.

MR. TAYLOR: If it was an accurate assumption.

LORD CULLEN: What do you say to that, Mr. Gibb?

MR. GIBB: I don't think it is a valid objection but I will re-frame my question.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: Assuming you received information that something has been done to A which caused alarm to B, someone else, in your view could that constitute the crime of a breach of the peace? - I think what you are referring to is the knock-on effect of the behaviour towards the children perhaps, did it affect the public in general in the way that somebody behaves; I don't feel it is for me as a Detective Sergeant personally to make that decision; I think it is my job to gather and present that information and tell people who are properly appointed to make the decision.

Did you discuss with the Procurator-Fiscal at all the possibility that this conduct in itself might constitute a breach of the peace? - If you are asking me a question -- the decision taken by the Fiscal?

I am asking whether you discussed it, was that subject discussed? - No, the discussion that was held with the Fiscal was to do with the contents of this report; the Fiscal considered the contents of the report and provided a decision; I am not in a position whether I would then discuss that with the Fiscal. The Fiscal makes his decision.

What I am trying to get is that the Fiscal had indicated to you he didn't think a crime had been committed and did you discuss the possibility of this conduct amounting to a breach of the peace or did you not discuss it; if you didn't discuss it I am quite happy at that reply? - The Fiscal didn't/

didn't discount that that was being put across; he was most concerned but didn't feel the behaviour towards the children.....the children were not then alarmed by the behaviour shown by

Hamilton. I believe that the children themselves were not unduly alarmed there because the club they were attending run by Hamilton was probably the first club that they had ever gone to; it was an age when boys would be going to Beavers, the first part of the Scout Group, and they had no knowledge of what behaviour they should be expecting of the persons organising and running the club, they simply did what they were told by Hamilton therefore in effect the children themselves were not alarmed.

But you didn't discuss the knock-on effect that they may be alarmed; clearly the parents were alarmed? - I think in themselves but I didn't put any emphasis on that, it is not my decision.

Can I deal briefly with the events of the 13th of March and I do appreciate that the events of that day were extremely traumatic for all concerned. Can I just indicate to you that my information is that Mr. Mayor did not have a mobile phone that day and also that were you aware that his daughter Esther was in the staff room? - I did subsequently learn that his daughter was brought to the staff room; in that respect I did what I felt was best for Mr. Mayer and I took him to a room which wasn't part of the mayhem involved with all the other people and I thought in his best interests he should be taken to a room with some privacy where he was told, informed what had happened to his wife.

Your impression was that he had suspicions then when he arrived that his wife was involved? - I think within himself he felt that the worst was about to be told to him.

But it was half past 1 before that information was communicated or thereabouts? - Yes, it was 1 p.m. before I met him; however quickly I got back to him it certainly would have been no more than half past 1.

I think you are aware he met with his daughter at quarter to 3? - I have subsequently learned that; following my dealing with Mr. Mayor I was allocated one of the other families to deal with.

CROSS/

CROSS-EXAMINED BY MR. JONES: I would like to ask you one or two questions about the contact you had with the Regional Council from the start of your investigations in 1993 and the beginning of 1995; you mentioned that you went to see, I think,

Mr. Flett early on in about May,1993 and he let you see a report by Mrs. Chillis of some videos that they had seen, is that an accurate reflection of your evidence? - I would report to Mr. Flett's office there where a copy was subsequently passed to me by Mrs. Chillis. I am unclear, I certainly did have a copy of the report within my file at Bannockburn but that may have been as a consequence of me actually meeting with Mrs. Chillis and inviting her to meet at Bannockburn where we discussed concerns. Would you look please at DSU10 which we have as D137 in J(i).

Now, this appears to be a report by Mrs. Chillis dated the 25th of February, 1993 to Mr. Watson in the Chief Executive's Office and this is entitled "Mr. T. Hamilton, Videos"; is that a report which you saw? - It is.

And it relates to Mrs. Chillis having watched a copy for three hours and then making a number of observations, is that right? - Correct.

She makes observations firstly on the gymnastic exercises and then trampolining and general observations? - Yes.

Can I ask you to go on from that, it is to a document which I don't think had a number but there was a letter from two parents to Mrs. Gibbon; could you have that in front of you. We have it in D176, D CRC A1 F1 42; I think you saw the hand-written letter earlier this afternoon; that is a letter dated the 26th of September, 1993 addressing or raising various concerns about Hamilton's boys' sports clubs. If you look at the first sheet in that document that bears to be a letter from a team leader in the Central Regional Council to Mr. Flett? - That is correct.

It is dated the 11th of October, 1993 and it is drawing a handwritten letter to his attention; what I would like to know is this, did the hand-written letter, the copy letter you have told us about, come to you from the Regional Council or somebody/

somebody in the Regional Council? - I would have to check the documents but I believe a copy of this letter also went to Mr. Forsyth.

It is addressed to Mrs. Gibbons? - Yes, the same letter went to various different people; I think you will find that letter or a copy..... it says "Dear" and different names were appended and it was sent to whoever the author chose to send it to.

Could you look again at D CRC ES F8 11; again this is a letter you looked at a little earlier? - Yes.

This is a letter from Dr. Young, the head of Resource Services in the Regional Council to the Chief Executive's Office? - That is correct.

In December, 1994 and do we see from the second and third paragraphs that it talks about what is described as a flurry of complaints from parents of which copies were forwarded to the Child Protection Unit in Bannockburn. Do you see that?
- Yes, I see the paragraph.

Is that consistent with your recollection of what happened at that time? - No, I disagree with the word "flurry" because flurry would tend to indicate a number; depending on who has received that -- I think at that time it was two or three from the Regional Council.

I think it is made clear it is three? - Yes.

This letter goes on to say in the third-last paragraph "You will note that the previous decision of a similar nature led to the authorities being taken to the Ombudsman by Mr. Hamilton"? - Yes.

Does this reflect on what you have told us, that one of the concerns of the Regional Council was if you stopped the lets that could lead to them being in the same position? - I think they felt they were leaving themselves open to some form of complaint.

Could you have DFU53/5 and D CRC AL F1 63 and we have these as D201 and 202; you have already looked at DFU53; is that your letter dated the 29th of December, 1994 to Dr. Young at the Region? - It has not a reference to it here but it is the letter.

An/

3.50 p.m.

And you have explained that a decision by this stage had been taken I think that there would be no prosecution, is that right? - By this time I had spoken to the individual parents who had written letters and I had fully discussed with each of them the circumstances which had been described to them by their children and these circumstances were identical in nature to the previous reports which had been submitted to the Procurator Fiscal.

I think you are agreeing with me? There had already

been a decision taken about certain complaints that there would be no prosecution? - Yes.

And we have got to the stage where you don't feel there was anything new in these complaints, is that right? - I had been told that the circumstances which were repeatedly being reported to me were not such that would be taken up.

Now, if we look at the other document you have, DCRA-AL-F1-63. Is that a communication dated 20th December, 1994 from Dr. Young to the Rector of Dunblane High School? - I am sorry,
No. 63 I have is from Dr. Young to Mr. Sinclair.

Have you got a backing sheet with a reference DCRC-AL-F1-63? - I have DCRC-AL-F1 and document 63 within the file is not the one to which you are referring.

I will give you another copy. In our bundle it is D201. Now, looking at the second paragraph, is there a reference to "A letter from Central Scotland Police on this issue" and the heading is "Thomas Hamilton-Boys Clubs"? - There is, yes.

"Indicating to me that they are of a mind that the Procurator Fiscal would be unlikely to agree to prosecution on the basis of the evidence received to date" so that is prior to the 20th December? - Yes.

And then the letter goes on "As also discussed with you, I have forwarded two other letters/

of complaint of a broadly similar nature to Central Scotland Police and await their verdicts on those ones". So those are the complaints which you later referred to in your letter of the 29th December, is that right? - It would appear to be, yes.

And does Dr. Young go on "I also indicated to you, however, that I would wish to discuss the matter in early course with the Chief Executive to determine whether or not the Regional Council should take action on its own right regardless of the police position"? - That is correct.

Now, can I just be clear about this; is my understanding correct that up until this time there had been a frequent and full exchange of information between you and the Regional Council about Mr. Hamilton and his activities? - There had been many discussions between myself and Mr. Flett either by telephone or visits.

Now, finally I think can you look again at a letter dated 1st September, 1995 from Mr. Steele in the Regional Council to Mr. Hamilton. The reference I have for it is DDH 356. If you could also have DCRC-AL-F2-30. In our bundle it is D232 and 233. You were asked about the handwritten letter which is attached to AL-F2-30. That is the letter which bears the date the 28th August, 1985. Have you got that? - I have that, yes.

And you were asked if you had seen this and you said you didn't have a recollection of having seen it before the 13th March, is that right? - Not that I can clearly recall in my mind.

I am not in any sense disputing your recollection. I am just seeing if my recollection of your evidence is correct? - Yes, that is what I said.

You see from the first sheet that this was forwarded from somebody in the Regional Council Education Services to somebody in Administration and Legal Services on the 30th August, 1995. Do you see that? - Yes.

Now, if you look at the other document you have, DDH 356. That is a letter of the 1st September,/

September, 1995 from Mr. Steele to Mr. Hamilton at Kent Road. Have you got that? - I have, yes.

Does that appear to take up the points that are raised in the handwritten letter of the 28th August, 1995? - Again, I would have to look at the dates but the letter which went to Mr. Hamilton from Mr. Steele was something that was discussed at the meeting which was held by the people who came together and we closely wished to look at methods of closing in on Mr. Hamilton. He had a habit of

responding to letters by slightly varying his answers and deflecting what he had previously said and changing things.

That is no doubt correct but what I am really getting at is that in the letter of the 28th August to the Council a number of questions about Mr. Hamilton's activities are put to the Council. All I want from you is confirmation that in the letter of the 1st September, 1995 those questions are then put directly to Mr. Hamilton? - That is correct, they were.

CROSS-EXAMINED BY MR. TAYLOR: You were asked one or two questions in relation to what happened on the day of the 13th. Am I right in thinking that after your involvement with Mr. Mayer was concluded you went on to do other duties that day at the school? - That is correct.

Can you tell us what these duties consisted of? - After, before or during?

Sorry, after you had looked after Mr. Mayer? - Immediately on leaving Mr. Mayer I was conscious that the briefing teams or liaising teams were being put together. The briefing had in fact commenced and I was aware of the content of the briefing because I was a part of having attempted to facilitate putting that together so I made my way to the briefing room where a team was being allocated to individual families with whom they were to deal. I was given a particular family.

Can you recall approximately what time that was? - Yes, my recollection of going to meet this individual family was about 1.45.

And how long after the briefing was it that/

that you met with that family? - My time in the briefing was very short. I would estimate meeting the family at 1.45, having left Mr. Mayer. I was in the briefing only for a very short period, towards the end of it, and then immediately allocated the family with whom I was to deal.

And how long after you had broken the news to the

parents was it before you left the school with them, if indeed you did leave the school with them? - Yes, we went from the staff room area to a medical room which was situated in a different part of the building. Having been in that room and discussing the situation, the parent I had was very clearminded and wished to be told as much as I could tell her at that particular time. She was a very positive person and we sat for quite a while and I answered questions for her. One of the things which was available was the opportunity to speak to a counsellor or a psychologist so I obtained a psychologist and came back to the room and spent some time there discussing things again and then I would think probably about one hour later we would have left that area.

Were there enough rooms to go round at that stage? - I was in the first party of people to leave the school. I was conscious that at the time I was making my way to pick up the family I was dealing with there was a room available. However, I was also aware there were two or three people, we had managed to gain members of staff who were desperately searching through the school in order to find rooms to which we could take individual families in order to break the news but how well that progress after I left is difficult to say.

Can/

Can I take you back to the evidence you were giving in relation to the various complaints and if you could have before you the Production which was No. DFU22. I think that was the one which was given no other number. It should be a memorandum from yourself to Detective Superintendent Ogg. Do you have that before you? - I do, yes.

Do you have not just your memorandum but also at the very back a manuscript letter from the parents addressed to Inspector Mill headed "Boys' Sports Club"? It is a letter I think we have looked at already? - Balfron Boys' Sports Club? Sorry, this is one from Chief Inspector Mill.

It is right at the back and should be in manuscript. Your documents are perhaps organised slightly differently from the way I have them. In any event, perhaps it might not be necessary to identify that particular letter. Do you see that there was something from Inspector Mill attached to DFU22? - In this respect, this letter had come to the police and I believe Chief Inspector Mill had sought advice on how to respond to the matter and it was subsequently passed to my own office to investigate and deal with, leading to my going to see the family.

Do you have a memo there from Chief Inspector Mill to the Chief Superintendent of 'A' Division? - Yes, this is his memo seeking advice.

And that is the one which is headed up "Balfron Boys' Sports Club"? - Yes.

If you go to the bottom of that where there is a stamp which bears to be a Chief Superintendent's stamp, just above it there is the initials DCC. Do you know what that means? - Yes, that is terminology for Depute Chief Constable.

What do you take this document to have done? Do you think it would have gone to the Depute Chief Constable? - My interpretation of it would be that it is passed from the Chief Superintendent to the Depute Chief Constable.

Now, in the course of your evidence you indicated that you carried out certain investigations in relation to the complaints which were/

were being made to you, amongst which was speaking to the Procurators Fiscal and also to at least some of the parents who had been making the complaints? - That is correct.

And I think you have also told us that you had discussions on an ongoing basis with the local authority? - That is correct.

We heard yesterday that there was a visit made by Chief Superintendent Holden to Mr. Hamilton. Were you aware of that? - Yes, I was present with the then Detective Chief Inspector Holden when he went by pre-arranged appointment to see Hamilton at his home.

And that would be another aspect of the investigation which was taken by you in relation to these complaints? - It was very much a case of Hamilton had been interviewed by the police before and when Hamilton felt he was under suspicion he was unlikely to provide any information. We hoped by speaking to him and going to his home we could elicit information from him regarding these boys' clubs, his committee members, the other people who were involved with him in order that we could gain as much information as was available regarding him and his activities and we had a number of questions for him. We were hoping that he would identify his alleged committee members and colleagues to us. Hamilton was obviously very reluctant to supply this information and became suspicious of our reasons for asking and began again to go over all the previous involvement he had had with the police, the Council and others.

RE-EXAMINED BY MR. LAKE: What was your impression of Hamilton on the home visit? - I think in one of the memos I actually wrote I say that he was a man who was obsessed with his boys' clubs. He appears to have no friends, no close family with which he was seen on a regular basis, that was on my information, and his whole life centred around the boys' club and his camera activities.

Considering again the events of the 13th of March, you said you met Mr. Mayer at approximately 1 o'clock. Are you aware even roughly of how many people were in the school by that/

that time? - Just prior to meeting Mr. Mayer I had come up from the house where the parents had been and spent time going over the children themselves. I was then out from the school back down to the main area in order to bring up the social workers who were to form part of the teams to deal with the families and I remember having great difficulty in making my way through the crowds. I would estimate by that time there were certainly over a thousand people. There was great difficulty in getting through the crowds.

That was the cordon around the school? - Yes. Within the school itself there was tremendous activity of people coming and going.

Was there any person monitoring who was coming and going out of the school? - Yes, there were officers on the entrance doorway and identifications were being sought from

anyone who was making their way in or out from the school.

ISOBEL MARTIN, Sworn,

EXAMINED BY MR. LAKE: Do you live in Drymen? - Croftamie, yes.

What is your occupation? - I'm a head teacher at a primary school.

How long have you held that post? - Seven years.

In the course of your employment have you become aware of Thomas Hamilton? - Yes.

How did you first hear of him? - He sent a covering letter and some leaflets to the school at the start of the letting season for the evening lets at Thomas Muir High School.

Were you aware whether or not he ran any other boys' clubs? - I think from memory from the letter that he sent he said that he had established similar clubs in the Stirling area but that is all I can remember. He certainly didn't have any in the local area. That was the first contact I had had from him.

What/

What ages were the children at which the club was aimed? - It was from our Primary 4 to Primary 7 which is about eight to 11.

Were you aware that that club started up in your area? - Yes, there was a problem at the beginning. He sent the first set of leaflets and then myself and other head teachers received a letter from him saying that there had been a problem with accommodation. He had been promised a large gym and had been then subsequently given a smaller gym which he didn't find suitable and he apologised for the delay in the start and asked if he could send out a further leaflet to the children.

In considering the next part of evidence asking about any correspondence you had, if I can ask you not to identify the persons who sent you any correspondence so as to preserve the privacy of the people involved? - Yes.

Did/

4.10 p.m.

Did you receive any further correspondence following on your starting of the club? - No.

Did any parents of children at your school contact you regarding the club? - Yes.

When was that? - On the lst March, l996.

What were they saying to you? - The parent who came to see me had concerns about Mr. Hamilton's dealings with her son.

What was the concern? - She felt that his behaviour towards her child wasn't appropriate and I agreed with her.

What had he done? - He appeared to be taking an exceptional interest in her son and also in one of his friends but more

particularly her son; he had telephoned her and offered to pick up the child before he was taking him on to the Thursday Club which was not a club that he had advertised with us which was on Monday in the local High School; this was an extra club he was taking them to in Stirling somewhere.

Is that all the parent was concerned about? - She was concerned about the fact that he had shown the boys photographs of wild animals, he had shown them a gun which he had kept in the mini-bus that he transported the boys in and he had been lengthening the amount of time that was involved between the pick-up time between the boy's house to the time he was collecting the other children at the Thomas Muir High School and this was working out initially from l5 minutes and it was extending to 30, 35 minutes ahead of the time that he was collecting the other children at Thomas Muir which meant he spent that time sitting in the mini-bus with her son. He had also asked her son if he liked the film "Alien" and offered to give him a video of it to take home to watch; he had offered..... he said to her son that he went shooting and he offered to take the boy with him.

You/

You mentioned a video there; are you aware of what Certificate "Alien" is? - I believe when it was originally in the cinema it was an l8, it is at least l5; I know it was shown on television after the watershed of 9 o'clock and it is not a film that I would consider suitable for a child of this particular boy's age.

What is that age? - 11.

What did you do with the information contained in the complaint? - I made notes over a period of an hour with the mother concerned on the afternoon of the lst March and I put these into..... first of all on that morning I was given part of the information and I contacted the Education Officers in Dumbarton for some advice because it didn't really appear to me a straightforward case of looking at child protection as such within the standard circular we had at the time in Strathclyde Region which was Standard Circular 57; after getting some advice from the Education Officer in the Divisional Office in Dumbarton I took notes from the parents and put these in the form of a letter to the Social Work Department which was based in Balmuildy Road in Bishopbriggs; I wasn't able to contact the Social Work by telephone on that afternoon.

Did you have further contact with the Social Work Department? - Not for some time.

When did you next have contact with the Social Work Department on this matter? - I think Monday..... no, it was Tuesday, l2th March.

What was that contact you had with them? - It was initially a phone call to the receptionist at that office to check that the letter I had sent on the afternoon of the lst had actually been received and I later had a telephone call from the senior social worker to tell me about what they had actually found out about Thomas Hamilton.

Did you receive any response to your letter prior to that date? - No.

What did they tell you they had found out about Hamilton? - The senior social worker said that they had been in contact with Central Region/

Region Social Work Department and that the Central Region Social Work Department and the Education Department in Central Region was aware of Mr. Hamilton and that he was..... I am trying to remember, I wrote it down in a report that I sent to my office; I think you may have a copy of that, I have one here.

The copy of that report isn't to hand.

LORD CULLEN: If it is your own note please take it out to refer to; it may be easier to find than anything else.

THE WITNESS: She said that he was an awkward person to deal with, he had been making similar moves with children in Central Region and they had already tried to do certain things about him but he was someone who knew his rights and we must be very careful not to defame his character.

EXAMINATION CONTINUED BY MR. LAKE: Had any action been taken in respect of Hamilton by the 12th March by Strathclyde Region? - Apart from myself I don't know about the Social Work Department but I sent off my covering letter which I am supposed to send under terms of the Standard Circular 57; I had sent a letter to the Director of Education, to the Psychological Services and a copy to the Area Reporter to the Children's Panel but as far as the Social Work Department is concerned I don't know what was done there at all; the only contact I had was that social worker in the afternoon and she said she would send a social worker to visit that particular mother who had been in touch with me; the reason I did try to get in touch was the Mum came back to me by telephone on the llth March and was wondering why no one had been in touch with her from the Social Work Department because when I had interviewed the mother on the afternoon of the lst March I had said they probably would be in touch with her because she was willing to give her home phone number and they would probably be in touch quite quickly because that was my experience in the past.

All the other activities of the Social Work Department were after the events for the l3th March? - I don't know about that, all I do know/

know is that they contacted me on the l2th; I was contacted at home on the night of the l3th before the announcement was made in the Press; a member of the Social Work Department told me it was Mr. Hamilton.

No cross-examination.

Adjourned until Monday,
l0th June, l996 at l0 a.m.

NINTH DAY

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

MONDAY, 10th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

Page.

ELIZABETH ANNE SHARON WATT,
Examined by Mr. Lake..... 4

RONALD MERCER,
Examined by Mr. Lake..... 7

KENNETH McLEAN,
Examined by Mr. Lake..... 13
Cross-examined by Miss Dunlop..... 17

DOUGLAS HAMILTON,
Examined by Mr. Lake..... 18
Cross-examined by Miss Dunlop..... 27

DONALD WOOLLHEAD,
Examined by Mr. Lake..... 29
Cross-examined by Miss Dunlop..... 34

SCOTT THOMAS DEWAR,
Examined by Mr. Lake..... 35

COLIN MATHER,
Examined by Mr. Bonomy..... 42
Cross-examined by Miss Dunlop..... 73
Cross-examined by Mr. Gibb..... 80
Cross-examined by Mr. Taylor..... 84
Re-examined by Mr. Bonomy..... 89

ROBERT ALLAN,
Examined by Mr. Bonomy..... 99

DAVID PLAIN,
Examined by Mr. Lake..... 109
Cross-examined by Miss Dunlop..... 118

MALCOLM ROY,
Examined by Mr. Lake..... 118

Letter read by Mr. Lake..... 121

ALLAN CASSIDY,
Examined by Mr. Bonomy..... 126
Cross-examined by Mr. Taylor..... 128

LANCE RATTRAY,
Examined by Mr. Bonomy..... 128

MONDAY, 10th JUNE, 1996.

NINTH DAY.

ELIZABETH ANNE SHARON WATT (42), Sworn:

EXAMINED BY MR. LAKE: Do you live in Alva? - I do.

What is your occupation? - I am an accounts clerkess.

I understand that you are on the Parent Teachers Association of Alva Primary School? - Not any more.

When did you cease being on the Association? - About two years ago.

For how long had you been on the Association? - Seven years.

I understand that at some time some parents contacted you regarding concerns about Thomas Hamilton? - Yes.

When did those parents contact you? - As near as possible I think it was a year past February. Near the end of February l995.

What did those parents say was concerning them? - They thought he was odd. He seemed to prefer children that we might have said were vulnerable children.

In what way? - Not very streetwise. They might have let people do things and said nothing. They were needing some attention. Maybe one-parent families.

Were there any concerns as to what Hamilton was doing with the children? - Yes. Wanting them to strip to the waist was a big concern and that he was very often on his own was a big concern to the parents.

Did/

Did they mention any photography? - Yes, a video cameras and photographs.

What were the photographs of? - They said it was the children stripped to the waist and that is what they didn't like, couldn't understand.

Did the parents say they were angry about this or concerned or.....? - Concerned.

What did you do in response to their concerns? - I phoned Central Region at one point and they told me, whoever I spoke to in Mrs. Challis' office said they would not send any of their children to one of his clubs. I phoned Mr. Hamilton. He sounded odd. That is all I can say. He wasn't very forthcoming.

What did you discuss with him on the telephone? - Just what went on at his sports club.

Did you ask him anything in particular? - I did when I met him. I also went and saw him at one of the clubs.

When was that? - It would have been about the same time. Maybe February or March of l995.

What did you see at the clubs? - I saw some boys. When I went into the gym hall Mr. Hamilton was in the boys' changing room. I maybe should have checked but.....

Were the boys in there at that time? - I don't know. That is why I think with hindsight I maybe should have checked. There were some boys in the gym and I had to wait some time for him to come out of the boys' changing room. He wasn't even dressed.

Sorry, Hamilton wasn't dressed? - No, he wasn't dressed in the way, you know, that somebody taking a sports club would be.

Do you mean he wasn't in sports clothes? - He had hard-soled shoes on which wasn't actually allowed in the gym hall.

But he was fully dressed? - Yes.

Did/

Did you ask him about the clubs on that occasion? - Yes.

What did he say about them? - He was very forthcoming, you know, he was a great sort of chap, he done all these things for young boys, because I told him I was going to send my son if it was a good enough club. I didn't actually have a son of that age group. But when I questioned him he was completely different.

In what way? - He became quite aggressive in a way and he didn't want to answer questions. I questioned him about being there himself, why he was on his own with these boys and he said he was allowed to be with 28 to 30 boys, he could be on his own and I said that wasn't right. My husband was a Cub leader and he could not be on his own with one boy and didn't want to be. You know, he just got quite angry.

Did you form any opinion of Hamilton at that time? - Yes.

What was that? - I wouldn't have sent any child there. He was really odd.

Did you do anything with your concern after you had met Hamilton? - Yes.

What did you do? - I phoned the police.

Where did you phone the police? - Tillicoultry.

Can you remember who you spoke to? - No.

What did you tell them? - I told them..... I actually phoned the police at Tillicoultry before I met Hamilton as well to ask them about him and they said that he was known to them.

Did they say in what way he was known to them? - Just with the same things, these boys' clubs. He was known to them for that. They weren't very forthcoming about it.

Did/

Did they say what they would do with the information you gave them? - They would look into it. That was all I got. I phoned quite a few times.

Did you hear anything further from the police? - No, the last phone call that I made when I asked them what was happening, they said to me that I would hear sooner rather than later and there was nothing they could tell me.

When was that last phone call you made to them? - I can't really remember.

Was it shortly after the first one or had a long time elapsed? - No, I would think maybe two or three months later at least.

So this may be into the late Spring of l995? - Yes. Oh, yes.

Did you take any further action after you heard nothing from the police? - No.

No cross-examination.

RONALD MERCER (42), Sworn:

EXAMINED BY MR. LAKE: Do you live in Menstrie? - Yes.

What is your occupation? - I am a caretaker steward.

Where are you a caretaker? - Now at the Dalmore Centre in Alva.

How long have you been there? - About three months.

Where were you before that? - Menstrie Community Centre.

While you were at Menstrie Community Centre, did you have any dealings with Thomas Hamilton? - Yes.

How/

How did you come to have dealings with him? - I was the mini-bus administrator at that time and he came to me for the mini-bus.

When did he come to you for the mini-bus? - It was always a Thursday. I can't remember the dates.

Can you remember when he first came to you? - No.

Even roughly month-wise? - No, I can't remember.

Was it this year or last year or the year before that? - It was last year going into this year I think.

Last year going into this year? - Yes.

And how often did he hire the mini-bus? - About six or seven times I think.

Did he ever tell you what the hire was for? - It was apparently for his Dunblane Boys' Club.

Did you ever hear any rumours regarding Hamilton? - Yes, there appeared to be rumours flying about at one point.

What were these rumours about? - Well, he wasn't to get the mini-bus, I don't know the reasons why. He just wasn't to get the bus so when he came to get the bus I told him he couldn't get it but he went to my superiors and the next thing I knew he had to get the bus again.

So who told you he wasn't to get the bus? - My line manager. I don't know what was said but he told me that he wasn't to get the bus. I didn't know the reason.

And so when Hamilton asked you you just told him it wasn't available? - I told him it wasn't available.

Can you remember when you first told him it wasn't available? - I don't know the date.

Roughly/

Roughly? - At the back end of the year I think.

And how long was it before you had to start giving him the mini-bus again? - I think it was only two or three weeks and then he had to start getting it again.

Can you remember who told you you had to start giving him the mini-bus once again? - That would be my line manager. Apparently he went to see him or something.

Was the mini-bus returned to you in good condition after it had been hired? - Yes, he was the only person who would clean it out. He washed it and cleaned it.

Were there ever any items left in the mini-bus? - Yes, on one occasion there was a tin of gun oil.

Can you remember when that was? - I can't.

Did you speak to Hamilton about the gun oil? - Yes, the following week.

What did he say about it? - He said he needed it to oil some hinges on the bonnet or something of the bus.

Would the bonnet be needing oiled in a mini-bus? - It was stiff but I never thought anything of it, you know.

Did you ever discuss guns with Hamilton? - Well, he talked to me about guns.

What did he say about them? - He asked me if I had ever had guns or fired guns and I said I had had an air rifle when I was younger. That was about it.

Did he say anything more about them? - He said "Would you like to see some magazines of guns?"

Is that magazines as in journals? - Yes, and the following Thursday..... it was always/

always a Thursday afternoon he came for the bus. The following Thursday he brought in a bag of magazines, books and stuff, and the following Thursday after that he actually brought a handgun.

Dealing with the magazines first of all, were these all about guns? - Yes, it was like buying and selling guns and stuff like that.

And he just brought them for you to take a look at? - Yes.

You said after that he actually brought a gun? - He brought a handgun in, yes.

Where did he bring it to? - He brought it to the Centre when he came to pick up the bus.

And this was one of the normal Thursday evenings he picked it up? - Well, it was a Thursday afternoon. I don't actually work on a Thursday evening so if he was using the bus in the evening he had to pick it up in the afternoon because there would be nobody there at night. He just handed me a grey money bag and it was really quite heavy and when I opened it up there was a handgun in it.

Where were you when he showed you this? - In the office at my work.

Did he do anything with the gun? - No.

Just showed you it? - Just showed me it and he wrapped it up and put it back.

Was it loaded? - No.

Was there any ammunition with it? - No.

Did he discuss ammunition with you at all? - Yes, he said he had thousands of rounds of ammunition in his house.

Did you tell anybody about him having shown the gun to you? - Not really, no. I didn't think anything of it. He assured me at the time that he had all the relevant certificates and stuff for it.

Did/

Did he say why he had a gun with him at the Centre on that day? - No. I assumed it was to show me.

Did you form any opinion of Hamilton in your dealings with him? - If anything, I would have said he was gay. I thought he looked gay.

Why was that? - Just the wee squeaky voice. A funny wee guy.

Was he intimidating at all? - No, not at all.

Did he ever threaten you in any way? - No.

Did he ever show you anything else when he came to collect the mini-bus? - On one occasion he came for the bus he had a briefcase with him which he opened and there was a full-sized photograph, a blown-up photograph, of a football team. A boys football team.

How were the boys in the photograph dressed? - They were dressed in football strips. It was a pretty smart photograph actually. There was nothing untoward about it. It was very well done.

Was that the only photograph he showed you? - That was the only one he had in the case.

He didn't show you any other photographs of boys doing gymnastics? - No.

Did he ever discuss with you rumours that were circulating about him? - Yes, he said there was rumours circulating and he said that people thought he was a pervert but he assured me that that was not the case.

Did he say why he thought people were.....? - No, he didn't elaborate on that. He seemed to think that I knew, he seemed to think I had been told, but I knew nothing about this until he told me.

What did he say about the rumours? - He just said that there were rumours flying around that/

that he was unsuitable to work with children and stuff and he just said "I can assure you that is not the case".

I appreciate it is difficult with the lapse of time but can you remember when Hamilton showed you the photograph? - No. It was one of the occasions when he came to pick up the bus. I don't know which one.

When did you last speak to Hamilton? - I think it was the day before.

The day before what? - Before he done what he done.

So that would be the 12th March? - I think so, yes. On the telephone.

What was he saying on the telephone? - He wanted the mini-bus.

When did he want the mini-bus for? - He wanted it for the Thursday.

That would be the l4th March? - That would be the l4th, yes, and I told him it wasn't available because genuinely it wasn't available. It had already been booked. So he asked for it the following Tuesday and it was also booked that day as well so I told him he couldn't have it and then that was it. He just generally passed the time of day and then hung up.

Did he talk to you about anything else that day? - No.

How did he sound to you on the phone? - He didn't sound any different than he normally sounded. There was nothing.

He didn't sound angry in any way? - No, not at all.

No cross-examination.

10.20 a.m.

KENNETH McLEAN (46) Sworn

EXAMINED BY MR. LAKE: What is your occupation? - Presently a police sergeant.

How long have you been in the police service? - 26 years.

I think you are currently stationed at Falkirk; is that correct? - I am.

How long have you been at the Police Office in Falkirk? - In this current posting 18 months.

Where were you prior to that? - I was a detective constable stationed at various places within the Force.

In 1988 where were you stationed? - Criminal Intelligence, Police Headquarters.

What were your responsibilities within Criminal Intelligence at Headquarters? - To receive and disseminate Criminal Intelligence submitted by police officers.

Who did you receive such information from? - From a multitude of sources, particularly serving police officers.

They just contacted you whenever they thought they had something of interest for you? - There was a paper system at the time, and they would perhaps type an entry into a paper log and submit it through to my office.

What did you do with the paper entry? - Either form a file, mark it out for review by operational detectives, or it could form part of an inquiry, you could get asked for Criminal Intelligence. It would also be reviewed by supervisory detective officers.

What was the purpose of that review? - It may form part of an ongoing inquiry. It may form the start of an inquiry. It may be thought worthy of/

of further investigation. The officer who submitted it need not necessarily be the investigating police officer.

If it wasn't part of an actual inquiry or wasn't used for an existing inquiry what would happen to the information? - It would be held on file for review perhaps in the future. If another piece of information came in about the same person it may continue to form a picture of that person.

How was the information categorised when it was stored? - In what respect?

How was it filed? - Under the name of the person.

So there would just be a large alphabetical list of all the information that had come to you? - Say there was a file for a particular person, it would be filed usually by date order.

And the names of each person would be filed alphabetically? - Yes.

Was there any review conducted of the information after it had been there for a period of time? - Yes, there was. Three years was the recommended weeding-out period when it would be reviewed by a detective constable in Criminal Intelligence and the supervisory officer.

What was the purpose of that review? - To weed out superfluous or outdated information.

Was that the only Intelligence system at the time? - Yes, it was.

For how long were you in the Intelligence Section at Headquarters? - Approximately a year.

So you had left by 1989? - Yes.

Was there any other system introduced while you were there? - No. I was part of the proposals and I know there was a stand-alone computer system introduced in either late 1989 or early 1990.

Perhaps we can hear about that from a later/

later witness. Do you recall receiving Intelligence information regarding Thomas Hamilton in June, 1988? - Yes, I do.

Can I ask you please to look at Production DIntel F1D3? - Yes, I have it in front of me.

Do you recognise that document? - Yes, I do.

Who completed that? - I did.

You see there it refers to information regarding the Falkirk Boys Sports Club? - Yes.

And the difficulty with having money repaid? - Yes.

And at the end it says "Are you unhappy and generally suspicious of this organisation"? - Yes.

Where did you get the information to complete that? - Sergeant Low. You would see at the top of the form although it is marked as officer submitting, it was Sergeant Low from the British Transport Police who had telephoned me at Criminal Intelligence Office at Police Headquarters and that is the source of the information.

At the top right-hand corner there is a telephone number? - Yes.

Whose telephone number is that? - Sergeant Low's.

Towards the middle of the form on the right-hand side there is a box saying "Evaluation" and it has got A in one box and the figure 1 in the other. What is the significance of that? - There is a common grading system for Intelligence. A the letter refers to the source of the information and it is graded A, B, C and X. A is a person who is regarded as trustworthy and capable of giving accurate information. The numbers 1, 2, 3, 4 is the grading of the information itself. One would be believed to be true by the person submitting it to the best of their knowledge, and it could go to -- well, A1 in this instance is Sergeant Low who has telephoned/

telephoned the information which he believed to be true and accurate and he himself is believed to be a responsible person. It can go to X4 which would be an anonymous telephone call. By looking at the evaluation you can form a judgement as to whether the Intelligence has accuracy or weight.

Again looking at the form, above that box there is a line marked date, and the date given is 22nd June, 1988? - Yes.

What is that the date of? - The date I received the information and physically typed that on the form.

Would that be the day when you typed the entry into the log or shortly after? - I can't be 100 per cent accurate but it would be on that day I received the information.

In the lower half of the form there is a number of different boxes and headings in which little is written. What is the purpose of that part of the form? - These relate to an administrative documentary system for further disseminating the information.

What do you mean by further disseminating? - It may be, as an example, some person in Stirling gave the police information about a person in Glasgow. This is of no relevance to the police in Stirling and we would transfer that information to the police at Glasgow albeit keeping a copy in our own area: or it may be mentioned in publications, and it may be of sufficient interest to go to a national police publication for relevant consideration by investigating police officers elsewhere.

In what circumstances would you tell another Force about information you received? - When an officer from another Force phoned to see what information we had on any person, the officer phoning would get the information: or if we had information that I described coming in from a local as to a person living in another area, they would routinely get that information on that person: or if his alleged criminal activity was taking place in another police area they would get that information.

In/

In what circumstances would the information be published in a police publication? - In terms of Intelligence appearing in such publications, it would be done through Intelligence circles. I don't recall any current example of where an Intelligence entry would be publicised about an individual. It may be Intelligence came in about a criminal modus operandi, something of that nature would be published, or a novel type of local criminal activity that was worth sharing with colleagues elsewhere.

So there was no particular category of information which in particular would be set aside for publication? - No, there wasn't that I am aware of.

You mentioned police from other Forces would be able to contact you to obtain information? - Yes.

Would any other person be able to obtain information from you at that time? - No, I don't believe so. I can't think of an example, sir.

CROSS-EXAMINED BY MISS DUNLOP: I wonder if I can just ask you about the dissemination within your own Force. This type of entry, for example, which relates to children, would be any part of your job to transmit information to perhaps the Family Unit? - At the present time that would be the case, but in 1988 we had no specific Family Unit or Child Investigatory Agency, we had none whatsoever. In that instance I would suggest I would direct it to the Divisional Detective Inspector at Falkirk for him to review, make a decision as to whether it was worthy of further investigation.

But if you could apply your mind to a statement such as this which mentioned a firearm, would it be any part of your job then to transmit the information contained to a Firearms Unit? - I'm sorry, I'm not -- the information about a firearm?

I am just envisaging a log such as this in which a firearm is mentioned, perhaps just the display of a firearm to somebody in slightly dubious circumstances: was there an automatic procedure whereby you would have referred that information to the Firearms Department? - It wasn't automatic, it is/

is a matter of judgement. In such a situation you describe, it would go to a senior detective officer for review and it may well have gone to the Firearms Department but I can't say that with certainty.

No re-examination.

DOUGLAS HAMILTON (37) Sworn

EXAMINED BY MR. LAKE: I understand you are a detective constable stationed at Stirling? - Correct.

How many years police service have you? - 11 years' police service.

What is your role within the Police Headquarters at Stirling? - I am a crime analyst in the Criminal Management Unit at Police Headquarters.

Does that involve consideration of Intelligence submissions? - Part of my duties is that.

What are your duties in relation to Intelligence submissions? - Basically my duties are to take any information that relates to the area I cover for the Criminal Management Unit. The Intelligence officer's desk is opposite mine and if he is not there I will do his job if necessary for Criminal Intelligence.

What Criminal Intelligence systems are presently available to the police? - A Memex system on computer. It is a computer system.

Is that the only system available? - That is the only system available to me.

Are there any other systems available to any other persons? - Not that I know of, no.

Are you aware there used to be a paper system for making submissions? - Yes.

Has/

Has the information on the paper system been transferred to the computer? - I believe so.

Who within the Force has access to the computer information? - Everybody in the Force.

Anyone who has access to a terminal....? - Anyone who has access to a terminal can access the information.

Do you recall in January, 1995 enquiry being made of you regarding Thomas Hamilton? - I don't remember January but I remember some time in early 1995 an enquiry made about Thomas Hamilton.

Who made that enquiry? - P.C. Anne Anderson.

What was the nature of the enquiry? - It was renewal of a Firearms Certificate for Thomas Hamilton. She came up to me regarding Criminal Intelligence regarding that renewal.

What information was she looking for? - Anything in Criminal Intelligence that we had.

Anything in particular? - Not that I recall.

Was there any need to seek that information from you? - No.

What did you do in response to the enquiry? - I interrogated the machine on what is called Textrack, which is a way of interrogating the information put on by officers in the Memex system.

How does that search for information? - I don't know the technicalities, but in the system there is four processors throughout the Force operational system and when someone puts an entry in one entry goes to that processor and a duplicate entry goes on Archive. And Textrack, which is a way of interrogating the machine, if you go to Archive, and if you had all four processors had any information on it, that is the system you use.

So you are able to get information from the whole of Central Scotland Police? - From the whole of Central Scotland Police Criminal Intelligence system.

Does/

10.40 a.m.

Does it have any means of gathering information from other forces? - No. Any information that would come in from other forces would come in normally by paper or by telephone to the Criminal Intelligence Officer who would put it on to the machine himself.

How is information put on to the machine when that information is generated within Central Scotland Police? - The officers put it on themselves, and save it so it can go to the processing.

Is there any review carried out of information put on to the system? - The information that is on it is reviewed by the Criminal Intelligence Officer or myself, normally on a daily basis.

And what does that review consist of? - Checking entries that are on to see if there is anything that should be maybe put on a bulletin, that is of importance, or to give to other forces.

And is that information being reviewed as it is put on? - It may be a couple of days later, depending on when there is somebody to do it.

Is any subsequent review carried out of the information, or does it accumulate? - It accumulates.

If a search is being made of the system, by what category is that search made? - I don't understand that.

Is the information filed by surname or by the type of information? - No, it is not filed by anything. It is a big pool of information, and depending on how you interrogate, what the query is that goes in will depend on what comes out. Once an office has put it in I don't do anything else with it. I just read what is on the screen by interrogating it by putting in the name and address, car registration, or whatever I am looking for, and it will give it back to me.

It will throw anything that matches back?/

back? - It will throw anything it matches back.

Is the information contained within that system notified in particular to any other parts of the Central Scotland Police? - Not as such. Because every officer, or civilians who have access to the machine have access to any information that is on it, from Criminal Intelligence. There is nothing hidden on it.

For example if something went on regarding children, and possible crimes against children, is that specifically brought to the attention of the Family Unit? - It may be. The Criminal Intelligence Officer may contact them and tell them to look at that entry.

Who is the Criminal Intelligence Officer? - Detective Constable David Plain.

Similarly if there was any intelligence held regarding firearms, would that be notified to the persons dealing with the renewal of firearms certificates? - It if was of importance. Criminal Intelligence can be a lot of hearsay evidence, it can be a lot of third-hand information, so it depends on what the information was, and it depends who it was given to.

Do the persons dealing with firearms certificates have access to the information system? - Yes.

Do you have any way of ranking the reliability of the information put on to the intelligence system? - Yes.

And what is that? - It is put on by numbers and letters. A1 is the best information. X4 means you don't really know if it is reliable or not, and it comes down the scale.

You said you carried out an inquiry in response to the request by Miss Anderson. Did that provide any information about Hamilton? - It didn't. As far as I can recall it didn't give anything on Thomas Hamilton, who was applying for renewal of his firearms certificate.

Is that no information at all at that time?/

time? - Not that I can recall.

Have you subsequently checked the system for information about Thomas Hamilton? - I have.

And were you able to find any information on that occasion? - Yes.

Could I ask you please to look at some Productions. They are D INTEL F1, D10, 11 and 12, and they are respectively D10, 11 and 12 within Volume I(iii).

Can I ask you please firstly to look at the document D10 INTEL. Do you see what that is? - A Criminal Intelligence submission which has been printed off from the machine.

And is that something that would be printed out from the Textrack system? - No. This is from the normal system. Textrack prints it off differently, but the same information -- but that has been taken from the normal database, not Textrack.

Just to be clear about this, what is the difference between Textrack and the normal system? - Textrack -- when I print out on my machine it is a tractafed paper -- and not as neat as that.

But both systems have the same information? - Both systems have the same information. And if I was printing off for somebody who came up and asked me, I would normally print off that way, that information there, I would go back into the normal database and print that off.

Which system do the majority of people have access to? - For printing purpose? As far as I am aware only the Trace team, Detective Constable David Plain and myself, can print from this system.

So other people in the force can screen access only? - They can print from Textrack, but as far as I am aware not many people will know how to print from Textrack.

So if they want information, they can call it up on the screen, and would just have to rely/

rely on it in that form? - Yes.

Looking at document D10, are you aware when that submission was put on to the system? - The 25th January 1995.

Is that the date towards the top right-hand corner? - Yes.

It hasn't copied terribly well on the copies. And you will see that the subject matter of that is regarding complaints relating to Hamilton at Lornshill Academy in Alloa? Do you see that in the second paragraph? - Yes.

And there are comments there about Hamilton requiring the children to undress and taking photographs? - Yes.

In the paragraph at the foot of the page there is a reference to Hamilton being considered a suspicious youth worker? - Yes.

On the second page of that there is a note that Hamilton has been the subject of police interest in the past, but has not been charged with any crime; do you see that? - Yes, I see that.

And then perhaps it is a paragraph relating to the reliability -- it states "This information was received third-hand", and that the parent didn't wish to be identified; do you see that also? - Yes, I see that.

Would any action be taken in respect of this after it was put on to the system? - Not by myself, no.

Had your search for Miss Anderson been carried out before or after that information was placed on to the system? - I can't remember. I don't know the dates she asked for for the search.

Could I ask you to look then at document D11, and what is that? - Again it is a Criminal Intelligence submission that has been printed from the database.

The date of printing -- that is the one in the top left-hand corner, is it? - Yes, that is the/

the date this actual physical one I have here in front of me has been printed off.

But again you see the date it has been submitted? - 13th February 1985.

Do you see there is a reference there to the officer who submitted the information, DF10191, and that is just the number of -- the police number of the person submitting the information? - Yes.

I think that number -- well, a different number, but a number was given on document D10 also? - Yes, another officer.

BY LORD CULLEN: Does "Entry Classification" refer to the grading of reliability? - Yes.

If you just look back at D10, the one you were looking at before, there doesn't appear to be any grading, it is blank; is that right? - That is correct.

Is that normal? - Yes. Quite often officers don't know what to grade it, so they just leave it blank.

EXAMINATION CONTINUED BY MR. LAKE: And do you see the subject matter of this complaint is similar to the other one, in that children are being required to wear swimming trunks when attending Clubs run by Hamilton? - Yes.

And the informant, who is unnamed, has expressed his concern for the safety of the boys attending the Club? - Yes.

And it is also recorded that the informant had been asked to contact Inspector Ross and/or the Family Unit so that further inquiry can be made into the allegation immediately? - Yes.

The name given at the bottom of the form there is PC D. Forbes. Would that be him that had instructed the informant to contact Inspector Ross, or would it be the person dealing with the information? - No, it would be Constable Forbes.

Would any further action be taken in respect/

respect of this submission? - Not by myself, no.

BY LORD CULLEN: What is an MO? - "Modus Operandi".

EXAMINATION CONTINUED BY MR. LAKE: Could I ask you now please to look at document D12.
Do you see that is another Criminal Intelligence submission? - Yes.

In the top left-hand corner it has got the same printing date of 10th April 1996? - Yes.

What date was this submission made? - The 1st September, 1995.

And on this, once again, there is no entry classification given for it? - No.

And the subject matter in that inquiry is that a reporter with the Daily Record had contacted the police to inquire about the above-mentioned? - Yes.

Is it common to insert inquiries for information as intelligence submissions into the system? - As an example like this?

Yes? - Entries like this are put on, yes.

Would any information be provided to the journalist seeking details? - I can't comment. I wasn't the officer putting it on, so I certainly didn't give him information.

Was information ever made available to persons such as journalists seeking it? - Not by myself, no.

Would information be available to other police forces? - Yes.

Would it be available to local authorities? - Not by myself. I am not saying it wouldn't be. As far as I am concerned I have never given it to other people.

Are you aware of any policy regarding giving the information to bodies such as local authorities?/

authorities? - I would have to check with a senior officer before I gave information like that out.

What is the name of the officer you would go to check with? - I would go through my sergeant, Detective Sergeant Munro, who would possibly go above himself; but I certainly wouldn't give information to non-police persons without first checking.

You have said that you can't recall clearly when Constable Anderson first requested information from you. Could it have been after 25th January 1995? - It may have been.

And yet you said you found no information when you carried out the inquiry? - That is correct.

Are you aware why nothing would show up in response to that search? - No.

BY LORD CULLEN: Is it possible that there were earlier entries on the file which have been cleared off at some later stage? - No. The system has never been cleared. It only started in November 1993 and as far as I am aware no entries have ever been taken from it.

So there is no process, as far as this process is concerned, of weeding out has ever been put into operation? - No, not that I am aware of.

EXAMINATION CONTINUED BY MR. LAKE: Are you aware of prior entries being made to the system on the old paper method? - I am aware of it, that there was entries made on the paper system earlier in the service. I may not have done it myself.

And if there had been a paper entry made in respect of Thomas Hamilton would you have expected that to show up on the Textrack search? - Some of the old system was put on to the new system, but what I don't know, and I wouldn't have expected anything to come up. If there was nothing there there was nothing there. I wouldn't have thought "Oh, there should be", or anything like that.

Are the paper records still available for search? - Not to me.

Are/

Are they available to anybody? - No -- do you mean are they available to the whole of the force, or to anybody in particular?

Well, is a search ever carried out on the paper records in addition to the search carried out on the computer records? - No, not by myself.

So you wouldn't ever have had cause to consider the entries that might have existed within the paper records? - No.

CROSS-EXAMINED BY MISS DUNLOP: You have said that everybody in the force had access to what is on the system -- right? - Yes.

Does that extent to a civilian employee, for example a civilian firearms examiner? - Yes.

Is there any weeding-out before information is put on to the system? Is it ever the case that someone will read a submission and say, "This is not important enough"? - No -- it would never come through to Criminal Intelligence. I am not saying someone might not ask their sergeant: "Is this worth putting on?", and he would say "No", but I would never -- Criminal Intelligence, by its very nature, is a lot of hearsay -- as one entry says, it is third-hand, some of it -- so there isn't very much that wouldn't go into Criminal Intelligence. If there is any information at all, it can be put on Criminal Intelligence.

And that is presumably because it is recognised that it is important to put together as full a picture of somebody as possible, and so one can never tell what information might be relevant? - That is correct.

BY LORD CULLEN: I want to be a bit clearer about this business of transfer of information. You have said that there was a paper system, and that some part of that paper system was put on to the computer; is that right? - I believe so, yes.

But you are not able to tell me what types of information or what criteria were used? - No, I had no part of that at all.

And/

And that would be happening, if it did happen, at the time the new system came into operation, which was, remind me when? - November 1993 I think.

So from that point onwards you would have entries coming into the new system that were fresh entries plus a certain amount, you can't tell us what, from the old? - Yes.

All available on a single system? - All available on a single system.

Now, you said that the old paper system was no longer referred to? - That is correct.

I am not quite sure I understand that. The paper system was in existence and it contained entries made previously, and these were not all being put on to the new system. Wouldn't the paper system still be of some use? - I have no idea. There was no access to me to the paper system. I would never refer to it.

Can you tell us who would be able to answer these questions? - Possibly the Force Criminal Intelligence Officer.

Who is that? - Detective Constable David Plain.

No re-examination.

DONALD/

11.00 a.m.

DONALD WOOLLHEAD (48), Sworn:

EXAMINED BY MR. LAKE: Are you a Police Sergeant stationed at Falkirk? - That is correct.

How many years' police service do you have? - I have 28½ years' service.

Although you presently work in Falkirk, is it the case in January l995 you were working at Stirling? - That is correct.

While you were situated at Stirling, do you recall making a criminal intelligence submission in relation to Thomas Hamilton? - Yes, I do. Can I clarify that I made two, if not three, submissions over a period of l0 years.

Is that l0 years prior to l995? - That is prior to this date.

Do you recall in particular a submission made in l995? - Yes, I do.

What were the circumstances of receiving information to make the submission? - I received a telephone call from a gentleman, a relative of whom lived in the Alloa area. The relative, who was a female, had a son who was attending at a boys' club in one of the schools in Alloa. This club was run by a party named Thomas Hamilton. Through the phone call I learned that the woman was not happy with the activities of the club, although she could offer no concrete evidence as to why this should be. However, she was unhappy with the person running the club and I was asked whether this person was a genuine person, if I knew the person and whether I had had dealings with that party in the past. I was unable to answer these questions because of the information I held and the source from where that information had come. All I could say was that I knew Thomas Hamilton and I personally would not be happy for any child of mine to attend one of the clubs.

And that is the information you gave to your informant? - That is the information I passed on to be passed further.

What/

What did you do with the concerns that had been expressed to you by the informant? - The informant, his concerns I put on to a criminal intelligence submission.

Can I ask you to have in front of you please Document DIntel Fl Dl0 which is document Dl0 of I(III)? - Yes, that is a copy of the document which I put on the trace computer.

Do you see towards the top on the right-hand side, it is perhaps not copied well, "Date submitted" and then a date? Can you make out the date? - That appears to be l995. 25/1/95.

Does that match your recollection of when you made the submission? - My recollection was that I made the submission more towards the end of l995 but I made a submission. Having read the contents of this document, having scanned through the contents of the document, that is certainly the document that I submitted in respect of the call that I got.

And we have already heard reference to the third paragraph relating to concerns regarding photographs being taken of children who had been asked to strip for the purpose? - That's correct, yes. Can I say that the lady was concerned for her child but she was also aware that Thomas Hamilton, as she knew the person running the boys' club, had other outlets at other schools in Central Region. That is he was not only operating the boys' club in Alloa School.

You put this information into the computer yourself, is that correct? - Yes, that is correct.

Did you do anything else with the information? - I did nothing at all with the information apart from submit it on to the computer and thereafter it would be taken by a Department beyond myself.

When you say it would be taken by a Department, which Department is that? - It would go to the Criminal Intelligence Section who would I assume weed out what information they thought was of relevance and add it to anything that was current or live/

live within the system regarding the particular person or activities.

So if that information was together and if anyone had a particular concern regarding the welfare of children that would be available by persons other than yourself? - That's correct, yes.

Now, you said you made certain other intelligence submissions? - Yes.

What I would like to do is refer you to the contents of the Intelligence file to see if you recall having made any of the submissions contained there. If you could have in front of you Document DIntel Fl, the contents of which I think form various items contained with I(III). Now, do you see I think it will be the second page within that is a copy of a flyer headed "Dunblane Rover Group"? Have you got that? - Yes, I have.

That is Document D2 within Folder I(III)? - Yes.

Do you recognise that? - I have seen such a document but I don't recall whether I submitted it or whether I saw it in the passing. I have seen such a document.

Have you had cause to look through this file previously? - No, I had no reason to look through..... I take it you mean the computer file?

Or this paper file? - No, I had no reason. I have not seen this computer file or this document file in the past at all.

But you might have seen this particular document? - That document. To let you understand, I knew Thomas Hamilton in the early l970s.

How did you know him? - I was involved with the Boy Scout Association in Bannockburn in the early l970s. Thomas Hamilton at that time was involved with the Boy Scout Association in Stirling. We met in passing. I knew that Thomas Hamilton had left the Boy Scout Association under a cloud. I was aware of that and I was also aware that he thereafter/

thereafter began to start up what he termed a group in opposition to the Scout Association and that was known as the Rovers. I know in particular that he involved parties, boys, from the Fallin area in his Rover Group. I know in particular that I typed out..... at that time it was a typewritten submission that was submitted in connection with criminal intelligence and I know I typed out and referred such a submission to my senior management in respect of the Dunblane Rover Group and in particular in connection with Fallin boys.

Can I ask you to look through that folder in front of you please and see if you can identify the submissions made by you? - No, there are no submissions that I can find, typewritten or otherwise, which were submitted by me within that folder.

They may have been submissions that were weeded out as part of the ongoing review of intelligence information? - Yes, they could well have been. They went back several years.

Can you recall when you made these two submissions? - The submission regarding the Rover Group was made just after the Rover Group started and I know that that, according to the flyer, is l98l.

What was the subject matter of that submission? - The subject matter was purely that Thomas Hamilton had started up a group known as the Rovers in opposition to the Scout Association and that he had in fact influenced some boys from Fallin to join that group. The influence was in the way of transport to the group, camps which were largely paid for by Hamilton and on occasions he would take boys in his vehicle and buy them chips, sweets or whatever on the road back from camp or from a meeting. There were only certain boys apparently received this treatment and these were the favourites.

And why was that submission made? - The submission was made because I had known Thomas Hamilton in the l970s and I disliked Thomas Hamilton. I knew him through the Scout Association and I knew how the Scout Association finished with him. I did not like what I had heard in the background/

background regarding Thomas Hamilton's Rover Group, nor the activities to which he put boys in the Rover Group. I had no evidence whatsoever to suggest there was any criminal intention but my own thoughts, even in the l970s, were that Thomas Hamilton was just not quite kosher. He was not one I particularly liked and I would certainly steer clear of him and that was in relation to the activities with camps and visits and with transport in connection with the young lads.

When did you make the second submission which you referred to? - I'm not certain about that but I certainly made one submission in connection with the Rover Group which to me was the first submission. The second one was when he gave up the Rover Group and began to take a school let. I think there was only one school let in Stirling of which I am aware. This was on a similar basis to the latter school lets which were reported by me to Criminal Intelligence. My information was that he had taken a school let in a school in Stirling with the intention of starting a boys' club. That is when the Rover Group folded. The Rover Group, as a matter of interest, folded I think because of local gossip regarding Hamilton.

So your concerns in the second submission would be broadly as those in relation to the first submission? - That is correct. The second submission referred to one school and then it became quiet for a while when that boys' club in the school folded and then this again came to light in l995 when Hamilton re-appeared on the scene. I am not saying he has not been on the scene in between times but he became visible on the boys' club scene.

Were you ever asked for information about Hamilton by another police force? - Yes, I would imagine this to be the late l970s or the early l980s. I'm not aware of the exact year even. I received a phone call from an officer at Dumbarton, which when verified was certainly the Police Station at Dumbarton, regarding an incident at Loch Lomond where Thomas Hamilton's boat had gone on fire. According to the officer, there had been a camp with lads at Loch Lomond and during some activity the boat had been burned so severely that the boat was written off. I was asked by the officer for a background on Hamilton and was there any reason why the/

the boat should go up in flames. In other words, did I know of any reason why he should burn his own boat as it were. I explained that Hamilton had been the subject of a submission by me but that I had no reason whatsoever to consider that Hamilton was criminal, was up to any particular criminal activity or had any criminal intentions. I knew Hamilton as I made the officer aware but I could give no reason why he would deliberately set a boat on fire if that is what the officer meant. I was able to give him purely a scanty background but certainly without any concrete evidence of any criminal activity.

CROSS-EXAMINED BY MISS DUNLOP: There is really just one matter I would like to ask you about. If I can take you back to your submission dated 25th January l995? - Yes, I have it here.

Do we see from that that you have recorded at that time boys were being encouraged to strip in order that photographs could be taken to show the shape of their bodies? - Yes, that is correct.

And that they were being told by Hamilton that the photographs would be sent on to other parties involved in professional football? - That is correct.

And that that could lead to careers as professional footballers for the children concerned? - Yes, that is correct.

Would it be fair to say that what you are recording here is a deception by Hamilton of the children? - I think deception conjures up some form of criminal offence and I am really not aware that I could agree with you on that.

I am not actually suggesting a criminal offence. I am just suggesting that he was encouraging them to submit to this activity without in fact honouring the promise or perhaps had no intention of carrying out what he had undertaken to do? - I would agree that as far as I am concerned I know of no outlet between Hamilton and any professional footballer that would allow Hamilton more access to boys being presented at a football club than any other source. I would agree there. Probably/

Probably, yes, I will say that Hamilton gave them a goal but it was a goal that as far as I was concerned he could not keep with the boys.

Yes, I quite understand what you say, that that may not be a criminal offence, but it would be deceitful conduct, wouldn't it? - It is very difficult to say. I think schools pupils are given goals. "If you do this then perhaps you will receive some form of accolade" or "If you keep to this you will be physically fit" but really it is left to the boys. Certainly there was no medal, there was no merit at the end because the merit didn't exist. He didn't have the contacts.

No re-examination.

SCOTT THOMAS DEWAR (24), Sworn:

EXAMINED BY MR. LAKE: What is your occupation? - I am Computer Services Manager for Central Scotland Police.

Is that within their Headquarters in Stirling? - I am based in Alloa.

For how long have you worked as Computer Services Manager for the Police? - For three years now.

What are your responsibilities as Computer Services Manager in relation to intelligence gathering? - Just the day-to-day maintenance of all the databases, including intelligence and the associated network.

You say maintenance of databases? - Crime reports, vehicle offences, intelligence, they are all databases.

Do you compile information? - No, I don't.

You merely manage the computer system that contains them? - Yes.

We/

We have heard already this morning that there are four computers which all link into an archive, a central archive containing information? - Yes.

Do you deal with all of these matters? - Yes.

We/

11.20 a.m.

We have heard the system this morning referred to as the Memex. Is that the one dealt with by you? - Yes, it is.

And searches being made on that system by way of Textrack? - Yes.

Do you also deal with a system called Trace? - Yes.

Is that the same system? - Yes, it is.

It is really a third method of getting the same set of information? - Criminal Intelligence is part of the Trace system. They all run on the Memex information engine which maintains the databases.

Are you aware of any difficulties that arose about last year with the transfer of information from local stations to the Archives? - Yes, I am.

What was the nature of that problem? - The problem was that entries on the Alloa machine were generating numbers which should have been unique to entries for Stirling. As a result when they were sent to Archive they were over-writing the Stirling entries. For example, if there was an Intelligence entry 10 for Alloa when it was saved it was over-writing the Intelligence entry 10 for Stirling.

What should have happened to the Alloa entry? - The Alloa entry should have had a unique number. The numbers are formed in such a way to establish which station the entry was made, and the numbers started with 0 originating from Stirling to 2 for Alloa, and the entries for Alloa were coming with a 0 at the start which indicated it was a Stirling entry, and that is how they are identified.

What would the effect of that be for someone interrogating the system? - If somebody interrogated the system locally like on Alloa they would see all the entries on that particular Intelligence entry 10, and if somebody interrogated Stirling they would see Intelligence entry 10 which should/

should be different, and when they interrogated the Archive machine they would see whichever was the last saved. If the last saved was Alloa or Stirling they would see Intelligence entry 10.

If someone was merely interrogating the system within their local office they would purely provide local information? - Yes.

If someone wants information of other entries they have to go to the Archive system? - They don't physically go there. They can interrogate this on a remote database.

And which area was over-writing according to you.....? - On the Archive the Alloa entry was over-writing the Stirling one.

Are you aware of when this problem first started? - I think it was in July of this year, about the middle of the year.

When did it come to light? - Towards the end of 1995 or perhaps the start of this year -- it was December or January.

During the time in which the problem existed and had not been detected what would the effect be for somebody interrogating the Archive system for information which should have been under a Stirling reference and had been affected by the Alloa submission? - They would see the Alloa version with the same unique reference number. They would actually see what had been saved in Alloa as opposed to Stirling.

So someone interrogating the Archive would not find the information which was contained within the Stirling local computer? - After the problem had started, yes.

After the problem was discovered was it possible to restore that information? - Yes. Basically it involved re-numbering the Alloa entries which had been given Stirling numbers.

For a period someone interrogating the Archive system would have an incomplete picture of the Intelligence submissions that were available? - Sorry.....? Could you say that again?

Someone/

Someone interrogating the archive would have an incomplete picture of the Intelligence submissions available? - Yes.

I would like to refer you to three Intelligence submissions and ask you to indicate whether you are able to say whether these were affected by the problem. The three submissions are DIntel F1, D10, 11 and 12 which are documents D10, 11 and 12 in Volume I(iii). You will see first this is a submission created on 25th January, 1995 and appears to be in respect of Thomas Hamilton? - Yes.

As regard the unique code number, is that the one at the top left-hand reference CIURN? - That is correct.

Are you able to tell from that number which local computer this information came from? - That would indicate it was a Stirling entry.

Are you able to tell whether this entry would have been affected by the problem which arose which you say was in mid-1995? - After investigating, yes, I can tell it was affected.

So someone searching the Archive system while the problem existed would then have found this submission? - Yes.

Can I ask you to look at D11. Are you able to tell from CIURN where that entry came from? - Yes, that was a Stirling entry also.

Would that have been affected by the problem that existed? - Yes.

Can I ask you to look at D12. Again does the reference there tell you which office created that submission? - Yes, again it is Stirling.

And would that have been affected by the problem? - No.

Why was that? - As I explained, the Alloa machine was generating Stirling numbers, and there are not as many entries in general from Alloa, and it is basically a counter which operates, and Alloa has never actually reached 1498 yet. So the Stirling entry was still entered in the Archive.

Has/

Has the information contained in D10 and D11 been restored to the Archive system? - Has it been?

Has it been? - Yes.

Are you able to tell on what date these two entries would have been over-written by the Alloa entries? - Yes, I can tell.

Can you say when each of these are over-written? - Entry 654 was over-written on 18th September, 1995, and entry 728 was over-written on 9th December, 1995.

So the first one D10, what was the date of that, when it was over-written? - 18th September, 1995.

And the second of the set, D11, was over-written on.....? - 9th December 1995.

So that would have been available on the Archive system for inquiry prior to these dates? - Yes.

Are you able to tell by means of the system when particular entries have been thrown up for searches? - I can tell when searches have been made. For example, a query on Thomas Hamilton, it doesn't actually tell you what that returned, and I would then have to go and investigate and look at the dates of the submissions to see Yes, that entry would have been there. For example, if there was a search on the 5th of May I would see that in the entries but I wouldn't see the date when the entries returned. I would then have to perform the query myself and infer which records were available.

Have you been able to find whether any inquiries were made of the system regarding Thomas Hamilton as from March, 1995? - Yes. As I recall there was an entry I think the first week in February, perhaps the 8th, there was a query regarding Thomas Hamilton, and that was a query that was supplied by the user.

The system did provide information in relation to Thomas Hamilton? - Yes.

You/

You said that would be the first week in February? - I think it would be 8th of February. I would need to check my records to be sure.

Are you able to say what was being thrown up by that search on the 8th February? - I couldn't tell you just now. I would need to check that to see what was done. But there was an entry regarding Thomas Hamilton.

Can I ask you to look at D10 again please. That was one which we have heard evidence was submitted on 25th January, 1995. Would that have been available when the search was made on 8th February? - That should have been available, yes.

Are you able to say whether any other entries would have shown up in the search on 8th February? - I think there may have been other entries but not in relation to Thomas Hamilton the deceased.

It may be another Thomas Hamilton? - When we perform a search, if they state "Thomas Hamilton", the way the Intelligence works it will return all the entries containing "Thomas or Hamilton" or if there was reference to "Hamilton Street" or also someone called Thomas, it would also return that. You would then have to look through the entry itself to see why it has been returned to you.

In your capacity as the person responsible for maintenance of the computer databases, have you had responsibility for considering the transfer of paper entries to entries held on computer? - No.

No cross-examination.

MR. LAKE: My lord, the next matter is a letter which has been submitted to yourself regarding a parent's misgivings about clubs run by Hamilton. A copy of that letter has this morning been supplied to all the other parties and with permission I would now propose to read this letter out rather than call the person as a witness to give evidence.

LORD CULLEN: Has this person been told this/

this is to be.....

MR. LAKE: No, they have not been told. I would propose not to identify the person.

LORD CULLEN: That was my other question. My first question was whether contact had been made with this person to find out.

MR. LAKE: As I understand it has not.

LORD CULLEN: I just wondered whether this would be preferable.

MR. LAKE: In those circumstances contact will be made.

LORD CULLEN: I think I would be happier if contact was made. I appreciate you do not want to identify, but I think -- I am obviously interested in what is contained in the letter otherwise I don't think you would be dealing with the matter in this way, but I think in fairness to the person that person ought to be informed what is proposed.

MR. LAKE: Efforts will be made to contact that person. In those circumstances the next witness is Mr. Mather who will be examined by Mr. Bonomy.

COLIN MATHER (38) Sworn

EXAMINED BY MR. BONOMY: I think you hold the rank of Chief Inspector in Central Scotland Police? - That is correct.

That is at Police Headquarters in Stirling? - That is correct.

How long have you been in the police force? - 19 years.

What is your present role at Police Headquarters? - I am officer in charge of the Chief Constable's staff office, which is my most primary role in relation to the Chief Constable and Deputy Chief Constable. I also have responsibility for the Firearms/

Firearms Licensing Department, the Resource Unit and Research and Development.

So your role in relation to firearms is distinct from your role as Chief Inspector, as part of the staff office of the Chief Constable? - Yes. Firearms is only a small part of my responsibility.

Can I ask you what is your current role in relation to firearms? - I am the officer who is in overall charge. However, I don't have -- I have very little day-to-day dealing with firearms, that is performed in the Firearms Department by civilians. If there is any problem attached to any particular application this is dealt with by the Inspector who is my second in charge.

Who is the Inspector who holds that post at present? - Inspector Jill Dewar.

That is a post you previously held? - Yes.

Until when? - Until August of last year.

In August of 1995 was the current system for dealing with firearms applications already in force? - Yes. It was a system which changed since I joined the Department in 1994, and there was a gradual process over that period of time, so it actually changed between March 1994 and August, 1995. It is now completely civilianised, apart from where there is a problem in which case they go to the officer in charge.

Hamilton's certificate was last renewed in February, 1995? - That is correct.

At that time was the system currently in operation then in operation? - No, it was slightly different then. Now it is dealt with, it is purely civilianised, and unless there is a problem it goes to the Inspector. At that time we were in the process of completely civilianising, and what happened then was the file came through to the Inspector, which should be myself, and what I would do about it, if there was a typed certificate that the Deputy Chief Constable would sign and the RL3A form -- if it is recommended by the local Unit Commander that the firearms certificate should be granted/

granted all I would do then is simply check the LR3A form to ensure in fact it was recommended by the local Unit Commander and thereafter sign it and place the certificate for the Deputy Chief Constable. I wouldn't actually go through the files or the information in the files unless some problem was brought to my attention.

Now,/

11.40 a.m.

Now, by "complete civilianisation", do you mean that both the administration within the office and the interviewing and inspections that need to be done outwith the office are all done by civilians employed by the Police Force? - No. The administration is all done by civilians. However, one of the civilian members -- I said there are two -- is actually a firearms examiner. He not only has an administrative role, but he also is a field officer; but by virtue of the fact there is only one, he can't cover the whole force, so he takes on board some firearms inquiries in the field for the renewal of firearms certificates. The rest of the force, the inquiries are carried out by operational police officers.

So it really is wrong to describe this as "completely civilianised"? - No. The administration is heading for, that is the way this has to go, it is to be completely civilianised. However, the actual inquiries, that is not civilianised, because this is carried out by police officers in the main, since we only have one firearms examiner. The administration is all civilianised in respect that now they deal with the applications; if there are no problems, the certificate is printed out and the civilian members of staff place these certificates in the Deputy Chief Constable's basket for signing. There is no involvement after that administration.

If there are problems, where is it that they are likely to be identified? - Well, there may be a number of ways. The first one is to receive a report from the Operations Division, or from any other member of the force. It is part of the Standing Orders that any member of the force who comes across information which may have a bearing on the suitability of a person to hold firearms, must notify headquarters of that. It could be picked up from a person receiving a conviction, or through the SCRO system. If a pending case is notified to our SCRO bureau, then that should be notified to the firearms administration. On SCRO there is an indicator which tells the operator that the person is the holder of a firearms certificate.

So what you are saying is that material information/

information gathered by police officers has got to be communicated to the Firearms Department if it relates to the holder of a firearms certificate and his behaviour with a firearm, or any other behaviour relative to the holding of the firearms certificate? - That is correct, only if it is relevant to the holding of the firearm.

And when the renewal is dealt with the civilian staff in the Renewals Office ought to pick up that information? - Yes, and they would automatically bring that then to the attention of the inspector.

And that information will be contained in a separate file for each firearms certificate holder? - Yes, each firearms certificate holder have their own file, and that information would be placed in that file.

That is one area in which problems may arise or be discovered? - Yes.

Where else might one expect problems to be discovered? - Well, as I say, from the SCRO, if a person is charged with a crime we don't need to wait till there is a conviction, because that is automatically notified to the SCRO bureau.

So can I take it the civilian staff are bound to check SCRO for information on the application for renewal? - No. They receive that from the SCRO bureau automatically, because when the pending case comes in they automatically notify us if there is an indicator on the SCRO that the person is a firearms certificate holder.

So this is another way whereby information should get on to the firearms file? - Yes.

When a renewal is being dealt with is there this duty then to double-check SCRO? - No, because there are far too many -- certainly not in the Firearms Department.

You assume the information will already be on the file? - Yes, or at renewal time the inquiry officer must check SCRO and PNC, just to double-check, but when it comes into the Firearms Department/

Department we don't double-check what the inquiry officer has already done.

What about Criminal Intelligence? Do you check that? - No. That is the job of the inquiry officer, to check that.

That means that one of the areas in which a problem can be thrown up is by a double-check, as you call it, of SCRO? - Yes.

Another is a double-check, or a check by your inquiry officer of your Criminal Intelligence file? - Yes.

So we are relying in this area on the inquiry officer, who is a policeman? - That is correct.

Not a civilian? - Well, the firearms examiner is a civilian. He covers part of the force.

And at the moment he is working in which area? - In the Falkirk area.

How many other areas are there? - Well, there are three local authority areas. He has already covered Clachmannan and part of Stirling. He hasn't covered Dunblane and Callander areas and what have you, but is purely renewals he deals with, not the grants.

But at the moment while he is dealing with renewals for Falkirk, are there renewals coming through for Stirling? - Yes, numerous.

And they have got to be dealt with by ordinary police officers? - Yes that is correct.

And inquiries have to be dealt with by ordinary police officers? - Yes, that is correct.

So we are relying on them to do the SCRO check and the intelligence file check? - Yes.

We are also in these areas relying on them to carry out the other necessary inquiries relating to checking up on a person who is applying for renewal of a certificate? - That is the inquiry/

inquiry officer?

Yes? - Yes, that is correct.

And that may throw up a problem? - Yes, that could throw up a problem.

Now, can we look at what happened in relation to Hamilton's last renewal and see if we can then get some context for this evidence from that? Could you look please first of all at his application form which is -- well, in the Volumes it is D91L, FA61. Now, is that the application form? - Yes, that is correct.

Now, you have been given just a form I think, and probably a letter from Central Scotland Police to Mr. Hamilton; is that right? - That is correct, yes.

And that is the letter reminding him that his firearms certificate is due for renewal? - That is correct, yes.

The letter has the renewal date, 14th February 1995 on it? - That is correct.

When would that be sent out? - That would be sent out at least a month before, probably at the beginning of January.

And the form would go with it? - Yes, the form should go with it.

Now, you have been handed it as a loose piece of paper, a form and a loose piece of paper. When the investigating officers in the present inquiry went looking for this where would they find it? - That should be in his Firearms File.

Is this a big file? - Fairly, yes.

And it would include all material relevant to his Firearms Certificate? - Yes, a history, his Firearms Certificate history.

The form we now see, is that the current style of form? - Yes.

It is accompanied by photographs? - Yes./

Yes.

He is bound on renewal to provide? - Photographs.

How many? - Four.

Anything to be done in relation to any of these? - The person countersigning the form should also sign one of the photographs to say that it is a true likeness of the person.

One of the photographs then goes on to the actual Firearms Certificate? - Yes.

Because we have only got three here? - Yes.

The person who countersigned this form, you will see, was Robert Oliver Campbell? - Yes.

From Stirling? - Yes.

He has to fit into one of a number of categories of suitable people to sign such forms? - Yes, that is correct.

What are these categories? - Just that they are reputable people. The categories have actually been extended. There is a list provided
-- for example, members of Parliament, doctors, clergy, etc., but because of people living in rural areas where they might see these people not very often, then as long as it is a reputable person, then that can be extended.

If you go to the back of the form I think there is some guidance for completion of the form? - Yes.

And No. 6 is guidance in relation to the countersignatory? - That is right, yes.

Could you read that please? - "When you have completed the form, it must be countersigned in ink (in respect of an application made for the grant or renewal of a firearms certificate) by someone who is resident in Great Britain and who has known you personally for at least two years. A relative must not countersign. The/

The countersignatory must also be a member of Parliament, Justice of the Peace, Minister of Religion, doctor, lawyer, established civil servant, bank officer or person of similar standing. The countersignatory must also endorse in ink the back of one of the four photographs submitted with any application for the grant or renewal of a firearms certificate by writing the words 'I certify that this is a current true likeness of Mr., Mrs., Miss or title.....' and signing it with his usual signature and the date the likeness was compared. The applicant should also sign in ink the back of one of the photographs. A countersignature is not required in respect of an application made for a variation of a firearms certificate".

And I think if you just read the last part, Part 7, rather? - "The person who countersigns the application i s required by the Firearms Rules 1989 to declare that he knows of no reason why the applicant should not be permitted to possess a firearm. The countersignatory should therefore be aware that the Firearms Act 1968 requires a Chief Officer to be satisfied that an applicant can be permitted to possess a firearm or ammunition without danger to public safety or the peace, and that the Act prohibits the grant of a certificate to any person whom the Chief Officer has reason to be believe to be prohibited from possessing a firearm, or to be of intemperate habits or unsound mind, or to be for any reason unfitted to be entrusted with a firearm. Countersignatories should bear in mind the character, conduct and mental condition of the applicant in so far as they are relevant to these matters".

Now, if you go back to No. 6 there, you will see the list of people ended with the words "or person of similar standing"? - Yes.

Now, are you saying for rural areas in Central these words are interpreted loosely, or are subject to some other qualification? - Well, they would be subject to qualification in that if somebody was a countersignatory who didn't fall into that, there would have to be some good reason. Provided the person is an upstanding citizen, then that may be allowed, but each case would be taken on its own merits. I mean, there could be a good reason why a person here can't sign; but generally speaking/

speaking these are the professions that we would look for on a certificate.

If a school teacher for example signed it, would that be acceptable? - Yes I think it would.

And that would be generally acceptable, not just in rural areas? - No, that would be general.

Now, if we go back to the beginning, to the front of the form, that is taken up with personal particulars of Hamilton; is that right? - That is correct, yes.

And that includes address, phone number and business. In his case he was asked to say what his occupation was, and in 1995 he gave what occupation? - Photographer.

Just to confirm the date on which he signed the application form, was 15th January 1995? - That is correct, yes.

And indeed Mr. Campbell signed it that day as well? - That is correct.

Going back then to the front, I think question 14 is: "Have you now or have you ever had epilepsy, and (b) -- (a) was epilepsy, and (b) was "any form of mental disorder"? - That is correct, yes.

And Hamilton answered no to both of these? - Yes.

And question 15 I think is: "Have you been convicted of any offence?"? - That is correct.

And he answered no to that? - That is correct.

Over the page we then get details of the firearms and ammunition in his possession; is that correct? - That is correct.

And what were the firarms he had at the date of the application? - He had a 9 mm Browning pistol/

pistol and a .357 Smith and Wesson revolver.

Can you just give the serial number of the Browning first of all? - The Browning was 245 PZ69756.

And the revolver? - And the revolver was 48 K8754.

I think question 17 then seeks details of firearms which you are authorised to purchase or acquire by your current certificate and which do not appear above"? - That is correct, yes.

Now, he listed four? - Yes.

Can you read out what these were? - Yes. A 7.62 mm rifle, a .22 rifle, a .375 revolver and a 9 mm pistol.

Now, could you also have in front of you D87L, which is, or may be, Form 192MD -- does that mean anything to you? 102MD? Sorry, it is FA57. Now, is that Hamilton's Firearms Certificate for the period February 1992 to February 1995? - That is correct, yes.

So that would be issued to him when he applied for the renewal before the one we are dealing with at present? - Yes.

Just look at the weapons he had at that time. Did he have the same two weapons? - Yes, 9 mm Browning pistol and a .357 revolver.

And just look at the weapons he wanted to have. Did he want to have the same additional four weapons? - Yes, he did.

So three years later in 1995 that is still the position? - Yes, that is correct.

I think that question 19 then relates to the amount of ammunition in his possession at the date of the application? - That is correct, yes.

Now, he lists 9 mm, 643 -- presumably that is rounds? - Yes.

.357, 203? - Yes.

Now,/

Now, these are both the calibres of weapons he possessed at that time? - That is correct, yes.

The next one is .38 Special, and he has 11 of them? - That is correct.

Would they fit a .357 revolver? - They would fit a .357 revolver, yes.

So they could go with the Smith and Wesson revolver? - Yes, that is correct.

He then says he has no .22 ammunition, but then he says he has 100 7.62 mm; is that right? - Yes, that is correct.

Now, he doesn't at that stage have a weapon 7.62 mm? - That is correct.

Would you go back to the Firearms Certificate that you had in front of you a moment ago. That won't tell you what he possessed at the time, but it does say he had authority to purchase 7.62 ammunition? - That is correct, yes.

Now, I think he also had to state at No. 20 the amount of ammunition he wished to have in his possession at any one time? - That is correct, yes.

Did he list the same five categories of ammunition? - Yes, that is correct.

How much of each did he want to possess? - 1,500.

A total of 7,500 rounds of ammunition? - That is correct, yes.

Did he also at 21 have to say how much he wanted to purchased at any time? - Yes, that is correct.

For the same give categories? - Yes.

And what did he say? - 1,000.

Now, in the period while you were administering the Firearms Department as the inspector/

inspector with more hands-on -- a greater hands-on role than you now have? - Yes.

Were these sorts of figures common in applications for firearms certificates? - Yes, because the Guidance stipulates that there should be no arbitrary limits placed on ammunition or firearms.

That is Home Office Guidance to the police? - That is Home Office Guidance to the police.

But/

But my question is were these figures common? - Yes, I think they would be. I should say that this particular point I would not go into any detail to check that. That would be available purely for administration but I know that these types of amounts would probably be common, yes.

Do you know whether there were examples at that time, February of l995, of applicants to your Police Force being authorised to hold more than l,500 of any particular type of ammunition? - I couldn't answer that. I don't know. That would be available in the Firearms Administration Office itself.

Now, No. 22 is the question "Give the reasons for requiring each of the firearms and ammunition listed at l6 to 21"? - Yes.

What is the answer to that? - "Target shooting."

And nothing more? - Yes.

That is all? - Yes.

And then at 23 "Where do you intend to use each of the firearms listed?"? - "At ranges as per Condition 5 on Firearms Certificate 4588".

What is Condition 5? - Do you want me to read it out?

Yes? - "The firearms and ammunition to which this certificate relates shall be used only on ranges in respect of which a safety certificate for that class of weapon has been issued by the competent military authorities and has not been revoked or on ranges controlled by the Ministry of Defence if permission to use the range for that class of weapon has been given and has not been revoked".

Now, I think the next question, 24, is "Where will each of the firearms listed or ammunition listed be kept when not in use and what arrangements have been made for their safe custody?"? - Yes.

And/

And the answer is? - "7 Kent Road/as previous".

So he must have given previous information? - Yes, it would be in his previous application forms.

And it is clear from the rest that he is applying for a renewal of Certificate No. 4588, is that right? - That is correct.

Now, you mentioned that this would come to you accompanied by a particular form completed by other people within Central Police? - That is correct. An RL3A form.

Would you look please at Dl06 which is FA63? Is that the RL3A that relates to this application? - Yes, that is correct.

And we see that it has been completed by a reporting officer called Anderson? - That's correct, yes.

That is a Woman Police Constable? - That is correct. Diane Anderson.

It has then been signed by a number of other people. Who are they? - First of all by her Sergeant, Sergeant Donald Cowan and then her Inspector, Inspector Ian Cameron. Then if you look a wee bit further down where the stamp is, where it is marked "Recommended by", Superintendent, now Chief Superintendent, Jim Moffat who was at that time the local unit commander at Stirling.

And then if we go further down? - And then it has my signature at the bottom.

It is stamped there as well the lst March l995? - That is correct.

Is that when you put the signature on? - Yes, that would be.

Can you tell us what you were doing by applying that signature to the form? - Well, basically I was checking that there was..... that would be about the only form I would check. I would be looking to see if there was any information that/

that was being brought to my attention as regards the suitability of the applicant. If I received the file through with the certificate they are ready for signature and I checked that particular one was "Yes", that was the suitability of the person, that there was no trace on the PNC or the SCRO computer, that he was a member of a gun club and that was all verified and the guns and probably most importantly at the very end that the local unit Commander had recommended that it should be accepted then that is basically my checks.

Now, can we look then at the various questions and how they were dealt with. Looking at Question l, that is "Is the applicant a suitable person to hold a firearms certificate?" and the answer was? - Yes.

And that is the answer given by Constable Anderson? - That's correct, yes.

She is also obliged to check the PNC and SCRO? - yes.

Which is the Police National Computer and the Scottish Criminal Records Office Computer? - That is correct.

What would the Police National Computer tell her of relevance to this enquiry? - Well, it would tell her that there was perhaps a warrant in force for that person or perhaps convictions in England. That is basically the main function of the PNC. To check the person isn't wanted.

Will the SCRO throw up more than convictions? - Yes, it will throw up that the person is a holder of a firearms or shotgun certificate. There is an indicator on that.

Will it throw up pending cases? - Yes, it does.

Or if someone is on bail for example? - Yes, bail, it would. They don't have to be on bail.

But if they were on bail for a pending trial for something, that would come up on SCRO? - That is correct.

If/

If there was a pending case at all where the police had charged someone and it was simply awaiting processing by the Procurator-Fiscal? - Yes.

That would show up? - That would show up, yes. That is correct.

Or should show up? - Should, yes.

But there is nothing in relation to Hamilton on that score anyway? - No.

Is it also one of the Standing Orders now of the Central Force that a check should be done with Criminal Intelligence? - That's correct, yes. There was an Order released about l990 to that effect.

So there is no sign there that Constable Anderson has done anything wrong on the face of it? - No.

Question 2 was "What are the applicant's reasons for requiring the firearm or ammunition for which application is made? If for competition, applicant must be a member of a club. If for sport, applicant must have land permission. Specify reasons for each firearm"? - Yes.

Now, what is the information that Constable Anderson got on that? - "Competition and target practice with Stirling Shooting and Pistol Club".

What check would you expect to be made on that information? - To confirm that he was a member of a club?

Yes? - Well, we have a list of the members of some of the gun clubs. That one we do have a list. I would also expect an enquiry officer to ask the applicant for confirmation by membership card or some other means that he was in fact a member of the club. In any case, to confirm that he was definitely a member. At the last resort presumably, and certainly if it was myself, if there was no forthcoming membership card or some other means of confirming, I would check with the Secretary of the club.

That/

That is if you were the enquiry officer? - Yes, if I was. That is what I would expect the enquiry officer to do, though.

Well, there is in fact an indication on this form that any of that has been done. All we simply have is a statement which could be no more than a declaration given to the enquiry officer by the applicant? - Yes, it could be, but the basic training of the police officer and the Standing Orders, I would expect it would be basic police work if the person says he is a member of a club that they could confirm that.

Is any effort made to check up on how regularly the applicant is shooting at the club? - No, not to my knowledge. Certainly again I would expect the enquiry officer to at least check with the applicant and speak with the applicant regarding shooting arrangements and how often they go but other than that, no.

Well, is that right? Would you expect the officer to ask how often? - Well, I would expect them to enter into some kind of conversation but I would not expect them to sit down and ask them "When did you last go? How many times?" or even get in touch with the club to see how often they go because their evidence they are a member of a club is enough to satisfy under the current guidelines.

BY LORD CULLEN: Does that mean also you would not expect the enquiry officer to ask these questions firearm by firearm? - Is that No. 3?

No, I am looking at the reasons? - Yes.

You were saying there might be a limited amount of enquiry made as to whether a person was attending a club and putting firearms into use but would you expect the question to be put as to the particular firearms? - Yes, the good reason must be for every individual firearm.

Well, I know that but would the questions be directed to each? - They should be, yes.

So/

So you might expect the enquiry officer to find out whether the existing holder is making regular use of each individual firearm? - Well, I would expect the officer to check the firearms the person has or has asked to be allowed to acquire or purchase and if these fall within the criteria for target shooting and pistol shooting then all I would expect him to do is to ensure that the guns that the person has can be used at the pistol club and he is in fact a member.

So you would not expect the question to be put directly to asking whether each individual weapon had in fact been used? - No.

EXAMINATION CONTINUED BY MR. BONOMY: But that may happen in the course of what I think you are really describing as a casual conversation? - Well, it is part of the enquiry. I would describe it more as an interview rather than a casual conversation.

Now, would the officer who carried out the enquiry have the existing firearms certificate with her? - No, the applicant would have that.

He never returns his firearms certificate? - No, because he needs it if he is wanting to purchase anything.

Is it part of her routine to check his existing firearms certificate? - No, I would not expect her to do that particularly.

One of the oddities in this case is of course that Hamilton does not appear to buy ammunition commercially for a long time? - Yes.

So can I take it that enquiry would not in fact reveal that? - No, I don't think so.

Now, the third question is in relation to the firearms held and it does say "must be physically checked by enquiry officer"? - Yes.

And you do have full details of each of the two firearms which he held typed into the form? - Yes, that is correct.

So there is nothing on the face of it wrong/

wrong with the way Constable Anderson did that? - Not on the face of it, no.

And we then have the question "If the applicant holds or seeks to hold duplicate calibre firearms, state reason below:"? - Yes.

She has got information on that also typed in? - Yes.

What was the information? - "The applicant requires duplicate calibre firearms V12, two 9mm pistols and two .357 revolvers for the different disciplines in which he participates in his gun club".

Now, there is no specification in there of what these different disciplines are. Would you expect that? - Not particularly, no. Not under the current guidance. The good reason for having duplicate calibres could be, as it is at the moment anyway, that they need a spare weapon.

Well, a spare weapon would not relate to different disciplines. That would presumably be a spare for the same discipline? - Yes. Well, I would not expect..... because what happened is the form comes into the Firearms Department and the firearms examiner who is the expert in the different disciplines would tell us that these guns could be used for different types of target shooting and what have you but there is no stipulation to my knowledge, provided these guns are able to be fired at a gun club, which prohibits them from getting duplicate calibre weapons as long as they are for the discipline.

When you sit down afterwards, though, and begin to analyse this and you look at an answer like that, you can see that there is an element of confusion in it, that you have got a man seeking to have authority for two 9mm weapons and two .357 revolvers? - Yes.

Now, they might individually be for different disciplines, in other words, there might be four different disciplines or there might be a 9mm discipline and a .357 revolver discipline but you don't get the answer to that by looking at what has been typed on this form? - No. Perhaps it could/

could be worded a little bit better but, as I say, the fact is that there is very little reason required for having a second or duplicate calibre weapon. Merely, as I say, it can be the simple fact that they need a spare and that is why I would not read into that when I would be checking the form in great depth.

We have had one witness in this Inquiry, I think it is Mr. Moffat, who told us that he thought it was difficult to get permission to have two weapons of the same calibre but that is inconsistent with your understanding of how Central Police operated at the time? - Yes, my assertion would be it is very easy to get two duplicate weapons because the guidance does not allow you to prohibit any person from having more than one calibre of a particular weapon. As I say, it could be a simple reason as simple as he needs a spare gun and there is no way you can prevent him getting that.

If we turn over the page to Question 5, that deals with the locations that were put into the application form and that is approved gun ranges and the question is whether they are suitable for the use of the firearms held or to be acquired? - Yes.

What is the answer to that? - "Member of the Stirling Rifle and Pistol Club, which meets and shoots at various military ranges in the area. The applicant has been a member of this club for some l8 years."

So on the face of it enough information to satisfy the enquiry officer? - Yes, the fact he has confirmed he is in fact a member.

And then the Question 6 was "What arrangements has the applicant made for the security of his firearms?"? - Yes.

What is the answer to that? - Firearms kept within lockfast cupboard within hallway. Thereafter within lockfast cabinet which is secured to wall. Ammunition kept within separate lockfast cabinet within another room".

On the face of it, satisfactory? - Yes.

So/

So as a result of studying that form it would appear every officer, and ultimately yourself, have signed it with approval? - That is correct. There is no information there at all to indicate that he was unsuitable to have his firearms certificate renewed.

And from you, where did the form go? - Well, the form goes for the final signing to the Deputy Chief Constable.

He does not actually sign this? He signs something else? - He signs the certificate.

The officer who carries out the enquiries, does she, when she enters the Police Force, get training on how to go about this? - Yes, she is trained at the Scottish Police College. Now the members of our Firearms Administration Office now also give local training. However, that is a fairly new phenomenon in the last year or so but certainly she is trained at the Scottish Police College when you first join the police.

What about internally in Central Scotland? - Well, internally at the moment the Firearms Administration Team give lectures and familiarisation courses on guns to new recruits or people who are not long in the police. I can't state what training was available when P.C. Anderson was at that stage.

What is the state of play at the moment then? - The Scottish Police College and also local training which is undertaken by our Training Department and assisted by the Firearms Officers in the Firearms Administration Department.

Now, can you have FA62 which is D92. That is described as a mailtab? - That is correct.

What is a mailtab? - I don't know. I didn't write it. I assume it is a piece of paper which would be attached to correspondence really as it is circulated and it gave an indication as to what action was to be taken. That is really all.....

The form that we have just been looking at, that is RL3A, is dated when? - When the enquiry/

enquiry officer dated it?

Yes? - l3th February l995.

You will see that one of the two documents..... in fact, I better check with you; have you been given two documents there as part of that Production? - No, just the mailtab.

FA62, at one stage of it is it addressed to the Chief Superintendent of 'A' Division? - That is correct, yes.

And is there an instruction to him to submit the RL3A? - That is correct, yes.

And it is signed M. Johnson? - Yes.

And it has got a stamp on it? - Yes.

What is the date of that? - l6th January.

It is then signed at the bottom, is that correct? - That's correct, yes.

"Officer" and that is Anderson's name? - That is correct.

Is that a signature or has it just been written in? - No, it looks as though it has been written in.

And that is the enquiry completed? That is the l3th February? - Yes, that is correct.

Which is the same date as the LR3A? - Yes, that is correct.

Now, there is some handwriting on this document, is that correct? - That is correct.

What does that say? - It is addressed and dated to PC660 Anderson. "With regard to pre-cons could you oblige and check that this is a definite no. I have a feeling he has or at very lease is on CI", which is crime intelligence, and it is initialled by DC P3l7 which presumably is Donald Cowan, the Sergeant.

So/

So he has asked Anderson to check the criminal record; is that right? - Yes.

This is because he thinks she may have had the wrong answer? - Yes, that is the indication anyway from that, yes.

She has answered him? - Yes.

What is the answer? - The answer is "No trace PNC, Criminal Intelligence, on Hamilton" signed, and underneath that "Nothing to stop firearms application going through".

That may be different handwriting at the bottom from Constable Anderson's handwriting? - I am not sure. It is certainly under her signature anyway.

And above her signature she has got "No trace PNC, Criminal Intelligence on Hamilton"? - Yes, that is correct.

So all the signs are that she has done all the appropriate checks? - That is correct.

And Hamilton's certificate was renewed; is that right? - That is correct, yes.

If you just look at FA57 which is D87, can you confirm that is the renewed firearms certificate. Have I got the wrong one? - That is the previous one which expired in 1995.

D101 which is FA64. Is that the renewed certificate? - Yes, that is a copy of the certificate.

At the time did you have any suspicion that there may be Criminal Intelligence on Hamilton? - No. In fact, I probably didn't even see that mail tab because that would be in the file which I wouldn't have any reason to check at that time.

Had you ever heard of Hamilton before that? - No.

Now, what are the crucial elements on the RL3A/

RL3A that leads one to telling the Deputy Chief Constable an application should be granted? - Really every section has its importance but the one important section on this, when I used to check them and return them, if the local Unit Commander had not signed it either to recommend or not to recommend, because we as Headquarters administration have to rely on any available information on the applicant coming to us from Operations, and I have to be sure that the Operations Division are in fact recommending that this certificate should be granted before I can take it any further.

Then the Superintendent, he has signed it? - He has initialled it and stamped it. Certainly if the information is correct, and the local Unit Commander should also check it and be satisfied, and if it is not signed or initialled by the local Unit Commander we check up on that and I would return it.

The two civilian firearms officers you have are Miss Johnson? - That is correct.

Who is an administrator? - An administrator.

And Mr. Lynch, an examiner? - That is correct, but he doubles up and assists with administration as well.

He at present is on the beat, as it were, in the Falkirk area for renewals? - That is correct.

So if Hamilton applied today from his Stirling address for renewal of his certificate Lynch would have nothing to do with that? - That is correct.

Tell us what difference there is in today's system for Stirling from the system we have been looking at in relation to the last renewal? - Well, really there is no difference because -- well, there is a slight difference at Headquarters. The inquiry officer's procedures would be exactly the same as it was then because it goes to a police officer at Stirling to carry out these inquiries. The difference now is when that is received at Headquarters the Inspector no longer sees any of these/

these -- the firearms examiners -- sorry, the firearms administrators deal with these entirely unless there is a problem identified, if the local Unit Commander were not to recommend granting or there was a report submitted -- in fact, that holds good for any time -- if a report is submitted which casts doubt on the suitability this would be brought to the attention of the Inspector.

So Inspector Dewar would not actually have seen it? - No.

Even allowing for the mail tab? - That is correct, because that particular item to do with Criminal Intelligence and previous convictions is dealt with entirely by Operations unless, as I described earlier, you have got notification of an SCRO input.

And the Sergeant has signed? - Yes.

And the Superintendent has signed? - Yes.

Would either Lynch or Johnson write anything on the form before that went to the Deputy Chief Constable? - Yes, she would -- any of the two, whichever -- would sign where I have signed the previous one.

That is the only change made? - That is the only change in administration at Headquarters. We are moving towards civilianisation completely.

Do you have the available information -- I can get it elsewhere if you are not able to tell me -- do you have information about the current number of firearms certificates in Central Police Force? - No, I don't have the exact figure. It is around 3,500 firearms and 1200 or 1300 shotguns.

Is it not the other way round? - Sorry, yes, the other way round. It is 3,500 shotguns and 1200 or 1300 firearms.

You have been referred to guidance as you have gone along. Can I now have D1, which is -- I don't think it is a separate number but it is a document headed on the front "Firearms log -- guidance to police". Do you have that?

MR./

MR. BONOMY: Sir, I am sorry for this, I have already asked that we have a back-up set identical to the ones we have in case the Production can't be found.

LORD CULLEN: Do we have a spare copy?

MR. BONOMY: I'm trying to get one. There may be one upstairs.

EXAMINATION CONTINUED BY MR. BONOMY: Are you familiar with that document? - Yes.

What is it? - It is the Home Office guidance to police on firearms legislation which is used regularly in the Firearms Administration Department.

Could you go to the preface which is on page three and the middle paragraph there says, "In accordance with Home Office and the Association of Chief Police Offices Working Party's recommendations this revised guidance is being made available publicly for the first time"? - Yes.

"It is not intended to be an exhaustive account of the law relating to firearms and ammunition or to make it unnecessary to refer to the Statute"? - Yes.

Then if you go to the last paragraph, "Because of the need to make this available to Police Forces well in advance of the coming into force of the Firearms (Amendment) Act, 1988 it has not been possible to undertake a comprehensive revision of the original memorandum beyond ensuring that offers an accurate guide to the legislation in force"? - Yes, that is correct.

I think it goes on also to say, "It may be necessary in due course to publish further revision". Do you know if there has been a revision? - I am not 100 per cent sure. I know in fact amendments are stuck into the book backwards and forwards but whether there has been a full revised book.....

You are not familiar with the revised book? - No.

I/

I think this is supplemented by your own Force's Standing Orders? - Yes.

This is memoranda which are sent out by the Chief Constable from time to time? - Yes, Force Orders.

And your own Standing Orders were last revised in 1990? - Yes.

Can you go to paragraph 6.8 please. Now, you will see this is guidance given to the police in considering applications? - Yes, that is correct.

And the following points should be borne in mind -- you have got that? - Yes.

If you go to paragraph (d) could you read that out please? - "It should also be established that the land areas over which an applicant intends to shoot are suitable from a safety point of view for the class of weapon which it is proposed to use".

And (e)? - "A certificate for a handgun with ammunition should not be granted (except in very rare cases) unless the applicant has regular and legitimate opportunity of using the weapon e.g. for target practice as a member of a pistol shooting club. Certificates should not, however, be issued for "fast draw" competitions for which adequate non-convertible imitation firearms are readily available".

So this is guidance really from the Home Office checking out on how applicants actually use the handgun? - Yes.

Could you go slightly earlier in paragraph 6 to 6.2 and confirm that deals with checking out whether an applicant is a suitable person for a firearms certificate? - Yes.

Could you read 6.2? - "Before issuing or renewing a firearms certificate, the Chief Officer must satisfy himself that the applicant can be permitted to have the firearm (S)/ammunition in his possession without danger to the public safety or to the peace. This may necessitate an interview and consideration of his security arrangements. Where/

Where a visit to the applicant's home is considered necessary, this should, whenever possible, be made by prior appointment. Applicants usually provide a telephone number where they can be contacted for this purpose. This information is requested on form 101".

Is it fair to say this is consistent with the general tenor of this document so far as approaching an individual applicant for a firearm certificate is concerned, that the officers should be doing this by arrangement rather than by surprise? - Yes, normally that is the case.

And the form tends to view the holding of firearms certificates as something that people are generally entitled to as long as they qualify? - That is correct, yes.

It is a positive rather than a negative approach to the holding of a firearm certificate? - That is correct.

Would you expect your officers, if checking up on an applicant for renewal, always to have made an appointment to see him? - I didn't check that, but normally, yes, that would be the case. Basically they are asked to take along the letter and leave the letter with the applicant and ask the applicant to get in touch with them after that, complete the application form, and the police officers will go back or the person go to the police station, go over the form, pay the fee, and thereafter the inquiry is begun.

There is never any attempt to take an applicant by surprise? - No. Not unless there is some good reason why that should be the case.

So any applicant who is going to be interviewed by police officers in the ordinary course in connection with a renewal application can expect plenty of warning to get his house in order? - Yes.

You mentioned the arbitrary limits in the course of your evidence. Would you look at 6.36 in the guidance given there? - "Each case should be dealt with on its merits and, provided the good reason requirement is met, no general arbitrary limit/

limit should be applied in considering any of the following: (a) number of rounds of ammunition to be held; (b) total number of firearms to be held; (c) number of firearms per calibre; and (d) time by which firearms should be purchased".

BY LORD CULLEN: Just for the notes, this is in the context of an application for variation, isn't it? - I think it actually covers renewal as well, in each case.

Does the same apply in the other direction like a renewal or original application? - Yes, because they can vary their reason over a length of time as well.

EXAMINATION/

12.40 a.m.

EXAMINATION CONTINUED BY MR. BONOMY: Yes. I think possibly the way to view this is that any renewal application is really supposed to be viewed as a new application -- the same criteria apply? - Yes.

And therefore the applicant can insert different weapons and different amounts of ammunition, really inviting the police to consider the application afresh? - Yes.

Varying the weapons and the ammunition? - Yes. Well, it is cheaper to do it at renewal time than it is to add additional weapons midway through.

Are the fees different? - No -- not for renewal. I think from memory the renewal fee is the same, and they can vary it at that particular time. However, midway through or part of the way through they would be charged a fee for adding guns to the list on their certificate.

Could you now look please at Pararaph 14.3, which is under the heading "Security of Firearms and Ammunition held on Certificate"? - Yes.

Now, could you read the Guidance given at 14.3 please? - "Storage under Paragraph (a) should be in a locked gun cabinet or other similarly secure container. However, in deciding on the appropriate level of security, Chief Officers will wish to have regard to the individual circumstances in each case. In some cases, removal and secure storage of firing mechanisms, for example in a safe, will be an acceptable alternative to use of a gun cabinet. Where a cabinet is used, it should be in a protected part of the premises, not in a garage or outhouse, out of sight of casual visitors and securely fixed to the fabric of the building. A gun room offering a comparable level of security, or a cellar with a lockable steel door, would be satisfactory alternatives".

Yes. Just finally, would you look please at Paragraph 6.7, back to the chapter you looked at earlier? I missed this one at the
time?/

time? - 6.7, yes.

I think if you just go back to 6.6, you will see that sets out the circumstances in which a person should be refused a certificate? - Yes.

Now, could you read the Guidance given at 6.7? - "If the grant of the certificate is not so precluded, the Chief Officer of Police has to satisfy himself on two points: that the applicant (a), has a good reason for requiring the firearm or ammunition in respect of which the application is made; and (b) can be permitted to have the firearm or ammunition without danger to public safety or to the peace. Forces will normally be expected to give reasons for their decision to refuse an application for a firearms certificate".

BY LORD CULLEN: Just one other point. If you would look at 6.8, and turn on to little i? - Yes.

I think you will find in the middle of that there is a bit about good reason there, and also it says there that "No arbitrary limit should be applied to the number of firearms which may be held"? - Yes.

So that is in the context of an application for a firearms certificate, and presumably also for renewal? - For renewal, yes.

CROSS-EXAMINED BY MISS DUNLOP: You explained that material information gathered by police officer would be communicated to the Firearms Department? - Yes.

That is perhaps more general information about a holder of a Firearms Certificate? - No, only relevant information -- not every piece of information.

Yes. I was just coming on to that. The qualifying criterion is that it is relevant information? - Yes.

Is there any more specific guidance to police officers about what is or may be relevant? - No. Basically the guidance, which is contained within Force Standing Orders is that anything which the/

the officer would feel is relevant regarding the suitability of an applicant to hold firearms -- in other words, if they feel this has a bearing on that person's suitability, then it is incumbent on them to notify headquarters in order that the matter can be considered further.

So they are not told, for example, that information which reflected adversely on an applicant's character should be communicated? - Well, I don't know if it says that in those specific words, but obviously if the character of an applicant is called in to doubt then I would expect them to communicate that to headquarters for us to consider whether there should be further action taken.

And that calling in to question of an applicant's character might or might not relate to any incident involving a firearm? - Yes.

Indeed I think if we look at Paragraph 6.9 of the Home Office Guidance, which is still open in front of you, it does say there: "In deciding whether a person can be permitted to have a firearm or ammunition without danger to public safety or to the peace, the main consideration is his character"? - Yes.

Well, that is fairly general? - Yes.

Now, it was drawn to your attention that in 1995 Mr. Hamilton was applying for authority to acquire four new firearms, and those were the same four firearms as those for which he had sought authority in 1992; do you remember that? - Yes.

Would that be queried by anyone, that he had gained the authority three years before and hasn't used it? - No, there is no reason. If he still has the good reason he had when he was given authority, then there would be no reason to doubt that, and that should be answered when the officer is checking that he is still a member of a gun Club.

But do you accept that it might at least raise a question about the veracity of the good reason that had been given last time round? - Not really, no, but in actual fact the shooting organisations advise their members to look five years or more ahead, because it costs them more to vary/

vary a certificate at a later date. So provided they are given -- and the only guidance there is with regard to this, as far as the good reason is concerned -- if they have met that criteria at the time, and that good reason is still there, then there should be no reason to take the authority off; and in actual fact on the application form for the renewal the applicant is asked to say whether he still wants to retain the authority to acquire these weapons, and as far as I am aware there is nowhere there that allows us to take that from him without the fact that the good reason has been taken away.

BY LORD CULLEN: That advice you have referred to -- where can one read that, the advice from the shooting organisations? - It is actually in a booklet they provide. I just can't remember the organisation. There is a small booklet I think in the office, and what they advise, if I can remember correctly, is to look five years ahead -- on renewals, and over the five years, to what amounts of ammunition and firearms they may wish within that period of time.

So that means an applicant has got to look ahead for a period of five years and to ask himself, before he has got the certificate, whether he is likely to require to acquire firearms say four to five years ahead? - Yes, if he wants to cut down the cost.

If he wants to cut down the cost. And he is supposed to have that good reason at the time he is making the application? - Yes. When he applies for it and asks to purchase or acquire two weapons, he must have the same good reason for these two.....

It does seem rather curious -- you project five years ahead to save costs for reasons you have which are good reasons? Does this work in practice this way, that people try to anticipate what they might need? - Yes, because at renewal time or at grant time they can have it done there and then. During the period of the certificate, if they apply for it, then there is two aspects to it. They can either take one gun off because they want to transfer it or sell it, and put another one one, which is actually free. But if they wish to add a gun to the list on their certificate, then there/

there is a fee for that.

CROSS-EXAMINATION CONTINUED BY MISS DUNLOP: To pursue that a little further, I understand that the current advice from a shooting organisation might be "project ahead five years"? - Yes.

Because that is the period of time till the next renewal? - Yes.

And you save yourself the cost of a variation during those five years? - Yes.

But the equivalent advice in 1992 would therefore have been "Project ahead three years, because it will be three years until the next renewal". Does that not take us back to the same question, that if the reason in 1992 had been that he was going to be using those four new firearms for target shooting, by 1995 he obviously hadn't? - Yes.

Following through what had been said in 1992? - Well, basically all he has to say is that he wants to purchase or acquire, and give the reason why. There is nothing to force him into telling us when, and there is nothing that forces him to buy these guns within that period. The only stipulation it gives is that there must be the good reason, and that good reason must hold good in 1995 as it did in 1992, and therefore on his application form if he still wishes to purchase or acquire these weapons, then providing he still has that good reason there is nothing we can do to force him to take that off.

But the good reason in 1992 was at some point in 1992? - No, the good reason is "At some time I would want to purchase these weapons", and then that is looked at again, and he may decide in three years or five years, now, time that he does not want to, or he does want to retain that authority to purchase or acquire weapons.

BY LORD CULLEN: So it is not limited to within the period of the certificate? - No, that can go on.

But supposing you have a man of 20 who wants/

wants -- or say 25 who wants to apply for a firearms certificate, and he is thinking when he gets to retire at the age of 60 plus he will buy a firearm. Does he put that in his application, and it stays there as each period comes and goes? Is that right? - Well, as far as I am aware, there is nothing to stop him doing that.

But surely one would have thought what he puts in is relevant to the period in question? - Yes, but he is also reapplying for the "purchase or acquire", and the good reason still applies as it did in the first application, because he is still a member of a Club. If he ceases to be a member of a Club we would have to look at it again.

But I thought you were telling me his good reason relates to him wanting to acquire a firearm, whenever that acquisition is intended to take place? - Yes. It doesn't matter when it is. So if he applies at the grant time for permission to purchase or acquire weapons, we have to satisfy ourselves if he has good reason for that during the next.....

Supposing the officer said to him "I understand you want to acquire this gun. Can you tell me when you propose to do this?", would that be the kind of question that might be asked? - Well, I would expect the question to be asked: "Do you still wish permission to do that?" They may well ask "When do you intend to buy it?".

And supposing he said "Well, perhaps 10/15 years from now", what would the reporting officer make of that? Would that be of any significance or not? - I don't think it would be of major significance.

Would it be of any significance? - I don't think so, because the good reason would still apply.

CROSS-EXAMINATION CONTINUED BY MISS DUNLOP: Moving on to the question about a second gun the same as one you already have? - Yes.

You have referred to good reason for that being that the second one is a spare? - Yes.

The/

The only circumstances I can think of in which a spare might be necessary would be if your number one gun was broken or not functioning in some way; is that what you have in mind? - Or is being adjusted.

So in theory, since this is a very general happening, in theory anybody could have a second gun, because that could happen to anybody, that their number one gun could break or need adjusting? - Yes, providing they could give good reason; and that is where the firearms examiner comes in, where he could advise me as to whether that is good reason -- for example, with a rifle, it could be the weights are slightly different, the sights are slightly different, or very technical reasons, and I would therefore consult the firarms examiner for his views on that.

So that question of adjustment would have to be more specific, the applicant would have to say what adjustment was required? - Well, if he was putting it to a firearms dealer to have the gun -- I don't know the technical details of the gun, but if it was being cleaned or adjusted in some way then he would need another firearm to carry out his hobby or his sport.

Right. So when the applicant says that he wishes to acquire a second gun the same as one he already has, to say "I want a spare" is not good enough, he has to say why specifically he needs a spare, does he? - Yes. Well, we would ask "Why do you need a spare?" and that would be considered. But that is about all.

But if he said "Because the first one might break", or "Might at some point in the future require adjustment", would that be a good enough reason? - Yes, because he might be involved in competition shooting or what have you that he would then need a gun as a back-up, and that is acceptable under the guidelines, as far as I am aware.

You explained to us that there is no check, and you didn't think that any requirement existed for there to be a check, on the frequency of someone's attendance at a gun Club? - No.

Does it also follow that there is no inquiry/

inquiry made as to the nature of the person's shooting, if and when they do attend at the gun Club? - No.

So nobody asks whether they are competing? - No.

You were also asked about I think it is the mail tab -- I think it is described as that? - Yes.

The handwritten entries from WPC Anderson? - Yes.

Now, she has looked at the Intelligence File on Mr. Hamilton; is that correct? - I presume so, yes.

And she appeared to have recorded that there was nothing to stop the certificate going through? - Well, there is certainly a bit at the bottom, but I don't know whether she has written that. It is under her signature, but somebody, yes, has written that there is no reason for it not to go through.

So it presumably follows that whoever the writer of that comment is is making a judgment purely on his or her own about the nature of the information in the Intelligence File? - Yes.

After/

1.50 p.m.

After an adjournment for lunch.

CROSS-EXAMINED BY MR. GIBB: You are well aware in the firearms legislation that reference is made to good reason? - Yes.

There is no definition of that anywhere, is there? - Not to my knowledge but the good reason certainly as far as I am concerned is the fact of the gun club and I think there is mention in the guidance regarding gun clubs.

Yes, but I'm thinking particularly about the point that Lord Cullen made to you before lunch time about wanting to purchase for instance a weapon, that good reason simply needs to be "At some time, some day, I want one"? - Yes.

And there is no assistance at all to you as a Force as to the amount of either ammunition or the number of weapons that may be possessed? - No.

And basically you said that if someone says that they might want something that is a good reason for you? - Yes, a good reason in terms of the guidelines.

But the guidelines give you nothing about good reason? - Yes.

They don't help you at all, do they? - Not very much, no.

In fact, it is fair to say on the question of good reason and on the question of volume that they are worse than useless? - Well, they are certainly very open.

And similarly, on the question of checking we know that Mr. Hamilton between 1988 and 1992 did not make any commercial purchases of ammunition? - Yes.

But you don't check the present certificate to see what has been purchased in the previous period? - That is correct.

Well,/

Well, why not? - Well, because he doesn't have to give any reason why he is not shooting his gun. Provided he is a member of a gun club that would be a good enough reason to retain the ammunition and the guns.

But I have to say that the general perception I have, perhaps of the guidelines more than anything else with the existing tenor of the guidance, is that someone has a right to things as opposed to a privilege? - Very much so.

So in fact those who have those weapons which are capable of horrendous consequences have at the present time a right, almost unlimited? - Almost, yes.

Indeed, is it limited at all? - It is limited to some extent but you are right on good reason and other aspects. There is very, very little guidance and very little in the way of limits as to when we can prohibit somebody from getting those weapons.

Have you ever been involved in shooting yourself? - At one time a number of years ago. In the police as opposed to in a private capacity.

I mean, we heard some evidence that at a shoot for instance, we heard from an earlier witness, a member of a gun club, that to fire 200 rounds of ammunition was probably as much as he would have anticipated ever using? - Yes.

How then can you justify someone such as Hamilton holding or having authority to hold 7,500? - By the different calibres. There is 1500 for each calibre.

How even can you justify 1500 of each calibre? - I can't answer that one. That is something which has been there since whenever, 1500 is a common amount.

But going back to an earlier point; if as a matter of routine you and other Police Forces checked an existing certificate to see the use made of the weapon before renewing, that would at least have alerted your Firearms Department to the fact that for a period of some six years Hamilton had not/

not used these guns at all? - No, that does not portray that to us because he could get his ammunition from the club. He could make it himself. There is no prohibition on making ammunition provided you have authority to possess the ammunition under Section 1 and you could buy it or get it gifted to you by some other person.

But to make his own ammunition he would at least need cartridges? - Yes.

I accept that the recording only relates to commercial purchases? - Yes.

But wouldn't it in fact ring a warning bell if in fact there had been no commercial purchases whatever of cartridges or anything else? - Not necessarily because he could shoot the cartridges off at the range.

The other point is that my understanding is that he had the authority to possess up to 1500 rounds of each type? - Yes.

But had authority to purchase up to 1,000? - Yes.

There is no way that you or anyone else would check what use had been made of the 1500 held before another 1,000 were purchased? - No, there is no way of checking. When the officer calls at his door, short of searching his house and checking every round he has, there is no way of checking that. We have to go on the good faith and the goodwill of the applicant.

So Hamilton could go 10 days in a row and purchase 1,000 rounds of each type of ammunition? - Well, not if it is commercial premises. That should be entered into his certificate and therefore he could only be allowed to possess up to what is stipulated but again there is no way of checking that he has not got more stashed away somewhere else.

We heard from a representative from a gun firm that there is no check made and if someone comes in and asks to purchase 1,000 rounds, no questions are asked as to what you have done with the 1,000 you purchased yesterday? - Yes, I don't think/

think there is any obligation on them to do that.

Now, so far as gun clubs are concerned, membership is sufficient and there is no check made on the actual participation? - No, as long as they have regular and legitimate access to the gun club to shoot if they so wish there is nothing that I'm aware of to prevent them keeping good reason or keeping guns just in case one time they decide they do want to go and shoot them.

Well, I have to suggest to you that good reason means something better than reason and it seems to me that the general tenor of your evidence is that as long as they can justify their position they don't need to provide a good reason to you. All they needed to provide was a reason? - Well, my interpretation of being a member of a gun club is a good reason.

But it is the membership alone and no steps were ever taken by your Department to check on the attendance at gun clubs? - No.

Or the use of the guns? - No, there is nothing that I know of that states that they have to shoot the guns.

Is there something to be said for a system perhaps whereby if someone attends a gun club they get a card stamped that they have attended, the date and fired rounds of ammunition? - That might be one option, yes. It would supervise it a lot better.

So that when it comes to renewal, the person holding the certificate has got to provide satisfactory evidence of the use of their guns and the use of the ammunition? - Well, I can't say no to that. Obviously that is one suggestion that would certainly be worthwhile.

BY LORD CULLEN: You say worthwhile. Worthwhile for what object? - Well, to ensure that they do need the weapon and that it is being fired because it is our interpretation that they don't need to fire the weapons at the gun club. They only need to be a member of it. The regulations obviously would need to be tightened up I suppose and we would be advised that unless they are actually/

actually firing the guns they longer have good reason and the only way you could check that is if they got some kind of document stamped.

CROSS-EXAMINATION CONTINUED BY MR. GIBB:
The other thing is, I have to say, you have been questioned on this at some length but it appears really going right back on Hamilton's record that even away back in 1983 and 1989 and in 1984, on each occasion there is certainly a .22 rifle appears throughout as something that he does not have but intends to purchase or acquire? - Yes.

So we have a .22 rifle on four applications where he does not hold it but intends to acquire it? - Yes.

But you indicated to Lord Cullen that they could have 20 such applications and it would not necessarily ring any warning bells? - No, I have no knowledge of anything that.....I mean, the guidance states that there should be no arbitrary limit on the number of guns that someone should have so provided they meet the guidance good reason criteria then there could not be any reason why we could legally prevent that.

You may not know this but what is the purchase price of a .22 rifle? - I couldn't tell you.

What is the cost of a variation in terms of police fees? - I can't remember the fees offhand.

Do you know roughly? - No, I would be guessing because it is not something that I have to take into consideration at all, the fee.

But the cost of renewal is? Do you know how much that is? - No, I don't keep that information in my head.

Can I suggest to you in any event that the cost of the fee for variation as opposed to the cost of a weapon itself must bear no relation one to the other? - No.

And indeed there is nothing whatever to prevent someone who is going to go to the significant/

significant expense of purchasing a weapon from requiring at that point to seek a variation instead to hold that weapon? - No, there is nothing to stop them but it is obviously easier for them unless inconvenient and cheaper.

Well, I'm really not particularly interested in convenience which you will appreciate, nor are many of the people who are represented at this Inquiry. Is there any reason why the provision that there is allowance for firearms to be purchased or acquired should simply be removed? - Sorry, can you repeat that again please?

Is there any good reason why in fact the provision that allows entry for firearms to be purchased or acquired should simply not be removed from firearm certificates and anyone wishing to purchase or acquire a weapon could seek a variation? - Yes, I would agree with that. I would agree with that, that that is what it should be, yes.

BY/

BY LORD CULLEN: But then this is quite common, isn't it, for somebody to make an application for the first time before acquiring a weapon? - That is correct.

He can't acquire a weapon in advance? - No.

So something has to be done in anticipation? - Yes.

And when the weapon is acquired then it is entered in the certificate? - That is correct.

So that is certainly one situation in which there cannot be a variation because there is nothing to vary until you get the application through? - Yes, and very often you find requests come in first because people are looking for bargains and when a bargain comes up, if they have that authority on their certificate they can purchase at the time and that is often given as a reason why they must retain authority.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: Finally, I think in fact if you could look at D82L. That is the memo from Detective Sergeant Hughes. Had you ever seen that document prior to these proceedings? - Yes, I have been shown it once.

Are you aware of whether the document or a copy of that document was with the Central Region Firearms file for Mr. Hamilton? - No, as far as I am aware it was not.

Have you had an opportunity to study that document before today? - Yes, I have read it before.

What is your view as to how that document might have affected your personal view when it came to Hamilton's renewal in either l992 or l995? - I would certainly have taken it into consideration but without further information on this, this document alone does not provide enough evidence to substantiate any allegations that have been made. The document has in fact been put in in good faith by the officer and in fact in terms of the Force Standing Orders he has been obliged to put that information into Headquarters. Having read it/

it, I would find it difficult on that alone to say that under the current guidance and the current legislation that there are grounds for revocation on that document alone.

Well, that is one thing, revocation, but this is another question, renewal? - Yes.

And I think as you are aware, Section 30 of the Act provides amongst other things that if a person is otherwise unfitted to be entrusted with a firearm then renewal will not take place and I think you indicated earlier that the same criteria apply for renewal as for new applications? - Yes.

Are you suggesting that does not ring very serious warning bells as to Hamilton's fitness to be entrusted with a firearm? - Well, what it does is it tells me that there have been allegations made but his unfitness has to be proved. I need some evidence that he has in fact committed the offences that he is alleged to have committed.

With respect, you don't need any evidence that offences have been committed? - Well, I am sorry, as far as I am concerned I need evidence that this person has committed or done some action, not specifically committed a crime but has done some action which would make him unfit. I mean, it is all right to put forward a case as far as the allegations are made but what would immediately happen as far as this was concerned, a revocation on that document, would be an appeal and I would be most surprised if it was not upheld.

Would that memo not put you on serious guard at renewal, if not on revocation to very carefully consider Hamilton's application for renewal? - Well, I would want to look, yes, at a lot more information than that memo.

So in fact if that memo had been on file it would have prompted you at least to carry out further detailed investigations before Hamilton's renewal was granted? - I would call for more details to see if there was anything to substantiate the allegations that are in the document.

But this is a senior officer in your Force who has got these concerns. is that not a matter/

matter of some consequence to you? - Well, it doesn't really matter, with respect, it doesn't really matter what rank they are. We still have to abide by the law and the guidance as it pertains at that particular time, whether we agree with it or not, and we have to look at it to see if there is any evidence to substantiate the allegations that are made. When I look at the words there, "scheming, devious and deceitful", that at the moment is one person's view of this particular person and there is nothing that I know of in the guidance which would allow me to revoke or fail to renew somebody's certificate on that.

But if you had seen that memo you could at least have looked up the papers which were put together following on the Milarrochy enquiry? - Yes, I could have looked at the operational report giving the full details to substantiate that.

Have you seen these precognitions since? - No. This is the only thing I have seen as regards this document.

BY LORD CULLEN: Perhaps I could ask you about this document, D82L. Are you familiar with the kind of documents that are in the firearms files? - Yes. This is just at our Headquarters?

Yes? - Basically the application forms and if a document such as that was received that would be filed in the document and a photo-copy of his previous certificate.

So is this the kind of document that you would expect to find in a firearms file relating to the person concerned? - Yes.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: But you have obviously no knowledge as to why this document did not reach the file? - No, I do not.

Just to put it in its entirety, can I suggest the Home Office guidelines really don't assist you as a Force very much at all in terms of what number of weapons or volume of ammunition or in fact what does or does not amount to good reason? - They are very, very open and very difficult. It is so open that it is very often up to the discretion of the Chief Officer to try and make a considered judgment/

judgment in conjunction with the guidance but there are other sections which tie us to a certain extent.

You talk about discretion of officers with regard to the renewal or grant of the certificate. Similarly, you will be aware when it comes to appeal it is a matter for the discretion of the Sheriff? - That's correct, yes.

And clearly if anyone exercises their discretion reasonably that cannot be challenged? - That is correct.

But despite that you took the view that this was not a case and you still take the view that this was not a case where you would have felt any degree of confidence in refusing the renewal? - No, that is correct because it is the job of the Chief Officer to take the responsibility of making that decision rather than abrogating it to the Sheriff and therefore that is the kind of decision that a Chief Officer would have to take.

I have to suggest indeed it would be appropriate to refuse renewal at the very least or to get a revocation and put all the information, including D.S. Hughes' memorandum and all the precognitions before the Court? - Well, I can only reiterate what I have said. These of course are basic details and I don't have the background to it but on that alone I couldn't, if I was asked, revoke or ask somebody or recommend that revocation under the current guidelines and the current law.

BY LORD CULLEN: I take it within your work you have been responsible for considering cases where you had to consider whether or not to recommend revocation, is that right? - Yes.

CROSS-EXAMINED BY MR. TAYLOR: Just going back to your evidence I think for the moment. Can you tell us the practice of Central Scotland Police Force in relation to making visits to an applicant at the time when they first apply for a firearms certificate? - Yes, when they apply for the grant of a certificate an officer will be sent to carry out an enquiry and go over the form. They would be asked to check the Scottish Criminal Records Office and Police National Computers to establish whether the person has any previous convictions and should also check that the counter-signatory/

signatory is a bona fide person.

When it comes to renewal, can you tell us if that practice remains? - Yes.

Is that a matter which is required by law or.....? - No, there is no law to force a Police Force to carry out visits. In fact, it is recommended in various quarters that there should be renewals by post but our Force has resisted that and we now still carry out visits during renewals.

And where has the impetus come from for the suggestion that renewals should be done by post? - That is a recommendation by Her Majesty's Inspectorate.

Have you had experience of dealing with the Inspectorate? - Yes.

Is there anything which you have learned from your discussions with the Inspectorate which may be of relevance and interest to this Inquiry in relation to the administration of firearms? - Well, only that last year there was a thematic inspection carried out by the Inspectorate.

Perhaps you could tell the Inquiry what a thematic inspection is? - Sorry. The Inspectorate of Constabulary carries out inspections of other police forces. However, they also carry out what are called thematic inspections on a particular topic and that is done on a Scottish-wide basis. Last year there was an inspection carried out in all Scottish Forces with regard to firearms licences and that was carried out round about September time. As I say, that is dealt with on a national basis as opposed to individual Forces being inspected.

Was there anything arising from that inspection? - Yes, very much the H.M. Inspectorate are of the view that firearms licences should be civilianised completely. In fact, I was asked why an Inspector and Chief Inspector should be involved in the process at all and why not submit documentation, whether it be for revocation or otherwise, from the civilian firearms officer to the Deputy Chief Constable.

Is/

Is that a step which you think is in the right direction? - I don't see any reason why not, no. Firearms officers are, if you like, experts in that they deal with it every day, and the firearms examiner was appointed for the very reason, for his expertise. I don't see any reason, given the staff, why there shouldn't be direct access from the civilians to the Deputy Chief Constable and why there needs to be a police officer involved.

This morning you made reference to some advice which you believed was issued by an organisation to its members. Could it have been the document you were referring to is entitled "Sporting documentation and the law" published by the British Field Sports Society? - Yes.

Was the particular passage which you had in mind that which one finds on page 16 where it is said that "A certificate to obtain extra weapons is expensive..... Approval to purchase remains valid for the life of the certificate"? - That is it.

The last sentence there says the approval remains valid for the life of the certificate. I think you accept that? - Yes.

In answering some questions put to you by Mr. Gibb you gave an example of the sort of situation which might arise where an applicant may want to acquire a particular weapon second-hand if it comes up for sale? - Yes.

Can you think of any other examples where people might make an application for a particular calibre of weapon to be entered on to their licence but yet not make use of it in the period of three or five years that now is? - I think this is the main reason, if for any reason they happen to see a bargain, whether it be a private or commercial deal, they can take the opportunity of that without having to have to attempt to vary their certificate. I think these are the main reasons. There may well be others but I can't think of any offhand.

Would I be right in thinking that the permission to acquire lasts only the life of the certificate?/

certificate? - Yes.

If they felt they didn't have a need for the particular weapon within the life of the certificate it would be inappropriate to make application for it? - It would be inappropriate to make -- at the renewal time?

Yes? - No, not necessarily, because they may well still wish to purchase the weapon at some other time in the future, and provided they have the good reason to acquire the gun.

Would the future not extend then beyond the life of the certificate? - Yes, but then it would be re-examined during the renewal and if the good reason was there it would be renewed again on that basis.

At the time of making an application would an applicant require to have it within his contemplation that in the course of the life of the certificate he would be acquiring the gun? - Not to my knowledge, no, because he may only be considering the possibility.

You were asked some questions in relation to paragraph 6.9 of the guidance which has been issued. That deals with the main consideration being the character of the applicant? - Yes sir.

In your view does any blemish on the character of an applicant result in him being unsuitable to hold a firearms certificate? - No. Each case has to be taken on its own merits.

Are you able to indicate roughly what sort of character deficiencies would require to exist before there would be cause to refuse a renewal or refuse a grant? - Yes. There would need to be evidence of deficiencies of character, for example intemperate habits, where it was proved the person was a drunk and therefore could use a firearm when they were under the influence of drink. If there was any evidence to show they were receiving treatment, for example, for a mental health illness, or if for some other reason -- in other words, if they were convicted or charged with a serious violent offence where they may be wanting to use a firearm in the commission of another offence./

offence. But basically if there is any danger to public safety and the peace.

Would that danger have to arise in any shape or form or would it have to arise specifically in relation to the use of a handgun? - No, it can arise through any shape or form.

Would it follow that any situation giving rise to a breach of the peace would necessarily result in replication or refusal? - No, not necessarily.

BY LORD CULLEN: Two points before you are re-examined: do I understand from what you said earlier that at the time for renewal it would not be expected of a reporting officer that he or she would as a matter of routine get in touch with the club of which the holder was apparently a member? - That is correct, not as a matter of routine.

There may, of course, be some particular reason for that in a particular case but not as a matter of routine? - Not as a matter of routine, no.

The second question was to do with the function of the administrators or the administration department. What exactly, in a few words if you can, what is their function? - In the process?

Yes? - Theirs is purely administrative. The documentation, information comes into them, and they are then responsible for administering that and producing the new certificate. If there are any grounds that they consider a person is unsuitable they would then bring that to the attention of the Inspector who would then look at that in the light of the information that is available to him.

Would they have anything to do with the amount of ammunition which a person was authorised to hold or acquire? - Yes, they deal with that.

In what sense do they deal with it? - They would agree the amount provided it is within reasonable limits. The firearm examiner, as I said earlier, is somebody who has expertise in shooting and he would be able to tell us that the amount that was asked for was not over the top so far as the particular/

particular shooting is concerned.

How does the examining officer do that? - From experience.

No, by what method. What documentation -- how does he do that? - He states it in the certificate, the number of rounds that the person is allowed to acquire.

That's not what I mean. You said you get a view expressed by the examining officer? - No, the firearm examiner.

That is within the administration? - Yes.

How does that person get the necessary expertise to deal with a point of that sort? - Just that he has been working there for quite a number of years, the procedures have grown up with him. At one time he was under the supervision of other people when these decisions, in regard to what is acceptable and what is not acceptable, were decided, and thereafter this has gone on. He has also worked as a gunsmith and he is a shooter himself. He has a tremendous amount of experience with regard to shooting, types of weapons which are necessary for different disciplines, and the amount of ammunition which a person could go through if they are involved in competition shooting or gun shooting, an amount which is not over and above what may be required.

He really proceeds on the basis of the category or type of weapon that he is considering? - Yes. Very often when I was Inspector I would seek his advice as to whether the ammunition, there was too much ammunition or whether he felt it was a reasonable amount to ask for.

There may be occasions you may get a request that appears on the face of it to be questionable? - Yes.

In size? - Yes, and the person may wish to carry out certain functions and the firearms examiner would advise me on that.

Provided the application is in respect of a quantity which is regarded as normally acceptable then/

then it will be passed as a matter of course; is that right? - Yes.

RE-EXAMINED BY MR. BONOMY: Now, Mr. Mather, many of these questions have been concerned with the issue of what is called a good reason for allowing the inclusion of a particular firearm in the certificate. Can I just quote to you Section 27 of the Firearms Act, 1968, "A chief officer of police has to be satisfied that the applicant has a good reason for having in his possession or for purchase or acquiring a firearm". Now, do you not accept that that must have some relationship either to the current position when the applicant makes his application or to his immediate intention to purchase or acquire? - Well, as I said, at the renewal time, that is when we would re-assess whether that person has still got a good reason. If he still has a good reason I know of no reason why we do not grant or remove that permission to purchase or acquire.

But if he has had authority for a number of years to acquire a particular weapon and hasn't done so how can it be said that when he renews his certificate he still has good reason for purchasing or acquiring that firearm? - Because the good reason is that he is a member of a club and that he is still a member of that gun club where he is able to fire that weapon, and this is taken as the good reason for that renewal, for being allowed to purchase or acquire if he subsequently wishes.

That good reason has to be for purchasing or acquiring the firearm -- and that would be pleural if appropriate -- in respect of which the application is made. It is not just firearms but "the" firearm? - Yes. He has to show good reason for every individual firearm, but provided that firearm, provided he has good reason for having that firearm such as a member of a gun club, or a duplicate calibre or for some other reasons, such as a different discipline or a spare weapon, that would be deemed as enough.

Even though he has no immediate intention to acquire such an additional weapon? - Well, I am not aware of anything that says he does have to.

You are looking at it from the prohibitive/

prohibitive point of view, from the point of view of someone saying he can't, but this is worded in the positive way that the chief officer of police has to be satisfied that he has a good reason. How can you say there is a good reason, a positive good reason for acquiring a weapon when he may not have an immediate intention of acquiring that weapon? - Because he may wish to do it at some other stage during that time if he doesn't decide at the time when he is changing the certificate.

But/

2.40 p.m.

But that I suggest to you doesn't amount to having, at the time of the application, in fact, a good reason for acquiring the weapon? - Well, certainly that is the interpretation we have taken for a number of years.

Well, can I suggest that since the law has not yet been changed, and remains as it was at the time of the Dunblane incident, that you should think carefully about renewals meanwhile and about how willing you are to allow people to have added to their certificates weapons that they have no immediate intention of acquiring. It is simply something I suggest you ought now to consider. Are you prepared to do that? - Well, there is a section in the Guidance here that states about the good reason, and the gun Clubs I think at some stage -- I just can't remember the exact bit.

Are you going back to the Guidance? - Yes.

Well, if you look at 6.8, and at (e) and then at (i), first of all does it not say there that "A certificate for a handgun with ammunition should not be granted, except in very rare cases, unless the applicant has regular and legitimate opportunity of using the weapon"? - Yes, but that is what he did have. He had regular and legitimate opportunity to use the weapon.

Well, he may have had legitimate opportunity. Are you saying he had regular opportunity of using the weapon? - Yes. He was the member of a gun Club, so he had regular opportunity to use the weapon.

And that is it? Do you think that is what "regular" means there? - Well, the Guidance is open to the interpretation of the Chief Officers, and this certainly was our interpretation for quite a number of years.

And where then would you stop at deciding how many guns he should have? - Well, as far as the duplicate calibres are concerned, I would take advice from my firearms examiner, who has his expertise/

expertise in types of weapon, and when they should and shouldnt be used, because guns -- they are different sights, different weights and what have you, and I don't have the expertise to decide that on my own.

Well, who were you relying on in February 1995, when you didn't have the examiner dealing with this case? - Well, the examiner still takes part in the application process.

In February 1995 did Mr. Lynch have something to do with this case? - Not that particular one, but he is still.....

That is what I am asking. What did you do in 1995? - Well, I didn't check that at all because it was not within the procedure at that time. It would come to me within the Firearms Administration Department and all I would check was the RL3a form.

If you look over the page at Paragraph (i), and about five lines down, does it not say that "The good reason requirement will need to be satisfactorily demonstrated in respect of each firearm"? - That is correct, yes.

"Thorough enquiries must be undertaken regardless of whether this involves making enquiries outside the applicant's police area"? - Yes.

And you think that simply means "If he says he'll need another one in the next five years he can have it"? - Well, as I say, that is the interpretation that has been taken from the Guidance notes over the years.

Now, you were asked some questions about Production D82, that is Mr. Hughes' memo. Can you please have that in front of you again. In that memo in the second-last paragraph on the first page it says: "It emerged from inquiries that he, during the course of the first week of camp, seemed to become increasingly stressed and had difficulty managing the group. It was during one such moment that he became extremely angry and assaulted one of the boys. This particular child was in fact assaulted three times by Hamilton during the first few days of the holiday, and was eventually removed by/

by his parents". Now, that is not rumour or innuendo, that is a statement of fact? - Yes.

Is that a basis for considering revocation of a firearms certificate? - Well, it would very much depend on the severity of the case. I would need to see what the full information on the case was. Was there anybody injured? How serious was the assault? Was it a clip round the back of the ear, or what exactly it was. I would need more information before I could consider that.

So the fact that there was an assault three times during the first few days is not of itself enough? - Not from the information there, no.

LORD CULLEN: Mr. Taylor, as you have access to that document which you have read, could you possibly make arrangements for me to have a copy?

MR. TAYLOR: I shall do.

ROBERT ALLAN (65), Sworn:

EXAMINED BY MR. BONOMY: I am a retired police officer and I live in Falkirk.

When did you retire? - 1984.

What rank did you hold? - Chief Superintendent.

And was that with Central Scotland Police? - That was with Central Scotland Police, yes.

In February 1977 were you a Chief Inspector? - Yes, at Stirling.

And did that involve you in some sort of supervisory role in relation to firearms certificate applications? - Yes, indeed.

As/

As a result did you have at least a part to play in considering the application of Thomas Hamilton for his original grant of a firearm certificate? - Yes, on the basis of the report submitted I had to decide whether or not an applicant was or was not a suitable person to be the holder of a firearm certificate.

Could you please have before you FA1, which is D22? Is that Hamilton's original application for a firearm certificate? - Yes it is.

Dated the 5th February 1977? - Yes.

And in those days there was no requirement for a countersignatory on the form; is that right? - No, there was -- on the form itself, no.

What were you going to say? - A pro forma report would be submitted along with the application itself.

And that is an RL3a? - Yes.

And that is a form regarding the inquiry made by the officer who was allocated that duty? - Yes indeed.

Now, could you look please at FA2, which is D23? Is that the inquiry form that came to you along with the application form? - Yes it is.

So the inquiries have been done before you were actually presented with the application form, to play your part? - Yes indeed.

And do we see your signature somewhere on the document 23? - Yes. This bears my signature and a note to the Chief Superintendent of the Division at that time, and I indicated that I had no objection to offer to the application.

On the form I am looking at there are six questions completed; is that right? - Yes, that is correct.

And the answer to each of these questions was "Yes"? - That is correct.

The/

The questions are listed, three on the left hand and three on the right-hand side of the page? - Yes.

And above them it says, "If the answer to any of the following questions is no, give details at 7 below"? - Yes.

If we just look at these questions, the first of them is "Is the applicant a suitable person to hold a firearm certificate?". That is answered "Yes"; is that right? - That is correct.

But then the next one "Does the applicant have a good reason for requiring the firearm or ammunition for which application is made?"? - That is correct.

It simply says "Yes", there is no other information; isn't that right? - There is no other information on that form, no.

And the way it is worded is "Does the applicant have a good reason for requiring the firearm"; is that right? - Yes.

And then each of the other questions is just answered "Yes", with no other information about where the shooting is to be done. It is just said that the places are suitable, and where the ammunition and firearms are to be kept, it just says again "Yes, they are suitable" -- there is no additional information? - Yes, but the pro forma report relates to the application form for the grant of a certificate.

Yes, and you have got that in front of you? - Yes indeed.

And if we look back at it in relation to these various questions, do we see that the application was for one firearm, .22 target pistol? - That is correct.

That the applicant didn't possess any ammunition, but he wanted to be able to possess 1,000 .22 rounds and to purchase 500 at any one time? - Yes, that is correct.

On the second page, question 14, did he give/

give the reason for requiring the firearm? - Yes, indeed.

What was the reason? - And this is marked "Target Shooting".

And if you go back to the questions on the RL3a form, that is question 2? - Yes.

We don't get any more information on that? - No.

So the good reason being "Target Shooting"? - Yes.

If we go to question 15, he was asked where he intended to use the firearm and he said "Callander Rifle & Pistol Club, or other suitable Clubs and ranges"? - Yes, that is correct.

And that was accepted -- these were accepted as suitable places; is that right? - Yes.

So we really don't have much in the way of additional information when we go back to the application form itself? - No.

Now, where is your signature on the RL3a? - My signature, as I said, refers to a note to the Chief Superintendent, at that time, the Divisional Commander, and I indicated that I had no objections to offer to the application.

So you just say "I have no objections", and you sign it, and it is dated the 9th February? - Yes, that is correct.

What was the extent of your checking of the material that was being presented to you before you said that you had no objection? - On the basis of the report submitted, the inquiring officer would be entrusted to carry out proper inquiry, and perhaps liaise with their immediate superior officer who at that stage would be a sergeant, and once it had reached that stage there would have to be something which was amiss or remiss in connection with the application for my attention to be drawn to it.

And/

And is it right to say that the sergeant had signed the form? - Yes.

And is there an inspector's signature there as well? - And an inspector.

Before it ever gets to you? - Yes.

Now, I think in August 1977 you were still at Stirling; is that right? - Yes.

And again you dealt with an application from Hamilton; is that right? - Yes -- but could I perhaps have the form?

Yes, if you look first of all at FA9, I hope is a good guess. It is D29. Is that an application for variation? - Yes it is.

And is it dated the 19th August 1977? - Yes.

And if you look at FA10 which is D30, can you confirm that that is the corresponding RL3a form? - Yes, it is.

And we have your signature, do we, on that one? - Yes -- it bears my signature on a comment to the Chief Constable, at that time at Superintendent rank, that I recommended the variation.

And that is dated the 29th August? - Yes.

1977? - Yes.

Now, the variation was to change the weapon I think; is that right? - That is correct.

And it is now a .22 Smith and Wesson revolver that is sought? - Yes. At this stage I refer to a .22 automatic pistol, without specifying the actual make, and it also referred to a .22 rifle to be added to the certificate.

And I think the reason given again this time is "Target Practice"; is that right, Page 2, question 14? - Yes.

And/

And in fact this is an identical application form to the one that you looked at a moment ago, the only difference being that the applicant scores out the words "grant and renewal" at the top of the first page, to leave in the word "variation"? - That is correct.

If we can turn then to the investigation that was carried out, am I right in saying that each of the six questions was again answered "Yes"? - That is correct.

But No. 7, which is the blank space for "comment" was completed? - There is an entry there, yes.

And is that by Inspector Wisdom? - Yes.

Now, what has he written in at 7? - It says: "Hamilton seen and warned verbally by me on 26th August 1977 that he should not have acquired the .22 Smith & Wesson revolver without firstly applying for variation of certificate. Hamilton fully accepted responsibility and states he was misinformed by the Firearms Dealer in Glasgow regarding proper procedure. Existing certificate will now require variation deleting all reference to .22 Vostok pistol number K3573P? This matter was reported on by Constable Anderson, Stirling, at which time, on 6th April 1977, the necessary amendment should have been made to his certificate".

So having got that explanation you were happy to allow the variation to go to the Chief Constable with the recommendation that it should be granted? - Yes.

1979 I think you were still at Stirling, but now Superintendent? - Yes.

1979? - Yes.

Sorry, yes, you were also a Superintendent at Stage 2? - Yes.

Sorry, my mistake. Now, in November 1979, in relation to that period could you look at FA12 which is D32? - Yes.

Is/

Is that another application that came through your hands? - Yes.

Look at FA13 please as well, which is D33, and is that the form with the sixth question answered as usual? - Yes, exactly the same form and answered in the same fashion.

And this is for the renewal -- sorry, this is for another variation, rather, of the licence? - A variation, yes.

And you again recommended the grant of this to the Chief Constable? - Yes I did.

Now, I think this time there are additional weapons added -- the Smith and Wesson revolver is still there but there is a .22 Anschutz rifle and a .22 Browning pistol added? - Yes.

There is also another addition which this inquiry will find of some significance at question 5. What is the addition there? - Yes. This is for a variation to increase the number of firearms by adding one .357 revolver and a .270 rifle.

And that is a reference to weapons to be acquired? - Yes.

So it is in relation to these two that this application has been lodged; is that correct? - Yes, that is correct.

Now, the application also deals with the question of ammunition? - Yes.

And you will see there that he claims to possess 850 rounds of .22 ammunition? - Yes.

And then on the question "The maximum amount desired to be possessed at any time", how does he answer that? - At that question he required 1,000 rounds of .22, 100 rounds of .357 and 100 rounds of .270.

And the amount he desired to be able to purchase at one time was half that? - Was 500 .22, 50 .357 and 50 .270.

Now, over the page at 14 he is asked to give/

give a reason for requiring each of the firearms. What reason did he give? - It is written "I want to shoot full board target shooting".

And that would explain these weapons? - The calibre, yes.

Would that explain the .270 rifle? - Yes.

And at 15 I think he says where he is going to do that? - Yes.

Where? - At -- in quotes -- "At full bore ranges, Dunblane, and range under Hamilton Police Office", as he refers to it there. That is the Clyde Valley Rifle Club, is my understanding.

Now, at that time the reference to Dunblane would be a range called Whitestone? - Yes, that is correct.

And at that time he could shoot full bore at Whitestone? - Yes.

So he, on the face of it, is demonstrating a legitimate place to carry out the activity he intends to carry out? - Yes.

Now, all the questions were answered in the same way as, before, "yes"? - Yes, that is correct.

But then there is a comment at 7 again has been added by the inquiry officer; is that right? - Yes, at number 7, yes.

And that inquiry officer was Constable McLay? - Yes.

What was the comment? - "Hamilton is at present a member of Dunblane Rifle Club, and is at the moment awaiting notification of his membership if the Clyde Valley Rifle Club, whose ranges are situated underneath Hamilton Police Office. The Clyde Valley Rifle Club is a full bore Club".

So there was a basis for granting the application? - Yes.

In

3 p.m.

In 1980 I think you were still Superintendent in Stirling; is that correct? - Yes.

Look at FA16 which is D38? - Yes.

This is an application for renewal? - Yes.

And that application is dated 13th January, 1980? - Yes.

Could you also look at RL3A which is FA17 and D39. Can you confirm to me by this time Hamilton according to the application possessed a .22 revolver, a .22 rifle and a .22 pistol? - Yes.

He also possessed now a .357 revolver and a .270 rifle? - Yes.

His ammunition requirements were the same as before? - Yes.

Nothing on the face of the application is really significantly different from any of the others? - No different, no.

The six questions on the RL3A are exactly the same way? - Yes indeed.

And you recommended grant of the application? - Yes.

There was nothing on the face of it that made you do otherwise? - No.

Lastly can I ask you about 1984. I think you had been promoted by then? - Yes.

And were Chief Superintendent? - Yes.

Would you look please at FA29 which is D46. Is this another application by Hamilton dated 27th October, 1984? - Yes.

What is this application for? - This is for a renewal and a variation of the firearms certificate.

He/

He wouldn't actually be due to renew his certificate, was he? - Yes.

Well, we know that he had been granted one originally in 1977; is that right? - Yes.

And then 1980. Was he due to have a renewal at the end of 1984-beginning of 1985? - Yes.

If you go to the last page where he has actually signed it with the date, does he also score out "renewal" there so that this is only an application for variation in fact? - I beg your pardon, yes, indeed.

I think I see where the problem is, he has left "renewal" on the front page? - Yes.

I think you can take it from me this is only an application for variation. Can you tell us from the form what the variation was? - Yes, the variation was to delete certain of the firearms and to acquire further firearms.

As a result of the application would he be left with a .22 rifle and a .357 revolver? - Yes.

And permission to acquire a 9mm pistol? - That is correct.

And a .223 rifle? - Yes.

This is 27th October, 1984? - Yes.

Is there also there a letter, in fact more than one letter, about the disposal of some of the firearms? - Yes.

To say he is in fact disposing altogether or four firearms? - That is correct.

Otherwise, does the form follow the usual pattern? - Yes indeed.

If you look at the RL3A which is FA30 (D46A) all the questions answered in the usual way? - Yes.

And/

And a comment there. What is the comment this time? - It is endorsed "Hamilton has disposed of the following four weapons, a .22 Browning pistol, a .22 Smith and Wesson revolver, a .22 Browning rifle and a .70 Sako rifle" and the numbers of each, they are also quoted.

There is a further note? - "He wishes to obtain the following two weapons -- a 9mm pistol and a .223 rifle".

And as Chief Superintendent you recommended to the Chief Constable that this should be granted? - Yes.

Who actually has signed the very bottom of the document? - This is someone who has signed on behalf of the Chief Constable.

And I take it that throughout dealing with this application your role was simply that of checking that on the face of the application form and the RL3A form everything looked in order? - Yes indeed.

And on the assumption that the enquiring officer would make enquiries that he or she had been trained to make? - Yes indeed, due and diligent inquiry.

No cross-examination.

MR. BONOMY: Sir, we do our best to present the evidence in a coherent and logical form but occasionally the best intentions are disrupted. At this stage, while I appreciate it does interrupt the flow of evidence about licensing, it would be convenient to complete the evidence, this morning's evidence on intelligence information in the possession of the police, and it may be appropriate to some of the later questions on certificate procedure. So to complete that chapter I have two witnesses and the first of these will be David Plain and Mr. Lake will take his evidence.

DAVID PLAIN (36) Sworn

EXAMINED BY MR. LAKE: What is your present/

present occupation? - Detective Constable.

How many years police service do you have? - 18.

Which office are you stationed at? - Currently the Crime Management Unit at Police HQ.

I understand you are presently Force Intelligence Officer for Central Police? - Yes.

How long have you held that post? - Three years.

I understand you are aware of the means by which Criminal Intelligence was managed prior to you taking up your post as Force Intelligence Officer? - Yes, I understand it.

Prior to considering the detail of the ways in which intelligence is used I would like to look at the way in which intelligence information is stored with Central Scotland Police? - Yes.

I understand it has been stored in three different ways at different periods? - That is correct.

Prior to 1990 by what method was intelligence information stored? - Purely manually, by paper submission and a manual card index.

Who would make the paper submission? - Any officer of the Force.

Who would they make it to? - To the Force Intelligence Officer.

What did he do with it? - He would then look to see if there was a nominal card or a reference card in respect of the information concerning the individual, and raise a nominal card if there wasn't.

What is a nominal card? - It is a brief card with the first name, the surname, the occupation, any other characteristics he would need to add.

If there was an intelligence submission information/

information would be transferred from it to the nominal card? - Yes.

Would the nominal card relate to purely persons? - No, it could be a vehicle or a place.

How would the nominal card be stored -- in what order? - They would be alphabetical I would imagine.

How were the intelligence submissions stored? - They would be by year, number and the particular year, so that basically the card would have a brief part of the submission -- say this person was a housebreaker, for example, and you would have the reference number, and the year to have the full information.

So it would be necessary to cross-reference to the intelligence submission? - Yes.

Was there any other means of storing information with the paper based method? - Yes. There was a main file index on more serious criminals.

What was that? - Basically that was -- where you have a nominal card it was just like a bigger nominal card where it became a larger file, and prolific criminals were kept apart, so to speak, and when it comes to the main file index it operated exactly the same way.

For the avoidance of doubt, can I ask you to look please at a document DIntel FID3. Is that an example of a manual submission to the paper system? - That is exactly one that would be filled in by the Criminal Intelligence Officer, and you will see at the top right OP782. The one the police officer would fill in would be OP781.

And OP781 would be sent to the Intelligence officer who would complete this form OP782? - Yes.

And intimation from the body would also -- a summary of it would be transferred to the nominal file for that particular person? - Yes.

When did that system last until? - Approximately/

Approximately 1990.

What happened in 1990? - The Force introduced a stand alone computer system.

Where was that based? - At the Criminal Intelligence Office.

In? - Police HQ.

In Stirling? - Yes.

How was information entered into that system? - Basically that system mirrored exactly our manual system. Basically you had a computerised card. You still received form OP781, which is the Intelligence submission by police officers, the difference being before it was filed it was typed on to a text file on the computerised system. The cards were cross-referenced exactly the same way, and if you updated your card in respect of everything on the computer path above it, you then have the actual text typed on the computer.

Was the nominal card also contained within the computer? - Yes.

What happened to the pre-1990 records once the computer system was set up? - I believe the majority of it was back-converted on to the computer. Whether they were all done I don't know.

Does that mean they were written on to the computer system manually? - Yes.

If anyone had wanted to consult the pre-1990 paper system how would they have made an inquiry? - By phoning up the Criminal Intelligence Officer who would check the new system on the computer system. With regard to previous cards I have no idea what happened; they weren't there when I was there.

If someone say in 1989 wanted to make an inquiry regarding Intelligence on the new computer system how would they have done that? - By asking the Intelligence Office to check the card. They gave the Intelligence out.

After 1990 when that information was on the/

the computer how would that be done? - Exactly the same way. The computer was stand-alone and only the Criminal Intelligence Officer had access to it.

How long did that system last, the stand-alone system? - Until 1993.

What happened in 1993? - The Force in April 1993 had went Force-wide with computerisation for crime reports etc., and in September of that year went live with the Criminal Intelligence submission system.

How did someone put that system in? - Instead of raising a manual form OP781 they typed automatically on the computer. Everybody in the Force had access to it.

What happened to the information contained in the stand-alone system when the Force-wide system was introduced? - The stand-alone system remained until October, 1994 when the Criminal Intelligence Office stopped -- or we stopped -- at the time of the setting up of the Criminal Management Unit I believe the stuff was taken from -- all the Intelligence information was taken from the stand-alone computer and put on to the new computerised system on a separate path so that the Force could have access to it all.

So all the information which had originally been on the paper system ought to have been carried through the stand-alone system on to the Force-wide system? - That is correct.

Are you able to suggest the circumstances that would have meant that didn't happen and information was lost? - If it hadn't been back-converted on to the Paradox in the first place it wouldn't be replicated on the Trace.

What was the criteria for deciding which information was converted from the stand-alone system? - I wasn't there when that was done. Any back-conversion would really be on active criminals or -- if it was older material it may not necessarily be back-converted.

Are you aware there was information on the paper system which was not converted on to the computer/

computer system? - I am.

What happened to the paper records? - All the main files still exist. With regard to the older documentation, I believe from about 1988 or 1989 the old paper forms were destroyed.

This is prior to 1989? - Yes.

You have given the date 1988. Was it information after that was destroyed or information before that was destroyed? - Before that.

So that in what circumstances would a check still be made of the paper records that are available? - If a person was -- if someone was phoning up from another Force looking for information on somebody and the information existed on the main file index -- it may be a serious murder or something like that -- all that information is I imagine antiquated, it is not current stuff, and these are old files. Everything that is on Trace has been running for three years and it is the up-to-date system now.

You have seen the document in front of you which is DIntel F1D3. It is an Intelligence log dated 23rd June, 1988. That paper record has obviously still been available for production to the Inquiry? - Yes.

If someone had wanted to check that information on Hamilton would they have been able to refer back to that? - Yes.

You are not aware of what circumstances a paper check like that would have been made? - No.

You mentioned earlier that you provided information when inquiries were made of you. Who was permitted to receive information from the Force Intelligence system? - Well, the current system, any police officer has access to it.

Are any parties outside Central Scotland Police able to gain access to it? - Not directly.

Who must they go through? - Well, they come to me first -- well, prisons etc., they ask for information, and obviously that would have to be agreed/

agreed they would get that information.

Would other police forces be able to get information? - Yes, other police forces.

Would Local Authorities be able to get information? - I have never been asked for information from Local Authorities, and I think they would have to seek permission to release that, and I would go to someone above me.

Who would you seek permission from? - My line manager.

Who is he? - A Detective Chief Inspector.

On the current Force-wide system is the information contained on that available to civilian employees of Central Scotland Police? - I believe so, yes.

The previous systems, either the stand-alone or the paper based system, was that information available to civilian employees? - Well, like all police officers, they would have to phone up and ask the information. As to whether they would get it I don't know. I have never been asked by a civilian for that information.

Can I ask you to look at DIntel FD1 which is a folder D1 Chapter I(iii). What does that refer to? This is a single sheet. Can you tell us what that document is please? - Yes, this is an extract from a nominal card referring to Thomas Watt Hamilton, and this is taken from the dump on the current system or the stand-alone system.

This information has been accessed from the current Force-wide system? - Yes. It is basically the nominal card that appeared in the stand-alone system.

If someone were now to contact and inquire of the Force-wide system Trace using the inquiry "Thomas" and "Hamilton" would they expect to find this entry thrown up? - No.

How would they find this entry? - Through myself or through the Criminal Management Unit./

Unit.

They would need to specifically ask? - Yes, because the majority of this -- the Criminal Intelligence System operates on active information, and a lot of the stuff held on the Paradox and other information, some of the dates 1988, '87, I think it got weeded out eventually, and this is on a separate path so it is not actively kept recently.

The stuff that was formerly held on the Paradox system is not available Force-wide? - No.

Looking at this form, we see a list of headings including the address, and there is a heading "Comment"? - Yes.

In fact there are two abbreviations, one is "Homo" and one is "Ind/ch"? - Yes.

What do these two summaries stand for? - "Homo" stands for homosexual, and "Ind/ch" stands for indecency to children.

On what basis would that entry be made? - This is the nominal card, and you would have a card created and processed by Intelligence that indicates these comments are applicable. There is obviously something in the machine to suggest the person may be involved in this type of activity.

If someone had spoken to you and obtained this information from the Trace system how would they go about finding the paper records on which that comment entry had been made? - As far as Trace is concerned any information that was looked for clearly could still be traced because the text copied across. I have checked this since and there is no text; for some reason this has never been back-converted. I have no idea how you would get the paper documentation. When the documents from Paradox were carried across into Trace whenever we got a submission it was typed on manually by the Force Intelligence Officer on the Paradox system and that information was transferred to Trace. In respect of this nominal there should be files on Trace but there isn't so I can only imagine they have never been on the Paradox.

The computer entries weren't transferred during/

during the transition on to the Paradox system? - Only the nominal card.

Are you aware of any difficulty which arose in relation to the Trace system during 1995? - Yes, I am.

We have heard that difficulty resulted in certain entries being over-written? - Only in respect of some, only in respect of the Headquarters Archives. They still exist.

This problem started in July, 1995, the over-writing? - I believe that is when it started.

Would you be able to say whether an entry that had been entered on to the Trace system on 25th January, 1995 would have been available to someone who carried out a search on 8th February, 1995? - Yes, it should have been.

Would there be any reason why that should not become available? - No.

CROSS/

3.32 p.m.

CROSS-EXAMINED BY MISS DUNLOP: I may be missing something, but I am slightly confused as to where these earlier intelligence reports have been. It has obviously been possible to retrieve intelligence reports going back indeed as far as l98l. Are you able to tell us where these have been lying? - No.

No re-examination.

MALCOLM ROY (40), Sworn:

EXAMINED BY MR. LAKE: I am presently a Police Sergeant stationed at Denny. I have 20 years' police service.

I understand that you were formerly the Force Criminal Intelligence Officer in Police Headquarters at Stirling? - That is correct, yes.

And you were there in l990 when a computerised intelligence system was first introduced? - Yes, that is correct.

What was your responsibility in relation to the transfer of the previous paper records on to the computerised system? - I was responsible for the full back-record conversion from the paper system on to the computer.

Were all the paper records transferred on to the computer system? - No, not at that time. At that time I took the opportunity to have a weed of the information, and some information that was classed as outdated was destroyed.

How did you categorise the information that was outdated? - Well, it depended on each individual piece of information, what it was about, who it might be about, and I made a decision whether it should be kept or not.

There was no simple time cut-off applied to these things? - No, not at that time, no.

Was/

Was the information that you weeded -- did that consist solely of the text entries, or did that relate also to the nominal files? - It related to the nominal files. If all the text was deemed to be for weeding and destruction, then there was no point keeping the nominal record for someone you didn't have any text on, so the nominal record was destroyed as well.

Could I ask you please to look at a few of the documents within the Police Intelligence File which is D Intel Fl. I just want to ask you briefly: do you recognise some of these entries relating to Thomas Hamilton? If you don't, if you could just simply indicate that. The first within that file would be Document reference D2, which is also D2 in I(III). Do you see that is a flyer headed "Dunblane Rover Group"? - Yes.

Do you recognise that? - I do, yes.

When did you come across that previously? - I came across it in the Intelligence system when I worked in the office.

Are you aware whether that was information that was weeded out in the process of transferring to the computer system? - No, it wasn't weeded out. It was retained on the file.

Could I ask you to look at D3 please? Do you recognise that as an Intelligence log dated 22nd June l988? - Yes.

Have you seen that previously? - Yes, again I have seen that within the files at the Intelligence office.

Was that one of the ones weeded out, or was it transferred? - No -- if I could explain, you are talking about weeding out and transferring. What happened, the old manual system consisted of box files with documents similar to that that you have that show the number of the record -- No. 379/88 -- that would be the 379th piece of information submitted to the Intelligence Office in the year l988. Now, that was cross-referenced to a card that was kept in alphabetical order. So if someone came in and wished to know information about Thomas Hamilton, you would go to the/

the card nominal index, find the name Thomas Hamilton, and on the back of it it would refer to entry 379 of l988, and any other records kept for that person. When I did the back-record transfer, the information was not actually put into the computer. What actually happened was I created a nominal record like an old manual card for Mr. Hamilton, and on that card I marked the number "379 of 88", and any other reference that referred to that person. To actually physically go in and put all this information into the computer would have been far too big a job to do. So when the computer was set up, new information coming in was typed longhand into the computer, but the old paper files, the computer just acted as an electronic index, if you like.

So effectively it was only the nominal card that was set up on the Paradox system? - That was for previous information that was held. Any new information coming in on a subject that was held on the system would be typed into the computer and would be retrievable on the computer, but the old paper files, what these are -- all that referred to them was the number -- for example that number there "379/88".

So if someone were to look on the Paradox system and discover the nominal card for Thomas Hamilton? - Yes.

How would they find the intelligence information referred to on that? - Right. When the nominal card was brought up on the screen one of the function buttons was pressed which in effect flicked the card over on to the back of the card, and there there would be a list of the previous information, the numbers on the file, and if there was new information there would be a computer reference to where the new information was within the computer, and you could then find that information on the computer through that reference number.

Can I ask you to look back a little on that file to Document Dl? - Yes.

Could you tell us please what that is? - It is my understanding that that is a print of the nominal record of Thomas Hamilton that was taken from/

from the Force Trace computer system after the Paradox number records were converted on to the Trace computer system

And in the course of that transfer what was done with the information as to where to look for the intelligence submission? - I can't answer that question. I wasn't in the Intelligence Office when that transfer was made.

You see, that nominal ledger which forms Document Dl, although it provides details of Thomas Hamilton, doesn't indicate how a party would go about finding the intelligence submissions on which this has been produced? - Yes, I appreciate that, but as I say I don't know -- when the information was transferred electronically from the Paradox system on to the Trace, I wasn't -- I was actually working away from the Force at the time. I don't know what happened when that was done.

No cross-examination.

MR. LAKE: This morning at the conclusion of the witnesses I had taken I made reference to a letter sent by a certain parent. Contact has now been made with that parent, who is happy that her letter be read out, but has requested that she be not identified in course of the proceedings.

LORD CULLEN: I see. So I take it no names -- other than of course Mr. Hamilton's -- will be mentioned?

MR. LAKE: That is my intention.

LORD CULLEN: Very well, if you will just proceed.

MR. LAKE: "On reading the newspaper reports of your Inquiry I have come to the conclusion that my account of my experience of meeting Thomas Hamilton may be relevant. I have been very upset by the events, and previously thought that there would be plenty of people with similar experiences and that one more voice would not make any difference. I now think that it would not be right for me to make that decision, and I would like to give my account for your information.

In/

In the Spring of l993 my son, who is now 12, came home with a leaflet about the boys' club and asked if he could attend. As other boys we knew were also going to attend, and it was at the Stirling High School, and a father of one of the boys had agreed to take them and collect them from the school, then we agreed to let him attend.

He attended only a few times, when he came home with two videos saying that 'I was to look at these and please, please, could he go to the summer camp'. I watched the video, which started with a group of boys emptying a mini-bus of luggage. They seemed to be in school grounds. The next shots were of the boys in the school dinner hall helping themselves to food. There appeared to be no sound, and I fiddled with the controls of the video and realised, to my surprise, that there was sound as I could hear the sound of the cutlery and the scraping of chairs. I thought it strange that the boys were so quiet. There was no laughter and no talking throughout the whole video. The video went on to show boys dressed only in shorts and training shoes going through a series of exercises which resembled military drill, mixed with some quite strenuous gymnastics. The video seemed to focus particularly on one dark-haired boy. All the boys, about eight in total, had pained expressions and never smiled. The second video contained shots of a normal class doing similar exercises.

I was uneasy after watching the video. My son told me that the video was to be passed on to other parents. I did not express my uneasiness at that time, but was keen to hear the reaction of other parents. The other parents were equally if not more concerned, and one parent withdrew her son immediately. My son enjoyed the class so much that I knew he would be upset at being told he could not attend, so I started to ask questions. I asked my son about how he had heard about the club. He said that Thomas Hamilton had given out leaflets to boys in the park. He now tells me he thinks that the leaflets were given out at school. I asked him about the type of exercises they did. He had been complaining of pains. He described one particular exercise which I did not think would be physically within the capability of a boy of twice his age. As he is very small for his age and has a condition which makes games difficult, and his joints very loose/

loose, I was even more surprised that he had been able to do this exercise. I was also concerned that they may cause some damage.

The next club night I agreed to collect the boys from Stirling High School. I arrived at the school and found that there was a seniors disco on in the assembly hall. I went to where I thought the gym hall was, to find it locked. I was puzzled and concerned. I found a janitor and asked him where the gym hall was. His description confirmed that I had found the right room, but I told him it was locked. He told me that this was to stop any of the young people in the assembly hall from wandering in. He came with me and unlocked the door.

Thomas Hamilton emerged from the changing room smiling. The boys were making normal noises in the changing room. I noticed the large video camera perched on top of a tripod. He started to dismantle this and pack it away. As he was doing so I introduced myself as my son's mother and asked him about the club. Although I was very concerned, instinctively I knew not to let my concern be seen, but I quietly questioned him without appearing threatening. He told me what a wonderful boy my son was and how he showed great promise as a gymnast. This did surprise me. He said how polite and well mannered he was. I asked about how many boys he had in the club. He said he had started with about l9 but it was now just 4. I suggested that these numbers may mean that the club would not be viable. He said that it did not matter to him. He only wanted to work with boys who were keen on sport and who were not just interested in drinking Coke and sitting around talking. He liked to work with boys like my son from good backgrounds who responded well to the discipline which he insisted on. I asked him about the video camera and why he needed it. He said it was used to play back the moves to the boys to show them where they went wrong. I asked him about how long the boys warmed up before their exercises. He said they spent about l0 minutes running and stretching. I asked about why the boys did not wear their T-shirts. He said that it was important that the muscles were visible so that he could see what they were doing wrong and that he could explain this to the boys by referring to the video. I asked/

asked him about how many boys' clubs he ran. He said he had four others.

As the boys emerged from the changing room I started to herd them up and get them out. I was growing more uneasy. Mr. Hamilton repeatedly said what a wonderful boy my son was and referred to how he only wanted to work with boys from nice homes. He followed me out into the car park and on the way said what a nice house we had. I wondered how he knew which house we lived in. He said he liked old houses and had lived in an old house at the top of the town as a boy with his parents but they moved because the house was haunted. He said that he would wake up to feel very cold and could see something at the bottom of his bed. He said that it made noises. He said he asked to be moved from the room and that it was used for bed and breakfast purposes. He said that some of the guests were frightened and some thought it was great to be in a real haunted house. I cannot remember what my response was, but I was concerned to get away as quickly as possible. I was conscious all the time that I must not show my concern to him or to the boys.

I got the boys home and then talked over my concern to my husband. I concluded that, although there was no evidence of anything abnormal and he was quite open with his videos and his prejudices, I instinctively knew it was not right. We talked about the economics of the club. As he did not charge anything I could not work out how he could keep five clubs going at once. We also could not understand how one person could give up so much time to do this voluntary work. I was also concerned about his motives. If he was working to improve the lot of boys, then why only work with boys who clearly came from good homes where they wanted for little?

I decided to speak to other parents and to make some enquiries. I spoke to a friend at work -- her husband was a community educational officer in Lothian -- to find out if the club was part of a bigger group. He relayed the information that he knew of the club and that it was 'a one man band'. He also said that Lothian had banned his use of educational premises and that he would be concerned as a parent about sending his son to the club. I spoke/

spoke on the telephone to Central Regional Council. A very concerned individual phoned me back at work and took details of my concern. She said that they were aware of the situation but that they were powerless to do anything as there was no direct evidence. She would keep details of my complaint, and that it would be passed on to the police. She added that I should withdraw my son if I was in any doubt. I asked whether it was legal to take videos of children without the permission of the parent. She said that the police had been informed of this concern as it was shared by others, but that there appeared to be nothing that they could do.

I spoke to other parents who had also been making similar enquiries. We all agreed to tell the children that the club was closing because there were not enough numbers. We all felt very bad about telling the children this white lie, but thought that it would make it easier for them. Throughout this time we were very conscious that the boys enjoyed the club and that they showed no concern at all about Mr. Hamilton.

The father of one of the boys agreed to go along to the club on the next night to explain to Mr. Hamilton why none of the boys had turned up. Apparently Mr. Hamilton was abusive.

Within a few days we all received a long, articulate and detailed letter explaining what his club was about and why he used the video and why he insisted on the boys being bare-chested. On reading the letter I realised that there was no doubt that my instincts were right. The tone was threatening. It had also been delivered to the house by hand between ll p.m. and 6 a.m. I felt sick but decided I had done all I could.

I received at least two more letters along the same lines and in the same manner over the next few months. I found that I could not read them as they upset me too much. I put them in the bin.

In February l996 I was surprised to get another letter. This time it had been posted. I still could only scan its contents before putting it in the bin.

On/

On realising that Mr. Hamilton was responsible for the deaths of the children at Dunblane I contacted some of the other parents who had children at the club at the time my son was attending to find that I was the only one who had got the letter in February.

I hope that this account will help your investigation" -- and that letter is dated 6th June l996.

LORD CULLEN: Thank you. Do you want it to be given a number of any sort -- is that unnecessary? Perhaps not.

MR. LAKE: Yes, I understand the next number is R33 on the list of original Productions.

LORD CULLEN: Very well, that will be done.

ALLAN CASSIDY (72), Sworn:

EXAMINED BY MR. BONOMY: I am a retired police officer and I live in Poole in Dorset. I live at Flat 5, 4l Cliff Drive, Poole, in Dorset.

You retired as a Police Inspector with Central Scotland Police? - That is correct.

When did you retire? - 22nd July l977.

Just before you retired I think you did deal with an application for a firearms certificate submitted by a man called Thomas Hamilton? - That is correct.

Prior to that did you know of this person? - No.

Even after you had dealt with the application was his name of any particular significance to you? - None whatsoever.

Could you look please at the form itself, which is FAl, also D22? Do you recognise that/

that as the application form dated 5th February l977? I can see you are doubtful. Would you look at FA2, please, which is D23, and once you have got that beside you you may be able to answer the question more easily? - Yes.

So is that an application you dealt with, along with the RL3a form which you, I think, have initialled at one stage? - Yes I have.

Now, what was your role in the exercise of dealing with Hamilton's application for his original firearms certificate? - This would be submitted to me as the Duty Inspector in charge of the shift, or else it may have been on a particular day when I was dealing solely with reports, so it would be one of many that would come to me.

So what did you have to do with it? - Ensure that it was in fact correct, that the officer investigating it had collated the information, and that the applicant was suitable.

And can I take it really all you are able to do is to look at the form which he has submitted seeking his licence and then check that the officer who was enquiring into the application appeared to have carried out the appropriate enquiries? - That is correct.

Beyond that can I take it that your function wasn't to consider the merits of the application in any way? - No, it wasn't.

Now, from you where did the application form and the RL3a form go? - That would go to the Sub-Divisional Officer, Mr. Allan, who was the Chief Inspector at that time at Stirling.

Well, we have heard from him and we see his signature on it, on the 9th February. What is the date against your initial? - It is 9th of the second l977.

So it is the same date as his? - The same date, yes.

So can I take it that in l977 that was the standard procedure, that a Constable would carry out the appropriate enquiries and you would be one of/

of the officers who would check that everything appeared to have been done properly as the form and the RL3a were passed up the chain to be eventually dealt with by the Deputy Chief Constable? - That is correct.

CROSS-EXAMINED BY MR. TAYLOR: Mr. Cassidy, you told us one of the functions which you would have would be to examine that the enquiry officer had done all that was called upon him to do? - Yes.

Would it also be the case that if you were aware of any information, from your position as the Inspector -- was it Inspector you were at the time? - Inspector, yes.

From your position as Inspector, that you would input that information as the form was passed up the line? - I would, including any adverse report -- if such were the case.

That being an adverse report from the enquiry officer? - Yes, or if I knew of anything from my own personal knowledge, but I had no indication of that.

No re-examination.

LANCE RATTRAY (55), Sworn:

EXAMINED BY MR. BONOMY: I am a retired police officer. I live in Cambusbarron.

What rank did you hold when you retired? - I retired on the rank of Chief Superintendent.

When was that? - In April l995.

Now, I think you did deal with certain matters affecting the firearms certificate held by Thomas Hamilton, and I would like in that connection to ask you to look at certain documents. Could you look please first of all at Document FA34, which I hope is D5lA? Is that an application for renewal of a firearms certificate? - Yes, by Mr. Hamilton.

I/

I think if you go to the very end where he has signed it, it is dated 3rd January l986? - It is, yes.

And it is both an application for renewal and for variation of the existing firearms certificate? - Yes.

Now, I think you dealt with that application; is that right? - I would need to see the other form. My signature is not on the document.

Let us look at the RL3a. Would you look please at FA35, which is D52? - Yes, I did.

Now, you were what rank at that time? - Superintendent.

And you recommended to the Chief Constable that the application should be granted; is that right? - I did, yes.

And that follows your examination of the application form? - Yes.

And the RL3a; is that right? - Yes.

Now, going back to the application itself, can you confirm to me that it explains that the applicant Hamilton has got a 9mm pistol, a .223 rifle and a .357 revolver? - It does, yes.

And that he seeks authority to hold a 7.62 rifle and a 9mm pistol? - Yes.

Now, the effect of that is that he would get authority, if this was granted, to both possess a 9mm Browning pistol and acquire another 9mm pistol? - That is correct.

Now, were you aware that this was the first time he had asked for authority to have two 9mm pistols? - I would be.

Would/

4 p.m.

Would you look now please at AD2A form which is FA36 of D53. Is there some sign on that document that it has passed through your hands? - Yes, it has been seen by me and referred to Headquarters.

And there is a date on which you have seen it? - Yes, 28th January.

That is 1986? - Yes.

We have already seen that the application was on 3rd January; is that right? - Yes.

If we go back to the RL3A on what date did you sign the RL3A? - 16th January.

So the document we are now looking at the AD2A, was seen by you at a later date? - Yes.

And you have stamped it 28th. I think it has actually got the 29th as the date, but it is obviously towards the end of January? - Yes.

And attached to it is there something in handwriting? - Handwriting and typing, yes.

I have got two separate sheets here. My document may be a little different. Is that one written on both back and front? You have got a sheet attached to a typewritten sheet? - Yes. I have got the tab.

The tab is handwritten by one officer to another? - Yes, it is.

Is that tab all handwritten? - No.

What is typed on it? - It is a note from myself to Chief Inspector Bell.

What does this note say? - This asks -- well, can I read it?

Yes please? - "It would appear that so many dealers are not aware of the procedure to be adopted when selling, purchasing firearms as they have completed certificates showing they have purchased/

purchased the gun".

Should they not have done that? - Well, I would need to refer to the original certificate to see. I can't honestly recall at this stage.

Is there a date on that reference? - 13th January.

And that is from you to which officer? - To Chief Inspector Bell who is then in charge of firearms.

Did you get a reply to that? - There is no written acknowledgement.

There is a handwritten part then on the same document? - This is from -- I can't read the signature but I would say it is an Inspector to Sergeant Binning, which says, "Apparently it is unlikely that a second 9mm pistol will be granted. See Mr. Hamilton and obtain full details of his reasons for requiring two pistols of the same calibre, i.e., why is one not sufficient. Then re-submit the attached to me".

ASAP? - Yes.

Is there a date on that? - Yes -- no, there is not.

Is there any way of telling whether that had been written before the RL3A was signed by you? - I would have to assume that it was completed before the RL3A was signed by me.

Well, if you turn to the typewritten part attached to AD2A, is that from Acting Chief Inspector Mill to the Chief Superintendent of A Division. Who was the Chief Superintendent of A Division then? - I can't recall if it was Mr. Gunn or Mr. Hunter.

What does it say? - It refers to the variation in the firearms certificate 4588 in the name of Mr. Hamilton, and refers to the above application in which Mr. Hamilton is applying to vary a certificate to include a purchase of a 7.62 rifle and an additional 9mm pistol. Mr. Hamilton is active in competition shooting throughout the country/

country and it is his intention to purchase the additional weapons for this purpose. The additional 9mm pistol is of a type which is advanced in design to his existing one and includes a weighted handle for greater accuracy. The additional weapon would only be used as recognised ranges for that type of weapon.

That information has come to you later in January after the RL3A was completed; is that right? - That is correct.

At least after it was completed by you? - Yes.

You have stamped it, signed it, and passed it presumably with the application form and the RL3A further up the chain of command? - Yes.

Where would it go to from you? - It would go to the Firearms Department.

If you go back to the RL3A do we see at the foot someone has signed it? - It has been signed by Chief Inspector Alan Bell.

Why has he signed it? - He was the officer in charge of the Firearms Department at that time.

He has signed after the word "granted" has been left and he has added "Process please"? - Yes.

And the date stamp would appear to have been completed when he signed it? - 30th of January.

So he has dealt with it after, on the face of it, getting the AD2A explaining Hamilton's reasons for wanting a second 9mm pistol? - Yes.

Could you now look please at FA39 which should be D59. Is that another form of application? - Yes.

This time it is for variation? - Yes.

Only for variation; is that correct? - That is correct.

Would/

Would you also look please at FA40 which is an RL3A which is D60. Now, did you deal with this application? - I did, yes.

Can you also have FA27 which is D50. Is this the firearms certificate that was being varied? - It would be.

In terms of the application which you have just got in front of you? - Yes.

Now, that firearms certificate before variation authorises a .22 rifle, a .9mm pistol, a .223 rifle and a .357 revolver? - Yes. It authorises them or he possesses them.

Nothing to be purchased or authorised until the variation letter? - Yes.

It also varies the ammunition. A thousand .22 rounds to be possessed, 200 of each 9mm and .223? - That is correct.

If we can come back to the application for variation we are now looking at, he is in fact acquiring the other 9mm pistol; is that right? - That is correct.

He is seeking authority to acquire a 7.62 rifle and another .22 rifle; is that right? - Correct.

But what I am principally concerned about is the ammunition. There is a major change sought in the permission for ammunition; is that right? - Yes, there is.

What is it that he seeks to possess in the way of ammunition? - Well, he is seeking to increase the levels of ammunition in respect of all the calibres, all weapons.

In each case what is the total that he now seeks to possess? Just go along the line? - It is the same line for every calibre, yes.

What is it? - It is 1500.

And it is going up to 1500 from according to the certificate you have in front of you 1,000 in the/

the case of .22 and 200 9mm and .223? - Yes.

Would you agree with me that is.....

LORD CULLEN: I am not sure that is absolutely right. I am not sure you are referring back to 1970 -- which year are you going back to?

MR. BONOMY: I am looking, sir, at this application which is 1987.

LORD CULLEN: And comparing it with the certificate for what year?

MR. BONOMY: 1986.

LORD CULLEN: What number is that?

MR. BONOMY: D50L. You have got the words "I renewed the certificate for three years from 14th February, 1986".

I/

4.15 p.m.

I think, Sir, that this is the point at which the application is made which results in the increase of authority to possess rounds of ammunition from 1,000 or 200, depending on the calibre, up to 1,500 in respect of either calibre.

LORD CULLEN: Yes, I appreciate there was an increase, but I am slightly puzzled still because if I go back to 51A, which is something you referred to a short time ago, I appreciate that is an application -- you see the "Amount desired to be possessed" -- did that still include .22?

MR. BONOMY: It doesn't appear to.

LORD CULLEN: I am just wondering whether in the meantime between 1977 and 1987 there has been a change. I am not suggesting there wasn't a big change between 1986 and 1987. I am just not quite clear what the existing authorisation was as at 1987.

MR. BONOMY: Well, yes, it may be -- if you look, sir, at D50L, which is the Certificate or Renewal dated the 14th February 1986 -- do you have that one?

LORD CULLEN: I have got that thank you, yes.

MR. BONOMY: In the Variation Section on the right-hand side there is a variation dated the 31st January 1986, and that deletes all reference to .22 ammunition.

LORD CULLEN: Yes. So it is that that we should compare with what is authorised in 1987?

MR. BONOMY: But that is the result of the variation which was carried out that Mr. Rattray has already just spoken about, which was dated 3rd January -- oh, no, sorry, he has dealt with another one -- yes, he dealt with the variation application for 3rd January 1986.

LORD CULLEN: Yes.

MR. BONOMY: That is the evidence he has/

has just given us.

LORD CULLEN: That is right.

MR. BONOMY: And following that the certificate which is D50L was amended to delete any reference to .22 ammunition.

LORD CULLEN: That is right, and so therefore we should look at the 1986 authorisation and compare that with what is now being authorised or sought to be authorised; is that right?

MR. BONOMY: Yes, that is correct, and the 1986 authorisation is best shown, is it not, on that D50L, because the amounts aren't affected on the left-hand side of the page, it is simply certain types of ammunition that are deleted, or alternatively added, in total 200 and 100 -- there is no question of increasing beyond the 200 to possess or 100 to acquire. So I don't think it is an unfair representation of the point at which there is the significant change up to 1,500. I appreciate it might not be complete to do it this way, but it was the easiest way I thought.....

LORD CULLEN: No. It was merely I wasn't sure whether you were comparing what is now sought to be authorised with what the previous authorisation had been, which is 1986?

MR. BONOMY: Well, I hope that is the effect of what I am doing. I don't think there is another point where there is authority for a large increase up to 1,500.

LORD CULLEN: No.

MR. BONOMY: So all I was trying to do was identify that point. So the evidence is not perhaps as complete as it might be, going through every calibre, but it makes the point of principle which in my submission is the important point in this context.

LORD CULLEN: Yes.

EXAMINATION CONTINUED BY MR. BONOMY: So if I can just ask you to look at D50L, which is the actual Firearms Certificate which was renewed in 1986,/

1986, and just confirm to me that there were a number of calibres of ammunition authorised in that. The only one at any stage which was as high as 1,000 was .22? - That is correct.

And that had been deleted by the time the certificate had had all these variations applied to it; is that right? - Yes.

And that the other calibres which could be held were no more than 200 or 100 rounds? - Yes. He is seeking an increase.

Yes. If you just stick though for the moment to the actual Firearm Certificate, is it clear from reading the front of it that the maximum he was, by 31st January 1986, authorised to hold, was 200 rounds, and that applied to more than one calibre of ammunition? - That is correct, yes.

So when he came to apply in 1987 for his renewal he was seeking a very significant increase from 200 to 1,500 in respect of each of the calibres he had? - He was, yes.

And this would be 9 mm, .22, .38 Special, .357, of which he only had 100; is that right? - Yes.

Now, that application involved what measure of consideration by you? - Well, there are no sort of arbitrary limits as far as ammunition is concerned, so that would be looked at by myself, and it would be seen that he was actively pursuing his interest in the gun Club, and had a requirement to use that amount of ammunition.

Now, how would you establish or how did you establish that he was actively pursuing his interest in the gun Club? - Well, I am trying to see if that was the time when Chief Inspector Mill submitted a report.

Well, I think that is the report you have already looked at? - Yes.

What you could look at now is the RL3a form which is FA40. Have you got it there? - Yes.

It/

It is also D60? - Yes.

Now, are there actually two sheets of this RL3a? - There are.

If you look at the first sheet, are the six questions all answered "Yes"? - Yes.

And you will then see that question 7 has been completed? - Yes.

Now, could you read out what question 7 says? - "With reference to the applicant's.....".

I think we may have them the wrong way round. The reason why there are two sheets I think you will be able to confirm is that question 7 was answered at length? - It is a combination.....

And the two sheets were necessary, to run over? - Yes.

So can you read from the other page first? - "The applicant has sold the .22 Anschutz rifle, No. 102541, and has purchased the 9 mm Beretta pistol, number C5823OZ as shown. Applicant wishes to purchase one 7.62 mm rifle and one .22 rifle. All weapons will be used for target shooting. With reference to 2, sub-para 2, and 2 sub-para 3 on the certificate, the maximum quantity of ammo to be purchased or acquired at any one time is 1,500 and 1,000 rounds respectively for each calibre. Applicant would like to have maximum for weapons he possesses and those which he would like to purchase. Applicant's security for weapons and ammo has been checked and is very secure. With reference to the applicant's wish to be able to purchase and have 1,500 .38 ammo maximum, this is due to the fact that this .38 Special ammo can be fired from his .357 revolver. There is no real basic difference in the ammo in that the .38 Special is slightly less powerful".

So that meant that he could keep 3,000 round of ammunition for that weapon? - Yes.

You will see the use of the expression "Maximum", and we have heard you say, as have others told us, there was no arbitrary limit, but was there in fact a limit? - I can't recall if there was a limit./

limit. If there was a limit it may well have been a policy within the force Firearms Department. But I honestly can't recall that.

In any event, were you satisfied on the basis of this report that this application should be granted? - Obviously, sir, yes I was.

Can you remember giving any particular consideration to the application, or is that too long ago now to ask you to remember it? - I'm afraid it is too long ago.

Now that you see all this there are no particular bells ringing in your mind about it? - None, no.

Adjourned until tomorrow
at 10.00 a.m.

TENTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

TUESDAY 10th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
LANCE RATTRAY, Recalled,	
Cross-examined by Miss Dunlop.....	5
Cross-examined by Mr. Taylor.....	6
Re-examined by Mr. Bonomy.....	8
IAN MacKENZIE,	
Examined by Mr. Bonomy.....	11
Cross-examined by Miss Dunlop.....	32
Cross-examined by Mr. Gibb.....	42
Cross-examined by Mr. Taylor.....	55
Re-examined by Mr. Bonomy.....	58
THOMAS BARKER,	
Examined by Mr. Bonomy.....	64
Cross-examined by Miss Dunlop.....	73
Cross-examined by Mr. Gibb.....	74
Re-examined by Mr. Bonomy.....	75
AUSTIN FISHER,	
Examined by Mr. Bonomy.....	75
ANN KEENAN,	
Examined by Mr. Bonomy.....	78
WILLIAM STEWART WISDOM,	
Examined by Mr. Bonomy.....	82
LESLEY BELL,	
Examined by Mr. Bonomy.....	85
Cross-examined by Miss Dunlop.....	88
IAIN HUGHES BINNING,	
Examined by Mr. Bonomy.....	88
Cross-examined by Miss Dunlop.....	92
Cross-examined by Mr. Taylor.....	93

I N D E X (Contd.)

HUGH PATERSON,
Examined by Mr. Bonomy..... 94
Cross-examined by Miss Dunlop..... 96
Cross-examined by Mr. Taylor..... 97
Re-examined by Mr. Bonomy..... 97

GEORGE MATCHETT,
Examined by Mr. Bonomy..... 98
Cross-examined by Mr. Gibb..... 100

JOHN BROWN,
Examined by Mr. Bonomy..... 101
Cross-examined by Mr. Gibb..... 105
Re-examined by Mr. Bonomy..... 107

HEATHER MARION MORTON,
Examined by Mr. Bonomy..... 108

EDWARD GOLDIE,
Examined by Mr. Bonomy..... 112
Cross-examined by Mr. Gibb..... 115
Cross-examined by Mr. Taylor..... 118

NORMAN JOHN LYNCH,
Examined by Mr. Bonomy..... 120

TUESDAY, 11th JUNE, 1996.

TENTH DAY.

LORD CULLEN: Let's begin again. What point had we reached? Who was to cross-examine next?

MISS DUNLOP: I think I was just about to ask one question or perhaps more accurately to raise one matter rather than one question.

LANCE RATTRAY (Recalled)

CROSS-EXAMINED BY MISS DUNLOP: Mr. Rattray, I would like to ask you about AB2A that is attached to D52. Do you still have that in front of you? - Yes, I do.

This was the explanation as to why Mr. Hamilton needed an additional weapon, in particular an additional 9mm pistol, given he already had a 9mm pistol. Do you remember this? - Yes, I do.

The only question I wanted to raise was we see that an explanation is given of the advantages of a new 9mm pistol, that is that it is advanced in design and it includes a weighted handle for greater accuracy. But the memorandum doesn't explain why he needs to retain the old pistol. One can understand why he is buying a new one but why does he have to keep the old one too? - Members of pistol clubs frequently ask for a second weapon of similar calibre, and the explanation given by most is that the second weapon is required as a back-up for the first weapon or, as it appears in this case, the particular weapon that he is requesting may well be a weapon that he needs for a particular discipline, a type of target practice within range.

But would you agree that if the question was why does he need two 9mm pistols, this doesn't completely explain why, it simply explains what is beneficial about perhaps the new pistol but not why he should retain the old one? - I would still argue he is asking for a second 9mm pistol which he may need, if his weapon failed or non-functioned, he could still use it.

Indeed, but I am simply asking whether this explained in this memo. I don't see that explained/

explained there? - The interpretation I am giving you this morning is how I feel that is how I probably saw it 10 years ago.

CROSS-EXAMINED BY MR. TAYLOR: Can you have D35 before you please. It is a document which is otherwise known as FA18. That should be a copy of a firearms certificate which was granted on 6th November 1984; is that right? - Yes, it is.

Is there as part of that certificate a section which deals with the purchase by the licence holder of ammunition? - Yes, there is.

And is that section completely filled in the copy which you have? - It is, yes.

BY LORD CULLEN: Just to be quite clear, this is a variation, is that right, rather than a grant or a renewal. Have I got that right? - Well, it is the schedule which is attached to the firearms certificate which shows various purchases that the applicant Mr. Hamilton has made in the course of the duration of that certificate.

But what happened on 6th November, was a variation?

MR. TAYLOR: That is correct, sir.

THE WITNESS: It is a variation.

BY LORD CULLEN: The Table down on the left-hand side at the bottom which on my copy is very indistinct, is that a table of the ammunition as varied? - It is a variation of weapons and ammunition.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: But looking at the page which contains the tables of purchases, we see that these purchases have been spread over a period between December 1979 and December, 1984? - That is correct.

If we look at Production D49 which should be AD2A from Constable Brown to the Chief Superintendent of A Division, perhaps you could just read that out for the Inquiry? - In this memo from Constable 403 Brown he is advising his Chief Superintendent on 10th December, 1984 Thomas Watt Hamilton/

Hamilton of 39 Forth Crescent, Stirling, called at the police office in Stirling and requested a new firearms Form 2 to be issued to him as he had completed Table 2 which is the ammunition section of the form. The memo continues to say the firearms certificate is attached and indicates it be referred to the Firearms Department.

Was this unusual, for the firearms certificate to be surrendered for the purpose of having a new Table 2 appended to it? - It was relatively unusual inasmuch as the section which contains the part for the ammunition is quite lengthy and in normal circumstances would last several years.

If we move on through the paper trail to D50L this should be the firearms certificate with a variation on it? - Yes, I have it, for 31st January, 1986.

That's the one. Again if we have a look at Table 2 can you tell us what we find there? - It is in many respects similar to the previous certificate. It shows he made a fairly large number of purchases of ammunition between the period December, 1984 to October, 1986.

So we see that from the period covered in the two Table 2s, that is from 1979 to 1986, the Tables have been exhausted of any space; is that fair to say? - Yes, that's right.

Do you think that aspect would have had any bearing upon the thought processes in increasing the number of rounds of ammunition which Mr. Hamilton had authority to possess? - I would say so. It think it clearly shows he is a frequent user of ammunition.

I take it going back through the period of time it is difficult for you to say categorically that's the reason; is that so? - It is impossible for me to remember with any clear certainty, but on reflection you are looking at the certificate, that information would be there, and on the basis of that I would have been satisfied that his reasons for increase in ammunition were in order.

This morning you were asked some questions/

questions in relation to Mr. Hamilton having permission to hold two hand guns of the same calibre. Can you say how usual or unusual it was for a licence holder to have such permission? - Relatively unusual. We always examined very carefully any requests for a second weapon of a similar calibre. I am not just talking about gun clubs; I am talking in respect of all applications.

RE-EXAMINED BY MR. BONOMY: The firearms certificate number D35 has an oddity about it that doesn't seem to apply to the others. Have a look at the last page? - Are we talking about the firearms certificate which was granted in January, 1986?

No. It is the earlier one which has FA18 on the backing? - I do have that, sir. It is the firearms certificate granted in November, 1984 for the variation.

If you go to the back page of the certificate where you see the renewal section we see it covers the renewal granted on 14th February, 1980. Do you have that? - No, I'm sorry, sir, I don't follow that.

The back page of the certificate. You see at the bottom right-hand side "Renewal of certificate"? - Yes.

And it says, "I hereby renew this certificate for three years from 14th February, 1980"? - Yes, and further down from 1983.

And it says below that, "I hereby renew this certificate for three years from 14th February, 1983"? - Yes.

So we have two renewals on one certificate. Is that unusual? - I honestly can't answer that question. That is an administrative sort of.....

Would that not explain why the ammunition section got overloaded? - It may well -- obviously if the certificate has run for the duration of six years the certificate has obviously run because the period that he has been drawing ammunition is over at least a five year period.

The/

The point was being put to you -- I quite accept you can't actually remember a great deal about it -- the point was being put to you it would be because of this cluttering-up of the ammunition section on the certificate that perhaps Mr. Hamilton was allowed this huge increase in the amount of ammunition he could hold and acquire and this is a certificate which became cluttered because it was used for six years rather than three? - I never used the term "cluttered".

Sorry, it was my expression? - I am using the term he appeared to be using a reasonably large amount of ammunition during that period.

Is it also fair to say if you look at the ammunition section that the ammunition he was acquiring exclusively between the end of 1979 well into 1984 was .22? - Yes.

And over a period of four years there is actually no sign of him purchasing 9mm ammunition although he had authority to hold 9mm and .357 at that stage? - I don't know if he possessed it at that time.

Well, if you look at the ammunition section further up, in 1979 he was purchasing .357 Magnum ammunition? - Yes.

The 9mm creeps in I think because it has been put in out of order at 1984? - Yes.

He certainly was able to acquire .357? - Yes. He buys the 9mm in November, 1984.

Now, what is the extent of your knowledge of the practice of marksmen to re-load their cartridges? - I am aware of that practice but I have no technical knowledge of it.

Could that again be an explanation for the large number of purchases on Hamilton's certificate, that he wasn't a re-loader and only bought commercially produced ammunition? - That is correct, yes.

Lastly the memo which Miss Dunlop asked you about. You do accept that that simply explains why Hamilton wanted an additional weapon but doesn't really/

really when you look at the memo explain why he needs to keep the old one? - It doesn't clearly explain in the memo, I accept that, but I still would argue that it may well be, although it is not recorded on paper, that the explanation was he required it as a back-up weapon.

This is not a criticism, it is an attempt to find out what was the approach of the police authority to these applications. Do I take it from your answer that you were prepared to make an assumption in favour of the applicant in dealing with applications for renewal? - Well, I don't know what you mean by the term "assumption".

Well, you have said a number of times that you assumed that he needed to have one as a spare? - Yes.

Now, my question is, is that indicative of the approach that was taken to renewals around the time we are talking about, that you made an assumption in favour of the applicant rather than against the applicant? - All I can say is it was not an unusual practice to allow a member of a gun club to have a second weapon of a similar calibre.

IAN/

10.20 a.m.

IAN MacKENZIE (49), Sworn:

EXAMINED BY MR. BONOMY: I am a retired police officer. I retired fromm the police in 1995, at the end of July last year.

And what rank did you hold then? - A superintendent.

And are you now employed in a civilian capacity by the Central Police Force? - Yes. I am now the Force Data Protection Officer.

And it was Central Police that you were a superintendent with? - That is correct.

How long did you actually serve with the police? - I served as a cadet, up to retiral, in
total -- 1963 I joined the cadets, so that would be 32 years.

Now, I want to ask you about a stage fist of all around 1989 when you were Chief Inspector within the Headquarters Administration Unit? - That is correct.

In that role did you have responsibilities for firearms administration? - Yes, that is correct. That was one of my roles.

What were your responsibilities? - With regards to firearms?

Yes? - I was responsible for supervising the staff within the Firearms Department. I was also responsible for ensuring the accuracy of the records and also for ensuring the accuracy of firearms certificates that were submitted to the Deputy Chief Constable for signature.

In February 1989 you were acting superintendent in that role. Is that coincidental -- was the role actually the role of a Chief Inspector and you happened to be doubling up as an acting superintendent? - That is right. At that time the superintendent was absent on a course and I was doing his job as well as the job I had.

I wonder if you could have some documents/

documents in front of you please? Could you have first of all FA43, which is -- is that actually two documents? - No, it is one. It is a firearms certificate application.

And it has got a note attached to it; is that right? - Yes.

Could you also have FA44? Is that the RL3a that relates to that application? - Yes, that is correct.

And is it one sheet or two sheets? - One sheet.

Would you also then have -- I don't know if I have the number for this. I suppose I could try FA45.

LORD CULLEN: Can you give the alternative reference of these?

MR. BONOMY: If you just give me a moment, Sir, in case I give the wrong references here. I just want to be clear I have the right Production.

EXAMINATION CONTINUED BY MR. BONOMY: Is that an additional RL3a or other similar type of form which was used for this application? - That is correct.

MR. BONOMY: Sir, the references for all of these are D65L, which should be a note, followed by the application form D68, which is the RL3a and D69, which is the last document which was being used at that time as a supplement to the RL3a. It is a pity the documents are separated by another two which don't directly relate to this particular point.

EXAMINATION CONTINUED BY MR. BONOMY: Now, the FA43, which is the application, is an application by Thomas Hamilton? - That is correct.

And what is it for? - It was to renew his firearm certificate.

With effect from what time? - It says "Renew before 14/2/89".

2Now,/

Now, the note that has been attached to the outside of it says what? - It is from the Chief Inspector. It says "The officer who did the inquiry the last time of renewal obviously didn't check the serial number. The wrong number is shown on the certificate".

So one of the guns has a mistake in the serial number? - That is correct.

I think it is just one letter that is wrongly recorded; is that right? - Yes. The serial number was given as FNO instead of FND -- sorry, it should read "FNO", and in fact it read "FND".

Were you that Chief Inspector? - No.

Somebody else? - Yes.

Which Chief Inspector was it? - Oh, sorry, my mistake, it looks as though it is addressed to the Chief Inspector from the sub-divisional sergeant.

So it would be addressed to you in fact? - No, it is addressed to "Chief Inspector", and looking at the form it would be addressed to Chief Inspector Paterson.

If you go to the RL3a -- I am jumping ahead a little -- at the foot of it your signature appears as "Acting Superintendent"? - That is correct.

And somebody has actually written in "Note correct serial number"? - That is me -- that is my note to the Firearms Department.

But that is not because the outer note was addressed to you in particular, but would be with the papers when you saw them? - Yes.

Can I take it that when it came to your responsibility to look at this application you would have all the documents that you have got there in front of you? - Yes.

Is that all you would have? - No, I would have his complete file.

Was/

Was that routine in 1989? - Yes.

Whose responsibility was it to put the whole file in front of you? - All these forms that you see here would be addressed to the Firearms Department. The staff in the Firearms Department would go to the file and bring out the relevant file and put the relevant file and these documents up to myself.

In 1989 what was the complement in the Firearms Department? - Two.

Who were they? - It would be Maria McEwan, and I think it was Ann-Marie Hunt.

Were they both civilian officers? - Yes.

When was the gradual civilianisation of that Department started? - I believe 1991.

Well, is this one not 1989? - No. The civilianisation wasn't in relation to the administration. The civilianisation was in relation to the inquiry.

So the person who now holds the administration post is Maureen Johnson? - Correct.

Which of these two ladies was her equivalent? - Well, none of these ladies did the job that Maureen Johnson now has.

A different job? - Yes.

Well, did they do part of the job she now has? - Yes. They would do, as I say, getting the file together and then typing up the certificates.

They are clerical staff? - Yes.

And it was their job to put the whole file in front of you? - Yes.

If we have heard in the Inquiry that that doesn't happen now, except in cases where there was a problem, then that would be a change? - Yes.

Is/

Is that a change you were aware of, that the file doesn't always get laid in front of the Chief Inspector now? - Yes. I have become aware of it over the years, but it wasn't the case when I was there.

Were you there, though, when that change took place? - No.

As a result of having the file you would have a file copy of his existing firearm certificate? - That is correct.

Did you pay attention to that when you dealt with the renewal? - I checked back to the time of the last renewal, normally, and I would check in the interim period between the renewal and this renewal, any variations that had taken place, any changes in his ownership of weapons, to make sure that all the details of transactions were properly and accurately recorded.

Could you have FA57, which is D50? Is that the previous certificate? - Yes. That was issued on the 31st January 1986.

Now, it has got some variations on it? - That is correct.

But they relate to the weapons and then the deletion of .22 ammunition, and the inclusion of additional ammunition because there was a 7.62 rifle added? - Yes.

But when you came to consider the renewal in 1989 the amount of ammunition that Hamilton could either hold or acquire would be the amount that we see on the outside bottom left of this firearm certificate? - The outside?

The front page, bottom left, we see the amount of ammunition he was entitled to either acquire or possess at the time he made his application to you for renewal -- subject to the variations on the right-hand side.....

LORD CULLEN: Mr. Bonomy, this is 1986, as varied then.

THE WITNESS: There was a variation in 1987, I understand.

LORD/

LORD CULLEN: Which is what we looked at yesterday. I think that might be covered by D59, is it? That may be nearer the application -- 59 is the application for variation. I am not sure we have a text for the certificate as varied in these papers. I may be wrong about that. I haven't seen it yet -- and Mr. Taylor I think agrees with me.

MR. BONOMY: Yes, that is right, because I do have the certificates here in a bundle, and it is not one of them.

LORD CULLEN: I am simply going on the application and the fact it was shown as passed. I am assuming that would be incorporated as a proper variation at that time in 1987.

EXAMINATION CONTINUED BY MR. BONOMY: Could you also have in front of you please D59, which is FA43? - The application form?

That is an application for variation? - It is a renewal application, 1989.

BY THE COURT: Are you looking at a document that has a date at the top 31.3.87? - No, I am looking at a document that has got.....

LORD CULLEN: You should be looking at D59L, whatever that is in the other language.

MR. BONOMY: The problem is the other language isn't clear on the backing.

THE WITNESS: I have now got a variation in front of me dated 31/3/87.

LORD CULLEN: That is the one.

MR. BONOMY: That is the one.

EXAMINATION CONTINUED BY MR. BONOMY: Now, if you would look back then at the application form you were dealing with, and compare it with the variation application which you now have in front of you? Can you tell us whether your application was simply a renewal of what apparently Mr. Hamilton had authority for when he made his application to you? - Well, I would expect from the variation of 1987 there/

there to be another certificate showing these variations. I don't have that.

I appreciate that, but since we don't have that at the moment, if you can just assume it was granted on the strength of the application you have been given? - Yes, I would assume that that was granted, and then I would have a certificate which accurately reflected what that variation said, yes.

Now, was he simply asking for a straightforward renewal of what he had at that time? - Yes, that is correct.

Now, would you look then at the RL3a, and the additional, supplementary form which seems to go with it? - Yes.

Now, why on this occasion was there an additional form over and above the usual RL3a form? - I believe at that time there was a change to try to introduce more standardisation into the administration procedure, to keep the inquiry officers aware of the type of questions they should be asking when they go to visit an applicant, and to look for reasons for duplicate calibre, to indicate the level of security and any other relevant information they may have.

Had this anything to do with legislation passed in 1988? - Yes, I believe that would be the case.

Can you remember that now as being the reason for this? - There was certainly a change in the level of security, and my understanding would be that would be the reason this was introduced.

If we look at the RL3a form, that has been completed by a Constable called Brown? - That is correct.

He has answered the various questions; is that correct? - Yes, he has.

But one of them this time has the answer "No". The other five have "Yes"? - That is correct.

And/

And the "No" relates to the serial number for one of the guns? - That is correct.

You have already dealt with that? - Yes.

Could you look at the form? - Yes.

Now, it requires additional information in relation to some of the matters which are the subject of the RL3a? - Yes.

Is that right? - Yes.

And none of these am I right in saying relates to the first question, which is whether the applicant is a suitable person to hold a firearms certificate? - No.

I think at the top of that form there is a column where each of four weapons is specified? - That is correct.

And that is the weapons which he possessed at that time? - Yes.

There is then a separate question dealing with the issue of duplicate calibre? - Yes.

Now, why was that introduced? - As I said earlier, I think it was a reason to standardise procedures and to make sure that where someone asked for duplicate calibre, the inquiry officer had to find out the reason for it.

So this was a form which the inquiry officer had along with the RL3a form? - Yes.

There is some guidance under the heading "Duplicate Calibre" given to that officer. What is the guidance? - "If applicant has/is applying for duplicate calibre -- C.G. competition purpose, i.e. balance-precet sights, etc., see below".

And what do we see below? - "If holder states firearm is for competition he must be a member of a Club. If holder states firearm is for sport he must have land permission".

There/

There is also an asterisk, but does the asterisk actually mean anything? - Where is that?

Before the words "see below" there is an asterisk. Do we see that asterisk further down? - Yes.

Now, that particular section has been completed by the inquiry officer. Could you read out what he has written in? - "Duplicate Calibre", it says, "Nos. 2 and 3 are required as 2 has an adjustable site for target shooting and 3 is required for competition shooting".

So Nos. 2 and 3 refers to the two weapons above that; is that correct? - Yes, the 9 mm Browning and the 9 mm Beretta.

So we have two self-loading weapons, both 9 mm, and we here have an explanation why both of them are required? - Yes.

What is the explanation? - "Nos. 2 and 3 are required as 2 has an adjustable site for target shooting and 3 is required for competition shooting".

Does that mean anything to you? - It means that this applicant had a weapon which perhaps the sight had been adjusted for a specific discipline and kept for that discipline and the other one would be for any other use in the club.

Does it actually say that? - No.

What is the difference between target shooting and competition shooting? - Well, there is not a lot of difference in the actual shooting. I would say the difference in target shooting is that you would go along to a club and shoot at targets. If they wanted to progress from that and enter competitions either at that club or other clubs, that would be classed as competition shooting.

Well, No. 2 which is the one for target shooting, is the one on which there is more specification than an adjustable sight? - Yes.

But you seem to be suggesting that is for the simpler discipline and No. 3, about which there is no specification, is apparently for the more complex discipline? - I am not saying one is simpler or complex. I would say in competitions you are competing against others and target shooting is just when you go and shoot targets, various disciplines with a target.

Does it come to this; that you don't really understand the difference? - Between what?

Between these two concepts of target shooting and competition shooting? - Well, I know there is a difference in that people shoot at targets and never compete. Other people shoot at targets and compete. People who compete may have a weapon they like to use for that competition because the action on it is suited to them or whatever.

Would it not follow from that that you would expect them to use that same weapon, if it is the accurate one, for what they describe as target shooting? - Say that again?

If you are suggesting they need a really comfortable/

comfortable and good weapon for competition shooting, would it not follow that they would also want to use that weapon for target shooting? - I don't know. It would be up to the individual what he felt comfortable with when he used it for competition.

But why would he want a less comfortable weapon for target shooting? Can you think of any logical reason why anybody would want a less good weapon for target shooting? - Well, all I can say to that is if I was going along and shooting on a regular basis and I was also involved in competitions, I might prefer to keep my good weapon for the competitions.

Now, please tell me if you think this is unfair but would it be fair to suggest that you are making certain assumptions on very limited information conveyed to you by the enquiry officer? - Well, personally I think the enquiry officer has conveyed me a reason why that person requires two weapons of similar calibre.

You are giving the impression that for a marksman there might be good reasons for keeping your weapon good, as if it might deteriorate in some way if you used it for practice. Is that what you have got in mind? - I am not saying it would necessarily deteriorate but anything can happen when you are shooting. I mean, there may be a jam or there may be anything in the weapon. I am not putting myself forward as an expert in shooting. I am not a shooter and have never been involved in club shooting. What I am saying is in my opinion the officer here has conveyed to me a reason that I would accept at that time for a duplicate calibre.

Yes, but would it be fair to say that if you just use the words target shooting for one weapon and competition shooting for another, at the time we are talking about, l989, the police would accept that as a good reason for having duplicate calibre weapons? - For just mentioning the two?

Yes? - No, not necessarily.

Well, that is all this says? - That is what he said at this time. You said on all occasions.

But/

But if all that was ever advanced as a reason for having duplicable calibre is "I want it for target shooting and I want another for competition shooting", that would be good enough for the police in l989? - Yes.

Now, there is also a section in this form which says "Other Relevant Information". For example, intended purchases? - Yes.

What did the enquiry officer have typed in at that stage? - "The applicant is authorised to possess a 7.62 rifle and a .22 rifle. He may purchase a .22 rifle in April l989 when he disposes of his .223 rifle.

What is a 7.62 rifle? - What do you mean what is a 7.62?

What is it? - It is a rifle with calibre 7.62.

Is that for long-range shooting or target shooting or what? - On this occasion it is used on an authorised range so it is suitable for that particular weapon.

Now, what good reason is disclosed on this application form for giving authority to Thomas Hamilton to possess a 7.62 rifle? - The reason that he has been given authority to purchase, possess, a 7.62 rifle is that he is a member of a rifle club at which he can use that weapon.

What indication is there that he is going to acquire one? - On that, nothing.

So why should he be allowed to possess one? - Because I would expect the enquiry officer to ask him, "You put down here you want a 7.62 rifle" and I would expect the enquiry officer to say to him if he was going to purchase one.

Why did you not send it back and ask if that was going to happen? - That wasn't my role. My role was in the administration of the firearms certificate procedure. The enquiry and the recommendation of the weapon finished in this case with Mr. Matchett where he has got "Chief Constable recommended".

So/

So what were you actually doing with this paperwork? - As I said at the very beginning, my job was to ensure the accuracy of the records and the accuracy of the certificate. My job was not to do the enquiry or anything with the enquiry.

So you were not even supposed to check whether there was a good reason advanced for possession of a 7.62 rifle? - No.

Well, whose job was it to do that? - The enquiry officer and his superior officers up to Mr. Matchett.

Who is above you, is it, or below? Where is Mr. Matchett in the chain? - If you look above my signature, the one before that says "Chief Constable recommended" and that is the enquiry as far as that part of it is complete. The bottom part is my instruction to the Firearms Department.

Who would deal with it after you? - Deal with what?

The application? - I would pass that into the Firearms Department. They would complete the certificate and it would come back to me for checking for accuracy and it would go to the Depute Chief Constable.

Would he be expected to think about questions like good reason? - No.

So he just signs what is stuck in front of him? - He would expect the officers below him to do all the necessary enquiry and in my case to make sure that it was accurate.

And you would expect the officers below you to make the necessary enquiry, is that right? - Well, there were no officers below me in the administration part of it.

Oh, I see. All right. So it would be the job of the sergeant whose initials are on the right-hand side. Who was he? - It is just.....

Not clear. It may be the Inspector in fact? - It may be.

His/

His job and the job of the Sub-Divisional Officer and the job of the Commander? - Yes.

To make sure that the thing was checked out properly? - Yes.

Now, can you part with these various documents and we will turn to another renewal. Can you have FA55 which is D83. Now, that is another application for renewal, is it? - That's correct, yes.

Is there any other document with that application? - No.

But there are two photographs? - There are two photographs, yes.

This is a new style application, different from the last one we looked at? - Yes.

Dated 12th January l992? - That is correct.

Can you also have FA56 which is D85? Is that an LR3a form with that application? - Yes, that is correct.

Does it now incorporate the material in the two documents we looked at in the last renewal? - Yes.

Now, what was your responsibility in respect of this renewal? - My responsibility was to ensure the accuracy of the firearms certificate once it was prepared. There is a difference on this occasion from l989 and you will note that Mr. Norman Lynch has now become the enquiry officer and there is not a police involvement in the enquiry so Norman Lynch would prepare this application for me and I would check it and make sure that the certificate accurately reflected that.

This time, though, did you have responsibility for checking things like whether there was a good reason and so on? - I was responsible for making sure that Mr. Lynch made all these enquiries, yes.

So/

So are you doing the job that the Inspector, Sub-Divisional Officer and the Commander were doing or supposed to do in the other cases? - Yes, for renewals only.

So this time you would be responsible for checking that there was a good reason? - Yes.

And you are quite clear that that was not your responsibility in relation to the earlier one? - Yes.

Now, on the LR3a form this time the reason for requiring the firearms are giving as for target shooting only at Stirling Rifle and Pistol Club, is that right? - That is correct.

Now, we still see this 7.62 calibre rifle on the application form? - That's correct, yes.

And no sign of buying it? - No.

It has been around for a while? - Now for three years.

It has been around for..... sorry? - Is it three years since the last one? Does it go back further than that?

A bit longer than that? - Yes. Sorry.

I think we saw it being added on the variation in l987, if you remember. Do you remember we looked at the l987 variation so that is when it was added? - Was it? Right.

So it has been around for four to five years? - Yes.

Ought you not to have been asking questions about that? - Yes, I would expect the enquiry officer to ask the question of Mr. Hamilton in this case, if he still wished authorisation and it is marked on the application form "If you still wish to retain authorisation please tick" and he has ticked the box Yes and I would expect Mr. Lynch to ask him for a particular reason why he hadn't bought it or when he was likely to buy it.

But/

But there is no record of that having been done? - No.

And you assume that he would do that? - Yes.

And be satisfied? - Yes.

So your check is really back to the original type of check in l989, that everything looks as if it has been completed properly on the face of it? - Yes, although I would say the added difference is that Norman Lynch would come directly to me if he had any questions and I would speak to him if there was anything raised that I was not happy with.

But if Mr. Lynch is a good form-filler and he provides an answer to every question and ticks the right boxes and does not raise any queries with you, you would tend just to push that to the Depute Chief Constable for signature? - I would accept that Mr. Hamilton having specifically indicated that he still wished to retain authorisation for that, I would expect Mr. Lynch to have asked him that. You are right on that. I would expect him to do that but I would not with every application that came through stop and say "Now, did you do all the checks?" No.

Had you had any dealings with Mr. Hamilton? - No, none.

The l989 and l992 renewals followed incidents which were the subject of very extensive police investigation into Mr. Hamilton. Were you aware of these investigations? - No.

Not at all? - No.

I suppose you know now what these investigations were about? - Yes.

And indeed I think on my instructions you have had to look at the papers in connection with these incidents? - Yes, I was shown them last week.

Now, I appreciate that you are being asked with the benefit of hindsight to look at certain/

certain things and therefore there is a limit to what it is right to ask you about this but can I ask you first of all having seen these documents whether it surprises you that information about these investigations did not percolate through to the person dealing with firearms? - Do you mean all the investigations in general or specifically?

No, the very fact he was subject to police investigation at a very extensive level. Running into hundreds of pages? - Are we talking about the incident in l9.....?

Well, both of them. There is one in l988? - Right.

And that has two very substantial reports relating to it? - Yes.

And there is the one in l99l and that also has two substantial reports relating to it? - Right.

Now, is it surprising or is it odd that you didn't know anything at all about the police investigations of these two matters? - I find it difficult to answer that one. If somebody is investigated and there is no reason to believe as a result of the investigation that there is a suggestion that his firearms certificate should be revoked, I would not necessarily expect that to be in the firearms file. If there was a suggestion that the person was a danger and his firearms certificate should be revoked, I would have expected it to be in the file.

The Inquiry has heard, and you will have read, of Detective Sergeant Hughes' memo which was in November l99l? - That is correct.

And that is dealing with the question of firearms certificate? - Yes.

So it is obviously within the knowledge of the investigating officers at that time in that particular enquiry that Hamilton had a firearms certificate? - Yes.

What you are confirming I think is something we already know, that that particular memo never/

never found its way on to the firearms file? - That is correct.

Now, because the firearms certificate is mentioned in it and because the memo expresses anxiety about whether he should have his firearms certificate revoked, I take it it should have got on to the firearms file? - Yes, I would have expected it to be.

Have you read it? - Yes.

Would it have made any difference to the renewal in 1992 if it had been on the firearms file? - In my opinion, no.

Would it have made you either instruct or yourself carry out further inquiry? - Into what?

Any element of the subject matter of the memo? - I wouldn't have re-visited the memo itself. I would expect the procedure to be if anybody came up with any new information that would be brought to the attention of the Firearm's Department.

The memo says that Hamilton seemed to become increasingly stressed and had difficulty maintaining the group. It was during one such camp that he became increasingly angry and assaulted one of the boys. This particular child was in fact assaulted three times by Hamilton during the first few days of the holiday and was eventually removed by his parents. You didn't think to look any further at that? - After the decision for.....

No, if you had got this? - Sorry, I thought you were asking what would I have done in 1992 given the Chief Constable had marked it "No action" in 1991.

Yes, well, that's the question. That's the right question to ask you? - My answer would be I wouldn't have gone back to re-examine evidence that had already been examined by the Deputy.

That is because by the time you would have seen this memo for renewal in 1992 the Deputy Chief Constable who decides on renewals would have marked this for "No action"? - Yes.

Had marked it for no action? - Yes.

So it wouldn't have been your job to re-check the situation at all? - (No answer).

In 1992 were you still a Chief Inspector? - Until the end of 1992.

So/

So when were you promoted Superintendent? - December.

One of the things we have heard that wasn't checked certainly in regard to some applications was the previous firearms licence. Can I take it that while you had a copy of the existing firearms certificate on file you would not ask to see Hamilton's existing certificate before deciding whether to renew it? - I would have possession of the existing certificate, yes.

It would come in with the application? - Yes.

Well, we have had evidence yesterday that it didn't, because the applicant had to hold it to support his continued retention of the firearm. Is that wrong? - That's wrong.

So you would have the certificate and therefore would be aware of the fact he wasn't buying ammunition? - Yes.

Didn't cause you any concern? - Well, not particularly, because his ammunition was dropping albeit slightly.

Well, can we just look at that. Could you perhaps have D58 which is FA42. Is that the one you dealt with, the renewal for 1989? - Yes.

So when it comes to 1992 you would have this in front of you? - Yes.

What does the certificate disclose about ammunition? - I haven't got that page.

FA41. What does this disclose about ammunition? - He had purchased ammunition in 1987.

Can that document relate then to that certificate if it appears to cover 1987? - This firearms certificate was issued first of all on 31st March, 1987 and it was varied -- it was renewed in 1989, on 14th February, 1989, and it was also varied at that time to alter the serial number.

Yes, but the one you have got should on the back page say "Renewal"? - Yes.

LORD/

LORD CULLEN: Yes, but on the outside of that it shows when it was first issued.

MR. BONOMY: Yes, 31/3/87.

EXAMINATION CONTINUED BY MR. BONOMY: You have a certificate that actually covers March 1987 until its renewal in 1992? - Yes.

And all we have is three purchases of ammunition in 1987? - There are three dates, yes.

Five separate purchases? - Yes.

Nothing after that? - No.

Did that not cause you, raise any questions in your mind? - Well, as far as persons who are members of a club, there are obviously some people who get ammunition at clubs, members of that club, and it wouldn't necessarily raise doubt in my mind.

We have seen some history of substantial purchases to the point where Hamilton had to get additional sheets on Schedule 2 for his firearms certificate? - Yes.

And he had authority to hold 1500 of each of the calibres and acquire 1,000 at a given time? - Yes.

Take that along with the fact that there is absolutely no sign of commercial purchases between 1987 and 1992, is there any ground in your view for asking a few questions? - As I say, I wouldn't have at that particular time, no.

BY LORD CULLEN: Is this something you might expect to be asked by other persons in the chain? - I would expect the inquiry officers to do any of these inquiries and find out if he is using a weapon and if he is still a member of a club, does he go to the club.

So far as the position about purchasing ammunition is concerned, is that the kind of matter you would expect the enquiring officer to ask questions about? - Not in great detail.

What/

What do you mean by "not in great detail"? - I wouldn't ask -- I would expect the enquiry officer to say "Are you buying a lot of ammunition at the moment", or whatever.

So you wouldn't really expect him to raise any question because of the possibility that he was purchasing in some other way? - Yes.

EXAMINATION CONTINUED BY MR. BONOMY: The only other piece of material that might have been expected to get on to the firearms certificate relates to movement of a firearm and the taking of it by train to a house in Linlithgow. You weren't aware of a firearm being taken to a house in Linlithgow and shown to children whose photographs were taken with the firearm? - Not at that time, no.

You know now about that incident? - I have heard about it since.

Would you have regarded that as something which should have got its way on to the firearms file? - Yes.

What significance would that have had on the subject of renewal? - Obviously I don't know the full details of it and I don't know if -- well, I presume Hamilton wasn't spoken to so I don't know his side of it. But looking at the incident, given that the parents were there at the time, given there was no ammunition, and he was present, there didn't appear to be any danger, and I wouldn't have expected that to affect my decision to renew.

But it is something you might like to have had an opportunity at least of considering? - Yes.

CROSS-EXAMINED BY MISS DUNLOP: You were asked some questions about the applicant giving as his reason for having two similar guns of the same calibre that one is for target shooting and the other is for competition shooting. Are there any forms of competition shooting to your knowledge which don't involve shooting at targets? - Not to my knowledge.

So in fact the difference is more apparent/

apparent than real. You have competition shooting, you have target shooting. It is just different words? - Yes, but you are competing against others.

But when an applicant is giving as his purported reason for having two guns the same, competition shooting and target shooting, that doesn't seem to matter as long as he just uses a different word? - Some people genuinely want to use a weapon for competition.

But you've already told me competition shooting is target shooting. Competition is shooting at targets and competing against other people? - They are all shooting at targets. Competition is putting yourself up against somebody else.

Now, in relation to an applicant having to carry forward at a renewal authority which he has previously obtained to buy a weapon, carrying it forward because he has not yet purchased that weapon, you said that you would expect the enquiry officer to have asked the applicant "Are you going to buy this gun". Is that your evidence? - Yes.

And this is something you would expect to be done as a matter of routine? - A matter of routine at renewal.

So does that not mean on a previous occasion the applicant has been asked "Are you going to buy this gun" and has said "Yes" and he hasn't bought the gun? - That is correct. There may be many reasons for that.

Does that not necessarily raise a question about why he had said the last time he was going to buy a gun and hadn't bought it? - Not necessarily. It may be the case that the applicant sees a gun he would like to purchase and he then has to apply for a variation to his certificate.

Yes, but you are answering for the applicant. What I am asking you is do you not ask the question? - What question?

Do you not say to the applicant "Why did you say the last time you were going to buy this gun and/

and not buy it"? - Yes, I would expect the enquiry officer to ask that question. That question can be answered in many ways. I wouldn't personally ask the question.

But each time somebody such as an enquiry officer is looking at a certificate which is for renewal which already has authority to buy a gun which has not been purchased, would you not expect the question to be asked more forcefully, "Why are you continuing to ask for authority to buy this gun and not buying it?"? - I would certainly expect it to be asked. I wouldn't have used the word "forcefully".

Now, you have explained to us that there is a chain and at the bottom of the chain there are officers making the actual inquiries and then presumably as one moves up the chain there are more senior people who are not required to make inquiries personally but are making judgements and assessing whether someone is or is not a fit person to hold a firearms certificate. Is that a fair way of putting it? - The enquiry officer does the inquiry and he would then put it up to his superior officer, yes, and he has to decide on the evidence of the enquiry officer whether it should be recommended for renewal.

What I am interested to know is where in this hierarchy is the person who has all the information about the applicant and the power or responsibility to make a judgement. Who is that individual? - Well, if you look at the application the Divisional Officer at the time in 1989 was the person and he recommended to the Chief Constable that this person should be granted renewal of his certificate.

So the answer to my question is the particular individual in this hierarchy who has all the information and the power and responsibility to make judgements is the Divisional Commander? - He has got all the information from the inquiry, yes.

And he has the file in front of him? - Not the file.

Well, is there any individual who has the applicant's file and therefore access to all the information/

information that is held and has the power or responsibility to make the decision on the applicant? - I would have all the information in front of me at the time of any renewal. I would have the previous certificate and I would have the full record of him being recommended from the Division. If the Division recommends this person, is satisfied with the weapon, they are satisfied with the inquiry, and I am satisfied having looked at the applicant's file, satisfied there is nothing there to the detriment of the individual, then I would tell the Firearms Department to process the application and it would be submitted to the Deputy Chief Constable for signature.

You have already been asked in evidence-in-chief about a number of areas which would appear to have required closer scrutiny. I am thinking in particular verifying there is good reason for every firearm on the certificate, and we have just spoken about good reason for a firearm for which authority was previously granted but which firearm was not actually purchased. That may be one area that would be looked at. You also have been asked about the question of the applicant not buying ammunition. But is it your position that you didn't see it as any part of your function to initiate inquiries on these matters, you simply assumed that those below you would have done all that was required of them in making inquiry? - I would expect the officers to inquire into the purchase of firearms and ammunition.

11.20 a.m.

Do you accept, however, that there is nothing in the paperwork which reached you to confirm that these inquiries have been made, that is more specific inquiries about why the applicant wasn't buying ammunition, or why he continued to require authority for certain types of gun? You are simply assuming in general terms that those below you have made the inquiry required of them? - Yes, I assumed they had carried out the inquiry, yes.

You were asked about Detective Sergeant Hughes' memorandum, and you said that it would have made no difference to you at the time of the renewal in 1992, because no action had been taken on the memorandum when it was submitted to the Deputy Chief Constable; is that correct? - Yes.

I would like you to consider the position without that knowledge -- that is without the knowledge that the Deputy Chief Constable has seen it and decided to take no action. So assume that you had opened the Firearms File and seen this memorandum. Would the memorandum have caused you to recommend that the applicant not receive a renewed firearm certificate? - The memo from Detective Sergeant Hughes would have raised concerns in my mind and from that I would have asked for further clarification on a number of issues in the memorandum.

Perhaps if you could have the memorandum in front of you. It is D82L. Now, put shortly you see that Detective Sergant Hughes has been investigating allegations connected with a summer camp run by Hamilton in July 1989, and you see in the third paragraph that Detective Sergeant Hughes feels compelled to make this report because of the impression left with him by this man. Can I ask you firstly, how common an occurrence was this, that a police officer would make a report about the holder of a firearm certificate because that person had made him feel so concerned? - I would say it was most unusual.

In your experience is it unique? Can you think of another occasion in your working life when this has happened? - I can recall occasions when/

when officers submitted reports indicating that an individual had committed a crime and that they thought the firearms certificate should be revoked, yes.

But can you recall an occasion on which an officer submitted a memorandum in which he said "This person in my opinion should not have a firearm certificate because of the type of person he is"? - "Because of the type of person" -- no, I can't recall any other one.

Now, you see in the fifth paragraph that Detective Sergant Hughes considers that Hamilton is an unsavoury character and an unstable personality? - Yes.

You referred earlier to matters which might have caused you to want to make further inquiries. Can we take it that those comments would be such matters? - Yes, particularly the unstable personality.

We then see that Detective Sergeant Hughes refers to Hamilton becoming increasingly stressed and having difficulty in managing the group; and that stress apparently causing him to assault one of the boys -- so somebody resorting to violence under stress. Would that have been something that would have concerned you? - Yes, it is something I would have been looking for further information about, yes.

Well, there is already quite a bit of information there, is there not? - No, I don't think -- I mean, there is no mention of the level of violence. Was it serious? Was it unprovoked? Was it substantiated? There is nothing there that I could go to the Chief Constable and say "There is enough evidence on which you could make a recommendation".

Well, suppose it was substantiated. Supposing there were two sources of evidence this had happened. That takes away your concern about whether it was substantiated. Are you then saying that it might not be a problem that a person had resorted to violence under stress if it had been not much violence; is that what you are saying? - I have some difficulty here, because not only have I seen/

seen this memo, but I have seen the report by Sergeant Hughes, so I have read the report and I have looked at the evidence he had put forward for this, and I am not convinced there is sufficient evidence for that. You talk about evidence of assault. It was one assault. It was assault on one boy who, according to Hamilton and other witnesses, was a bully, who had assaulted other boys, and that this was done by way of chastisement. Now, in these circumstances what I am saying is that on that evidence I would not have considered that to be grounds for a revocation.

So it wouldn't particularly have concerned you that somebody who is not a parent of a child has struck a child, including striking a child on the face, under stress? - Well, again I didn't see evidence of stress. From the evidence that I saw, my reading of the evidence, albeit it was only last week when I did see it, was that the boy was taken from the group and was punished, chastised as Hamilton put it, away from the group. I didn't see any evidence that it was a case of coming forward and just striking the child.

Can you perhaps turn to Page 2? I should have asked you to cast your mind over the last paragraph on Page 1 which refers to the taking of photographs of the children, and then the first paragraph on Page 2? - Yes.

In which the officer explains that he has not been able to recover all the photographs despite Mr. Hamilton's claim that he has handed them all over. Now, would you agree with me that that raises a question mark about the truthfulness of Mr. Hamilton? - I have got difficulty with that evidence, because what we are saying is that it is corroborated because we can't find it.

All I am asking you is would you agree with me that that raises a question about the truthfulness of Mr. Hamilton? - Oh, Mr. Hughes has raised that, yes.

Surely whether someone is truthful or not is very important in considering whether or not they should have a firearm certificate? - Yes.

And when Sergeant Hughes goes on to say as/

as his final comment that Hamilton is a scheming, devious and deceitful individual who is not to be trusted, as a matter of common sense would you not agree that such a person should not have a firearm certificate? - Well, whether it is common sense or not, as far as I am concerned my decision would be based on the Firearms Act and whether or not I considered the person unfit to be entrusted with a firearm. The evidence that has been provided to me has not suggested that he is unfit to be entrusted with a firearm; and there is no evidence here that would suggest that Mr. Hamilton would commit further offences using a firearm.

But if the Act itself uses the word "entrusted", then is it not relevant that the person cannot be trusted in other circumstances? Would you not extrapolate and say "If he cannot be trusted in certain circumstances then maybe he should not be trusted with a firearm"? - No, I wouldn't accept that. To say that somebody has told a lie on an odd occasion -- to take that forward and say "Because they told a lie they should not have a firearm certificate", I wouldn't. I don't think the act allows that to happen. That is my opinion.

So is it your view of the legislation that it is necessary to wait for some incident involving a firearm before action can be taken? - No. My evidence is you are looking for evidence where there is violence or serious public disorder are two instances where I would expect to look for evidence, to substantiate that, and put that forward for revocation.

So is it your evidence that this memorandum, that what is being said, is not sufficiently adverse to the applicant? - Correct, and was not supported by the evidence that I had seen.

So really you think that this is not sufficiently adverse to the applicant, and that it wasn't warranted on the evidence collected by Detective Sergeant Hughes? - Correct.

Well, do you not think that as a matter of common sense somebody who fits all these characteristics should not have firearms? - I go back to the point, whether it is common sense or not,/

not, what I have to decide -- this is my view. What I have to decide is what the Act says, and what is the case law regarding revocation of firearms, and I could find no evidence in the report from Detective Sergeant Hughes which would lead me to recommend or suggest or advise to the Chief Constable that he should revoke.

Well, irrespective of whether or not what is said in the memorandum can be substantiated by evidence gathered, you don't think that fitness to be entrusted with a firearm covers matters such as untrustworthiness, deviousness, deceitfulness, violence? - Well, you add "violence" in at the end -- scheming, devious and deceitful, yes, they are all adjectives that have described Mr. Hamilton; but I would be looking for evidence that you could take that forward and say "Because of these things he cannot be trusted with a firearm", and I could not find any evidence of that.

So what sort of conduct would cause you to say that somebody is not fit to be entrusted with a firearm? - Well, as I said earlier, somebody who has committed a violent act, a serious violent act, or serious public disorder, would be examples of something.

Well, we know that convictions are relevant and we know that unsoundness of mind can prevent someone from having a firearm certificate, or intemperate habits? - Yes.

But there is another category of "Fitness to be entrusted". What do you think that means? Is that not talking about exactly this sort of thing? - No, I don't think so. My opinion is that you have got to have evidence that the person has committed, for example, a violent act, and that this is a likelihood, a danger, to the public safety, that the person will commit a further violent act and use that weapon.

Is it not simply a question of the character of the person? - What is the character of the person? What I am saying is that I didn't find evidence supporting what Sergant Hughes has said.

But if Sergeant Hughes was right in his selection/

selection of adjectives, and this is a scheming, devious, deceitful character, then is that not what the Act is meaning when it is talking about fitness to be entrusted? - I mean, he could be deceitful in his applications for firearms, there could be some form of deceit, but the evidence that was provided here I don't think these adjectives could be taken forward and used in that manner, no.

Would you agree that in considering whether somebody should have a firearm such issues as general temperament, stability, relationships, and judgment are important? - Yes.

And you don't think that these sort of things are covered by the categories.....? - I don't think Detective Sergeant Hughes has put forward, or there was no evidence in the report that I saw, of instability.

So if you had opened the Firearms File and if you had found this memorandum, even without the knowledge that the Deputy Chief Constable had previously seen it, and taken no action, you yourself would also have taken no action on it? - No, that is not what I said. What I said was if I had opened the file and found that AD2a, that memorandum there, I would have sought clarification of all the points that I have mentioned already with either Detective Superintendent Millar or back down to Detective Sergeant Hughes himself. I wasn't given that opportunity to do that. I was speaking in hindsight, obviously with the events of Dunblane as well, and it is very difficult to do that. But I am trying to place myself in the position in 1991, when this came in, what would I have done in 1991 with this report? And what I am saying is that I would have sought clarification of all the points that we have discussed this morning, and if I had been satisfied that there was evidence to go forward, that would have backed it, I would have put it forward to the Chief Constable. What I am saying is I have now been shown the report by Detective Sergeant Hughes which was prepared for the Procurator-Fiscal, on which no action was taken, and I don't think there was evidence in that to stand a revocation.

It is your position, is it, that you don't think that the evidence in those reports justified/

justified what Detective Sergeant Hughes had written in the memorandum; is that your position? - Detective Sergeant Hughes was obviously of that opinion, and he quite rightly put that memorandum in. What I am saying is in my opinion the evidence wasn't there to back it up to the Court.

CROSS-EXAMINED BY MR. GIBB: Is it fair that I get the impression so far as the 1989 application is concerned you simply pushed paper? - What I did in 1989 -- my responsibility in 1989 was to ensure the accuracy of the records and to ensure the accuracy of the certificate that went through to the Deputy Chief Constable, yes.

So you simply checked that (a), the firearms, (b) the serial numbers, and (c) the details of ammunition, were the same on the certificate as were on the application? - Yes, and that the inquiries had been carried out to the satisfaction of the Divisional Officer.

But so far as the 1992 application was concerned, you have indicated your role was different? - Yes.

And that your examiner reported direct to you? - Yes.

Could I ask you please to look at 79L? I think probably there are photos there of a child and an adult; is that right? - Yes, that is correct.

Holding a Smith and Wesson, and also a revolver; is that right? - I have got photographs of children holding weapons, as well as an adult, yes.

Now, you were not aware of the Linlithgow incident when you renewed the certificate in 1989? - No, I don't think it had actually come to light then, had it?

Well, whenever it was, it certainly was before 1992? - That is correct, yes.

Am I right in thinking that so far as carriage is concerned, that people can carry firearms in a loose container, a canvas bag? - As far/

far as I am aware, yes.

And I think we know that Hamilton went by train to Linlithgow? - Yes.

Are you seriously suggesting to me that someone who carries weapons like that in a public vehicle is a fit and proper person to hold a firearm certificate? - Well, the Firearms Guidance specifically mentions people carrying weapons on public transport, and indicates that they should be securely covered and held in an appropriate container.

But/

But we have certainly heard on other occasions that there is no requirement I think. You have got to have a secure container at home and you have got to have a proper lockfast cabinet at home? - That is correct.

But there is no rule about the carriage of weapons? - And what the guidance says is you can carry them on public transport provided they are covered and held in an appropriate container.

If you had known of the Linlithgow incident prior to the l992 renewal, what would you have done? - If I had known about the l992 incident?

If you had known about the Linlithgow incident where he handed these weapons to children and carried them on a public service vehicle without going to a gun club or anything of the likes, what would you have done about the renewal at that time? - As I say, there is nothing wrong with carrying them on a public service vehicle. As I said earlier I think when asked about this, I would have looked at the photographs and statements and I would have been concerned to find out whether the parents were there, were the parents happy about it, was there ammunition and was there a danger. All these things before I made a decision. I would also have liked to have spoken to Hamilton or have someone speak to Hamilton, an operational officer speak to Hamilton, to ascertain what his position was. And also warned him that this was not conduct that he should carry on as a firearms certificate holder.

So clearly he would have been at risk of failure of renewal because of that? A question mark would have been raised? - There would certainly be a question mark as to whether or not he had been reported at the time.

Parliament has told the police that one of the criteria is whether an applicant was entrusted to hold a firearm? - Yes.

And you tell us your criteria on that would be whether someone had been subject to violent conduct or serious public disorder? - Or other serious/

serious crimes.

But that is not what the section says. There is a separate section dealing with convictions? - In what respect?

Section 21 of the Act deals with lifetime disqualification for certain convictions? - That is correct, yes.

So you don't need convictions at all, do you? - I didn't say you needed convictions, I don't think.

But the police are given a discretion and one of the things they have got to consider is whether someone can be trusted with a firearm? - That is correct.

Are you seriously telling me that if you had seen the four reports to which Mr. Bonomy made reference, the two reports from the l989 Inchmoan incident and the two reports of the Milarrochy 1991 incident, if you had seen all of these are you seriously telling this Tribunal that you would not have had considerable concerns about whether Hamilton could be trusted to hold a firearms certificate? - What I am saying is that the evidence that I was shown with regard to the two summer camps revolved around minor assaults on a child by way of chastisement which I would not have considered for revocation. The incident with regard to the photographs are entirely different and although it is not a proper way to handle firearms,
I think that could have been dealt with by way of warning letter but I wasn't involved at the time. It wasn't my decision. Taking together these three, I would not..... I still don't think it was sufficient grounds to revoke.

Even the fact that Hamilton had at least a vendetta against the police and had been to the Inspectorate over complaints about senior officers? - I certainly would not have used that as a reason for revocation.

Are you serious? - To say that.....

Are you seriously telling me that someone who has made complaints about a senior Police/

Police Constable or Depute Chief Constable and makes complaint to the Inspectorate in Edinburgh is not someone you would not consider to be unfit to hold a firearms certificate? Are you actually telling this Tribunal seriously that that is your evidence? - Certainly if somebody complains against the police and takes that complaint forward to Her Majesty's Inspectorate I certainly would not use that as a way to revoke a certificate.

Someone who is seen as irrational and has a vendetta against the Scout Organisation, against the Local Authority and against the Police, is that not someone who there are very considerable question marks about? - (No answer).

MR. TAYLOR: I request the witness does not answer that question until the witness can establish a basis for the assertion that there is a vendetta against the Scouts and that there is a similar word used in relation to the Local Authority because as yet we have not heard what this witness's knowledge is in relation to these two aspects.

I think it would be necessary before he could answer this question that we have the proper understanding of the witness in relation to the two aspects.

LORD CULLEN: Mr. Gibb, are you putting this question to the witness on the basis of what he knew at a certain stage?

MR. GIBB: No.

LORD CULLEN: Or are you putting it to him hypothetically?

MR. GIBB: I am putting it to him hypothetically.

LORD CULLEN: Well, I think if you can make the hypothesis a little more specific then that might meet the point that Mr. Taylor is making.

MR. GIBB: Yes.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: If you had been aware that of the four detailed reports which were in the possession of Central Scotland/

Scotland Police Force.....

LORD CULLEN: You may say what they are so that we are quite clear what you are asking.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: They related first of all to the Inchmoan camp incident where there was a complaint against Constable Gunn which was reported on by Inspector Keenan and I think you have had an opportunity of seeing these papers, have you? - No.

You haven't? - No.

I had understood you had? - I was shown the initial report by D.S. McBain and the statements that he took regarding that summer camp. I haven't seen or been made aware of the contents of Inspector Keenan's report.

Have you seen anything of the detailed precognitions on which Detective Sergeant Hughes' memorandum, D82L, was based? Have you had an opportunity of seeing these documents? - I have seen the statements Detective Sergeant Hughes submitted in l99l.

Well, in fairness, if all you have seen is these, did it not cause you very considerable concern about the rationality of Mr. Hamilton? - No.

If, and I appreciate you were not aware, if you were aware that the l99l reports had resulted in further complaint to the Chief Constable of Constabulary against Inspector Keenan, would that have caused you to have any concerns or warning bells about Hamilton's rationality? - To pursue a complaint, no, not necessarily.

LORD CULLEN: Well, this is a complaint that is found to be without foundation?

MR. GIBB: Yes.

BY LORD CULLEN: Does that make any difference to your view or not? - Sorry?

The mere fact that a person makes a complaint you say is not enough and I think I can understand/

understand you saying that but if the complaint turns out to be without foundation, what is the position? - I am sorry. Are you saying that because Hamilton advanced this complaint and took it to the Inspectorate and that was found to be without foundation, would that have led me to believe that he was unstable or not? Is that the question?

I am simply adding a bit on to the question Mr. Gibb put to you? - I would say he was very determined but I would not necessarily stay he was unstable.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: I think you are aware that when a renewal or a new application is made, the Scottish Criminal Records Office will also have details of any charges pending against any individual? - That is correct.

And that would come up as well? - Yes.

You have made a lot about the fact that there was no substantiation of the memo from Mr. Hughes? - Yes.

Do you mean by substantiation corroboration? - From the evidence that I saw the fact was not denied that he had assaulted the one boy but there was other evidence which said that he was justified in assaulting the boy by way of chastisement.

But there was a lot more to the precognitions that had been taken and formed the basis of Sergeant Hughes' memorandum than that? - That is correct and there were many discrepancies in it which he acknowledged in his report.

But his report was substantiated by the precognitions, wasn't it? There was substance to it if that is what substantiated means? - There was substance to the effect that he submitted the report to the Procurator-Fiscal with charges which I understand he would like Mr. Hamilton charged with. My understanding was that he was never charged and as such that would not appear on the SCRO computer.

But there was substance to what Sergeant Hughes said in his memo, albeit a decision was taken to not proceed with a prosecution? - Yes.

So/

So there was substantiation if that is what that adjective means? - There was substantiation he had assaulted the boy, yes.

All of the other things were substantiated as well. His apparent loss of control? - No, I didn't find that to be substantiated.

But there was evidence of it from Sergeant Hughes that he had seen that himself in the accompanying papers? - That he had seen?

An apparent loss of control. Is that not what Sergeant Hughes said in his memo? - Is this the memo dated l99l?

Yes, D82L? - Is that his memo of l99l?

Yes? - Yes, what is the point?

I had understood he had in fact seen Hamilton in a state of perhaps some loss of control but you were not aware of that? - No.

MR. TAYLOR: If this is being put to the witness, I think we should ascertain where it comes from because it is certainly the first time it has been aired at this Inquiry. It was never taken from Sergeant Hughes and from my reading of the papers it doesn't exist.

MR. GIBB: I am happy to depart from that line.

LORD CULLEN: I have to say I do recollect something of that kind.

MR. GIBB: I certainly recollect the words but I am certainly happy to accept Mr. Taylor's position on that.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: As an experienced officer dealing with firearms, would your view on the test to be applied to renewal be any different from that test to be applied to possible revocation? In other words, if you were looking to revoke a licence would you perhaps think it was insufficient to revoke it but when it came to renewal slightly different criteria would apply? - (No answer).

LORD/

LORD CULLEN: Mr. Gibb, is that asking about the statute as we can read the statute and we can notice the difference?

MR. GIBB: I am just asking the witness to tell us what would be done.

LORD CULLEN: Are you asking him for an opinion on a matter of law or what?

MR. GIBB: I am just asking him from his knowledge of the law when it came to renewal whether he dealt with it differently from revocation. It may be this officer cannot answer that I accept, sir. He was the one who was dealing with it. I just wondered whether he applied a different test to revocation from the one which came at renewal?

MR. BONOMY: Well, it seems to me that is a fair way of putting it to the witness, whether he himself approached both matters in an identical way.

LORD CULLEN: I think if it is a matter of fact as to what his practice is that is perfectly all right.

Mr. Taylor, do you wish to enter this fray?

MR. TAYLOR: No, sir, if it is to be put as a matter of fact as to what he did.

LORD CULLEN: I am sorry to have interrupted you but you will have to rephrase it as a pure matter of fact.

MR. GIBB: Yes.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: Did you deal with revocations any differently than you dealt with renewals as a matter of fact during your years in this post? - No.

CROSS-EXAMINED BY MR. TAYLOR: You were asked some questions this morning about the number of rounds of ammunition which a certificate holder was entitled to have in his possession at any one time? - Yes.

And/

And I would like to take from you what you understand the guidance you received from the Scottish Office to be in that regard and therefore if you could have Document DlL before you. Is that now in front of you? - Yes.

Can you look please at paragraph 6.8 and sub-paragraph (j)? - Yes, I see that in front of me.

And the first sentence is to the effect that it is not possible to give firm guidance to the amount of ammunition which may be authorised by a certificate and it goes on to say that each case has to be dealt with on its own merits? - Yes.

Can you just summarise for us what the paragraph then goes on to tell us or tell you more particularly? - Do you want me to read it or just summarise it?

Maybe if you could read it that would be as well? - "While account should be taken of the fact that it is normal practice to purchase ammunition by batches for consistency of performance and that reloading or buying ammunition in bulk is cheaper, Chief Officers will wish to pay regard to the risks attendant upon unnecessarily large quantities of ammunition being held on private premises. Where larger quantities are authorised, particular attention must also be given to the security arrangements".

Now, from reading that paragraph are you able to form a view as to the underlying risk which is perceived in the event of there being large quantities of ammunition held on private premises? - Yes. Well, my reading of that would suggest that the risk was not for the holder using large quantities of ammunition. I would suggest that my reading of that is that if a person does hold large quantities of ammunition at home then the security must be of a particular standard to prevent any unauthorised access to or theft of that ammunition.

Can you now have D60L before you which is LR3a? I think we have looked at this document before in your evidence. The point I would like you to have particular regard for is in the second of the two pages and it is in the continuation of Answer/

Answer 7. Can you tell us what you find stated in the last few sentences there, starting in the middle at "With reference to 2 i and 2 iii on certificate"? - "Applicant would like to have maximum for weapons he possesses and those which he would like to purchase. Applicant's security for weapons and ammo has been checked and is very secure".

So does that indicate that the enquiry officer has ascertained how the ammunition is to be stored and retained? - Yes.

And it is putting into practice what one finds set out in the guidance at the paragraph we have just looked at? - That is correct.

Now, do you have the guidance before you still? Can you look please at paragraph 3.36? Albeit that this is dealing with variation, what is it that 3.36 tells us in relation to the time by which firearms require to be purchased when they have been authorised? - Well, 6.36 reads "Each case should be dealt with on its merits and, provided the good reason requirement is met, no general arbitrary limit should be applied in considering any of the following. (a) Number of rounds of ammunition to be held; (b) total number of firearms to be held; (c) number of firearms per calibre; (d) time by which firearms should be purchased".

Now, we have heard some evidence in relation to the intent of the firearms certificate holder, the applicant, at the time when he makes his application either to acquire a weapon or to vary his certificate to enable him to acquire a weapon. Can you tell the Tribunal, the Inquiry, from your understanding what the time frame for his intention to acquire should be? - Well, my understanding would be that the time would be within the life of that certificate so that if somebody applied for a grant or a renewal I would expect that they would have reason to purchase within that three years. Well, now five years but three years when I held it.

And that renewal of that certificate, if the intention did not materialise and the weapon had not been acquired, what would you expect the enquiry officer to do? - I would expect him to ask the applicant whether or not he still wished to retain that/

that authorisation although it is ticked on the new application and to confirm with him that he was wishing to purchase within the lifetime of the renewed firearms certificate.

And/

12 o'clock.

And in your view that would be enough to comply with the terms of the guidance which we have just looked at? - Yes, that's my view.

And would it be the case that he, the applicant, would require to be a member of a club which had access to a range where that particular weapon could be fired? - Yes. The applicant -- or a rifle in this case would have to be a member of a club which had access to a range suitable for that weapon.

And would that be the good reason to which reference is made in paragraph 6.36 on the second line? - Yes, that's the good reason.

Now, if I have noted your evidence correctly this morning you said that you wouldn't ask the enquiry officer in every case if he had carried out the checks which you would have expected him to have carried out? - That is correct.

Does that mean that there would be some occasions that you would ask him if he had carried out these inquiries? - It would depend on the circumstances of the application and the renewal. We were in day-to-day contact, and any question that came up either from him or from myself would be dealt with by way of conversation.

How did you assess any quality control aspects? How did you fulfil any quality control aspect of what was being carried out by those officers answerable to you? - Well, as I said, I had responsibility for checking all the firearm files and I checked all the firearm files on every applicant that came through.

Did you, for example, have any sample checks of the officer to ascertain on random occasions he had made the inquiries you would expect? - You mean by that go and visit or speak to the applicant?

No, just ask the enquiry officer on a random basis from time to time? - I spoke to him -- I don't recall specific incidents -- but I would expect on a fairly regular basis to speak to him about/

about applications and ask what like was the security for that one and what was the reason for another one.

You would be actually carrying out some form of check from time to time? - Yes.

BY LORD CULLEN: What would lead to that? Would that be sometimes you are checking and that you have raised a question on your part? - Yes, it may not be particularly clear from the documentation and I would speak to Norman Lynch.

That is to clarify some documentation that isn't quite clear. I think what Mr. Taylor was asking you was about monitoring, some form of test check where there is nothing on the document to indicate anything is amiss but you are actually simply checking to make sure things that aren't spelled out are in fact otherwise as they should have been. Did you do that? - No.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: But on occasions, however, as his lordship has indicated, you did have cause to make inquiry of the officer? - Yes.

Would you be making inquiries consistently with one officer in these matters? - There was a very close relationship. It was virtually a one-to-one basis, and it was a daily occurrence to speak about firearms matters.

Are you able to indicate approximately how often you would have occasion to make inquiries of the officer as to whether he had fulfilled the functions which you had expected him to fulfil. Is it once a week or twice a week or once a fortnight? - As I have explained, did I have random samples at any stage -- I didn't do that, but I would speak to him on a regular basis about firearms certificates that came through.

And presumably you would have been able to form a view as to the capabilities of the officer? - Yes.

And if that officer enjoyed your confidence then presumably the need to carry out sampling would diminish? - Yes. I was confident having/

having spoken to him on a number of occasions about security and types of weapons used that his knowledge gave me confidence in what he was doing.

His knowledge may be one thing but his thoroughness may be another. Was that something you were also confident about? - Yes.

I take it that throughout this period which we have been examining today your actions would have been in accordance with the normal procedures set down by the Force? - Yes.

Some question arose in relation to the difference between competition and target shooting. I confess I know virtually nothing about the handling of firearms and competing in competitions. Could it be the case that if one is competing in some form of competition such as at Bisley for a particular discipline that the weapon which one is using, the gun which one is using, requires to conform to certain prescribed rules? - Yes. It is my understanding it is different disciplines using different weapons firing at different targets.

Might it be the case -- and please feel free to disagree with this -- might it be the case that the reason why the more sophisticated of the two weapons is being used for target as opposed to competition shooting, was that the rules for the particular discipline did not permit the more sophisticated weapon to be used? - That is certainly one contention, yes.

I suppose the other possibility of course might be that when completing the RL3a which was D65L they just got the weapons the wrong way round? - It may be. I don't know.

That would be a possibility though? - It could be a possibility.

And it would be an explanation for what was thought at one stage to be perhaps a conundrum? - Yes.

You were asked some questions about your part in the renewal of Mr. Hamilton's licence in 1992. I would be right in thinking, would I not, you did not actually sign his firearms certificate in/

in 1992? - That is correct.

I think if we look at D87L, which is the firearms certificate which was issued, you see the date on that is 17th February, 1992? - Yes.

And the signatory is Mr. John Adamson? - Correct.

And presumably he too would have to exercise his mind as to whether or not he could append his signature to the certificate before doing so? - Yes.

And he would take into account the knowledge he had at the time before the certificate was issued? - Yes.

And, generally speaking, is that the reason why we find a number of signatures on various forms of RL3a all the way through, it goes up the ranks, and each person who signs it has an opportunity to comment if they consider there is anything adverse in relation to the application? - Yes.

BY LORD CULLEN: Just one matter before you are re-examined by Mr. Bonomy: you were looking at the guidance which was issued by the Home Office. If you look at paragraph 6.7 it points out that the Chief Officer of the police has to satisfy himself that the applicant has a good reason, and you will see that good reason applies not merely to the firearm but also to the ammunition in respect of which the application is made? - Yes.

I think you would have seen the guidance goes on to indicate that good reason applies to the number of rounds of ammunition to be held? - In that section.

If we go on to Section 6.36, for example, that was referred to you by one of those who was cross-examining you? - Yes.

So is this right then, putting these two things together, the Chief Officer of police has to be satisfied that there is good reason for the number of rounds of ammunition which are proposed to be held or acquired as the case may be? - Yes.

When/

When it comes to, for example, a renewal application how is it, by what method is it that it is found out that there is good reason for the number of rounds of ammunition to be held or as the case may be acquired? - Again the enquiry officer would be the person who asks specifically, did he propose in the lifetime of that certificate to purchase ammunition up to those amounts.

And if he was aware -- as I assume he would be aware -- of what was shown on the existing certificate as to the amount of ammunition that had been purchased commercially, and it appeared to be very little indeed, would you not expect him to be asking for some explanation as to the situation bearing in mind the good reason had to be demonstrated? - Yes.

RE-EXAMINED BY MR. BONOMY: Following on from that, Mr. MacKenzie, could you have D65L in front of you which is the application for variation FA43. It is actually disclosed in that application in 1987 that he is in possession of 100 rounds of 7.62 calibre ammunition? - Yes, that is correct.

Did he have a weapon he could use for that? - No.

But he was seeking one? - Yes.

Would you have a look at the renewal for 1992 which is D83 (FA55). He still declares 100 7.62 rounds? - Yes, that is correct.

And hasn't acquired a weapon? - That is correct.

I assume the good reason for having this must be an intention to acquire the weapon? - Yes.

You said to Mr. Gibb that the role you played in 1992 was different from 1989. I know in theory there is a difference and there are missing personnel between you and the enquiring officer, but in fact it was established earlier that you really didn't do anything different between 1989 and 1992. Your role in fact was the same? - The role is different in that I now speak to the enquiry officer about any aspect that came up, as opposed to 1989 when any questions on the enquiry side would be dealt/

dealt with by the operational officer.

But there is no sign you did ask the question in relation to the 1992 renewal? - No.

You have no recollection of doing so. Given the various questions you were answering of Mr. Taylor about your confidence in the enquiry officer and so on, were you speaking about one particular officer? - Yes, the enquiry officer -- there is only one to do renewals.

That is Mr. Lynch? - Yes.

So this question was related really to the period after 1989? - Yes.

You were asked also by Mr. Gibb about the photographs of the families with the guns and in regard to the guns being in the house. What is actually wrong with that? - About taking guns to the house? My understanding, although it is based on knowledge going back, would be that guns should be kept secure unless they are going to be used.

So they should not have been taken out in that household? - No.

Is that sort of behaviour in practice a ground for considering revocation? - I think the whole circumstances surrounding it would be examined to see whether or not it was serious enough to warrant revocation.

In the course of your time as Chief Inspector in charge of this procedure did you actually have occasion to recommend revocation of firearms licences? - Yes.

On a number of occasions? - Perhaps a handful each year.

So you are speaking from direct experience? - Yes.

Mr. Gibb also asked you about your view of Chief Inspector Hughes' investigation, and some question arose about whether Hughes had actually himself experienced Hamilton's reaction to stress. At page 900 of the transcript he was being questioned/

questioned about that and one question he was asked was, "Did he appear to be somebody who was able to cope with a stressful situation?" and the answer Mr. Hughes gave was, "I got the impression on dealing with him on a number of occasions that he was actually quite angry when I was speaking to him, but he came across as quite calm underneath, so in that respect I suppose he was coping: and I don't under-estimate the job of having to look after so many boys on his own. At one point during the course of the week he evidently lost control to a degree, but I mean I don't know, he would maintain that he was acting in loco parentis, and that he was administering discipline and chastisement which was necessary to control a group of children such as the one he was having to care for. And it may well be the case, and obviously was the case, that he was maintaining at that time that he was exercising control and not in effect losing control".

12.20 p.m.

MR. TAYLOR: Sir, I wonder if it might be fairer if the witness actually had the passage before him? Presumably Mr. Bonomy is now going to ask him a question based on that fairly lengthy passage he has read out.

LORD CULLEN: Yes. Perhaps in the meantime we could try and straighten out what seems to be going wrong with the sound system.

RE-EXAMINATION CONTINUED BY MR. BONOMY: Now, it does indicate some direct dealings between Hughes and Hamilton, but that is the extent of it, I think. Can you tell me whether that makes any difference to your assessment of his fitness to continue to hold a firearm certificate? - No -- reading that, as I am reading it just now.

I think that may be what Mr. Gibb had in mind when he was referring to direct dealings between Hughes and Hamilton, but that makes no difference to your view? - No.

Now, can I ask you to look at the Guidance document, which is D1? You were asked to look at 6.8, letter J, and the part about "Chief Officers will wish to pay regard to the risks attendant upon unnecessarily large quantities of ammunition being held on private premises". Do you see it goes on "Where larger quantities are authorised, particular attention must also be given to the security arrangements"? - Yes.

Which suggests perhaps that the word "risks" in the previous sentence is wider than simply security arrangements. What risks do you think are envisaged there? - Well, reading it here, I mean, I read it as risks attendant on the ammunition being held on the premises, and I would equate it to the security and to the unauthorised access to or theft of the ammunition.

So the last sentence is rather curiously worded in these circumstances, "Where larger quantities are authorised, particular attention must also be given to the security arrangements", as if the previous sentence had something to do with matters other than security? - I don't know about that./

that.

Now, can you look at 6.9 while you are there. Do you see on the first line the first sentence provides: "In deciding whether a person can be permitted to have a firearm or ammunition without danger to public safety or to the peace, the main consideration is his character"? - Yes.

That is your understanding, is it, of the approach that ought to be taken? - Yes.

And that is before we ever get to questions of "Otherwise unfit to hold a firearm", we are already, in relation to public safety, and without danger to the public peace, obliged to consider, as the main consideration, the man's character? - Yes.

Can you look now please back at 6.36, and just confirm to me that that is concerned with no general arbitrary limits being applied on considering the various things referred to there; is that correct? - No general limit, yes.

Arbitrary limit? - Arbitrary limit, yes.

Why do you say that that means that if a person says he intends to acquire an additional firearm he has got the full period of the forthcoming licence to acquire it? - Because once it is granted it is on his certificate. He can then, throughout that period, make his decision when he is actually going to buy it, depending on the amount of money he has, or the particular weapon he wants to buy.

That seems to me that you were employing a general arbitrary limit, which was a generous one, which was the full period of the licence. You weren't actually applying your mind to it at all, you were applying a general arbitrary limit? - Well, I know of no way in which you can authorise someone to purchase or acquire a weapon and then during the course of that licence decide that he hasn't purchased it.

You can't be sure before you actually grant him the authority at all that he is going to do/

do it within a certain length of time? - Well, you have to take the applicant's word that that is what he is wanting to do.

You wouldn't regard that as a condition you could impose? - I wouldn't, no.

And Mr. Taylor I think asked you what in that connection was meant by the expression "The good reason", or "the good reason requirement" in regard to proposed acquisitions of firearms. What do you regard, for a marksman, as being the normal good reason you would expect him to advance for wanting to acquire another weapon? - He may require a duplicate calibre, you mean, or another weapon?

An additional, a different type -- or a duplicate calibre, either. What would you normally expect to be advanced as a good reason? - Well, if it was a different calibre, that he wanted to start participating in shooting at targets in a new discipline.

You don't think what you should be looking for to satisfy the test of "good reason", is an intention to actually participate in or take up the sport within a certain time limit? - Going by the Guidance at that time, as I understand it, the good reason was simply that he had the opportunity to take up the use of the weapon.

Now, a number of questions were asked of you at the end about people exercising their minds on applications, and one of the answers you gave was that the Deputy Chief Constable, when he had the form placed in front of him, would be expected by you to exercise his mind on it, which I think is an entirely different answer from the one you gave me about the role of the Deputy Chief Constable. Can we be clear about what you would expect the Deputy Chief Constable to do, once you have passed on the recommendation that it be granted? - Yes. I would expect the Deputy Chief Constable to read through the completed firearm certificate, look at the weapons possessed, the weapons authorised to be purchased, the ammunition, and then sign the certificate if he is satisfied with that.

Does he get the application form? - No./

No. He only gets the firearm certificate.

Does he get the RL3a form? - No.

Does he get the file? - No.

Unless he asks for it? - Unless he asks for it.

And in some cases I dare say he will? - Yes.

THOMAS BARKER (39), Sworn:

EXAMINED BY MR. BONOMY: I am presently the Deputy Director of Junior Training at the Scottish Police College in Tulliallan.

I take it you are a policeman? - I am indeed. I am a Chief Inspector.

Are you a Chief Inspector in a particular force or are you a Chief Inspector in the police college? - No. I am a Chief Inspector with Central Scotland Police, but currently on secondment to the police college.

And how long have you been Deputy Director of Junior Training there? - Since December 1993.

How long in the police all together? - I am in my 19th year in the police.

At the police college do they run any courses to train police officers in firearms administration? - There are no courses specifically to train in firearms administration, but as part of the basic training of new recruits to the police there is an element of training in firearms administration, yes.

Do all new recruits to the police force go through training at Tulliallan? - Yes, all new recruits./

recruits.

And do they all have to go through the course you are talking about? - They do indeed, yes.

Is there no way of avoiding it by joining at a particular age or something like that? - No. I know of no means whereby it can be circumvented.

Now, how long has this course included any training in firearms? - My understanding is since training started at Tulliallan, which was 1958.

Well, when you joined the police did you get some training in firearms? - I did, yes.

At Tulliallan? - At Tulliallan.

Now, can you tell me anything about the stage in the training of a police officer at which they go on this course? - The initial course the police officers go on is called the basic course and would generally be undertaken in the second week of police service. So officers coming on the course have no operational experience at all.

How long does it last? - It is a 10 week course at present.

How much of it is devoted to firearms? - In total five 50-minute periods will be devoted to training on firearms.

What sort of things are officers trained in? - Initially just a general introduction to firearms, what a firearm is, and thereafter we move on to the certification, for the Section 1 firearms and shotguns, and we also cover offences involving firearms.

Would you look please at Production D7, which no douby has another number. It is also known as the Junior Division Basic Training Course, lesson notes, and is FA154? - Yes.

Now, what is that document? - The document here is a section from a more comprehensive document,/

document, which is issued to all basic students on arrival at Tulliallan for basic training.

And is it used in the course of the training course? - It is indeed. It is the basis of the firearms training.

And the section we have got relates to what? - The section we have here is the section that covers firearms on the basic training course itself.

And we see it is amended as at 9th October 1995? - Yes -- well, the first part is. Different parts have been amended at different times.

So this is the up-to-date version? - This was the most up-to-date version. It is constantly being updated. There is a new version to be issued in August this year. It is currently being updated.

I see it says "A computer assisted learning package is available in this subject"? - That is correct.

Would that give us more.....?
- The computer assisted learning package is for students use in their own time in the evenings, whereby there are graphics, etc., available on the computer package which will further expand on what is here; and there is also a question and answer session whereby the students can test themselves on what they have learned.

Do they have to pass a test on this at the end of the course? - There is an examination halfway through the course and at the end of the course, in which firearms will be incorporated, with other subjects.

Can I ask you to look at the introduction, and could you read out the first paragraph of the introduction please? - "Firearms are used for a wide variety of lawful purposes such as for sporting purposes, for pest control, and in connection with rifle Clubs etc. The law does not attempt to curtail these legal activities, but it is necessary to have some form of control over lethal weapons/

weapons which can be used for criminal purposes. The Firearms Act 1968 and the Firearms (Amendment) Act 1988 controls the possession and use of firearms and ammunition in Britain". Do you wish me to continue?

No, no, that is what I wanted you to read at the moment. We also have the Firearms Act 1992 now. You haven't got into that? - No, it is not referred to in this particular one.

This is basic stuff; is that right? - It is, it is basic training.

Can you confirm please that there is a section dealing with safety precautions for handling firearms? - There is, yes.

And then can you go to "Practical Considerations", and read the first two paragraphs of that section? - "When dealing with firearm inquiries all these circumstances must be considered, and an element of caution used. The safety of yourself and others if of paramount importance. If an officer is dealing with a routine firearm certificate renewal inquiry, it may be prudent to allow the owner of the weapon to break and prove it, and indicate identifying marks/serial numbers".

Now, I think it goes on to set out the definition of a firearm and to give examples of firearms? - It does, yes.

Including prohibited weapons? - Yes.

And it then goes on to give examples of ammunition? - Yes, it does.

Again all fairly basic training? - Yes, very basic.

And then there is a section "Firearms: Certificates"? - That is correct.

Can you read the first paragraph of the introduction to that section please? - "One of the ways that the Firearms Act 1968 and the Firearms (Amendment) Act, 1988 controls the possession and acquisition of firearms is by requiring persons to hold/

hold a valid certificate authorising the possession of particular types of firearms and ammunition. The type of certificate required, if any, depends on the type of firearm concerned".

I think it then goes on to deal with the difference between firearms with rifled barrels, shotguns and air weapons? - Yes it does.

And is there then a section telling the student what Section 1 of the 1968 Act is all about? - There is, yes.

And then if we go over the page is there a section headed "Grant & Renewal of Firearms Certificates"? - That is correct.

Could you read the first part of that down to the end of the bit that is numbered "3"? - "Before a person is granted a firearms certificate, or before the certificate is renewed, the applicant must satisfy the Chief Constable of the following:-
(1) he has good reason for possessing or acquiring the relevant firearm and ammunition -- e.g. member of a shooting Club, permission to shoot game/vermin over suitable land, etc.; and (2) he can be permitted to possess the firearm or ammunition without endangering public safety or peace -- e.g. he is of good character, etc.; and (3) he has paid the appropriate fee for grant or renewal".

Now, can you just look through the rest and confirm to me that that is all that is said about what the test is for the Chief Constable in deciding whether an application for a firearm certificate should be granted? - Yes, that is all that is said.

And it doesn't say anything about not granting it where the Chief Officer has reason to believe that the person is a prohibited person? - No, it does not.

Or/

Or if he has reason to believe he is of intemperate habits or unsound mind? - That would be covered in the section, the good character section. It doesn't actually say it in the notes but that would be expanded on in the class. The notes only put the basis.

Do you do this particular class yourself? - No, I don't.

And it doesn't actually say anything about the general proposition if for any reason he is unfitted to be entrusted with such a firearm? - No, it does not.

Now, I suppose students will rely to some extent on the notes that are distributed to them? - They do, yes.

Do you not think it might be a good idea to look at updating this aspect since there are not too many categories to be covered as a basis for not granting an application? - The notes are only a base for the classroom instruction which is expanded on by the instructor and he does that in conjunction with the Scottish Criminal Law Manual.

And does it contain the full Firearms Act? - It does not contain the full Firearms Act, no, but it is more comprehensive than the notes you have in front of you.

Will it contain sections dealing with applications for the grant and renewal of firearms certificates? - I think it concentrates mainly on offences.

Now, I think this document goes on to deal with the sale and transfer of firearms? - It does, yes.

And then it goes on to deal with shotguns which we don't need to look at here today. Then it goes on to deal with circumstances in which an officer can insist on the production of the certificate, is that right? - That's correct, yes.

There is then a section on the exemptions/

exemptions from requiring a certificate? - That is correct.

And then examples of the forms which are used, is that right? - Yes, that is correct.

And that includes the schedules to the form which are important? - It does, yes.

Or tables rather? - Tables, yes.

Is there then a section dealing with firearms offences? - That is correct.

And does that complete this extract from the training notes? - It does, yes.

Now, that course you have told us all officers who join the force require to undergo. Are there any other courses? - There would be the advanced course after one year of police service. The officers would return to Tulliallan for further instruction.

Is that compulsory? - It is compulsory, yes.

Can you look please at FA155 which is also D8? What is that document? - That is an extract of the advanced training course notes which would be issued to students on arrival to undertake the advanced training course.

Is that again on firearms? - Yes, the section on firearms deals with miscellaneous aspects.

BY LORD CULLEN: Look at page 5 if you would please of the advanced manual. It deals there I see with revocation? - Yes, my lord, it does.

It says "A chief officer of police may revoke a firearm or shotgun certificate of a person living in his area if the person has become:- (l) a prohibited person; or (2) a danger to public safety". Do you see that? - Yes, my lord.

Have you had occasion to compare that language with the provision of the Act which deals with/

with revocation of a firearms certificate? - No, I have not.

EXAMINATION CONTINUED BY MR. BONOMY: Well, that is really the same point as the one I was making to you earlier. You will see that there are only two categories mentioned in the section you have been referred to? - Yes.

Can you just read out what these are? - "A chief officer of police may revoke a firearm or shotgun certificate of a person living in his area if the person has become:- (l) a prohibited person; or (2) a danger to public safety".

Now, the additional features that relate to revocation, while not expressed the same way, are again to do with the chief officer's satisfaction that the holder is of intemperate habits or of unsound mind or otherwise unfitted to be entrusted with such a firearm and again we see no reference to this? - That would be covered in the context of the lesson under the section of danger to public safety.

Now, do you actually instruct that particular group? - I don't, no. I have no instruction role at all. I purely manage the training.

Is there someone specialised in firearms who instructs both these courses? - At any given time there will be sergeant instructors who specialise in firearms and who will instruct the basic and advanced.

Now, the lesson notes this time deal with different subjects largely from the earlier one, is that right? - This time on the advance course concentration is on firearms dealers which was not touched on at all on the basic training.

Well, I see mention of dealers but it does say "Dealers and miscellaneous aspects" and after dealing with dealers it actually quite quickly moves to other things, doesn't it? - It does.

It deals with foreign visitors? - Yes.

Borrowing rifles on private premises? - That/

That is correct.

And then there are the particularly important criminal sections on the criminal use of firearms? - That is correct.

Then it actually sets out what prohibited persons are? - Yes, it does.

And then revocation and search warrants. So it covers a wide variety of subjects? - It does, yes.

Now, can you tell me how long the course is this time? - On this occasion it is an eight week course.

And how much of the time concentrates on firearms? - On this course only three periods would concentrate on firearms.

And each how long? - 50 minutes long.

In view of the additional criteria for revocation, do you not yourself find it at least unfortunate that the section to which Lord Cullen drew your attention is restricted to prohibited persons and danger to public safety? - It could be expanded upon in the notes.

Well, I appreciate that would happen but I think you have already told us that students will pay considerable attention to these notes. They will remain with them perhaps longer than the spoken word? - I accept it, yes, that that may be.

And it may well be worth considering whether there could be greater specification in the notes, bearing in mind there only are I think five categories in there including the two here. Do you not think that is worthy of consideration? - I think it could be worthy of inclusion, yes.

Do you have any input into the drafting of this document? - I would myself authorise any changes to it. There is a unit specifically for drafting changes but they would have to be approved by myself before circulation to staff.

In view of what has been said to you this/

this morning, do you think it would be an idea to put Sections 27 to 30 of the Firearms Act l968 as amended or whether the two Sections we have looked at, the section in each relating to grant and renewal in the one instance and revocation in the other, might require revisal? - I think it is worth consideration to expand on it but I am satisfied those points are covered in the course of the instruction.

Now, are there any other courses at Tulliallan relating to firearms? - No, there are none at all.

CROSS-EXAMINED BY MISS DUNLOP: If I can take you back to D7. That is the basic training notes? - Yes.

On page l there is a section headed "Safety Precautions" and you were asked about that. Generally speaking, these five safety precautions are alerting readers to the fact that guns can cause death or injury by accident, aren't they? - They are, yes.

So they are saying things like "Treat a weapon as loaded and don't touch the trigger" but at the heart of that section in block capitals we see the slogan "Guns don't kill people. People kill people". Do you recognise that slogan? - I am familiar with it. I have been familiar with it since the start of my police service.

Is it fair to say that it is often quoted by members of what might be described as the gun lobby? - I have heard it quoted by many people but, yes, I think that would be fair comment.

Why is it there? - It is simply a reminder to students that it is people who kill people and therefore what comes after certification etc. is important. It is important to know about the mechanics of the firearm and about their performance but certification etc. is of more importance as well.

But the points immediately above that all relate to treating guns with caution? - The safe handling of weapons and the careful handling of weapons.

CROSS/

CROSS-EXAMINED BY MR. GIBB: Perhaps I can just clarify one point raised earlier. In your previous incarnation were you involved with firearms? - Never at all.

I think if you look at the initial guide to which you made earlier reference, which is D7L, there are I think l5 pages of it and then it goes to a page headed "Firearms: Offences"? - Yes.

And that quotes Section l9 of the Act and says that it is an offence to carry either a loaded shotgun or a loaded airgun or any other firearm loaded or unloaded if the person has suitable ammunition in his possession? - Yes, that is correct.

I wonder if you could look at D79L again please. That is the photographs. I think we have heard evidence that Hamilton took these two weapons to a house in Linlithgow but we have no evidence that he had ammunition with him and we have certainly had evidence that the weapons were unloaded. Would the information that he had done such a thing cause you any concern? Is that something you might draw your pupils' attention to as being something which is not conduct which you would expect a firearms holder to carry out by carrying weapons on a public service vehicle or a train or a bus, even unloaded? Is that something which would cause concern to you? - I would think it was simply an incident worth reporting and for consideration thereafter.

I appreciate you were not involved in the day-to-day administration but do you think that such behaviour might be relevant to the question of renewal of a firearms certificate? - I think depending on the circumstances it would be relevant. I don't know the lead-up to why the weapons were there or what the purpose was, what the lead-up to the weapons arriving at the house was.

All we know is they were taken to show the children. Would that cause you concern? - (No answer).

MR. TAYLOR: Well, sir, with the greatest of respect we know an awful lot more than that and I think if Mr. Gibb wants to pursue that further/

further he must in fairness put the whole facts to the witness.

MR. GIBB: I don't need to pursue that any further.

RE-EXAMINED BY MR. BONOMY: Do you know the source of that slogan "Guns don't kill people. People kill people"? - No, I don't.

AUSTIN FISHER (38), Sworn:

EXAMINED BY MR. BONOMY: Are you a Sergeant with Central Scotland Police? - Yes.

Now, you are in Police Headquarters? - That is correct.

How long have you been a police officer? - 20 years.

Your present responsibilities are what? - I am responsible just now for the officers' safety programme for the force training officers and in that also have involvement with probationary training and training outwith probation as well.

How long have you been involved in a training role? - Four years at local level and I did three years at the Scottish Police College.

When were your three years at the Scottish Police College? - l989. For three years thereafter.

Which officers is it you actually train? - Just now personally I train officers outwith probation.

Who are on probation? - Outwith probation.

And have you previously been involved in the training of probationary officers? - I have, yes.

Now/

Now, how long does a new recruit to the police force remain a probationer? - For two years.

During that period does the officer have to attend the Police College at Tulliallan? - He does, yes.

How many courses does the officer have to undergo there? - He will do two courses.

During those two years does he get further tuition or training in your Force Headquarters? - Yes, he returns to us for training.

In relation to firearms is there any training during that two-year period? - There is, yes.

What is the nature of that? - The students do a two-period input on firearms legislation and they also have a practical exercise which is over three periods. In addition to that he will also have another two-period input by trained firearms officers about firearm safety.

Now, is any part of the training they get related to the procedures to be followed when acting as an enquiry officer in relation to an application for grant, renewal or variation of a firearms certificate? - Yes, that is actually done by the Firearms Registration Department.

Who in there would give training? - Mr. Lynch and Miss Johnson

Now, for probationary constables are there set lessons that are instructed by these two persons? - They do revision to try and bring it back down to local level from the Scottish Police College.

Does that involve a formal class session? - A two-period input, yes.

Now, what is the on the job training that the officer might have in carrying out that particular enquiry? - When they start probation they are allocated a tutor constable to work with them for about l8 months to two years and during that/

that period if they have any firearms enquiries they would follow them through with the tutor constable.

And if they don't have they won't actually get any direct experience in carrying out that type of enquiry? - That could be the case.

Is that likely to be the case? - It is unlikely. The probationers do spend a period in town centres such as Stirling and Falkirk but they do migrate to the small stations where there is more likelihood of firearms enquiries.

During the two-year period as a probationer, how much of the time is spent actually on the job, either on the beat or in a vehicle or in the office just doing work or watching the work of other officers? - If you take into account the l6 weeks at the Scottish Police College and the six weeks with us over the two years, the remainder is on operations.

What tests do probationary constables undergo before the end of the probationary period? - They will have a written test. They have tests at the end of each visit to us, the six-week course, but before they are confirmed they will have to undergo a test at the Training Department covering the subjects.

That is the Central Scotland Training Department? - Yes.

Does that test cover firearms at all? - I believe it does, yes.

You are no direct knowledge of that? - No.

And did you say there are other tests in the course of the six-weeks training they get? - Yes, at the end of each module each week they are tested not just on what they have been taught that week but again on general knowledge.

No cross-examination.

After/

1.50 p.m.

After an adjournment for lunch.

LORD CULLEN: Before we pass to the next witness there is a statement I would like to make in regard to certain matters. At the Preliminary Hearing on 1st May I invited written submissions on various topics and I stated that I would select what should form part of the evidence, that is to say the written evidence for the Inquiry.

I have considered the written submissions which I have so far received and a list of the organisations and the persons whose submissions have been selected for this purpose has been prepared. This is sub-divided by reference to topics to which they relate. Copies of that list along with a full set of copies of the listed submissions are now available for inspection by the public and the Press and they are in boxes at either side of this hall. I will, of course, be prepared to consider additional or supplementary submissions as the Inquiry proceeds where these are considered necessary.

I should add this, that in view of the range of subjects which some of the submissions have addressed I should point out that consistently with my terms of reference I am concerned with issues which arise from circumstances leading up to and surrounding the events of the 13th March, 1996, and accordingly I will be concentrating on matters which have some tenable connection with those circumstances.

Now, Mr. Bonomy, can we resume.

ANN KEENAN (42) Sworn

EXAMINED BY MR. BONOMY: I think you work as a store detective? - That is correct.

You were formerly a police officer? - Yes.

With Central Scotland? - Central Scotland,/

Scotland, formerly Stirling and Clackmannan.

How long were you in the police? - I was in the police a total of six years.

Over what period? - 1974 to 1980.

During that period did you deal with one of Thomas Hamilton's applications for a firearms certificate? - I believe that is correct.

Would you look please at two documents which are FA1 and FA2, D22 and D23. Is one of these an application for a firearms certificate that you dealt with? - Yes.

I think it is dated 5th February, 1977; is that right? - Yes.

And is the other document that you have been given the RL3a form relating to that enquiry? - Yes.

Does it show that you were the enquiry or reporting officer who signed it? - Yes.

Do you have any direct recollection of this at all? - None whatsoever.

Can you remember what your duties were in those days in relation to this type of inquiry? - I was based at Stirling Police Office where I underwent general police duties which would include firearms licensing inquiries.

And this one was.....? - I am unable to recall this one. It was one of the routine duties I did undertake.

And so this would just be one in the course of your service? - It would be.

If you look at the RL3a form you will see there are six questions to be answered? - Yes.

And each one has been answered Yes? - That is correct.

The second of these questions is, "Does the applicant have a good reason for requiring the firearm/

firearm or ammunition for which the application is made"? - Yes, I can see that.

Can you tell me how you would go about in those days dealing with that particular question? - I think in the application it asks as well why he has reason for it, and on the application form he said he was intending to use it at Callendar Rifle and Pistol Club, or other suitable club, firing ranges. I would think -- it is difficult to recall -- I would surmise I would be in touch with one of these clubs to find out if Mr. Hamilton had in fact made application for the club.

Is that how you would normally do that job, dealing with question 2? - It is nearly 19 years ago. I would suppose that is how I would have done it.

Have you no recollection that was perhaps the way you did these generally? - We would make inquiry at the clubs to find out if the applicant had in fact made application with it.

In those days can you remember whether the police kept a list of club members? - No, I am unable to recall that.

Was there a Firearms Department in those days in Central Scotland Police? - I am unable to recall that.

That was in the very early days of the Central Scotland Police? - Yes, it was.

Have you any recollection of how important the task of the reporting or enquiring officer, how importantly it was regarded by the officers further up the chain to whom the form was submitted? - I would think any application for any form of firearm would be dealt with as quite an important document.

Were you aware how much weight was placed on the enquiry or enquiry officer? - Yes.

What is your understanding of the weight that was placed on that? - If I had any problem with that I would put it up to my supervisory officer and seek advice.

Did/

Did you realise that those superior to you relied on you carrying out the necessary and appropriate inquiries because the answers to the questions didn't really give any indication of the degree to which the matter had been investigated? - I would have investigated according to the form, and any problem I had I would have referred it to the supervisory officer, but I would have made any enquiry that was relevant according to the application form.

Did you expect any check on your work to be done? - I would presume the supervisory officer would have looked at the work I had done, and if he had any problem he would have got back to me.

Seeing the form in front of you, does it make any difference to your recollection? - No, none.

You can't remember the incident at all? - No.

Did you ever encounter Thomas Hamilton to your knowledge apart from that occasion? - Not personally, no.

Had you heard about him? - I had.

Is that because of where you live? - Yes.

Before this investigation by you had you heard of him? - No.

The second question on the form is "Is the applicant a suitable person to hold a firearms certificate"? - Yes.

Which is answered Yes? - Yes.

Was your state of knowledge of Hamilton at a later stage such that you would have answered that question any differently? - At that time he in my opinion would have been a suitable person if I had answered that Yes.

But some time later, when you came to know or heard of him, did you know of anything that would have led you to answer the question at a later stage/

stage No rather than Yes? - Are you referring to because I live in Dunblane and there are all sorts of innuendos.....

I was wondering about the state of your knowledge because you have heard things about him? - In answer to that, it was all innuendo, it was all rumour, there was no fact.

Were you ever in possession of reliable factual information that suggested he was not a suitable person to have a firearms certificate? - No, never.

No cross-examination.

WILLIAM STEWART WISDOM (57) Sworn

EXAMINED BY MR. BONOMY: I think you are a retired police officer? - Yes.

And you live in Alva? - Yes.

And you work as an area manager? - Yes.

What rank were you when you retired from the police force? - Chief Inspector.

When was that? - It was on 30th November, 1990.

How long did you serve as a police officer? - Just short of 32 years.

Now, would you look please at certain documents relating to your involvement in Hamilton's firearms applications. First of all, at FA9. What is that document? - This is an application for variation of a firearms certificate.

That is D29. Would you also have in front of you FA10 which is D30. Is that the LR3a form which relates to the application for variation? - Yes. The dates appear to coincide.

The date of the application for variation is 19th August, 1977? - That is correct.

The/

The dates around that time compare with the RL3a form? - That is correct.

And the words "grant" and "renewal" have been taken out of the RL3a so that "variation" remains in? - Yes.

Do we see your writing on that document? - Part 7 is my writing.

7 is where it is stated to be additional information? - That is correct.

You have written something that you considered important I think at the time. Can you tell us what you have written? - Paragraph 7 says "Hamilton seen and warned verbally by me on 26/8/77 that he should not have acquired a .22 Smith and Wesson revolver without firstly applying for variation of his certificate. Hamilton fully accepted responsibility but states he was misinformed by the firearms dealer in Glasgow regarding proper procedure. Existing certificate will now require variation to delete reference to .22 Bostock pistol K3573P. This matter was reported on by PC556 (Anderson), Stirling, at which time (6/4/77) the necessary amendment should have been made to this certificate".

Now, tell us what that was all about? - Well, I don't have the firearms certificate but it would appear that at the time I was checking these documents the applicant had disposed of a weapon and acquired another weapon in its place without the proper variation procedures having been carried out.

So you warned him? - Yes, I did.

What did you say to him? - Quite honestly, I have no recollection of this event whatsoever. But having stated that in paragraph 7, I can still more or less imagine what I would say. I don't even recall where the warning took place but I would suspect it would be at the police office.

Do you remember other occasions when you had to warn people about their behaviour in terms of their firearms certificate? - I don't recall specific instances but I am certain that this was not a unique or only occasion.

So/

So in a situation like that what is the nature of the warning that is given? - Well, it is more or less a re-appraisal of what the requirements are under the Firearms Act and the proper procedure relating to acquiring or disposing of weapons, and it should be made clear to the person who has defaulted what the proper procedures were.

What rank were you then? - I was an Inspector.

As a result of this you were happy that the application for variation should be granted? - Yes. I saw no other reason that the application was faulty.

The end result was that he had a different .22 weapon from the one he originally got? - Yes.

Would you look at one other document in that same connection, it is not one I have got a number -- it will be FA7, which should be D28. It should be a memo from Constable Anderson to the Chief Superintendent dated 6th April, 1977. Do you have that? - Yes.

This is a note from Anderson to the Chief Superintendent dated 6th April, 1977. Anderson is the officer who investigated this matter; is that right? - Yes, that would appear to be the case.

It says there that Hamilton stated to him he had sold the .22 Bostock and purchased a Smith and Wesson .22? - Yes.

That is consistent with what you have reported on the other form? - Correct.

It says that he produced a receipt, and then Mr. Anderson says at the second-last paragraph "I checked Hamilton's firearms certificate and found it to be in order and did not require to be amended". That is not correct, is it? - It is not, no.

But that would explain why in April, this having been discovered, Hamilton did not apply for a renewal or variation of his certificate? - I am thinking that it would have been a retrospective variation/

variation in any event.

Indeed, but it would have made sense for it to be done in April rather than August? - Yes, it would have.

And do we have here a possible explanation for it not being done in April? - An oversight is all I can put that down to.

It appears to be the officer didn't understand what you needed to do with the firearms certificate when you got a new weapon? - Yes, I would accept that.

Now, in August, 1977 what was your role in regard to firearms? - My role as the duty inspector would have been to check and examine applications presented through the chain of command by the enquiry or reporting officer. Normally it would be carried out by a constable initially, checked for accuracy by a sergeant, and then further checked by the duty inspector; that would have been my role.

No cross-examination.

LESLEY BELL (35) Sworn

EXAMINED BY MR. BONOMY: I think you live in Stirling? - That is correct.

A former police officer with Central Scotland Police? - Correct.

During which period did you serve with the police? - I served from 1981 until March of last year.

And were you a constable throughout that period? - I was, yes.

I think you dealt with one of Hamilton's application in 1986? - That is correct.

Could you have before you FA34 and FA35 which are D51A and D52. Are these the applications for renewal in January 1986 and the RL3a form dealing/

dealing with the renewal? - Yes.

Those days I think you signed Lesley Johnson? - Yes.

Is it also your signature as reporting officer on the RL3a form? - It is.

Dated 12th January, 1986? - That is correct.

Do you remember dealing with this application? - I am sorry, no, I have no recollection.

Do you remember meeting Thomas Hamilton? - I do not, no.

In latter years after this date did you come across him at all? - No.

Did you ever hear things about him? - Not that I am aware, no.

Part of the application on this occasion was to acquire an additional weapon, a 7.62mm rifle and a 9mm pistol. You see that? - Yes, I do.

And at that time he had a pistol, a 9mm revolver, a .357, a Browning rifle? - That is correct.

Do these features of the application help to remind you of dealing with this at all? - No, I am sorry, they don't.

In the course of your service did you deal with a number of firearms applications? - Yes, I would have done.

Can you remember how you dealt with the question of the good reason any applicant had with the issue or whether or not he should be authorised to acquire additional weapons? - If it appeared that he had good reason, for example, he was a member of a gun club, perhaps wanted an increase in weapons for target shooting, then that was quite likely, that was a good reason.

What would the position be in those days when/

when he was asking for authority to have an additional weapon which was of the same calibre and type as one of the other weapons he had? - That wasn't unusual.

Have you any understanding of the circumstances in which people would wish to have two more or less identical weapons? - Not being a person who shoots regularly I suppose if you are having a collection it would be quite usual to want more than one.

BY LORD CULLEN: Why more than one? - Well, people tend to build up collections.

Just building up a collection? - There may be minor differences perhaps in the way they fire.

EXAMINATION CONTINUED BY BONOMY: Do you remember whether you actually went to see Hamilton's house and his security arrangements? - I don't remember specifically doing so but I would have done.

Was it standard practice always to do that. - It was, yes.

When you did that did you make an appointment to go and see the person? - Yes.

It was never a situation where you would perhaps call in unexpectedly just to see what the normal routine arrangements of the household were? - Well, normally a phone call beforehand to save a wasted journey.

BY LORD CULLEN: Can I ask how much of your work at that stage was concerned with firearms? - It was the usual inquiries. They came up perhaps five or six in the year at the most.

EXAMINATION CONTINUED BY MR. BONOMY: Do you remember whether it was common practice to check up on an applicant's membership of a gun club? - Generally I would have done so, yes.

How did you do that? - If there was a specific club mentioned I would have contacted perhaps the secretary or some other club member.

Was/

Was there any indication in this case of membership of a club? - Unfortunately there is nothing on the form and I can't recall.

BY LORD CULLEN: When it came to a renewal as a matter of routine would you check up in regard to a club if it was mentioned or would you just assume that the situation remained the same? - Generally I would check.

EXAMINATION CONTINUED BY MR. BONOMY: Can I take it that check would be confined to establishing membership, not to the extent to which the individual applicant actually used his weapon? - Yes, it would be establishing if he was a member or not.

CROSS-EXAMINED BY MISS DUNLOP: If I could just ask you briefly: you said not being a person who shoots regularly. Did you shoot at all? - I have done in the past, yes.

So at the time you were making these inquiries were you a member of a gun club? - I shot with the police, at the police ranges during my probation, and I gave it up because I had problems with my ears, but I regularly shot.

So if you were questioning somebody about their shooting habits or something of that sort you would have some knowledge of the.....? - If I thought there was something not ordinary I would have asked other questions and passed it up to a superior officer.

No re-examination.

IAIN HUGHES BINNING (48) Sworn

EXAMINED BY MR. BONOMY: Are you an Inspector with Central Scotland Police? - I am.

How long have you been in the police? - 29 years.

I wonder if you would have three documents in front of you please: FA34, 35 and 36 which are D51a, 52 and 53. You have seen these in the course of the Dunblane Inquiry? - Yes.

Do/

Do you remember the circumstances they relate to? I see the documents in front of me and can relate them to what would have happened in 1986.

Do you remember doing the job in 1986? - No sir.

In those days were you a sergeant? - I was a sergeant in Stirling.

D53, which is AD2a, that has a handwritten note attached. Have you got that? - Yes.

There is a handwritten piece on it addressed to Sergeant Binning? - Yes.

Whose handwriting is that? - It looks like Inspector Marshall I think it is who has initialled that.

What does he say? - "Apparently it is unlikely that a second 9mm pistol will be granted. See Mr. Hamilton and obtain full details of the reasons for requiring two pistols of the same calibre, i.e. why is one not sufficient, and re-submit attached to me ASAP".

This is in connection with an application we have just heard something about from a previous witness, renewal and variation application in 1986? - That is correct.

And it includes a request to acquire or to have authority to acquire an additional 9mm pistol? - That is correct.

And this is a query that is being raised by Inspector Marshall? - That is correct.

What would you then be expected to do about it? - From that note it is asking me to go down and see Mr. Hamilton and ask him why he requires another 9mm pistol.

Is that what happened? - Well, I see from the AD2a on 28th January, 1986 from Acting Chief Inspector Mill, Stirling, it would appear that he has actually carried out that inquiry and not myself.

Could/

Could you read out his response? - This is the AD2a from Acting Chief Inspector Mill, Stirling, to the Chief Superintendent, A Division, dated 28th January, 1986. The memo from Inspector Marshall would appear to have come some time after the 13th January, and it refers to a variation in the firearms certificate granted to Thomas Hamilton, 32 Forth Crescent, Riverside, Stirling, "I refer to the above application in which Mr. Hamilton is applying to vary a certificate to include a purchase of a 7.62 rifle and an additional 9mm pistol. Mr. Hamilton is active in competition shooting throughout the country and it is his intention to purchase the additional weapons for this purpose. The additional 9mm pistol is of a type which is advanced in design to his existing one and includes a weighted handle for greater accuracy. The additional weapon would only be used at recognised ranges for that type of weapon". It is signed by Acting Chief Inspector Mill on 29th January, and on 28th January there is a signature there Chief Superintendent Rattray.

If you go to the RL3a form just after that I think the stamp of Mr. Bell of the Firearms Department is added to the RL3a form? - That is correct.

So it looks as if that information was available when the firearms renewal and variation has been granted on the 30th January? - Yes.

2.30 p.m.

Is your name anywhere on the RL3a? - My name isn't. My signature is on the right-hand side of the RL3a after P.C. Johnson's signature.

Well, does that mean it is in the middle of the page? - It is in the middle of the page. I have initialled this and passed it on.

And what does that signify? - That signifies that I am content with the information that has been supplied by P.C. Johnson to me.

Now, what was the role of you as a sergeant in the context of this inquiry which led to you being satisfied and then applying your initials? - Well, in general terms if someone applies for a firearm certificate or a variation then you assign a constable to that task. When they come back to you, invariably you ask them regarding the security of the weapon, their permission to shoot, where they are likely to shoot, if their reasons for getting it are valid. You ask them to check crime intelligence. You ask to make sure they have checked their previous convictions, since the previous grant. And once you are satisfied these things have been done then you pass it on.

So you go through all these questions with the constable after the constable has done the investigation? - As a sergeant, yes.

Now, going up the chain, who gets it next? - At that time it would be Inspector Marshall who got it. He would be my inspector at the police office, Stirling.

Do we see his signature on it? - No, but we see his initials down below the word "station".

I am missing yours them. Are yours on the right-hand side off the end of my page? - Mine is the squiggle that says "IVPS 130" to the right of the date, dated 12/1/86.

I know it was a silly question for me to ask you, but you have given me the answer. It is off the edge of my page? - I take it yours is a photocopy,/

photocopy, sir?

Yes? - Right.

Anyway, the explanation is under the word "station", which is where I was looking earlier for yours.....? - That is Inspector Marshall's.

What did he normally do before applying his initials to the form? - In general terms he may have come back to me -- he may not. If he had had a query he would have asked me. If he didn't have a query he would have examined it as a normal application, signed it and passed it on.

He wouldn't routinely grill you the same way as you were asking questions of the constable?
- Not necessarily.

Not routinely? - Not routinely. If there is a degree of trust -- which I would have trusted P.C. Johnson to carry out that inquiry, therefore if I asked her "Have you checked for previous convictions?", and she said "Yes", I would accept that "Yes" as being valid.

CROSS-EXAMINED BY MISS DUNLOP: Could you just clarify the nature of the question that you would be asking Constable Johnson? Would you be asking her "What is this good reason?", or "Where is he going to shoot?", or would you just say to her "Have you checked he has good reason and have you checked where he is going to shoot?"? - I can't speak for this one on its own, because I can't remember, but in general terms because it is a firearms renewal and variation we ask these questions as a matter of course when the renewals come through with the certificates.

So it wouldn't be a case of asking her if she had asked the questions, you would pose the questions to her about the reasons and where he shoots? - I wouldn't check the whys and wherefores. I would ask "Have you checked where he shoots?" -- "Yes". "And is that valid?" -- "Yes". And if these questions are answered in the affirmative I would have accepted that.

So for something like the good reason to continue/

continue to possess, and authority to acquire certain firearms, for example, might it be the case that you would simply say to her "Have you checked that?", and she would say "Yes, he has good reason", and you wouldn't probe it any further? - We are speaking hypothetically.

I appreciate that? - If I were to say "Has he got good reason to ask for another 9 mm gun?". And she had said "Yes, it is for a different type of shooting than what his other one is used for", then given that quite often you get this in shooting circles, that they may have more than one firearm because it is a sport with different positions and different targets and what have you, that there would be possibly a valid reason for him at that time possessing that gun, or that extra gun of the same calibre.

But you have explained there is a degree of trust, so if you posed a question to a junior officer like that and she simply said "Yes", then you might just leave it at that, because you trusted her? - Yes.

CROSS-EXAMINED BY MR. TAYLOR: Can you tell us how this trust would be developed between yourself and the officer? - Well, every police officer in your charge is your responsibility, so it is your responsibility to make sure they are trained up to whatever level you would wish them to be -- not just for firearms, but for the whole spectrum of police work. If P.C. Johnson, for example, had proven to me over a period that she could answer the questions I would pose regarding shotgun certificates, firearm certificates, then it gets easier on her the more I trusted her, and once that trust is assured, the number of questions asked would obviously reduce.

So as your confidence in her to do the job properly grows, so your scrutiny of her can become more relaxed? - Yes.

So at the outset do I understand then that if an applicant wanted to have, for example, two guns of the same calibre and you inquired of her if she had checked if he had good reason and the answer was simply given in the affirmative, you would want to know a little bit more possibly? - You/

You see, the other aspect is.....

This is at the outset, when you are first dealing with the officer? - Yes, but you are also dealing with your own experience as well. When I was a policeman doing inquiries into firearms, if someone came and asked for, to use this example, "Another 9 mm pistol", then through your own experience you get to gauge what shooting sportsmen require and what their needs are, therefore whilst I may have known an answer, if I may have known an answer, I may have not asked the officer when I have trusted her anyway to carry it through.

But in the absence of knowing the answer you would have asked the officer, beyond just accepting her word for it? - Yes.

And you would have knowledge of when to ask the questions through your own experience? - Yes.

No re-examination.

HUGH PATERSON (53), Sworn:

EXAMINED BY MR. BONOMY: I stay in Blairdrummond. I am a retired police officer.

When did you retire from Central Scotland Police? - Almost three years ago.

After serving for how long? - 31, 32 years.

I would like you to have certain documents in front of you, FA43 and FA44, which are D65 and D68. Now, do you recognise that these are documents relating to an application by Thomas Hamilton? - Yes.

And that that application was made in January 1989 for renewal of his firearms certificate? - Yes.

I/

I should have asked you to have one more document, which is probably FA45. It is also D69. So that document, along with the other single document you have got there I think comprises the RL3a for dealing with that case; is that right? - Yes.

Now, the signature "H. Paterson" appears as sub-divisional officer? - Yes.

On the RL3a? - Yes.

Is that you? - That is right.

These forms were apparently used during an interim phase before the updated form was finalised by the force for use in these inquiries, and we can see there is quite a lot of detail on the second of the forms I gave you; is that right? - Yes.

Now, as the sub-divisional officer completing a document which says "I have no objections to this application", what did you actually have in front of you, and what did you do with what you had in front of you? - I would have that document in front of me and the other documents relating to this application for renewal.

You would have all the documents I have given you? - Yes, that is right.

Would you have anything else? - The firearms certificate.

Anything else? - That is all I am aware of that I would have.

Now, what was the job you were then to do? - Examine these documents and see that the renewal related to the documents submitted.

And that was it? - Yes.

No other checking would be done -- you would simply be looking to see if the application and the RL3a and its supplementary form appeared to be consistent? - Yes.

And the investigation appeared to have been/

been carried out properly? - That is correct.

And beyond that you would not go? - Beyond that I would submit these documents for further examination to my superior officer.

And who was that? - This, I assume, would be Mr. Matchett.

CROSS-EXAMINED BY MISS DUNLOP: You have given I thinnk two statements to the police prior to today's appearance; is that right? - I am not aware of having given two statements. I was interviewed by the police on one occasion.

Right. Are you able to explain how I have been given two different statements with your name on them? - No, I am not aware of two different statements.

I wonder if you could just have a look at the statement? I will pass it over to you. Now, that statement bears to have been taken from you and has your name and address on it; is that right -- is that right, it has your name and address on top? - It has my name and address at the top here.

And then there is a section which says "Taken by". That is blank. It just says, "P.C.", and then the rest of it is not filled in? - That is correct.

And then if you could turn to the second page of that statement it says, "I formed the impression that Hamilton was a fit and proper person to have a firearm certificate"? - That is what it says on this statement. It also says I am 55 years of age on this statement, which I am not.

So you have no recollection of having given this statement? - Well, I certainly didn't give my age as 55 years of age.

On the second page it also has a section on it which says something about "Any other relevant information to be inserted" -- do you see that, or words to that effect? Can I ask you to read out the section about inserting other information? - It says "Any other information should be inserted here",/

here", and then a new sentence "The inquiry was carried out in a satisfactory manner and I signed the form and passed it on as per Force Standing Orders".

But you have no recollection of having given this statement? - I made a statement to the police. I don't know whether this is the statement, or any other statement.

So it may be that somebody else has compiled this? - I have no idea.

CROSS-EXAMINED BY MR. TAYLOR: Presumably -- can you tell me what rank you hold? - Chief Inspector.

In your capacity as Chief Inspector certain information about various people within the areas you had responsibility for would doubtless come to your attention in the course of your duties? - A lot of information came to my attention.

If some information came to your attention regarding somebody's non-suitability to hold a firearms certificate, when you came to process the certificate as you have described to us, would you consider it appropropriate to draw your own personal observations to the attention of the person up the line from you? - I would.

And to enable you to do so, is that part of the reason why the certificate passes through a chain such as we have seen in the documents which were shown to you? - Yes.

RE-EXAMINED BY MR. BONOMY: Do you remember who took your statement? - Yes. It was a D.C. from Stirling. I think -- would it be Hamilton his name? I am not quite sure.

What about Mitchell? - Mitchell -- that is the one.

Do you remember when it was taken? - I honestly don't remember exactly when it was taken.

The incident we are inquiring into was on 13th March. Do you remember how long after, roughly, it was? - No, I couldn't honestly say -- a/

a fortnight, three weeks.

Would 2nd April fit into the period, roughly, that you recollect this statement was taken? - It could do, yes.

That is a fortnight to three weeks? - Yes. I remember the D.C. phoned up, made an appointment and came down and saw me.

GEORGE MATCHETT, Sworn:

EXAMINED BY MR. BONOMY: Are you a superintendent with Central Scotland Police? - I am a Chief Superintendent.

And how long have you been with Central Scotland? - I have just completed 30 years' police service.

I wonder if you would have certain documents in front of you that we have just been looking at with Mr. Paterson? You will be given the same documents. Now, one of these is a renewal and variation application at the instance of Thomas Hamilton. The other two are an RL3a and a supplement to it. Your name appears on the RL3a? - Yes.

Do you remember the application? - Not in detail, no.

At that stage you were a superintendent? - That is correct.

Where? - At Stirling.

So are you a Divisional Commander at that stage - No. Under the old organisation I would be a sub-divisional officer, acting in capacity/

capacity at that time, in the absence of the Divisional Chief Superintendent.

Well, I see on the form we have already got a sub-divisional officer signing it in the form of Mr. Paterson? - Yes.

So why does the form come to you next? - Because I am the Deputy to the Chief Superintendent at that point.

You are standing in for him, are you? - That's correct, yes.

Now, do you remember in general terms what document you would have in front of you when you were considering the RL3a and whether to sign it? - Yes, I would have the RL3a and the yellow form together with the firearms certificate.

When you say the RL3a and the yellow form, is that the supplement to it? - That is the supplement to it, yes.

And did you also have the application in front of you? - I would have, yes.

And the firearms certificate? - Yes.

No other file? No other papers? - No other papers at all.

Now, how did you then in general terms in those days go about considering an application? - Well, the core factors within the application process are outlined in Items l to 6 initially in RL3a, to consider if the applicant is a suitable person to hold a firearms certificate and look at what in actual fact the enquiry officers are saying in that regard. The same follows up through the Questions 2, 3, 4, 5 and 6 and finally to Question 7.

So are you checking simply that it appears on the face of it that the enquiry has been done property? - That is the purpose of my examination at that stage.

CROSS-EXAMINED BY MR. GIBB: Did Mr. Hamilton mean anything to you at this time? - No, Mr. Hamilton was only at that time one of many hundreds of names that pass across my desk.

No re-examination.

JOHN BROWN (35), Sworn:

EXAMINED BY MR. BONOMY: Are you a Constable with Central Scotland Police? - That is correct.

Are you based in Stirling? - Yes, I am.

How long in the police? - l6 years.

Can you have certain documents in front of you please? FA43, 44 and 45 which are D65, 58 and 69. I think you have there an application by Thomas Hamilton dated l4th January l989? - Yes, that is correct.

And that is for renewal and variation? - No.

Just for renewal? - For renewal.

And 68 is what? That is FA44. That is an RL3a? - That's correct, yes.

And the supplement is the other document which is with it, is that correct? - Yes, that is correct.

Now, you were the enquiry constable in this case? - That's correct, yes.

Do you remember it? - I have vague recollections of it.

What do you actually remember about it? - I can remember dealing with it, I can remember parts of it.

Do you remember being in Hamilton's house? - Yes, I do.

Where was that at that time? - It was at Kent Road in Stirling.

One of the things mentioned on the RL3a is that the serial number on the Browning rifle has been wrongly recorded on the firearms certificate? - Yes, that is correct.

Who/

Who discovered that? - I discovered that.

How did you discover it? - When I was checking the serial numbers of the firearm against the firearms certificate I noticed the discrepancy.

So you had the firearms certificate with you when you made the enquiry? - I believe so.

Or would that be checked later possibly? - It may have been possibly later, yes.

Now, if you look at the additional document, you are dealing there with the reason for duplicate calibre weapons, is that right? - Yes, that is correct.

Now, Mr. Hamilton already had authority for these duplicate calibre weapons, is that right? - Yes, that is correct.

But you were looking at that question again, were you? - The question on the left-hand side of the form is that he has applied for duplicate calibre for competition purposes and I have just specified why he had the duplicate.

Can you remember anything of the enquiry into that? - I don't recall that part of it, no.

So you can't help us on what the distinction between these two weapons really was or what the distinction between the purposes for which they were required was? - No, I don't recall that part.

Do you remember checking his security? - Yes, I do.

And were you happy with that? - Yes, I was.

We see a description of it there. Was it particularly good? - Yes, it was. I do recall that part of it.

There is then a question about intended purchases. Do you remember anything of the enquiry into that? - No, I don't recall that part.

Can/

Can you remember what the appropriate approach to the question of intended purposes was in those days? What information did you want to know about his intentions? - As I say, I don't actually recall that part of the form but I would probably ask him if he intended to purchase the thing in the near future and if so the reason for the purchase.

What would you mean in that context by the near future? - Well, probably within the life of the certificate.

The one you are about to renew? - Yes, that is correct.

Which nowadays would be five years? - Now it is five, yes.

Could you discover any reason why Mr. Hamilton should not be given the authorities he was seeking in terms of his application for renewal? - No, I did not.

There is one possible oddity in that application in respect that it says that he possessed 7.62 calibre ammunition but he didn't actually have the weapon at that stage. That was one of the weapons he wanted to acquire. Was there anything wrong in your view with his having ammunition for that weapon before he got it? - I see above it under the details of firearm to be purchased or acquired he has a 7.62 rifle that he would want to.....

Yes, I appreciate he wanted to buy a 7.62 rifle but ought he to have some of that ammunition before he actually has the rifle? - No, I don't see why he would want the ammunition. I don't know.

And I think I may be right in saying to you that he had indicated an intention to acquire that rifle at the last renewal. So he has obviously possessed the intention without implementing it for a while but that was not something you remember dealing with? - No, I don't recall that.

Now, you have recorded that he possessed a fair amount of ammunition. He had or at least it is/

is recorded on his form he had 930 rounds of 9mm ammunition at that stage? Is that right, on the application form? - He had now many, sorry?

930 rounds of 9mm. That is on to the right-hand side of the page, the front page of the application form? - Sorry, I see it.

Is that correct? - Yes, that is correct.

340 rounds of .357? - That is correct, yes.

Do you remember checking the storage of his ammunition? - I don't specifically remember the ammunition. I remember his general security.

Do you remember the security for the guns? - Yes, I remember the guns.

Do you remember actually handling the guns, examining them? - Yes, I do.

Is there any particular reason why one thing you do remember about this Inquiry is actually dealing with the guns? - I think it is maybe because, I don't know, it may be because it is the only one I have ever had where there has been a discrepancy in one of the serial numbers. It may be that.

Was it your job in those days to make behind-the-scenes checks on the record and other information about an applicant? - Yes, that is correct.

So what checks did you normally do at that time? - You would normally check SCRO, a Scottish Criminal Records Office check and a Police National Computer check and a local criminal intelligence check.

At that time how was the criminal intelligence check done? - I think it would be by phoning our Criminal Intelligence Officer then.

Can you now look at one further Production which is D49L, inevitably without a number. It is an AD2A document dated llth November l994/

l994. It is FA26. Are you Constable 403 J.R. Brown? - No, I am not.

So that is someone else's form? - Yes.

CROSS-EXAMINED BY MR. GIBB: When this application came in did you see your role as testing in any way the use that any applicant made of this firearms certificate during the previous period? - No, I would not do that.

There was not any question of saying "How often do you shoot or are you still a member of X club or Y club?"? - I don't recall asking him that.

And you would not have asked him anything about the use of ammunition or the certificate showing the amount of commercial ammunition checked during the currency of the previous certificate? - No, I would not ask that.

So there really would not be any testing of the applicant as to the use he is making of his certificate or his intended use of the certificate? He would simply be taken at face value on the form which said he wanted to do target shooting at a facility? - If there was a specified club I might have checked with the club but I don't recall that, I am afraid.

But would you as a matter of routine ask any applicant what use they had made of the facility during the validity of the previous certificate? - No, I would not.

So you would not ask them to show positively a good reason? You would see the application showing what they wanted to have and basically you would take that at face value? - If there was a specified thing I would check that.

Because you are really the only link between the applicant when your report goes up the line. You have got the information from the applicant. There is no one else has any dealings with the applicant other than the enquiry officer? - That is correct.

Were you aware at all of the name Thomas Hamilton/

Hamilton at that time from other dealings within the Force? - I don't recall that at all.

CROSS-EXAMINED BY MR. TAYLOR: Are you familiar with the prerequisites for being granted a firearms certificate? - I believe so.

Is one of these prerequisites that the applicant requires to have good reason to hold a certificate? - Yes, that is correct.

What is the criteria or criterion which is normally used to say whether there is a good reason on the part of an applicant? - Well, as I stated, if it was to join for instance a gun club you would check that side of it out.

And would you enquire of the applicant how he constituted good reason? - I am sorry, I don't understand that.

Would you ask the applicant what the reason was for him applying for the firearms certificate? - If he was applying for the grant of one?

Yes? - Yes, I would.

And if he said that it was his membership of a club, what would you then do? - You would then verify the details.

How would you verify them? - You would get in touch with the club and verify with them.

BY LORD CULLEN: Just taking that point a little further; under the head of good reason are you concerned also with the good reason for the holding of the ammunition to which the application refers? - Yes, you would be.

And does that include the quantity, the amount, of ammunition which is proposed to be either held or acquired? - I'm sorry, do you mean good reason for the ammunition.....

Good reason for that amount to be held or acquired? - I am afraid I don't know.

Well, did you have any role in examining whether/

whether there was a need for an applicant to have as much ammunition as the applicant asked for? - No.

If you were dealing with an application for renewal of the firearms certificate, would it be any part of your responsibility to find out the extent to which the previous authorisation for ammunition had in fact been used? - No.

So to what extent therefore were you involved with ammunition as far as good reason was concerned? - If it was wanted for say pest control and he had ground to shoot on, you would check that the ammunition asked for would be the appropriate type of ammunition to use for that.

If for example he was asking for renewal and he mentioned quantities of ammunition that were considerably larger than previously authorised would you think that was a matter which required to be looked into or not? - It would be but that would not be done by me. I wouldn't do that.

Who would do that? - I think the Firearms Department would look into that.

And which particular officer going up the chain? - I don't know what particular officer. If I had two applications at the same time and one wanted 20 rounds and one wanted 500 rounds for the same purpose, if it was target shooting, I wouldn't know if it was excessive to have that or whatever.

RE-EXAMINED BY MR. BONOMY: Does the question of good reason arise on renewal applications? - Yes, it does.

3.10 p.m.

HEATHER MARION MORTON (3l), Sworn:

EXAMINED BY MR. BONOMY: I now live in Stirling. In l989 I lived at a former address in Stirling, l9 Kent Road.

How long did you stay there? - Nine years.

So when did you first move there? - l984.

During your period in Kent Road did Thomas Hamilton and his family move there? - Yes.

When was that? - l986.

How far away was his house, No. 7? - It was one block away.

Did you know him? - To look at.

Did you ever speak to him? - Yes.

Frequently? - No.

In what circumstances did you speak to him? - On the passing.

"Hello", or did you stop and talk? - "Hello".

Did you know any other member of the family? - Did he know any other member of the family?

No, did you know any other member of the family? - Yes.

Who did you know? - Jimmy, his Dad.

Did you know him to speak to? - Yes.

How often did you speak with him? - Quite often.

Where would you normally meet him? - In the local Stirling Miners' Welfare where I was employed/

employed at the time, or out in the garden.

Did you know what Thomas Hamilton did either for a living or what his main activities were? - No, I didn't. I thought he was unemployed.

What about spare time or leisure activities? - He was a photographer.

You didn't understand that was an occupation? - Well, he had said that he wasn't a professional photographer, he was just an amateur.

He told you he was a photographer? - Yes.

And in what circumstances did he tell you that? - When I was speaking to him.

So it was more than just "Hello" -- you did speak to him? - Yes, I would stop like at the garden as I was passing, and he offered to take pictures of my children.

Did you accept the offer? - No, I refused.

When was this? - This would be about l987.

And why was it you refused? - I just didn't like the look of the guy.

Did you know anything of his interest in boys' clubs? - I had heard that he had a boys' club. He had put leaflets through the local doors, and he knew that I had one son and two daughters.

Did he do more than put leaflets through the doors? - He did, yes.

What else did he do? - He had put videos through my letter box.

Plural -- how many? - One video.

When was that? - That would be in l987.

What/

What age was your boy then? - He was five.

What did you do with the video? - I went to Mr. Hamilton's door and chapped, and it was his Dad that answered it, and I told him to give it back to Mr. Hamilton.

Had you viewed it? - Yes I did.

What did it show? - It was boys running along like a beach area with short black trunks on.

What did you make of it? - I thought it looked ridiculous.

What did you think? - I just thought it wasn't the kind of video that a person in their right mind would make.

What did you think was his purpose, though, in showing it to you? - He thought obviously with me seeing that, that maybe it would interest my son to go to one of his clubs. He said he had a boat on Loch Lomond, and that maybe my son would like to go with him; and I refused.

But presumably he put it through the door thinking it would impress you or influence you favourably towards him? - Yes I think so.

But it certainly didn't do that? - No, it certainly didn't.

Did Hamilton ever try to take any photographs of your family? - Yes, he did. On a few occasions when my son was coming home from school he had to pass Mr. Hamilton's window, and my son had come in and said that he was trying to photograph -- take pictures of him through the window.

Did you check on that? - Well, I had asked my son if it was like a camera or if it was like a video camera that he was using, and he had said it was a video camera.

Did you check up with Mr. Hamilton? - No.

Did/

Did you do anything about it? - No.

Were you ever in his house? - Yes.

And you didn't raise that with him? - At that time, when I had got into his house, that was before I had known about that. I went into his house -- well, I had went to the door to give him back this video that he had put through my letter box, and when I chapped the door it was his Dad that answered, and he asked me to come in, because he knew me quite well with working in the bar that he drank in. And when I got inside his son was there.

Now, were you speaking to Hamilton, the son, on that occasion? - Yes.

Can you remember what about? - Again he was trying to persuade me to get pictures -- to let him take pictures of my children.

Were there photographs on his walls? - Yes, there was.

What were they photographs of? - All of boys dressed in the black trunks on the left-hand wall, and like self-portraits (sic) on the right-hand wall, again all of boys, none of which were smiling, which I thought was very odd -- very creepy.

What was the difference between the ones on the right and the ones on the left? - What was the difference?

The difference? - The ones on the right-hand side were of boys with black trunks on, was on the fireplace wall, on the right, and the ones on the left -- no, sorry, the ones on the right were the ones that were like he said he had drawn them himself.

So were they sketches? - Yes.

And how were the children clothed in the sketches? - It was just bare skin -- it was like head and shoulders, and none of the kids were smiling, they were really frightened looking and I didn't like that.

Now/

Now, you were formerly related through marriage to a police officer involved in dealing with one of Hamilton's applications for his firearms certificate, Mr. Goldie? - That is correct.

What was the relationship? - He is my brother-in-law.

And you have got some knowledge I think of one investigation or one occasion when he was involved in dealing with a firearms application, have you? - Well, I am not so clear on that, but I remember when they first moved into the street my brother-in-law had made a comment that he was quite a shady character, that there had been an incident in his house, something to do with guns, but Mr. Hamilton never ever mentioned guns to me.

Did you know he had guns? - No, I didn't.

And is that as much as you can remember of this? - Yes.

Roughly when was that? - That would be l986 or 7.

And you think something was said about an incident in his house with guns? - In his house, yes.

Is it possible that you misunderstood what was said? - Well, I don't know what was happening in the house. I didn't know the man then. I had just moved into the street at the time.

So is this a very vague recollection? - Yes.

No cross-examination.

EDWARD GOLDIE (36), Sworn:

EXAMINED BY MR. BONOMY: I am a Constable with Central Scotland Police. I have been in the police for nearly l8 years now.

Where/

Where are you based at present? - At Dunblane.

Have you had a role to play in the Dunblane Inquiry? - Yes.

I think we have heard -- I should have said to his lordship -- I think we have heard evidence from you already when you told us about arriving at the school; is that right? - Yes.

Now, I want to ask you about something else. You had some dealings with Hamilton in relation to firearms applications? - That is correct.

Do you remember it? - I can't recall that far back.

Do you remember meeting him at all? - I am afraid not.

Apart from dealings with a firearms application was there any other occasion you met him? - Not to my knowledge.

Or even heard about him? - No.

Now, your former wife's sister I think lived near him? - That is correct.

Did you visit there at all, so that you would have a chance of social contact with Hamilton? - I wouldn't have met him socially, no. I possibly just dealt with his file.

And that would be the only reason? - That would be the only reason.

Can you look at two documents, FA39 and 40, which are D59 and 60? Now, is this the application that you dealt with? - Yes.

Is it an application dated l5th March l987 -- if you go to the third page of the form? - Yes.

And is it an application for variation of a firearms certificate? - Yes.

And/

And I think the other document you have is the RL3a? - Yes.

And you were the enquiry officer and have completed it as the enquiry or reporting officer? - Yes.

You have answered the six questions "Yes"? - That is correct.

You have answered the seventh question, which is the space for providing supplementary information, at some length, so that it has been necessary to have two pages? - Yes.

Does seeing this help at all to remind you of the circumstances? - I am afraid not, no.

Now, this is apparently the stage at which Hamilton asks for a significant increase in his ammunition purchasing and holding power? - Yes.

And you have commented on that, as well as his plan to purchase a 7.62 rifle and a .22 rifle? - Yes.

It still doesn't ring any bells? - I am afraid not, no.

Now, can you read out to us what you have actually recorded as his reasons for the variation? - At Point 7?

Yes, please? - "The applicant has sold the .22 Anschutz rifle, No. l02541 and has purchased the 9mm Beretta pistol, No. C58230Z as shown. The applicant wishes to purchase one 7.62mm rifle and one .22 rifle. All weapons will be used for target shooting. With reference to 2(i) and 2(iii) on the certificate, maximum quantity of ammunition to be purchased or acquired at any one time is l500 and l,000 rounds respectively for each calibre. Applicant would like to have maximum for weapons he possesses and those which he would like to purchase. Applicant's security for weapons and ammunition has been checked and is very secure. With reference to the applicant's wish to be able to purchase and have l500 .38 ammunition maximum, this is due to the fact that this .38 Special ammunition can be fired in his .357/

.357 revolver. There is no real basic difference in the ammunition in that the .38 Special is slightly less powerful".

Did you know that for a fact? - Yes.

So you were not just regurgitating what he told you -- you knew that? - I knew .38 Special can be fired in a .357.

The effect of this was to give him authority to hold 3,000 rounds that could be fired in that weapon? - That would be correct.

Now, it looks as though you have gone into it in some detail, but I still can't jog your memory? - I am afraid not.

Do you remember at all being in his house in the course of this enquiry? - I am afraid not, no.

Checking what weapons he had, for example? - I have no recollection.

CROSS-EXAMINED BY MR. GIBB: Constable Goldie, on this occasion would you, as a matter of routine, have tested out the need for the increase in ammunition? - No. I would submit the report through the chain of command.

Yes, but you wouldn't say to Hamilton "This is a big increase. How often do you shoot? Why do you need so much?"? - I would have asked at the time obviously why he wanted that amount of ammunition. It was obviously for target shooting, sporting purposes.

But would you as a matter of routine have said to him "What clubs are you a member of? How often do you shoot? It seems a large amount to have"? - I think I would have asked those questions, yes.

But there is no indication on the form of that? - No. I can only go by these two forms I have.

Did you carry out many enquiries either of authorisation or renewals, or for new applications/

applications for firearms? - I think mostly -- I can't recall how many I have done, but it was just usually applications for grants of firearms.

Would you consider your role to test out in any way the information on the application form as to whether or not in fact there was a genuine good reason, as required by the Firearms Act? - Well, if he was doing a lot of shooting he would require a number of bullets.

3.30 p.m.

What I'm trying to get the flavour of is whether you would test him out and actually do a bit of probing as to why there was such a thing? - I would ask him why he would want that amount of ammunition but if he is firing on ranges and things and does a lot of shooting he would require a lot of ammunition.

But would you say to him "How often do you shoot a week or a month? What clubs do you go to?"? - Yes, I would obviously ask these questions.

Was any alert put on you because of the significant increase in ammunition he was wanting here? - I wouldn't have thought so, no. Not at that time, no.

BY LORD CULLEN: Do you have any recollection of there being an increase or are you simply dealing with these questions theoretically? - I can't honestly recall having dealt with the man at all.

If you are asking questions because you found that the applicant was asking for more than he had previously been authorised to hold or acquire in the way of ammunition, did you have any kind of yardstick by which to test whether it was any more than was reasonably adequate for the purpose or whatever? - I don't think there would be any yardstick to go by.

So was there any limit? I mean, suppose for example he asked for 10 or 15 times what he had been previously authorised. Were you in a position to say "Well, that is more than I am satisfied is reasonably required" or something like that? - I don't think there is any maximum under the Firearms Act in relation to that.

So does it come to this then; that provided he can give some reason to account for an increase you had no means of knowing how to measure how much was a reasonable request, is that right? - That is correct. That is right.

CROSS-EXAMINED BY MR. TAYLOR: Do you still/

still have D60L before you which is the LR3a? - Yes.

If we go to answer 7 we find in the first page that it says "Applicant would like to have the maximum for weapons he possesses". Do you see that? - Yes.

Can you give any meaning to that? - I think the maximum would be the maximum he wished to have, 1500 or 1,000 rounds.

So that is the maximum as contained in his application as opposed to a maximum which you might have in mind for the yardstick? - Yes.

Can you have D35L before you please. That is a firearms certificate issued to Mr. Hamilton. What I am particularly interested in is Table 2 which is the ammunition Table. Do you see that? - Yes.

And I think we see in the copy which I have that it starts to record sales of ammunition to him in December of 1979 and concludes in late 1984, is that right? - Yes.

And we see that he has virtually exceeded in space -- in fact not virtually exceeded but he has exceeded all the spaces available in Table 2? - Yes.

Can you then please have a look at document 49L. That should be an AD2A from I think Mr. Brown to the Chief Superintendent in A Division? - Yes.

And we see that Mr. Hamilton has handed his firearms certificate into the police because he has run out of space in Table 2? - Yes.

And he is asking for a duplicate to be issued to him I think and if we then look at Production 50L, that should be a further firearms certificate which was renewed on the 30th of January 1986, is that correct? - I can't see the date at the moment but it is the 14th of February 1986 it has got here. Until the 14th of February 1986.

Yes, I see that. I think the date is the 31st/

31st of January 1986. It is two lines below that. It says from the 14th of February 1986 and is signed Thomas G. Whitson, Police Force Central Scotland dated the 31st of January 1986? - It has got Thomas G. Whitson, Depute, Central Scotland 17/12/84. Sorry, I see it. It is on the right-hand side. I beg your pardon. 31/1/86.

And that is issued with effect from the 14th of February 1986? - Yes.

But issued on the 31st of January 1986? - Yes.

And if we look at Table 2 on this firearms certificate, again we see that Mr. Hamilton has taken up quite a large amount of the available space recording his firearms purchases? - Yes.

Now, is that in your experience unusual? - I couldn't comment on that.

Well, have you seen it before? - I can't recall seeing this before.

No, not this particular firearms certificate before. Have you seen the appropriate Table, Table 2, on a firearms certificate being filled up to the extent one sees in the document and a need for a duplicate to be issued? - I don't think I have seen as many as that.

Well, would you have seen those in the course of the inquiry which you made into Mr. Hamilton's application for renewal if you then looked at it? - There is a possibility I would have seen them but I can't say if I have seen them or not.

If you had seen them would that have influenced you in considering the amount of ammunition which might have been appropriate for Mr. Hamilton to have? - Well, it would tell me he was doing a lot of shooting but other than that I couldn't comment.

And if he was doing a lot of shooting would that influence you in your view on the amount of ammunition which he might have reason to hold? - Yes.

Are/

Are you aware of there ever having been an incident in Mr. Hamilton's house involving a gun? - No.

No re-examination.

NORMAN JOHN LYNCH (35) Sworn

EXAMINED BY MR. BONOMY: Are you employed by Central Scotland Police as a firearms examiner? - Yes.

Since? - Since April 1991.

Prior to your appointment in April of 1991 was there an equivalent post within Central Scotland Police? - No.

Since your appointment has anyone else joined you in the same post? - No.

Since 1991 have your duties been the same? - They were increased.

That is volume? - Yes.

But what you actually do, has that been the same? - That has increased from the original conception of it.

Was the job advertised? - Yes, it was.

Where was it advertised? - In several newspapers. Twice actually.

And you responded to the advertisement? - The second time, yes.

What were you doing at that time? - At that specific time I was working in a whisky bond.

What was the experience you had that made you think you might get the job? - I had almost 10 years experience in the gun trade in a Glasgow gunsmiths doing sales.

During what 10 years? - It would be from 1981 to 1988.

Had/

Had you chosen to give that up? - No, the shop closed.

Did that reflect some changes in the gun trade? - No.

Was it a voluntary closure or did it run out of business? - We acquired a new managing director who was a financial wizard rather than a shooting man.

Prior to the closure of that business was there any noticeable trend in the sale of handguns? That is over the period of what, the eight years or so that you were there? - The particular company I worked for never sold handguns as such but there was a notable difference in the gun trade in general because of mail order.

And what was the effect of mail order? - Well, there was a greater discount offered for mail order guns rather than shops with their overheads.

Did the shop you worked for not even supply handguns to order? - Very seldom.

Did you have any training in the job of running a gun shop or is that something you pick up on the job? - Initially I was taken on as junior sales staff but I later became assistant manager in the Glasgow shop.

You just worked your way up really? - Yes.

I take it that gives you then a knowledge of weapons and ammunition? - Yes.

But no particular knowledge of handguns or was there a way of you acquiring that? - We never sold many but there were other shops that did that already had a market for it in Glasgow.

And did you have dealings with them so that you could gain some experience of handguns? - No.

When you joined the police did you have to undergo any training there? - There was in-house training.

And/

And what was the form of that? - The computerised system which was recently installed before I was installed and the current legislation and pending legislation.

What do you mean by the computerised system? - It is the computerised system that we use to keep a record of all firearms and shotgun certificate holders in Central Region.

Is there some way in which that automatically brings certain events to your attention such as the need for someone to renew his licence? - They have expiry dates on them which are highlighted by the machine, yes.

So you are trained in retrieving information from a computer? - To do with firearms and shotguns, yes. You can retrieve a person's certificate records.

Sorry, you did say the training involved training in the computer? - Well, learning the computerised system. Working on it.

Well, can you tell us what you were trained to do in that regard? - Well, I was trained from the paper applications coming into the office, processing it from the details on the forms on to the computerised system.

Now, what manuals or other documents did you have to hand for guiding you in dealing with applications for firearms certificates? - We have the 1968 Firearms Act and the 1988 guidelines, guidance to the police and the 1992 rules. That is about the most up-to-date.

If you look please at D1 which is the guidance to the police. Can you confirm to me that that is the document you are talking about published in 1988 I think you said? - Yes.

Now, from the time you started in the police what were the duties to be? - Originally I was six months learning the computerised system for licensing. I then had six to eight weeks instructions from operational officers and then I went out on doing inquiries myself for renewals.

What/

What were the instructions you got from operational officers? - It was the standard procedure, Force procedures for renewing shotgun and firearms certificates.

What ranks were you with? - Police constables.

So you were out doing inquiries? - Well, I was in the wings as it were. They were doing the actual inquiries and I was to be present with them to see.

So you went out visiting homes and so on? - Yes, just to see how the procedure was normally done.

What about the procedure followed by their superiors in the light of the reports that they made? - I would not have any involvement with that at that time.

Were you expected at that stage to deal with new applications? - No, only renewals.

So no new ones and no variations? - No grants and no variations, that is correct.

Is that still the position? - It is at the moment.

What if the renewal incorporates a variation? - Well, that comes under the.....the applicant has an opportunity to vary his certificate at renewal.

So that is a renewal? - It is classed as a renewal. You can make separate variations at any time throughout the term of the certificate.

Yes, but if the application for a renewal involves a variation you would deal with it? - If it was renewals, yes.

What then is the procedure that operates when someone's certificate is coming up for renewal? - The Firearms Department computer can be asked to generate an amount of renewals that are due between certain dates and we would then physically key in codes to allocate the printer to spool off renewal letters/

letters to applicants roughly six to seven weeks before the expiry of their certificate.

Who does that? - It is a colleague in the office.

What is her name? - Maureen Johnson.

And what is her designation? - Firearms and explosives officer.

And she works exclusively in the office? - Yes.

Once the letter has been generated to the holder who is due to renew his certificate, what action do you take? - I am slightly different from operational. What I do in particular is I would contact the applicant, as I say six to seven weeks before the certificate is due for renewal, and arrange at an agreed time to go out with the forms and the renewal letter to do a renewal inquiry.

And do operational officers do the same job or something different? - Because of their other duties they may have to just take the opportunity if they are passing in the area to call with the renewal letter and form and come back at a later date.

Now, it is implicit in what you are saying that you are not dealing with all renewals for Central Scotland Police. Can you tell us what ones you are dealing with? - At the moment?

Yes? - It is what they class or did class as B Division which is Falkirk, Bo'ness and Grangemouth.

Are you doing only these ones? - At the moment, yes.

Now, since when has that been the case? - Since December of 1994.

Until when will it be the case? - It will be December 1997 and by that time everybody with a three year term certificate will have been renewed with the new five year term certificate.

And/

3.50 p.m.

And why would you finish in B Division at that stage, when presumably -- you expect a two year gap, roughly? - There will be a two year lull with the new certificates. There may be new proposals on what I do then.

Now, prior to going on to doing B Division where were you? - In A Division.

And did you do all the renewals there? - No, not them all.

How many years were you there? - Three.

Well, you must have got pretty close to doing them all? - They are in different Divisions. The area I covered would have come under Stirling and Clackmannan.

So part of a Division? - Yes.

How many Divisions are there in Central Scotland Police? - There was only two, A and B.

So at the present time A Division's renewals are being done by officers? - Yes.

In the ordinary course? - Yes.

When did the system change from three year certificates to five year certificates? - On the 1st of January 1995.

Have you any idea why the system was changed to allow certificates to run for five years instead of three? - I have no idea at all. It was a Home Office decision.

Is there any system in Central Scotland Police for any sort of routine investigation of a certificate holder during the period between renewals? - None that I know of. If he came to the attention of the police then it would obviously have to be seen to.

Now, you said earlier that your duties had extended between 1991 and now? - Yes.

Can/

Can you tell me what the extension has been? - A great deal of in-house training for myself and my colleague Maureen, given to probationer police officers now in relation to firearms licences.

So you have a training role? - Yes.

But the actual on-the-job work you do is the same, but perhaps increased by volume? - Yes. I also do what they call -- there is paid variations and free variations. So free variations can be dealt with by me at the Headquarters, whereas a paid variation may involve other aspects being checked by enquiry officers.

What is a free variation? - It is an applicant who would like to surrender or give up a .22 rifle because it has seen the best, and replace it with a similar weapon. That is what they call a one-for-one variation.

So you do those? - Yes.

For the whole Force area? - Yes.

Now, your inquiry into an application for renewal is done by appointment? - Yes.

And you take the letter intimating the need for renewal with you? - Yes.

And what other documents do you take? - There would be a renewal form, a DMT101, which is a standard renewal form which is used nationwide. And I also used to take an example of the counter-signatory requirements for the back of the photographs, and I also use a freepost envelope facility for the applicant to return their application back to me direct, rather than go to operations, as I had been dealing with it.

So you always anticipate leaving the application form with the applicant? - Yes.

What is the purpose of the visit then? - Well, you have to maintain that the criteria are still being met for the guns that are held, and the security as well.

So/

So is that you doing the check before the application comes in? - I do the full inquiry before I see the applicant.

And that is before the application comes in? - Yes.

Do you ever get the application completed by the applicant and take it away with you? - No, because I wouldn't have time to fill that out, because counter-signatories would have to be got at a later date.

I take it that there are a number of matters you have to deal with in the enquiry at that stage? - Yes.

Could you take us through them please? - Yes. On arriving at the agreed time I would discuss -- well, I would explain the certificate was due for renewal at a certain date, it had to be renewed timeously. I would explain the form to the applicant, and run through the form with them explaining the different sections in it, and then I would usually proceed to check the weapons and the ammunition and check the security they were held in.

Would you have D91, which is -- I am sorry, I don't have the other number again (FA61). That should be an application form for renewal of a firearms certificate. It is dated the 15th of January 1995? - Yes.

Now, this post-dates the time when you were actually dealing with renewals for Stirling? - Yes.

I want you just to use this as an example -- it is the most up-to-date example we have of the procedure to be followed. You are looking there at the standard DMT101 form; is that correct? - Yes.

And we have the basic purpose of the application on the first page and then a question at No. 14 "Have you now or have you ever had epilepsy or any form of mental disorder"? - Yes.

Do you deal with that on your inquiry? - In what way?

By/

By asking? - Well, it is indicated on the form.

So you don't do it as an eye-contact enquiry in the course of your investigation at the home? - Well, once I receive the form back from the applicant I am required to complete an enquiry form to submit with the form, so I would check the application.

But these particular questions are left to the applicant in the quiet of his own home to fill in his own answers to? - Yes.

There are then at No. 16 -- sorry, 15: "Have you been convicted of any offence?" Now, can I take it that you do check that one out? - Yes.

How do you do that? - Well, at the time -- I am now qualified to check the PNC and SCRO records myself, but at the time the checks would be made by the Records Office.

How do you become qualified to do that? - I was trained in-house.

And since when have you been able to do the checks yourself? - Since early 1994.

Now, what can you learn from the Police National Computer? - The Police National Computer, if a person say residing in this area had committed an offence say in England, it would automatically be updated on the National system. And the SCRO system, the Scottish Criminal Records Office is for Scottish police use. It is a double cross-reference.

What about checking Criminal Intelligence? - I am not qualified to check Criminal Intelligence.

So what do you do about that? - That is done by Divisional Criminal Intelligence officers.

But do you do that by asking them to do it, or do you get the information some other way? - There is a form that I submit to Criminal Intelligence officers.

And/

And you do that for each case? - Yes.

Are they required then to do a check? - They would be, yes.

What are they actually checking for? - I don't know.

Well, what does your form ask them to do? - Well, it is a new form that is devised. It comes from the Records Department to different departments, to check if they have any information, I presume, on the system about a person.

I am not sure I have seen one of these. What is the title given to that form? - It is just a form I have devised myself for my own inquiries.

How long has it been in operation? - Since December.

You don't have one with you, I take it? - I don't.

Well, if you come back tomorrow, as I suspect you will have to, you could perhaps bring one with you. It would be helpful to see that. It may be somewhere I haven't located, but just in case we haven't got it, it would be helpful if you would? - Right.

The next part of the form, it then deals with the weapons the person has; is that right? - Yes.

And you would check these and the serial numbers on your visit? - Yes.

And it then deals with the weapons he wishes; is that right? - Yes.

Now, there is an oddity -- well, maybe it isn't an oddity, but it looks odd on this form, where the various weapons that he is seeking authority to acquire have both the "Yes" and the "No" after them ticked. Could you explain how that happens? - Yes, no problem. If you refer to the front of the form you will see that every entry by an applicant has been ticked, and that is my colleague Maureen ticking off the information as it is/

is checked on the computer system, the ones in the blue ink.

There is then a statement of the amount of ammunition in the possession of the applicant? - Yes.

Now, do you check that when you make your inquiries? - I would check the ammunition he had at the time of the application when I saw him, yes.

It might be slightly different by the time the application comes in? - Yes.

There wouldn't be much difference, I shouldn't imagine? - It would depend on the amount of shooting he was doing. It may be.

And there is then the calibre and quantity of ammunition that he wants to hold? - Yes.

Now, are there any rules about this? - On how much he is allowed to hold?

Yes? - There is no arbitrary limit set down in the legislation.

Well, I have heard that before, but is there a limit perhaps in the mind of the police as a sort of guideline, when a police officer, or yourself, is visiting a home enquiring into the circumstances of an applicant? - Not to my knowledge. Each one would be taken on its own merits.

So how high do these figures go, in your experience? - I wouldn't imagine much higher -- that is probably more than sufficient to cover most active members who are shooting.

Can I ask you that question again. How high in your experience do these actually go? - Well, I couldn't answer that specifically. They vary from certificate to certificate.

I follow that, but you must have seen a large number of certificates, and I would have thought you were the man to ask in general terms? - Well, it is not uncommon to have these amounts.

Have/

Have you seen them with 2,000 per calibre? - There could be the odd one or two that has 2,000, yes. There is the case of some club secretaries may have more than that, because they are buying in bulk for a club.

Well, we could perhaps review that differently, but taking the Thomas Hamilton individual marksman type of shooter, what is the most that you have seen authority given for such a person to hold for each calibre? - I really couldn't honestly answer an exact amount, but I have holders with smaller amounts and others with slightly more.

Just slightly more? - Yes.

And 1,000 at a time to purchase -- that is common, is it? - If they were shooting that much then it may be. I am a shooter myself. I shoot handguns. I don't purchase that much myself because I don't shoot that often. But some prefer to buy in batches to have the consistency of the ammunition, for accuracy.

Yes. So to buy 1,000 at time would be common in that situation? - It could be if they are offered a discount as well, yes, albeit it is through the club or through a registered firearms dealer.

So you anticipate that we might hear evidence in this Inquiry that it is common for marksmen to buy 1,000 of any given calibre of ammunition at any time? - Well, it is not uncommon.

You did say a moment ago that it would depend how much shooting a person was doing? - Yes.

You dealt with the 1992 renewal, which we will come back to in due course, and you would know at that stage that Hamilton hadn't been acquiring or purchasing ammunition? - Yes.

But there was no change made then in the authority to hold, and also the authority to acquire ammunition? - I would have asked him at the time if he still required those amounts, and he would have indicated yes at the time.

So/

So even although he had perhaps by that time a four to five year history of not buying any ammunition, you would be satisfied with that answer? - Well, at that time I wouldn't know if he had not purchased ammunition for four to five years beforehand. That would not be present on his renewal application.

Yes. Would you not in the course of the renewal application have sight of his existing firearms certificate? - Well, the existing one, yes, but not the previous ones. They are on file.

No, but the existing ones would tell you how much he had bought for the last three years at least? - It would have done, yes.

And if it ran for longer than three years, as I suspect that one did, it would tell you for longer than three years how much he had acquired? - It ran for three years, the previous one, 1989 to 1992 was the period.

If you have D58L -- it is FA42. Is that the certificate in force immediately before the 1992 renewal? - There would have been another certificate.

Is that not the one that was in force immediately before the 1992.....? - Beg your pardon, yes.

Is it? - Yes I think so.

And did it not run from March 1987? - No. I think this is a certificate that was replaced in 1987 -- in the bottom left-hand side, it has been dated "31st March 1987", with the expiry date 1989. So that is not a full -- that has been a replacement certificate.

Well, it may be because he needed a continuation of the ammunition section. Would he get a new certificate for that purpose? - He would normally, if all the entries had been taken up.

And if you go to the front page you will see the word "continuation" at the top. Now, if that is the explanation, it nevertheless is the certificate which he had from 31st March 1987? - Yes./

Yes.

Up until 14th February 1992? - 1989.

No, it is renewed -- it says on it "I renew this certificate for three years from 14th February 1989"? - Yes, but that wouldn't have shown the ammunition, if it had been replaced. That wouldn't have shown the previous certificate with all the ammunition.

No, but look at the ammunition Table, Table 2? - I don't have that here.

No,/

4.10 p.m.

No, it was missing earlier. It will be given to you separately. Do you have it now? - Yes.

That only records purchases in April, September and October of 1984? - Yes.

Would you not have that before you when you dealt with the 1992 application? - The applicant would have had that, yes.

Sorry? - In with his renewal application.

Yes, so you would have information that disclosed that he was not purchasing ammunition? - Well, the certificate would indicate that, yes.

Well, I can tell you that the extensive police inquiries in the case have not thrown up any other sources of commercial purchase of ammunition during the period from the last date on that form up until his renewal in 1992. Now, it must follow that you were satisfied in 1992 that he still ought to have authority to possess 1,500 rounds of each calibre and acquire 1,000 on any occasion of each calibre. Now, do you think there might have been a reason in 1992 to reconsider that? - On what grounds?

On the basis that he has not been buying any for four to five years? - Well, I would have noted at the time the amount of ammunition he had still in his possession and I don't remember exactly but it may have indicated he was not shooting as often as he was in the past but he certainly had ammunition still in his possession.

So as long as he has got ammunition in his possession and he says he needs this authority you would tend to approve it? - Provided all the good reason requirements were met, then yes. There is also the possibility that he might have been obtaining ammunition from the Club. That is quite normal. They would keep their own register for the transactions normally.

Yes, it might have been normal for normal people but was there any evidence known to you to suggest that Thomas Hamilton actually bought ammunition/

ammunition at the Club? - No.

Now, the next question up to No. 22 is about the reasons for requiring each of the firearms and the ammunition listed and that is simply stated there as target shooting and indeed the applicant is guided along these lines because immediately above these words appear the words "for example"? - That is correct.

"Pest control, target shooting etc."? - Yes.

Now, I take it that that sort of reasoning is enough to justify possession of all seven weapons that we see there? - If they were used exclusively or in a Home office approved Club, yes.

That question was wrong. There are six weapons there and can I take it that target shooting is a good enough reason to get authority to have all six weapons? - It is a good enough reason providing it meets certain other requirements.

What other inquiry would you normally make into that sort of statement? - There would have to be inquiry of the Club if the applicant was either a probationary member or a full Club member which would affect their firearm certificate.

Now, is that done on renewal each time? - They are usually not granted a firearm certificate until they become a full member of a Club.

But we have heard some evidence that the police office has a copy of the membership lists of some of the local Clubs? - That is correct.

And if Hamilton's name appeared on the membership list of one of the local Clubs, would you have occasion to inquiry any further? - Well, myself personally, I would inquire with the Secretary of the Club despite having a written list to ensure they are still a member of the Club.

And do you do that with every renewal? - Every handgun firearms renewal, yes.

So/

So has that always been your practice since 1991? - Yes.

Why single out handgun firearm renewals for that additional inquiry? - Well, handguns should not be granted unless, as I say there are exceptional circumstances, unless the applicant is a member of a Club which is Home Office approved so they are only issued for that reason.

BY LORD CULLEN: Why does it have to be a Home Office approved Club? - That is the only Club that the police would recognise as having the appropriate safety certificates for operating on the ranges or military ranges owned by the MOD.

Is that a matter of practice so far as the police are concerned or is that a matter you have to follow? - Each police force should follow that.

No, is it a matter of practice or are you required? Are the police required to follow that? - That is a good question.

I mean, you said it had to be a Home Office approved Club and I simply want to know why? - It is the only Club that we recognise as a police force.

So all you are saying is that is what in fact is done? - Any group of people can become a Club but they don't have to be Home Office approved necessarily but the police should not recognise them from a firearms licence point of view to give them a Club membership.

But you say that is a line that is followed by the police? - Yes.

EXAMINATION CONTINUED BY MR. BONOMY: Now, I think that you as a police force require a sort of probationary period before a person can get a firearms certificate? - Well, that is stipulated by the Home Office, the probationary period.

Of? - It used to be six months and was changed last year. It is now reduced to three months probationary period.

Do/

Do you still adhere to the six months or are you.....? - Well, we would not give a firearms certificate if it was a probationary member. We would advise them if they did apply to wait until they were accepted as a full member and it would be up to the Club to notify us that they had been accepted or not. So it would be the Club that would have to decide whether they served the full probationary period, not the police.

What is your approach to the renewal of certificate where included is a variation which would result, if granted, in the applicant having two more or less identical weapons of the same calibre? - Target shooting is one of the few that you can grant duplicate calibre for. There are certain people would like them for sporting purposes but target shooting, good reason can be made for the different disciplines that they may have to shoot.

Now, we have heard the word disciplines a number of times in the Inquiry. What do you mean by different disciplines? - In target shooting there is slightly more than 50 different disciplines which may involve the use of up to 25 different weapons if a person was just to participate in each discipline at competition level.

Do you mean it is a different type of competition? - It is a different type of weapon used for each type of discipline. Different ranges and different response times between the targets and so on and so forth.

Yes, but when you are dealing with handguns there will be a number of different types of shooting done with these handguns, is that right? - Yes, there can be.

Different types of competition for example? - There is different classifications where you have to use specific weapons if you want to compete say nationally or at Bisley or inter Club shoots with certain weapons that need to have certain types of grips, barrel weights and trigger pull.

What evidence do you know of that Thomas Hamilton ever competed anywhere? - Well, I know that the Club itself shot with inter Clubs at various/

various ranges.

Yes, but what evidence is there that Thomas Hamilton ever competed anywhere? - Besides the Club?

Yes? - Well, he may have competed at the Club. The idea of the Club is to learn to be proficient with the gun.

Now, he had two Smith and Wesson revolvers and two Browning pistols? - Yes.

Why would he need two of each? - Well, at the time when I renewed his certificate the revolver he had stated that he wished to buy had a different barrel length. A 6 inch barrel absorbs more recoil of the gun and can give you slightly better accuracy and it would harder to shoot with a 4 inch or 2 inch barrel weapon.

So why did he need to have two of them? - If he was wanting to do different disciplines. That is what I was saying about different disciplines.

So what is the discipline you can only do with the shorter barrel Smith and Wesson revolver? - It would depend on the individual. I don't shoot competition myself. The people at Bisley are the ones that can maybe answer that for you.

So there will be different disciplines of shooting of revolvers? - Yes.

For 6 inch long barrel and 4 inch long barrel, is that right? - There is long barrel shooting done at further ranges and there are shorter ranges.

Is having a spare a good reason for having two identical weapons? - It can be with semi-automatic weapons because they can jam depending on the maintenance of the weapon that is kept so it would really depend and if you were in competition then quite often I would imagine a lot of shooters would have a duplicate weapon.

And do you know of a reason for having two/

two semi-automatic Brownings? - Well, in Mr. Hamilton's case it would be for the competition shooting.

What competitions were these? - Well, within his Club and I assume whatever shoots the Club organised through Bisley or whatever. You also don't have to be a member of a Club to shoot at Bisley. You can turn up as an individual and shoot on the day and compete in all disciplines. You don't necessarily have to be a member of a Club to do that.

Adjourned until tomorrow
at 10.00 a.m.

ELEVENTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

WEDNESDAY, 12th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

CROWN COPYRIGHT.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational
Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
NORMAN JOHN LYNCH,	
Exam. cont'd by Mr. Bonomy	4
Cross-examined by Miss. Dunlop	24
Cross-examined by Mr. Taylor	41
Re-examined by Mr. Bonomy	44
MICHAEL MILL, (Recalled),	
Exam. cont'd by Mr. Bonomy	46
ROBERT OLIVER CAMPBELL,	
Examined by Mr. Bonomy	48
Cross-examined by Mr. Campbell	57
Cross-examined by Mr. Taylor	62
DONALD COWAN,	
Examined by Mr. Bonomy	63
Cross-examined by Mr. Campbell	67
Re-examined by Mr. Bonomy	70
ANNE ANDERSON,	
Examined by Mr. Bonomy	70
Cross-examined by Mr. Gibb	88
Cross-examined by Mr. Taylor	90
Re-examined by Mr. Bonomy	94
JAMES MOFFAT,	
Examined by Mr. Bonomy	95
MAUREEN JOHNSTONE,	
Examined by Mr. Bonomy	97
Cross-examined by Miss Dunlop	109
Cross-examined by Mr. Gibb	113
Re-examined by Mr. Bonomy	113
JAMES MARSHALL,	
Examined by Mr. Bonomy	114
Cross-examined by Mr. Campbell	123
Cross-examined by Mr. Gibb	128

WEDNESDAY, 12th JUNE, 1996.

ELEVENTH DAY.

NORMAN JOHN LYNCH,

EXAMINATION CONTINUED BY MR. BONOMY: Mr. Lynch, one of the things you mentioned yesterday was the form that yourself had devised for making Force inquiries about criminal records and so on for applicants? - Yes.

And you have been good enough to bring that form with you this morning. A copy will be put in front of you, and copies circulated to everyone. Now, when was it you devised the form? - It was approximately December 1995. I had adapted it from a previous form.

And what was the purpose of introducing this? - Just to give a kind of more general picture on my own applications for renewals.

So do you issue one of these with every renewal application? - I have only started using them recently.

But as from now do you do it with all applications? - Only with my own renewal applications, yes.

Who does it go to in the Central Police Service? - The first entry would be signed by myself as coming in to me from the applicant. Then it would go into the Records Department, which does the PNC and SCRO checks, and then the Computer Section, which is further checks that can be made. I am not sure how in-depth they are.

Do you know what they are about? - I don't know. I imagine it would be for longer cases, from years back, where they could obtain more in-depth information that wasn't held on the PNC system.

Is that particular check one that you have put on just because you have seen it on another form, rather than because you have personal experience of how it operates? - I had an experience/

experience of a previous applicant who had drunk driving offences and they weren't detailed on the current PNC system, and any in-depth explaining how the offences came about. So the Records can elaborate on that.

Have you had any discussion with the Computer Section about how they ought to do this and what they ought to be looking for? - No. They would know themselves.

The next section? - Would be criminal intelligence checks, and then Special Branch.....

Does that mean it goes to the Criminal Intelligence section? - Yes.

Is that a section in Central Police that is always manned? - I couldn't say.

And can I take it it is for the Criminal Intelligence Officer to search for what he considers to be relevant material in respect of a firearms certificate renewal? - Yes.

And then Special Branch? - Yes.

Do you have Special Branch within your own Force Headquarters? - I think so -- I assume so.

You don't know that? - I don't know the persons that work in it, but it is internal mail it goes through.

And you expect them to provide what -- intelligence? - Well, if there are any reasons they may think that the person would be unfitted or unsuitable.

And then it has come full circle back to the firearms licensing? - It would come to us, and we would endorse it coming back into the Department.

Have you actually seen this in operation? - Well, I started using it late March, and I have had a few back, yes.

And have they been largely routine, producing nothing, or have you had signs on any of them/

them of effective production of information? - It is largely routine, but there has only been one drunk driver been highlighted, who had previous offences from 10 years ago.

And which of the sections brought up that material? - It would be the Records, PNC and SCRO. I also had to obtain a separate form from DVLA, which gives you in more detail the drunk driving convictions.

Obviously DVLA is something outwith your own force? - Yes. I have to request that.

In what circumstances do you actually check with DVLA? - I would request on a form, a DQ1, and they would ask for the person's name, date of birth, and they would then return back details of the offences they had committed.

MR. BONOMY: Sir, I think this form might be given a number. I am not sure where we have reached. It may be R34 -- no, I am told 36?

LORD CULLEN: 36 I think, yes.

MR. BONOMY: 36, then.

EXAMINATION CONTINUED BY MR. BONOMY: Now, yesterday when we finished I was going to proceed to the 1992 renewal, and if you could now have these documents in front of you which are D83 and D85, that is FA55 and FA56? Now, is D83 the application for renewal in 1992? - This? Yes, it is.

And you dealt with that renewal? - Yes, I did.

And just one or two features of the application first of all. If you go to the second page, Part B, there is a record there of the possession of two weapons, a Smith and Wesson revolver and a 9 mm Browning pistol? - Yes.

And that is followed by the section dealing the firearms he still wishes to acquire. Now, what were they at that time? - He still had permission to purchase or acquire a 7.62 rifle and a .22 rifle.

Yes,/

Yes, and another two on the other side as well? - The other two on the other side is the applicant requesting to purchase a .357 revolver and a 9 mm pistol.

And this is a new request? - Yes.

So we have got the two rifles continuing from the last time? - Yes.

And we have this new request? - Yes.

And I think we have seen that the authority to purchase the 7.62 rifle was sought about 10 years before the eventual incident at Dunblane? - Yes.

Is it common for someone to have an authority like that to purchase a weapon for 10 years without actually doing anything to put it into practice? - It is quite often common that they have outstanding authority. At the time I would point out that they hadn't purchased these weapons, and did they still require to retain that authority, as they would have to indicate it.

Do you remember doing that when you saw Hamilton in this case? - I don't remember actually doing it, but I always go through the application form with every applicant to make them fully aware of each section, so I would have spoken to him about it.

Can you remember anything of what you were told by him about this? - Well, he would have indicated at the time he would have retained them for Club use, as previously stated. Provided the Club still met the criteria for rifles as well as handguns, then he would be permitted to keep them.

Is it effectively simply a declaration he needs to make that he wants this rifle for target shooting and he is a member of a target shooting Club, and you will really ask no more questions about it? - Well, that is all he has to say, is...

That is all he has to say because that is basically your approach to it? I am not criticising you, but that is because that is your approach to it? - Well, I would probably ask the person/

person if they still intended to purchase them, and they would usually indicate yes or no.

It really does mean though, doesn't it, that there is no limit in practice on the time that an applicant should take to acquire any weapon that they have got authority to acquire? - There is no arbitrary limit applied.

Well, is it not more that there is no limit at all? - Well, there isn't according to the Guidelines, that is right.

So you obviously take the view that it is a good reason to get this authority that you simply want, over a period of 10 years, without doing anything about it, to acquire such a rifle? - Well, he may have had opportunities to acquire them through the Club, or at any time. There is no stipulation by which time they must be bought.

Now, if we move down to the ammunition section, he has to declare the amount of ammunition in his possession; is that right? - Yes.

And one of the quantities declared is 100 rounds of 7.62? - Yes.

Now, he has had this for a long time as well, if we look through the certificates. Should he have 7.62 ammunition when he doesn't have a 7.62 rifle? - He should have it if he has permission to purchase it on his certificate. As he never purchased a 7.62 rifle I can only assume, from the present application I was working with, rather than the files previously, that they had been obtained from the Club, possibly using a Club weapon, a 7.62 rifle; and he hadn't used the ammunition he had purchased or was given, and that had been taken away from the Club. That is the only reason I could give for that there.

But it wouldn't be unusual to see a person who simply wants to acquire a particular calibre of weapon actually being in possession of ammunition for that weapon before he got it? - That can be, yes.

Now, could you look please at the RL3a form? You have noted his good reason as "Target shooting/

shooting only at Stirling Rifle & Pistol Club". Now, is that "For target shooting, only at Stirling Rifle & Pistol Club", or is it "for target shooting only, at Stirling Rifle & Pistol Club"? - It could read both ways. I think at the time I meant "Target shooting only".

And the place he indicated he would do that was Stirling Rifle & Pistol Club? - Yes.

There was no indication given to you of an intention to seek membership of Callander in 1992? - No. Most of the Clubs have inter-club shoots, though, where they arrange various nights where they can shoot at different Clubs.

And are you conscious of having noted that he had not been acquiring commercially-produced ammunition? - I wasn't at the time, no.

Looking back at it is there not something odd about the large volumes of ammunition that were purchased in the years up to 1987, and then the gap from 1987 to 1992, when you are dealing with it, when there is no sign of any being purchased? - I wouldn't have had the large volume certificates that you are speaking of at the time of the application. I have only seen them lately, but I wouldn't have had that at the time of the renewal application.

If you had had them do you think that would have caused you to ask more detailed questions about the shooting he was doing, or would it have made no difference? - I wouldn't think it would have made much difference, because he still had quite a large amount of ammunition in his possession. He may have, for one reason or another, not have been shooting as often as what he was.

But people looking at the Dunblane tragedy might say there is some significance in the fact that a person isn't doing target shooting but has guns and a large quantity of ammunition at home, and that that is something that you ought to ask questions about in future? - That may well be, but there is no restriction on the ammunition he can have at home. That is not for us. That is for the Government.

No,/

No, but in the light of the Dunblane incident, do you not see that as a significant feature of Hamilton, that he wasn't, for a period, doing any shooting at target ranges -- possibly wasn't doing any shooting at target ranges, and yet he was in possession of weapons and a large quantity of ammunition? - Well, as you say, it is possible he wasn't doing it. I mean, he could have been supplied ammunition from various other people at the Club.

Yes. All I am suggesting though is if you had had the opportunity to see this pattern changing because you had the additional certificates from the past with you? - Yes.

It might have prompted more questions about why he needed to keep the pistols at all? - No.

It wouldn't? - I may have asked him why he wasn't shooting as often, if he wasn't shooting as often as he was in the past, and he may have given me sufficient reasons for it.

BY LORD CULLEN: Why would you ask that question? - Well, only, as the gentleman says there, he was asking me if I had seen the previous lapse in buying ammunition.

I am not quite clear. You say it is not your practice to see them, but you are being asked questions on the footing that you did see them for some reason. Would you in those circumstances have asked the sort of question you have just described? - Possibly.

And if so why? - Well, it would depend on -- if they didn't have as much ammunition as he had at the time I saw him, he would obviously not be buying any at all. But he already had a substantial amount, which I presume he didn't need to buy any more until these were used up.

But why would you have asked that question? - I don't know.

EXAMINATION CONTINUED BY MR. BONOMY: You see in the application form we are dealing with he declares that he is in possession of 663 rounds of/

of 9 mm ammunition? - Yes.

Now, if you had had the old certificates and you could see the pattern whereby he was a person who bought commercially-produced ammunition, and bought it in fair quantities, and then stopped in 1987, and you are at 1992 dealing with the application, and you see he is still sitting with 663 rounds of 9 mm ammunition, would you not have wanted to know why this had happened? - Well, I may have asked him as he wasn't buying any, was he home-loading, or was he obtaining it from the Club.

But/

But you don't know? You can't remember that? - Well, I don't know because it never happened at the time.

BY LORD CULLEN: I want to be clear. I mean, was it simply idle conversation with you or was it for a particular purpose that you might have asked that question? - It would be maybe for a particular purpose, if he wasn't using the guns or..... it is provided they meet all the criteria for club membership. There is no amount of shooting stipulated that they must do.

EXAMINATION CONTINUED BY MR. BONOMY: Well, let's assume then that the answer to the question was "I haven't been shooting since l987"? - Well, if he hadn't been shooting since l987, provided he still met all the criteria he would have the opportunity to shoot.

What would his good reason then be for continuing to have a gun and ammunition? - If he was still a member of an approved club and at any time he could participate in that club.

And that is all? - Yes.

And whether or not he intended to shoot would be irrelevant? - Yes. It is up to him as an individual if he is going to shoot.

So we would have a situation then under the present regime that a person might declare to you no immediate intention to engage in target shooting but because he has already got a firearm and ammunition he would be left with it to do as he pleased? - If all the proper criteria was met, yes.

Well, that simply means that he has got a secure cabinet and he is of good character on the face of it and so on. That is what you mean by the proper criteria? - Yes, that is the criteria which we grant the certificate on.

Yes, because we have already removed the good reason in that situation. You have established good reason and you are looking at criteria/

criteria other than good reason? - Yes, as long as he is a member.

You did note in response to Question 6, the one about security..... well, you have noted the detail of his security and you were clearly happy with that? - Yes, the security was very good.

The RL3a form that we looked at is used in all Central Scotland Police firearms enquiries? - Yes.

Is it a national standard form or is it devised by your own Force? - I'm not l00 per cent but I think it is just a Force form. I think there are variations for other Scottish Forces.

Do you have any direct experience of the forms used by other Scottish Forces? - I have seen two from other Forces and they are not the same.

Are they more detailed or less satisfactory in your view? - I would say they are about the same.

Just slightly different? - Slightly different layout and format.

But achieving the same objective? - Yes.

The place that Hamilton declared he would be shooting in l992 was Stirling. Can you remember whether you checked up on his membership in any way? - I would ask the applicant himself where they shoot and then when I received the paperwork back I would confirm it usually with the Club Secretary, that they were a full member of the club.

Is it your practice to actually check with the Secretary? - Yes.

You don't just go by the lists of members that you have in the police station? - No, these lists were only obtained recently at our request, the Firearms Department.

BY LORD CULLEN: Do some clubs issue membership cards or the like? - Some do but someone/

someone could be a member of a club and they maybe have not..... they usually pay a subscription every year to the club and they could fall away from the club and they have not paid their dues and the club would consider them as possibly not still being a member so that really has to be affirmed every time.

So the card in itself would not be enough? - It is an indication they are or were a member of a club but you are always better to check with the club itself.

EXAMINATION CONTINUED BY MR. BONOMY: Now, I am right in saying that all these checks that you do on the applicant and his security are done before he actually fills in the form? - Yes.

And you don't in practice go back and check again once the form comes in? - No, there is no need to unless the security was inadequate. Then I would arrange to go back and re-inspect the security.

In Central Scotland Police do all renewals, and by that I mean the ones you do and the ones that are the subject of beat police officers' enquiries, do all renewals result in a personal visit from a member of staff of Central Scotland Police to the home of the applicant? - Yes.

Do you know of Forces in which some renewals are handled by post? - Yes, I think Lothian and Borders are currently the only Police Force in Scotland that do postal renewals.

Is that experimental? - I don't think so now. I think they are quite happy with that.

Are there plans for Central to do it that way? - There was an HMI report that suggests that every Force should go postal but our Chief Constable and Depute Chief Constable would rather keep it the way it was.

Is that the inspection report you are talking about? - Yes.

The inspection by Her Majesty's Chief Inspector of Constabulary? - Yes.

Which/

Which I think is in draft form rather than a finalised document? - Yes.

Now, having completed RL3a, where do you send it? - The RL3a with the application and the photographs is then submitted to my colleague, Maureen Johnson, in Firearms Licensing.

What did she do with them? - She would check off the details on the form with the computer records and the file and previous applications would be in the file, the certificate would be processed with any variations made to it and then it would be sent to the Inspector or Chief Inspector of her Department.

Now, that sounds like a clerical exercise, is that right? - Yes.

And then it goes to? - It would go to the Inspector and Chief Inspector.

Now, the Inspector and Chief Inspector are in the Chief Constable's staff office? - They are at the moment, yes.

One of them has signed this RL3a? - Yes.

Who was it? - Ian MacKenzie. At the time, though, Ian MacKenzie was not in the Chief Constable's staff office. It wasn't formed at that time.

He was in charge of firearms though, was he? - Administration and firearms licensing, yes.

From him where did the form go? - It would go to the Depute Chief Constable or the Chief Constable for signing.

Can you have D87L which is FA something or other? I think we have had it already. It is the firearms certificate for l992. That is the actual certificate that was issued following this enquiry? - Yes.

It is not actually signed by either the Chief Constable or the Depute Chief Constable? - It is Mr. John Adamson.

What/

What was his position? - I think he was a Superintendent at the time.

And I think it is stamped l9th February l992? - Yes.

Why would he come to sign it? - I can only assume that either the Depute Chief Constable or the Chief Constable were on holiday or were not available and he was standing in for them.

Do you know from experience what material a person signing a certificate has in front of him before finally deciding to sign it? - I am sorry, I don't understand.

Well, does the Depute Chief Constable or whoever is doing this simply have the RL3a and the application and a blank firearms certificate to be signed or does he have more material? - I wouldn't know. I have never actually seen that.

So you have not participated in that? - No, I have never seen what has been presented to the Chief Officers.

Have you on occasions expressed a gut feeling on one of these RL3a forms before submitting to the Depute Chief? - I have, yes.

What sort of thing, without giving me chapter and verse, would give rise to you expressing a gut feeling? - Persons with previous drink driving offences and who were slightly intoxicated when I spoke to them.

That is a bit more than gut feeling? - Well, those are.....

Well, have you ever had a situation where you can't put your finger on something specifically but you have got a feeling that the person is not a suitable person to have a firearms certificate? Have you ever been in that position? - No, I have refused them in the past for not being members of a club.

Yes, these are tangible things. Even drunk driving or being under the influence when you speak to them is fairly tangible? - Well, I have never/

never actually had any gut feeling.

So is there anything at all you can remember about the enquiry into Hamilton that made you hesitate about recommending the grant of the application? - None at all.

And effectively you did recommend the grant, is that right? - Yes, that is correct.

Is there also a move afoot or has there been a move afoot to give civilian officers like yourself more power than simply the power to recommend the grant? - It was recommended by Her Majesty's Inspectorate.

That you should do what? - That the civilians that are working the actual system should be the persons responsible for issuing and granting certificates and the signing of them.

Now, I asked you some questions yesterday about your experience particularly in the gun shop? - Yes.

Are you also a marksman? - I am a fair shot but I am not a marksman.

Have you been in the past the member of a shooting club? - I am a member of Central Scotland Police Club.

But prior to that were you a member of a local club of any kind? - No.

As a marksman have you some knowledge of the types of activities that handgun owners engage in at clubs? - I can only assume that they are the same as our club. The idea of a club is that we practise different disciplines to possibly compete with other clubs or at an annual event called Bisley.

Now, do you shoot against other clubs? - I don't as yet. I am not proficient enough.

Is participation something you only began since joining Central Scotland Police? - Since October of last year I joined the club.

So/

So prior to that what knowledge did you have of competitive shooting or target shooting in general among club members? - Well, I gained a lot of experience in the gun trade as such with persons coming into the shop. I mean, there were a lot of handgun shooters like myself that also did sporting shooting so you do meet a large section of people.

Are you in a position now to discuss with applicants the types of disciplines that they are intending to engage in and make a judgment about how many weapons they will need because of the different disciplines that they plan to compete in? - I can discuss different disciplines with them, yes. As I said yesterday, there is slightly over 50 different disciplines that a person can compete in if they wish to. I am not saying it would but if a person wished to compete in every discipline it could require 25 different weapons.

Even if there was no particular discipline involved but a person said to you "Well, I have got this particular 9mm pistol because I find it particularly good for accuracy and I have got this other one because I find that if it is a competition where I have to fire quickly I can load this one more quickly and complete the exercise more quickly and I would like to do these two different things, largely on my own or with other club members who happen to be there", would that be a good enough reason to have these two weapons? - That is partly good reason but they would both load to the same extent and probably discharge and fire the bullet to the same speed. The sights and the handgrips would be probably the most differences between them. There is certain disciplines where you have to use fixed sight weapons and other ones where you are allowed to use adjustable sight weapons with telescopic sights on them as well so they can be set up differently and be different types of handgun shooting.

Now, if I said to you "I just like to do that at the club and I like to do it on my own and find out how I manage with the two weapons or if there are other people I would like to do it that way", that would be good enough reason? - I would expect you to say if you would like two of the same then give me a reasonable explanation why.

"I/

"I just like to do shooting with two different guns and see what the different results are". Is that a good enough reason? - If they are entirely different and handle different, yes.

What if they are more or less identical Browning pistols? - Well, again with semi-automatic pistols they can jam so that is another thing as well.

So you would help me out and give me good reason for having two? - Well, if they came forward with that.

We have heard evidence about two Brownings that Hamilton had and one of them was particularly sensitive so that even in the loading process you could accidentally fire the gun, it was so sensitive, whereas the other one was standard. Would that difference between the two weapons indicate that he might have them for two different types of activity? - As far as I understand it, the trigger pressure has to be a set poundage. I'm not sure which poundage but they are all checked at competition so that no one has got an unfair advantage as far as I understand it.

So in the end of the day, what is the good reason for Hamilton having permission to possess and permission to acquire 9mm Brownings? - Well, it may have been a standard production model with, as I say, fixed sights or adjustable sights or telescopic sights or different handgrips. That is the different disciplines that they have to meet.

If I can go briefly back to the form you gave us this morning. Do you have access directly in your Department at Police Headquarters to the Scottish Criminal Records? - No.

Do you have access directly from your office to the Police National Computer? - No.

But you are now entitled to access them yourself? - I am, yes.

Does that mean you have to go to somebody else's terminal in another Department to get access? - Yes.

Is/

Is that easily done or do you have to queue up in some way to get use of the terminal? - No, it is relatively easy to do.

Would it be an advantage to have a terminal of your own? - I was offered a terminal of my own but the amount of work that I go through would not have justified having a full-time terminal dedicated to me.

Is there a plan in the Force to add another member of staff like yourself? - There was always a proposal to employ a second firearms examiner but finances have not allowed it.

That is the plan, though? - If they ever have the finance I would imagine they would still do it.

Would a second firearms examiner make up a big enough complement for the two of you to do all new applications, renewals and variations throughout the whole of the Force area? - It probably would, yes.

BY LORD CULLEN: Can I just ask you on that point; you not only carry out examinations in the sense of going out to examine particular applications but you also have a role within the Department itself, is that right? - Well, I have to stand in for my colleague when she is on holiday.

So is some part of your time set aside for Departmental work as opposed to going out and about? - A small portion, yes.

And only one person would be required for that particular purpose? - Yes.

EXAMINATION CONTINUED BY MR. BONOMY: Do you think that your approach to renewals is different in any way from the approach of the Force generally to new applications? - On new applications we require written submissions from the applicant, whether it be for clubs or sports use, and the renewal is slightly different. It is affirmed every time rather than a written submission being submitted every time it is due on the renewal. That is mostly the main difference.

What/

What about the situation where permission has been given to acquire a weapon and the renewal comes along, as distinct from a situation where at renewal a request is being made to add a new weapon? Do you think it is easier to refuse to add a weapon than to take off the weapon which has already been authorised? - Easier to add it?

Yes/

10.40 a.m.

Yes, does the approach of the Force make it easier for a person who has already got the authority to keep it than for the person who wants authority for an additional one to get it? - I wouldn't say there is a difference made.

You were never told during the period you were being trained for this that it was very difficult to remove from a certificate that which had already been granted? - Well, I have because it is obvious from reading the legislation that it is.

Why should that be if exactly the same test applies for renewal as applies in the case of a new application? - Well, I presume because it has been previously granted and the person would be entitled to appeal if it was removed, if the police had been unjustified in removing it.

Now, do you play any part in the training of police officers? - Recently my colleague and I Maureen have recently started giving instruction to probationary officers. They serve 18 months of a probationary period and then they come to Headquarters for various departments to give them input, and I give them firearms licensing input.

What sort of things do you deal with in the course of this input? - We explain -- well -- Maureen explains the procedures for renewal and the grant of firearms, shotgun certificates, and I mainly explain the difference between firearms, shotgun identification, between different types and classifications.

So she is the one that tells them how to go about an enquiry using an RL3a form? - Yes.

Because you are a civilian are there any powers you don't have that other police officers carrying out the same enquiry do have? - Yes. I wouldn't be permitted to charge a person, say they had been committing an offence.

Anything else? - Registered firearm dealers -- I am not permitted to enter and inspect the premises; that must be a police officer.

That/

That is because of legislation to that effect? - Yes indeed. A police officer accompanies me when we do go to registered firearm dealers. I can't go in on my own. I think that is about all.

Is there any problem about you actually possessing or handling weapons in the course of the job because you are not a policeman? - No, I am permitted. There was something changed in recent legislation.

That used to be a problem? - Yes.

If I can go back to the two Browning pistols just to be clear on this. In fact, you might have in front of you document R7, the ballistics report. It is in a number of sections. If you go to almost three-quarters of the way to the back there is a report which is headed "Tayside Police Identification Branch Joint Report". It is not numbered and I can't help you any more with that. If you go to page eight of that report you will see a description of the third and fourth weapons which were the two Brownings? - Yes.

And you see it says, "The third item was a self-loading, magazine fed, pistol of Belgian manufactured chambered for 9mm Luger centre fire cartridges. This was a custom built, competition target pistol, having an extended barrel with a barrel weight, fixed to the extended barrel cover, for balance. This weight would appear to be missing and a custom-built foresight put in its place. The hammer spur had been removed and ground down to a smooth finish. Due to its manufacture as a competition pistol, the magazine safety had not been incorporated within the weapon with the result that the gun could be fired without the magazine being in place. Normally, in standard models, when a magazine is taken out a spring-loaded safety lever is forced out into the magazine well: this lever is linked to the trigger lever and forces it forward from beneath the tail of the sear-lever. Thus when the magazine is removed and a cartridge is left in the chamber, the pistol cannot be inadvertently discharged and the magazine must be replaced before firing is possible. This type of weapon, when fully loaded, normally has a holding capacity of 14 shots -- 13 in the box type magazine which fits into the butt/handle/

butt/handle and one in the chamber. The gun was in good outward condition, and when fitted with a magazine, was found to be in full working order. Another feature of this type of competition gun is the minimum pressure on the trigger required to fire it (sensitised trigger fitted during manufacture)"? - Yes.

If you look at the bottom of the page you will see another self-loading Browning chambered for the same cartridges, standard model, fitted with a magazine safety device. The registered number of that one is PZ69756. From the firearms certificate you will see that is the one he actually had when you went to his house? - Yes.

Now, why would someone get authority for these two separate weapons? - Well, the one he had on this, going from the description here, would appear to have been a standard 9mm. There is a discipline called "Police Pistol 2" for semi-automatic weapons where he could have participated with that weapon with the standard adjustable sight and what not. There is a specific discipline -- I can't remember the exact name of it -- but there is a specific discipline for another classification of Browning pistols which would require the other type.

What sort of discipline would that be? - Well, it is a certain classification for the competition pistol but I don't know the exact detail myself. I had never seen the second pistol he purchased.

Once he has got authority as long as it fits the bill of being a 9mm Browning he can get any kind of Browning? - He could have.

In fact, he could have got one absolutely identical to the one he had? - He could have, yes.

CROSS-EXAMINED BY MISS DUNLOP: You told us yesterday that you dealt with renewals but not grants? - Yes.

Is that because a first time applicant for a firearms certificate is considered to require closer scrutiny than somebody who is already a holder? - Yes. I would imagine a lot of local knowledge of the police, that is required for input/

input to grant.

So if we imagine you dealing with an existing firearms certificate holder who is renewing his certificate and keeping the same guns on his certificate, might you tend to assume that the reason he gave for having those guns the last time is still a good reason. This is the same reason as he is giving to you? - Well, the handguns had been granted -- well, I assumed that when I did see him, but previously the two rifles he had been permitted to have, I would have re-affirmed the need for them.

But the hypothesis I was putting was somebody coming forward with a firearms certificate for perhaps four guns which he had or owned, and all they are doing is seeking renewal, they are giving the same reason, it is the same guns, would you tend to assume that what held true last time continues to hold true? - It would be verified at the time of renewal.

If they had been considered to be a fit person to have those guns the last time might you tend to assume on finding no information about convictions and so on, might you tend to assume they were still a fit person? - You would, yes.

You told us about the checks you carried out with criminal intelligence and we see from your form this is one of the boxes that is ticked. Yesterday you explained that this is not something done by you directly. Can I ask you, is that because you are not trained to do that or are you actually denied access to Intelligence records? - I am not trained to do that.

So that there is nothing that you are aware of that says you can't have access, it is just like.....? - I think there is an intention for everybody in the Force to have access. We are having a new computerised system installed at the moment and hopefully once it is all linked up we will be able to access that ourselves once we are trained.

Just tell me if you don't know the answer to the question, but is there any kind of rule that says that you can't have access to the intelligence records? - Not to my knowledge, no.

So/

So it is just a question of training, and once you get the training.....? - Yes.

The document that you have shown us which contains the boxes for amongst others Criminal Intelligence, Police National Computer, SCRO has a column headed "Result": if something is found will the person making the search tell you in every case what they have found or might they write "Nothing adverse" or "Nothing to prevent grant of the firearms certificate"? - They would usually write "No trace" or "Negative result". If they identified -- in the case of the one the Records Department sent a spool in from their department indicating what they had seen on a trace of the person and that was attached to the document.

If they had seen anything they might say something like "Nothing to prevent grant of firearms certificate"? - They wouldn't write that, no.

If they found anything at all they will tell you what they have found? - Yes.

Do you then make a judgement as to whether what they had found ought to have some implication for the person's firearms certificate? - I would then elaborate on it with the person who had found that out and depending on the line manager they may request them to follow up with an AD2A which is the in-depth report into their findings, and that would be submitted.

Let's take the intelligence records as an example: if what had been found was some intelligence report which didn't mention firearms at all, is that something you would always discuss with somebody senior to you, or may you say to yourself this is not sufficiently important or relevant? - I would usually bring it to the line manager's attention.

Usually or always? - Always, because this has only happened this once with firearms, and that was brought to the line manager's attention.

When you started working did you get any instruction about following that course of conduct, to say when something came up.....? - The prescribed form we use does decide this, the standard/

standard form for renewals. The enquiry officer himself is requested to undertake physically whether there is a trace or no trace. If something is attached to the spool copy we use it from the Records Department and submit it to line management. The information may already be on file. It is decided from there whether to look further into it.

A check on the Police National Computer and the Scottish Criminal Records Office -- are you aware whether or not that would disclose road traffic convictions? - I have been told that some -- there are some that stay on for quite a long time but I am aware that certain road traffic offences only stay on for a three month period and then fall off for some reason.

Do all road traffic convictions make it on to the SCRO? - I honestly can't comment on that. I don't know.

What about minor convictions. I am not speaking about road traffic convictions, I am just speaking about something like breach of the peace or something like that. Will that always be put on the SCRO? - If the police were involved I would imagine it would be. It would probably be highlighted as pending.

Might there be a conviction for breach of the peace which didn't involve the police? - I don't know.

Can I ask you a little bit more about the number of different disciplines which exist. You said that someone could require 25 different weapons to participate in all these disciplines; is that correct? - They could apply -- I wouldn't like to say whether they would be granted permission for 25 weapons -- but they could apply.

I would like to explore that a little bit with you. If I came to you and I told you that there are no constraints of time or money on what I could spend on shooting and I want to acquire these 25 different weapons, can you see any reason to say No? - Due to the fact of the amount you are applying for you would probably be put -- if you can justify having them it would be difficult to refuse. You can appeal against it, the Chief Constable's decision./

decision. That has never happened as yet.

If you can just imagine if I say to you 'I have got unlimited amounts of time and money to spend on shooting, shooting two evenings a week and a day at the weekend', there wouldn't in the end of the day be anything that you could do to stop me getting permission for these 25; is that so? - We could refuse but at the end of the day you could take us to Court and under the current legislation probably win your case.

And/

11.00 a.m.

And so when I come to you with my request you are going to be influenced by the thought that I might appeal and be successful? - Well, possibly, but that is not for me to decide.

And taking it a little further, if I have explained to you that I want a number like 25 guns, and I then say to you that I know from my own experience that handguns can jam, and that I would like to have spares for some or all of these guns, it follows from what you have said about the need for some people to have spares that you would accept that as a good reason to have the duplicate guns, would you? - There is not as many disciplines for semi-automatic weapons as what there is for revolvers and the rifles that are used.

So how many disciplines are there, just roughly, for semi-automatic? - I am not really sure. I have never really examined this.

So if I said to you I want my 25 guns and that there are 10 disciplines for semi-automatic weapons so I would like to have 10 spares for these, then you would presumably take what I am telling you on trust and recommend that I have the 10 spares as well, would you? - Well, it would probably be looked into due to the volume of guns and also their security as well, that amount of guns would be taken into -- you are probably getting near to what they call a dealership with that amount of weapons, so....

Well, if there is no suggestion that I am selling them. I am keeping them all, and my security.....? - Well, I was meaning for security arrangements, so there could be different considerations made regarding the amount of weapons.

But providing I can demonstrate very good security arrangements for that number of weapons, there would be nothing in theory to stop me from succeeding with that application? - Under the current legislation, no.

Turning to ammunition, you gave some evidence yesterday about people being entitled to seek and obtain permission to have 1,500 rounds of ammunition/

ammunition for each gun -- that is correct? - Yes.

So if I have, following this hypothesis through -- if I have explained to you why I need to have my 25 guns and 10 spares, could I then have 1,500 rounds of ammunition for each of these guns? - No, I wouldn't say so. I mean, you can only shoot so many guns at any one time, so it is unlikely you would need 1,500 rounds for every gun.

What would you have in your own mind as a limit that you might place upon me in that situation? You have told us that there are no arbitrary limits? - That is right, there isn't. I wouldn't imagine any persons would need any more than that amount, to shoot competitions.

Well, than, what amount -- 1,500 per gun? - Well, 1,500 -- if it was for three calibres, say, 1,500 per calibre, but not per gun.

I think you are going to have to help me with that? - Well, Mr. Hamilton had two 9 mm handguns. He didn't need permission for 1,500 bullets for each handgun, it was only 1,500 bullets in total for both guns.

Yes, but I am really asking you about this more general example of somebody who says they want 25 guns in order to participate in as many disciplines as there are? - Yes.

What sort of quantities of ammunition could they obtain for that? - Well, they could apply for whatever amounts they saw fit, that they may think they need, but whether they would be granted that would be a different issue.

You have said several times there are no arbitrary limits on things like quantities of ammunition? - Yes.

But do you ever impose what you consider to be a justified limit? - I wouldn't like to let people go to excess. I mean, if they were shooting target shoots, sporting shoots, or vermin problems, they wouldn't require an excessive quantity of ammunition.

Well, what is an excessive quantity of ammunition?/

ammunition? - It depends on the individual. Myself personally, I only shoot 200 rounds maximum a week for target shooting, but someone might shoot more. I don't have the opportunity to shoot as often as I would like, so it really depends on each individual.

If the person has an amount of ammunition for each calibre, what would be an excessive quantity of ammunition for each calibre? - I would say once you start maybe going into three, four, five, six thousand you then, depending on the level of security, you then have problems with larger amounts. As far as I know there is set amounts of ammunition, and there are Council regulations as well, that persons can't keep for fire purposes. You have all these considerations for large amounts of ammunition.

Just finally on my example of somebody perhaps wanting 25 different guns for 50 or so disciplines, how many different calibres would he be talking about? - Again I am not too sure. It could be possibly 15 -- I would need to have -- there is a document produced every year by Bisley, if you are in the National Pistol Association, and it explains all the disciplines and the type of weapons that are required to compete in them. So I really couldn't say for sure.

But if you are right in your estimate, and in my 25 guns there will be something like 15 different calibres, but an excessive quantity of ammunition for each different calibre wouldn't be reached until I was asking for three, four, five or six thousand, then perhaps if I said I wanted two and half thousand for each of these different calibres, then I could get that, provided I told you I was doing a lot of shooting? - If you could show you were going to be using it, then you could apply for it, but it may or may not be granted in the end of the day.

But if I tell you I am in one, two or three Clubs, and do a lot of shooting, then you can envisage a situation where I may get that? - You could apply for it, and you may be granted it, yes.

The different disciplines -- you were asked yesterday some questions about having a 4 inch barrel/

barrel revolver and a 6 inch barrel revolver; do you remember that? - Yes.

And you weren't very sure of the different disciplines one would be using these weapons in. If I applied for permission to have a 4 inch barrel revolver and a 6 inch barrel revolver and you said to me "What different disciplines are involved?", and I gave you an answer, you would just have to take that answer on trust, because you don't have the personal knowledge about those different disciplines; is that correct? - Well, you would usually indicate what they were for, and in the years that I have been working with firearms, as well as in the gun trade, I would know whether you were just saying it for the sake of it.

You would know if the answer I was giving to that sounded right or not? - Yes.

Yesterday you told us that it is not necessary to be a member of a Club to shoot at Bisley? - That is right.

It is necessary however to be in a Club to obtain a firearm certificate for target shooting; isn't that right? - Yes.

What puzzles me then is, if I am not a member of a Club, where do I get the weapons with which I shoot at Bisley? - Well, you can be -- it could be rifles that you have, a sporting rifle. I mean, you can use sporting rifles. If you had a personal firearm certificate, and say you were a member of a Club, we are saying because -- the Club certificate, I am referring to more so. We only recognise a Home Office-approved Club as receiving a firearm certificate from the police; but individuals who have their own personal firearm certificate within that Club can also, if they wish, set themselves up as a Club, not necessarily Home-Office approved, which we wouldn't recognise.

I am not sure that I quite understand this. Your answer yesterday was that it was not necessary to be a member of a gun Club to shoot at Bisley; do you remember that? - Well, I think I said that they didn't -- you would have to have a firearm certificate, and if you had a handgun, the person should be a member of some Home Office- approved/

approved Club, wherever it be in the country. But they can participate as an individual, not necessarily represented by the Club, at Bisley. They don't have to turn up with the Club and say "We are shooting as a Club". They can participate as an individual.

So what you were talking about yesterday was the possibility of shooting at Bisley as a member of a non-Home Office-approved Club; is that what you meant? - No. They could be shooting as an individual. I personally don't have intentions to shoot at Bisley. Not every Club may shoot at that kind of competition level at Bisley. That is up to them as individuals. But if there was an individual in that Club who felt he was proficient enough and wanted to shoot at Bisley, he could go and shoot as an individual rather than as the Club.

When you considered Mr. Hamilton's renewal in 1992, I would like to be quite clear about what documentation was available to you. You would obviously have his application form? - Yes.

And you told us yesterday that you would have his immediately preceding certificate? - He would have had that -- he would have had his current certificate in his possession.

But you would see that at some point? - Yes.

You would see it when you went to visit him; is that right? - Yes.

So the sequence of events is you go to visit him, you see his current certificate, and then he fills in the form, and when you come to consider the renewal of his certificate all you have is the form and your recollection of what was on his last certificate? - Yes, and I also have an A4-sized sheet on which I take down various details when I am speaking with the applicant as well.

But in terms of the history of his shooting, what documentation do you have? - How do you mean -- how often he shoots?

Well, what is on his file at that point? - I wouldn't have access to his file at that point. I/

I would only be dealing with the renewal papers I have. The file is later submitted to the Chief Inspector.

So that you have his application form in front of you and the RL3a you had -- is that right? - Yes.

And your handwritten notes from your meeting with him? - Yes.

That is the only documentation that you have? - Yes.

And then you carried out the checks of SCRO and intelligence and so on, or you asked someone else to carry out those checks? - Yes.

So when does the file make an appearance? - The file -- once I had put the application to my colleague for processing she would withdraw the file together with the application, for processing.

But by that time you have answered the questions on the RL3a, have you? - Yes.

How would you discover a piece of information such as that the applicant had been attending his doctor for a psychiatric problem? - It would depend if the applicant had been truthful on the declaration on the form where he has to indicate mental disorder, epilepsy, previous convictions. That is a declaration that the applicant has to sign.

What about something else that might have changed, say, since his last renewal -- perhaps difficult domestic circumstances, something like that? Would that be something that you would find out, or would it possibly be something that would never emerge? - It would depend on whether that had been reported to the police or not, and inquiries had been made about it.

You wouldn't enquire about something like that yourself, though? - Well, I wouldn't know to inquire about it if it hadn't been brought to our attention.

You/

You told us this morning that you have never seen all the documentation as presented to the Chief Officer, or whoever is signing the firearms certificate? - That is right.

Does it follow from that that you have never been summoned to a Chief Officer to explain or elaborate on any aspect of a firearm certificate being renewed? - There may have been the odd time maybe the Chief Inspector has called me through and asked -- I am trying to give you an example -- maybe address amendments, or lack of notification of change of address, say for example, and that is about that, really. I think it is only the certificate, once it has left the Chief Inspector, that goes forward for signing. I think it is the certificate that goes forward.

Can you actually recall any incident where you have been asked to clarify or explain something in a firearm certificate renewal? - Not particularly, other than on a minor change of address, or non-notification of transactions of guns -- other than that.....

So you have an actual recollection of being asked to clarify things like that? - Yes.

But nothing any more substantive? - No.

When you are looking at the application form and your handwritten notes and the RL3a, does it follow that at that point you would not know of any recommendation that another officer in the force had made at some point that this person's certificate be revoked? - Not unless it was in the file, or if it had been brought to our attention.

But you said at the initial stage before your colleague looked out the file you wouldn't have what was in the file anyway? - No -- well, if something had been previously submitted to the Department it would previously have been dealt with, I presume.

It would just have been part of the history? - Well, if no proceedings were taken, yes.

Now,/

Now, you were asked about proposals for change that have been made, and my recollection of your answer was that there is a recommendation that civilians, as you are, should be responsible for issuing and granting firearms certificates. Would you be happy if you were given that responsibility? - No.

CROSS-EXAMINED BY MR. GIBB: Can you assist us as to what the cost is for a new application? - For a firearm certificate application?

Yes? - It is currently £56 for a grant.

Can you tell me what it is for a variation? - A paid variation would be £26.

And a renewal? - A renewal is £46.

£46. How quickly could you deal with a variation? - Well, as I explained yesterday, there is two types. There is a one-for-one variation where a person would maybe relinquish.....

Yes? - And that can be done within three to four days usually. If a variation was received where it was paid, if it was different lands, say, for example.....

Well, let us say it was the purchase of a new weapon? - Well, that is what I am leading to. If it needed further inquiry, if it was a paid variation it would go out to operational police officers for inquiry to be made. So that could take as long as five weeks.

If someone had an intention, and had found a weapon they wanted to purchase, presumably there is no reason why the seller couldn't retain the weapon pending the application for variation, so that the purchaser could then take possession of the weapon? - Yes, that is correct.

Because, you see, we have heard a lot of evidence -- and you were asked by Mr. Bonomy -- about Paragraph 17 on the application where Mr. Hamilton, certainly for many years, had an intention to purchase a 7.62 rifle, but had never bought it? - Yes.

And/

And it has been suggested by earlier witnesses that the purpose for that would be that if a weapon became available it would avoid the necessity of seeking a variation before purchasing; but you say only some five to six weeks would be needed, even for a full variation? - For a variation, but that would also be on the certificate.

Yes,/

Yes, let's assume that that category is removed from the certificates and you have now got to apply. You think it could be done in five to six weeks? - It probably could, yes.

Now, you said I think that you don't get the previous applications or the previous certificates. You only get the certificate that is about to expire? - Yes.

Do you go back and check the earlier records? - No.

So you would not for instance have known that Hamilton had had permission to purchase a 7.62 rifle for many years and had not done it? - No.

That would not come to your attention? - No.

I think also that the only club you were aware of that Hamilton was a member of was the Stirling Club? - Yes.

You knew nothing about Callander? - No.

And I think you indicated that you would have contacted Mr. Crawford, the Secretary of the Stirling Club? - Yes.

And I think we have heard evidence from Mr. Crawford and probably all you would ask Mr. Crawford was whether Mr. Hamilton was a member? - I would have asked if he was a full member of the club.

That would be all? - Yes.

If you had asked more and if for instance you had been told that Mr. Hamilton only shot three or four times a year, would that in itself have changed your attitude about the renewal of his certificate? - No.

If you had been told that Mr. Hamilton did not comply with the club discipline and tended not to behave in an acceptable manner on occasions, would/

would that have affected your attitude about renewing his certificate? - If the club had informed us to that effect we would have asked them to elaborate on it and possibly made enquiry into it.

If you were aware that Mr. Hamilton had been warned by Mr. Crawford about his conduct in the shooting range.....? - If we had that information.

If you had asked that and you were aware of that because again we have evidence that Mr. Crawford did warn Hamilton about his conduct? - I didn't know.....

Would that have had a bearing on your attitude about renewal? - If we had been told that we might have enquired into it. Yes, I would expect so.

If you had been told that Hamilton did not follow the course of fire and this was a criticism of him, would that have a bearing on your attitude about renewal? - We would probably have consulted with the club as to if they still considered him to be a safe and competent shot and depending on what action the club themselves had taken would have a bearing on the matter.

BY LORD CULLEN: Suppose no question of safety arises but it is simply not conforming to the course of fire? What would you do about that? - Well, we would hope that the club would take the appropriate action that they deemed suitable. Then if they still allow him to be a member of the club then we would have difficulty in saying that he does not have membership of the club.

So membership really would be the critical thing as far as you were concerned, is that correct? - Yes, if they refused him membership then we would have to.....

CROSS-EXAMINATION CONTINUED BY MR. GIBB: But if he misbehaved but retained his membership, it would be a factor obviously? - It would depend, yes.

And so far as the question of actual use was/

was concerned, all that you needed from a prospective applicant on their renewal was that they intended to use either the weapons or the ammunition? - Yes.

You don't retrospectively need any evidence that during the previous period they had actually used the weapons? - No.

So on that scenario someone could be a member of a club for l0 years, never have been to the club and as long as they retained their membership the odds are that that renewal would be granted? - As long as they retained their membership, yes, but I would imagine most clubs if someone was not shooting on a regular basis would probably reconsider them being a member as they were not making use of the facilities.

You were asked by Miss Dunlop about your reaction to signing certificates yourself. You were asked by Mr. Bonomy about postal renewals. What is your view as a firearms examiner about the efficacy of postal renewals as opposed to the system operated by Central Scotland Police? - I would prefer the system that we have because you are still keeping in touch with the applicant. That is my main personal feelings about it. The postal system, when you go postal then you could lose the rapport maybe you have built up with the person over the years and they may lose their shooting grounds on farms or whatever which may not be reaffirmed at the time.

We have heard evidence I think that the Home Office guidelines have suggested that the six months' probationary period be reduced to three months? - That is right.

And that there need no longer be any counter-signatory on the application and we know the period of certificates have been extended from three years to five years? - That is correct.

And there is this question of going postal. It gives perhaps the impression of not total deregulation but an element of deregulation of firearms. Is that a fair impression to gain? - I would say it is a fair impression. It is not one that I agree with but it is a fair impression.

CROSS/

CROSS-EXAMINED BY MR. TAYLOR: Can you have D87L in front of you please? That is the RL3a which you completed in February of l992. We see the first question which is asked is whether the applicant is a suitable person to hold a firearms certificate? - That is correct.

When you approach such an applicant do you go there with an open mind? - Yes.

You don't go there with any preconceived ideas? - No.

So you are starting from scratch if you like in seeing whether this person is a fit and proper person? - Yes.

So if anything which you have said in evidence up until now could be interpreted as you going there with some assumptions, would that be incorrect? - I don't know.

Well, are you going there with any assumptions? - I am not, no.

And if we could have a look please at No. 5 on the second page. We see there that one of the questions which is posed is whether the locations entered at Question 23 in the firearms form are suitable for the use of firearms held or to be acquired, is that correct? - Yes.

And I think we have heard evidence already at the Inquiry that the purpose of this is to ascertain if the club of which the individual is a member is properly qualified to shoot particular guns which he has a licence for, is that correct? - Yes, that is correct.

And it would only be at such ranges that the licenceholder would be entitled to shoot, is that correct? - They would have to be approved ranges, yes.

So it would not be correct for example to say that once he had a certificate he was then in a position to do with the firearms as he pleased? - No.

So again if anybody sought to take such from/

from your earlier evidence, that would be somewhat mischievous, would it? - Yes.

If a person who holds a licence for a particular calibre of weapon wishes to purchase another weapon of the same calibre and sell the one for which he originally acquired permission, does that require a variation? - Yes.

I appreciate you don't deal with variations or do you deal with one to one variations? - I do, yes.

Let's assume that the person who is making an application has permission to hold two guns of the same calibre and the permission which he has permits him to hold these two guns and they are differently adjusted perhaps by sight or by grip. I think that was the normal ways in which they differ, is it, the sights and the grips? - Usually, yes.

And if in the variation he seeks to sell one of the guns and acquire another one which is identical in all respects to the gun of the same calibre which he is electing to hold, would that raise any questions in your mind? - If it was an exact duplication then possibly, yes.

Would that cause you to ask any questions? - We would usually enquire as to why and if they gave a reasonable explanation then it would be allowed.

You are answerable to an Inspector and to a Chief Inspector, is that correct? - I am, yes.

How often are you in contact with these people? - Quite frequently.

On a daily basis? - Yes.

In the course of your contact with them will you discuss with them anything which has arisen in the course of your enquiries? - If there is anything untoward, yes, it would be brought to their attention.

And you would obtain the benefit of their views on that presumably? - Yes.

So/

So whilst they might not make specific enquiries of you when you submit documents to them, nonetheless you may well have dialogue with them in relation to particular applications? - Yes.

Am I right in thinking that the firearms certificate is not a prerequisite to shooting at a recognised club? - No, you have to first become a member.

But you can become a member of a club and not hold a firearms certificate, is that correct? - That is correct, yes.

BY LORD CULLEN: Perhaps I can just ask you one or two questions. Can you just help me by describing the system where a certificate is granted in which there is authority to acquire a weapon of a certain calibre and that acquisition eventually takes place. What is the procedure which is followed? - Once an individual has purchased or acquired a weapon that he was given permission to buy we would be notified by the seller and that information would then be transferred on the computer records from 'purchase' or 'acquire' to 'possess'.

Is there any entry made on the firearms certificate? - There is, yes.

So it passes through the system for that purpose, is that right? - Yes.

The information that goes into the firearms certificate about the weapon which is authorised to be acquired simply states the type and the calibre, is that right? - That is correct.

And by the type the word 'pistol' or 'rifle' or 'revolver' would do, is that correct? - Yes.

Now, suppose you have a situation in which at renewal the applicant wants to acquire a second firearm of the same calibre and type that he already possesses and he gives an explanation that he wants to have that one with some special features on it and on that basis you are content to pass the thing on for approval. If in the course of that period of the renewed certificate he in fact buys one which is exactly the same as the one he already holds, is there anything that can be done about that/

that? - That is a good question. It would probably be decided upon renewal whether anything should be done. I don't know whether anything actually could be done because he had purchased..... on the certificate it would just stipulate the calibre and type, no specification of weapon to buy.

So he is doing something entirely within the four walls of what he has been authorised to do? - Yes.

And in view of a question asked by Mr. Taylor, can I just be clear; if he starts shooting at some different location from the one which is mentioned at the time of the application, is there anything that can be done about that? - Well, if it came to our attention it was not an approved range then he would not be complying with the conditions of his certificate and there may be something done about that, yes.

But supposing he still sticks to approved ranges but he had been going to shoot at one which is not mentioned on his application? - Well, he would not be complying with the conditions of his certificate. There is a specific condition which says it must be ranges that have the relevant safety certificates. So he would be in breach of the conditions of his certificate.

Thank you. One other matter. When you are considering whether authority should be given for a particular acquisition, are you concerned also with whether the security will be adequate to contain the weapons proposed to be acquired? - Yes.

So if we take Miss Dunlop's example of 25 or 26 or whatever it was weapons proposed to be acquired, then the applicant might be in some difficulty, might he? - If he didn't have..... they would have to improve their security for the proposed weapons, yes.

RE-EXAMINED BY MR. BONOMY: In connection with the l992 renewal, was any check done on Criminal Intelligence? - Not by me, no.

And you didn't instruct any? - No.

When the application form and the RL3a go/

go to the Inspector, the Chief Inspector and the Depute Chief Constable, where is the current licence? - It would be retained in the file.

So the applicant hands in his current certificate when he sends in his application? - We request them to return their certificate to us although we have no grounds under the current legislation to ask that but most of them do comply.

And is the RL3a completed by you in the office after the application comes in? - Yes, definitely.

And prior to that at the house you use a blank sheet of A4 paper? - I do, yes.

Have you had experience of Maureen Johnson sending an application back to you for further enquiry as a result of something that she has discovered on file? - Yes.

Can you give me an example of that? - There was an omission that an applicant had made. He still had outstanding authority to buy a 2.2 sound moderator which is commonly known as a silencer and they had not mentioned it on their application form and she referred it back to me to confirm whether the applicant still required it or not.

You were asked about shooting albeit you did not have a firearms certificate. Do you in fact even need to be a member of a club to shoot? - I do have personally a firearms certificate.

But can a person go to a club as a guest of a club member and shoot? - They can go as a guest, yes.

You were asked some questions about preconceived ideas about whether a person is a fit and proper person. Do you not in fact approach a renewal on the assumption that the person is a fit and proper person unless something crops up to suggest otherwise? - I assume they ought to be fit and proper unless the PNC or SCRO system would show differently.

So you do make assumptions? - Well, not full assumptions that they are unfit.

MICHAEL/

11.40 a.m.

MICHAEL MILL (Recalled)

LORD CULLEN: You are still on oath, Mr. Mill.

EXAMINATION CONTINUED BY MR. BONOMY: Would you remind me of your present position in the Police Force? - I retired from the Police Force as a Chief Inspector in charge of Callendar Local Command Unit in April, 1994.

I want to ask you about one of Hamilton's renewal applications which you dealt with. Could you have various documents in front of you. First of all D51A which is an application dated 3rd January, 1986, the RL2a which goes with it which is D52, and the AD2a form which is D53. If we start with the last of these, the AD2a form, you will see this is from Acting Chief Inspector Mill at Stirling to the Chief Superintendent of A Division on 29th January, 1986. Is that from you to the Chief Superintendent? - Yes, it is.

That relates to what is headed up "Variation of firearms certificate 4588". It was actually a renewal with a variation built into it? - That is correct.

If you look at the application form you will see that? - That is correct.

And it relates to Thomas Hamilton? - Yes.

We have heard a little evidence of your involvement before in the Inquiry when you dealt with some of Hamilton's complaints about the police investigation at Inchmoan Island? - That is correct.

And we heard that you were the person he did from time to time come to try to plead his case, as it were? - Yes.

You became involved somehow or other in this particular renewal variation application. Can you explain to us how that came to be? - Yes. In January, 1986 I was Inspector at Stirling and Chief Inspector/

Inspector Reid was my immediate supervising officer. He initially processed this RL3a form, and he went off ill, and in that interim I took over from him, at that particular stage of the variation and the renewal.

Are you in the chain of command which would normally, as a result of that -- that would normally deal with applications? - Yes.

Had you come in only because a query is raised? - With the processing of the application, the firearms application, the renewal variation, as Inspector I would check the officer who is actually dealing with the application themselves. It would go through the chain of command through the officer who actually is doing the application, go through the Sergeant, through the Inspector, and then the Chief Inspector or Sub-Divisional Officer would then put his remark with "no objection" and it would then go to the Superintendent.

If you look at the RL3a, the Inspector has initialled it under the word "Station". You see that? - Yes.

I don't think that is your initials? - No. Yes, that would be Inspector Marshall. He would be the Inspector who initialled the renewal.

You would come in because you were deputising for the Sub-Divisional Officer? - Yes.

We don't see your signature anywhere on that document? - That one would have went through to the Superintendent with no objection at all to the firearms -- well, the Deputy Chief Constable's office, who would then have seen something in the application and would have returned it. At that particular stage then I would have been deputising for the Chief Inspector.

Attached to AD2 is a note addressed to Sergeant Binning? - Yes.

Is that Marshall's written note? - Yes, it is.

He is asking him -- well, he is saying it is unlikely a second 9mm pistol will be granted. See/

"See Mr. Hamilton and obtain full details of his reasons for requiring two pistols of the same calibre." Did you actually make that enquiry yourself of Hamilton? - No, I didn't. That would have been returned to the officer who was dealing with the application.

So that is Bell, is it, or Lesley Johnston? - Yes, it would be Constable Johnston. Sergeant Binning would be her immediate supervisor.

Why would she not simply complete the AD2 form herself? - Well, she would normally do that. I don't understand why she hasn't done it. I just can't remember as to why I would have done it. It may have been to expedite the variation and the application. It may have been she was off, she went off ill or whatever.

Are you sure you didn't speak to Hamilton? - I didn't speak to Hamilton.

Were you yourself aware of the information in this AD2a from what you knew of Hamilton or is this information that could only have come from the enquiring officer? - This could only have come from the enquiring officer. I wouldn't have made any investigation into this particular variation.

No cross-examination.

ROBERT OLIVER CAMPBELL (63) Sworn

EXAMINED BY MR. BONOMY: Do you live in Stirling? - Yes.

And do you work as a security officer? - Yes.

How long did you know Thomas Hamilton? - From 1977 to 1984.

How did you get to know him first of all? - I came to work in the shop next door to the shop he occupied in Cowane Street in Stirling at that time.

And for how long were you neighbours in shop/

shop premises? - During that period, from 1977, mainly from 1980 to 1984.

What happened in '84? - Hamilton left that shop and in '85 I left the shop next door.

During the period he was a neighbour in the shop did you know of his interest in running boys' clubs? - Yes.

How did you learn about that? - Well, it was obvious. He came in and talked, he wittered on quite a bit because the boys' club was very much at the top of his mind. I also saw boys leaving to go to camps, and I also saw them on a Saturday morning, they would come in and assist him tidying his shop, washed his van.

Can I take it there would be several conversations between you and Hamilton which were fairly regular? - Well, from time to time, yes. He would come in and -- yes, I would say fairly regular.

Did he ever mention the Scout organisation in any of these conversations? - He led me to believe he had resigned from the Scout organisation.

Did you know anything about his family background at that time? - Well, I understood that the father, who now transpired to be the grandfather, stayed in the house at Riverside. He also referred to a lady as his sister, but I knew virtually nothing more about that. I did meet the person who he named as father at that stage, an elderly gentleman.

Were you ever at his home? - No.

Did you ever see anything happening in his relationship with the boys of any kind that caused you any anxiety? - Never.

What appeared to be the relationship? - Similar I suggest to a club leader and boys participating in a club. That kind of relationship was similar to what I possibly experienced myself in the Boys' Brigade between members of the Brigade and officers in charge of it.

Did/

Did you know Hamilton had a boat? - Yes.

Were you on it? - Yes.

Can you tell us about that? - Well, I am quite interested in boats and have been all my life, I suppose -- and never had one. But I am also a painter to trade, and he acquired a boat, and he had been doing some work on it. He knew I was a painter, and he had purchased timber and was renewing woodwork on the boat, and he asked me to varnish it and bring it up and do some other painting jobs on the boat, which I was quite happy to do because I enjoyed messing about on boats.

Can you remember the number of times? - Maybe two or three times I worked on the boat. I have sailed maybe four times.

When was that? - It is difficult to date. Some time between 1980-84 I would have thought.

Were you ever there when he had boys with him? - Yes.

What were the circumstances? - Well, it was just again the boys were around, a posy of boys about, much the same as a Saturday morning. They were on the boat, there were lifejackets on the boat. When I sailed on the boat I had my wife and my own two girls with me. It was a family outing.

On any of these occasions was Hamilton camping with the boys? - No.

What was the name of the boat? - "TROPICAL LINDA" I think.

Do you know what happened to it? - It went on fire.

Were you there at the time? - No. He was on it alone. I was shocked when that happened to the boat. He claimed at that time it was a gas cylinder which had gone wrong.

From what you saw of his relationship with the boys at Loch Lomond was there anything there to cause you concern? - No.

Were/

Were you satisfied with his attention to safety with the boys? - Yes.

What was the first time Hamilton ever discussed what may be described as official dealings in relation to his dealings with authority? - That would be when some -- I think the let of the accommodation in the schools was stopped by Central Region.

Can you remember when that was? - I could refer to -- I have noted the date in my pocket if I can refer to it. I don't know if I would be allowed to?

I don't think there will be any objection to that and with his lordship's leave you can do that. Where did you make the note from? - From -- well, I have got my own CV with me, and I just checked up trying to find out dates, because at the time the statement was made I was more or less taken out of my daily routine and I wasn't quite sure the dates may be accurate, and I tried to get better accuracy.

On you go then? - That is 1984 that case was coming up because the Ombudsman's report was drafted on 22nd August, 1984 and he supplied me with a copy of that, both the draft and the final document, but I don't think I read it at the time. He asked for my advice because I had been a Councillor from 1965 to 1980 -- not with Central Region, I was with the Burgh of Stirling and subsequently with the District Council. He asked questions about administration and how things worked and things like that and generally discussed it. I didn't know much about the circumstances about the stop of the let, but he was quite disturbed at what was going on and worked quite assiduously at trying to clear his name and reinstate the lets.

Did he give you any indication about why he was having difficulty with the lets? - No. I don't really recall at the time, but there had been an incident at a camp or something of that kind. I think this was the basis of it. But subsequent to reading the report that would seem to be the basis of it.

What was the first you knew he had an interest/

interest in guns? - It would be about the same time in the conversations when he spoke of shooting. He was a member of Dunblane Rifle Club I believe.

Were you aware of him taking boys that he had at the shop for shooting practice anywhere? - Not that I can recall. I don't know whether they did. I think perhaps on one or two occasions he took them to the range, yes, I think he did say this, because we discussed discipline and I understood that his discipline on the range was very strict and he looked after the boys.

Did you have any interest in guns? - No, not at all.

Did you have any views about them? - I am anti-gun really -- that kind of gun anyway. I can appreciate guns are necessary for environmental control, pest control and stuff like that, but the kind of weapons that have been discussed here, I don't think they should be in the public domain at all.

Are you a Justice of the Peace? - Yes.

Since when? - I have been a working Justice of the Peace for 28 years. The Justice of the Peace -- we were given that after reorganisation of Local Government in 1974-75. Any Burgh Magistrates who were serving in Court at the time were automatically put on the Justices Register and continued to be in Court.

Does that mean you get asked to sign a lot of things? - Yes.

Can you just give us a rough indication of the sort of forms you will be asked to sign? - Well, the principal one is in fact search warrants for the Police Force, drugs warrants for the Police Force, child care Orders. It goes through a range from people changing their name, changing a lair in a cemetery or something of that kind. There are various things. I would also get asked to testify photocopy documents are true facsimiles of the original document. Generally the Justice is the point the lay public have access to the legal system, the bottom rung of the ladder.

Hamilton/

Hamilton asked you to sign a form; is that right? - Yes.

Were you ever asked about a firearms form? - I signed a form -- I had forgotten completely until such form was presented to me in the course of this Inquiry. I signed a firearms form. I also signed one saying he was a fit and proper person to run a boys' club for the Strathclyde area, Bishopbriggs, I'm not sure.

Did/

12.00 p.m.

Did you, prior to the Dunblane tragedy, ever have information in your possession to suggest he wasn't a fit person to run a Boys' Club? - No, never. I would never have signed the form if I thought that. I knew him well enough to tell him to go and get lost. But I had never any reason to suspect it. What I had seen of his activity with the boys and the Club, I didn't suspect it had changed. I asked him how things were going and I was given the affirmative, everything in the garden was lovely, according to him. Obviously he wasn't going to tell me anything different if he was wanting a form signed.

When was the first time he asked you to sign a firearms form? - I am not sure, but the date was on the form. I don't recollect it.

Could you look at FA55, which is D83. That form is dated the 12th January 1992. You will see that date on it, and then the date opposite your own signature is the 14th January 1992? - Yes, that will be correct. That is my signature and that would be the date, then.

Now, this is the first time that he came and asked you, was it, 1992? - Yes, to my recollection. I can't answer. I don't know anything other than that. I didn't keep a record of any of the signatures I gave.

You will see you have signed a form that says "(a) to the best of my knowledge and belief the information given in answer to questions 1 to 15 above is true", and if you go back you will see that 1 to 15 are all on the first page? - Yes.

And they are personal particulars of Hamilton, and I take it to the best of your knowledge and belief these were true? - Yes.

The second point you have signed, (b), is "I know of no reason why the applicant should not be permitted to possess a firearm" -- and is that the position? - That is the position, yes.

And then I think you confirmed that the photographs produced bore a current true likeness to the/

the applicant? - Yes.

And you had endorsed one to that effect? - Yes, that is correct.

And you finally said that you were resident in Great Britain and had known him for 10 years? - Yes.

Which is probably just a little less than you had known him properly for? - 1992, 10 years takes you back to 1982. There is a complication on the next application, actually, which I think explains the reason. 1982 -- 1977 I think I came to know him, yes, that is correct.

But you were erring on the cautious side? - Yes.

You weren't erring on the wrong side? - Yes.

And I take it from what you have told me you signed two firearms application forms? - I have signed one subsequent to that one, which I have no doubt you will bring up.

Yes. The other one is D91 (FA61). And you can see your signature, dated the 15th January 1995? - That is correct.

Yes. The complication you are mentioning is that you have known him for 26 years? - Yes. I can expand on that.

I am not so sure it matters, but please carry on and explain it? - I can expand on that, if you wish -- I don't know if it is relevant or not -- but the situation was he arrived at my home on the 15th January 1995 somewhere about 8 o'clock in the evening, and the family was watching television -- house all locked up for the night -- no phone call saying he was arriving or anything. And he asked me to sign this firearm certificate. I had done so previously. The family were watching television. As I say, he could witter on. I had no intention of inviting him in as a guest for the rest of the evening, so the business had to be conducted in my one room, the living room. I got on to the length of time I had known him. The conversation/

conversation was amiable enough, there was no problem in that respect, and I had said something like 15 years or something of that nature, without putting too fine a point on it and calculating everything down to the last..... But he said 25/26 years, and we then began to discuss how this came about, and his claim to 25 years, 26 years was that he first knew me when he delivered documents from the Borough Architect's Department to Councillors. I was elected to the Council in 1965, and he delivered documents from the Borough Architect's at that time to the house on a scooter, documents for the next committee meeting or something. And I could recall him at that time, I could remember of him. I didn't know him as well as I subsequently got to know him in Cowane Street, but I did remember him, and he felt he would like that length of time to be recorded, and as I felt 10 years, 15 years or 26 years -- I think if you don't know someone in 10 years I doubt if you will be much further on in 26 years.

Well, I don't know that you will be faulted for that, but if you could look at the back of that form, there is a series of notes which are Guidance notes for people filling up forms. Have you got that? - Yes.

Now, if you go to the foot of the page, in the first column, do you see a sentence beginning: "The person who countersigns the application is required by the Firearms Rules 1989 to declare that he knows of no reason why the applicant should not be permitted to possess a firearm"? - Yes.

That was your position at that time? - That was my position at that time. I understood he had had guns of various kinds for something like 20 years.

If you go to the next column, does it say: "The countersignatory should therefore be aware that the Firearms Act 1968 requires a Chief Officer to be satisfied that an applicant can be permitted to possess a firearm or ammunition without danger to public safety or the peace". Does it say that? - Yes.

And were you satisfied yourself? - At that/

that point in time, yes.

That he could do that without danger to the peace? - Yes.

It goes on to talk about the Chief Officer is prohibited from granting a certificate "To any person whom he has reason to believe to be of intemperate habits or unsound mind or to be for any reason unfitted to be entrusted with a firearm". Now, had you any reason at that time to think any of these would apply to Hamilton? - I knew that he didn't drink at all. I had never known him to take alcohol at any time. I didn't think anything of his mind. He was different from most people, but I didn't think he was of unsound mind. He was a very shrewd businessman.

And then the last one "For any reason unfitted to be entrusted with a firearm"? - I couldn't see any reason for him being unsuited. I had seen no change in his condition from the previous time.

Now, did he tell you anything about what was going on in his life at that renewal? - No -- when he came to get his certificate signed?

Yes? - No, not specifically. Things were just going on quite well, and the law required that he get his certificate renewed, and he came to me, a justice who knew him, to have his certificate signed.

And between 1992 and 1995, that is between the two forms, did you see him at all? - Only passing in the street.

And between 1985 when your own business terminated and 1992? - Similar.

When you first signed the form had you any dealings with him? - No, no contact other than passing him in the street, something of that kind.

CROSS-EXAMINED BY MR. CAMPBELL: If we look at the second application which you signed in January 1995? - Yes.

And we can see that you are asked the question/

question "To the best of your knowledge and belief is the information given by the applicant in answer to questions 1 to 15 true?"? - Yes.

Would I be correct in understanding -- and I don't criticise you for this, please understand that, but would I be correct in understanding that in so certifying on this occasion, to a degree you were taking Mr. Hamilton on trust? - Yes -- well, I knew that his previous address had been 7 Kent Road. I asked him what he had been doing in the line of business, and he assured me that he was in photography. We briefly discussed that he was buying lenses on mail order catalogue from London, polishing them up and reselling them on the market in Scotland at an enhanced price. He was a shrewd businessman. I accepted that.

It would be a reasonable summary of your relationship with him to say that you knew him, but not particularly well? - Yes, that would be reasonable.

If we look at the second question, the second matter you were asked to certify, on the back -- you may be looking at the Guidance there. The bit you signed is the bit I am asking you to look at? - Oh, this here, sorry.

Part F for the countersignatory, the question you are asked in B, or the matter you were asked to certify in B, is "I know of no reason why the applicant should not be permitted to possess a firearm"? - Yes.

And of course we know that you knew of no reason why the applicant should not be permitted to possess a firearm? - That is correct.

Supposing you had been asked "Is this man a fit and proper person to have a handgun?", or a firearm, would you have felt able to so certify? - I knew that he had handguns and I felt I had no reason -- handguns are permitted by law under a firearm certificate. The police were aware of the firearm certificate. I questioned whether they were kept securely in his house, because I had not any thought that he would use them in the way he subsequently did, but I feared for break-in and theft,/

theft, and someone else using guns in this particular way. In that the certificate allowed it, a gun was a gun, whether it be a shotgun or whether it be a handgun. I don't think we need handguns in civilised society, but the law allows it.....

Can I just interrupt you for a moment, and give you a word of reassurance? Nothing I am saying or asking you about involves any criticism of what you did. Can I just assure you on that. The question I am asking you is a hypothetical one? - Yes.

You have been asked in this form -- and it is really the contents of this form that my question is directed to, nothing that you yourself did. The form says "Do you know of any reason why the applicant should not be permitted to possess a firearm?". And of course you said, quite understandably, given your knowledge "No, I don't know of any reason", and that is what what you certified. Would you agree with me that the form was not asking you to certify yourself that Hamilton was, in your view, a fit and proper person? - I am not following what you mean "certify"?

Is is my fault entirely. There is a difference, would you agree, between being asked whether you are aware of any reason why somebody should not have a gun, on the one hand, and on the other hand being asked your own opinion as to whether he is a fit and proper person to have a firearm? - That is the wording of the form you are talking about, the answer to the question.

Yes, indeed? - I would probably have answered the same question, because I knew of no change in his situation that would have made me think otherwise. If I had I wouldn't have signed that form in the first place. And I knew he was competent in his business, and he was competent at handling guns, whether it be a handgun or a .22 or whatever, it would not, I don't think, have made any difference to whether I signed it or not.

So if B had read "I certify that Mr. Hamilton is, in my opinion, a fit and proper person to have firearms", how would you have answered that question? - Well, I don't think I am a fit and proper/

proper person to answer that question. Who knows what someone is going to do? It is a very very hypothetical question, and I can only give a hypothetical answer. I am not a competent person to say that anyone is a fit and proper person to have a gun. You don't know what someone is doing to do. How long does it take someone to go mad? I think the question is worded the way it is to avoid that situation.

And when we see in the same part of the form that you were asked to tell how long you had known the applicant for, be it 10 or 26 years, you are not asked to give any information as to how well you know the applicant? - I would reckon this is a weakness in the form, yes. But there is another problem to that also, that most people who come to get a form signed are not au fait with JPs every day of the week, who know they have to get in contact with a JP if they might need a form signed in 10 years' time. You have to do it. I mean, what is knowledge of a person? What does that mean?

If I understand the general situation -- correct me -- but you were not familiar with Mr. Hamilton's family background? - Oh no, I knew enough about his family background in that I knew his so-called father. I didn't know his sister, or mother, but I knew the circumstances. He often discussed his parents. He was very good to his parents at this time, so I knew something of his family background, and I had met his so-called father. I had met him and spoken to him in conversation down at the shop in Cowane Street, so I did know something of his background.

You had never been in his house? - No, I hadn't been in it.

Did any police officers ever ask you any questions about Mr. Hamilton? - No.

So your only involvement in the whole process of Mr. Hamilton obtaining a firearm certificate -- your only involvement was the two documents which we see before us here? - That is correct.

You told us that you were a Justice of the Peace -- you may still be a Justice of the Peace?/

Peace? - Yes, I still am.

And Justices of the Peace are one of the categories of persons who can be asked to sign forms such as applications for firearms certificates and the like? - Correct.

Have you ever been given any instructions or training in the matter of considering the signature of applications such as this? - Not specifically to my recollection. I did in 1985, when the new Justice System was set up -- training was introduced then. Training was introduced, and you had certain training to go through, and there would be instruction during the course of that lecture which more or less stood for the honesty of the person in signing the form -- and it would be on oath, taking an oath and signing, most of the forms, the same way as I took the oath when I came in here. Other than that, no, I can't recollect any specific firearms training. Indeed, I wonder what it would be.

I think you were shown the guidance for countersignatories in the notes attached to the form? - Yes.

Have you seen these before? - I don't think I have paid specific attention to them before. If they were in fact attached to the firearm certificate, I don't think I read the small print, under the circumstances of the signing.

Again, it is not a complaint or criticism, please understand me, but before signing these two applications, to the best of your recollection, you didn't read the Guidance? - To the best of my recollection I don't think I read that Guidelines, no. I dealt with the questions above my signature, A, B, C and D and answered these truthfully.

I/

I may be corrected but I don't see anything in Part F directing your attention to guidance or giving any advice on that part of the form? - No. "See Note 68 overleaf before completing this part". Perhaps that is it.

It must have come as a considerable shock to you to discover that Hamilton did what he did? - That is an understatement.

An understatement I am sure. If you were asked again by someone else to countersign a firearms application, would your approach to the matter be any different? - I don't think it could be because again, as I said, I am the first point of contact. People who are known to me and I know who wish to have firearms come to the JP. I am territorially placed within the situation to be of access to the community that I live in and I think I have a duty as a Justice of the Peace to be satisfied on the points in the questions and now obviously on the guidance that this is correct and true. Until the law is changed then I feel I have a duty to sign. My own personal views on it should not in any way..... I can't inflict my personal views on the community where I have a service to perform for that community.

But I think you have offered some personal views of your own as to guns in the community? - I am anti-handguns and all these things. I don't think that they should..... as I said already in a statement earlier.

CROSS-EXAMINED BY MR. TAYLOR: You were asked if the police officers asked any questions of you as to Hamilton's suitability when they called to see you. Can I just have your evidence on whether the police officers did call to see you after.....? - I am sorry, I'm not picking you up.

Did any police officers call to see you following you having countersigned the application made by Mr. Hamilton? - No.

Did police officers come to see you in l992 after you had signed, just to check.....? - Not to my recollection. I think I was telephoned.

You/

You were telephoned? - Yes, and asked to confirm it was my signature. I have no recollection of a police visit.

Perhaps it is my fault. You were contacted in some shape or form in both l992 and l995? - Yes.

No re-examination.

DONALD COWAN (35), Sworn:

EXAMINED BY MR. BONOMY: Are you a Sergeant with Central Scotland Police? - That is correct.

Based at Alloa now? - I am.

And how long in the police? - I have l7 years' police service.

Did you know Thomas Hamilton? - Yes, I did.

When did you first encounter him? - It would be around l979 or l980 if my memory serves me correctly.

Who introduced you to him? - A gentleman by the name of Mr. William MacDonald.

Was he in the police at the time? - Yes, he was.

Has he already given evidence to the Inquiry? - I am led to believe he has.

What were the circumstances in which you came to meet Hamilton? - Mr. MacDonald and his son David were in the Stirling Pipe Band of which I was a member and when I used to take David home sometimes Hamilton was there.

In those days did you have any occasion to speak to him at length? - I wouldn't say speak to him at length. It would be just maybe short periods of five to l0 minutes whilst I would be in Mr./

Mr. MacDonald's house just passing the time before I left.

Did you form any opinion or impression of him at that stage? - Yes, I did. I formed the opinion that I would say he was strange, quietly spoken and an introvert. There was just a gut feeling I had about him, that I didn't take to him very well.

Did you know of his involvement with boys' clubs at that stage? - None whatsoever.

So you would not have any reason to be concerned about his activities with boys at that time? - At that time, no.

How well did you know Mr. MacDonald who introduced you to him? - I knew Mr. MacDonald fairly well, yes.

What about his son? - I knew him fairly well as well.

Were you able to work out how friendly they were with Hamilton? - I would have said they were fairly friendly, yes.

Did you ever go to Hamilton's boat on Loch Lomond? - Yes, I did. That would have been back around l979 or l980 if memory serves me correctly. I went up there with the MacDonald family but Mr. Hamilton was not there on the once or twice that I was on the boat.

Now, I am going to ask you about your involvement in Hamilton's firearms certificate renewal in l995. Prior to that did you have any information about him and his involvement in boys' clubs or on his behaviour in general which might have caused you to be wary of him? - None whatsoever.

You hadn't picked up rumours or innuendo or tittle tattle there was about him? - None whatsoever. Although I have l7 years' police service, in the main I have spent that over in Clackmannanshire and I would say I have spent maybe only four and a half years of my service in Stirling and the Stirling area and have not been party to any report/

report or muster room or canteen tittle tattle about Hamilton.

But there is more to it than that as well. By l995 there were a number of police complaints about him, at least complaints that the police had investigated. That is a separate chapter. Now, were you aware of any of that material? - I was not aware of that whatsoever.

So neither from the simple talk nor from the material that the police had did you know anything about him? - That is correct. I knew nothing whatsoever about him.

So what was your role in dealing with his renewal application in l995? - I was the supervisor at that time of the Area Constables and being their supervisor, when either a grant or a renewal of firearm or shotgun certificate came through it was my duty to allocate these enquiries to individual officers.

Now, can you have D9lL please which is the l995 application and can you have D92L and can you also have Dl06 which is FA63? Now, to deal with that form first of all, that is the RL3a form and your name appears on it? - On the form RL3a, my name appears on the rear of it and I have signed it underneath "Reporting Officer."

The reporting officer was Constable Anderson? - That is correct.

What was your role in the enquiry? - Again it was to supervise that the enquiry had been carried out, that the officer allocated the enquiry would go to visit Mr. Hamilton, check that his guns on his certificate married up with the details of the firearms in Section 3 of the report and that everything was in order.

Now, you signed it on the l4th February l995? - Yes, that is correct.

But you had seen it before? - Yes, I had seen his application form before.

Not the RL3a? - No, that is completed after the enquiry has been done.

So/

So are you sure you didn't see the RL3a as well? If you look at the application you will see it is dated l5th January? - Yes, the application form came to me and because I knew Mr. Hamilton I had a quick look at it and before I gave this enquiry to PC Anderson, the control docket which was attached to it, I folded it up and put a comment on it for PC Anderson. I thereafter gave the form, DNT01, along with this control document to PC Anderson.

Now, we see your comment that you have referred to on the other document which is there which is D92. What was it you said to her? - I put at the top, and I folded it over, and I said "PC660 Anderson. With regard to pre-cons could you oblige and check that this is a definite No" and I have underlined the "No". "I have a feeling he has or at very least is on CI". I mean by that Criminal Intelligence, and I have signed and dated that. I have initialled and dated that, sorry, l8th January l995.

Now, what was your basis for writing that? - Again it was just on my initial meeting with Mr. Hamilton. I had maybe seen him two or three times in the passing in Stirling and I had thought he was a strange man. I have thought many times as to why I thought he had previous convictions or as to what type of previous convictions he might have but again it was just a feeling that I had. Nothing more than that.

Now, you got a reply along with presumably the RL3a? - Yes, that is correct.

And what was the reply? - The reply is "No trace PNC. CI intelligence on Hamilton" and it is signed A. Anderson 660. "Nothing to stop firearm application going through".

Is that last bit in the same handwriting? - Yes, it is.

So what documents came to you at the stage you signed the RL3a? - They all come to me. The application form and the RL3a along with this control docket as I call it.

You didn't have any other document like the file or the existing firearms licence? - Sorry, the/

the existing firearms licence which was due to be renewed would be there as well.

But not the firearms file relating to Hamilton? - Not the main file, no.

And from you where did the papers go? - After I have checked it I put it into the Duty Inspector's basket.

CROSS-EXAMINED BY MR. CAMPBELL: Just looking at the note that you wrote, D92L. You didn't actually say "I have a strange feeling about this man" although that was the basis for your intervention?? - I have on the note "I have a feeling he has or at very least is on CI", yes.

No, I am sorry, the answer to my question I think is "No, I have not put that down" because the feeling is a reference to previous convictions. You are saying "I have a feeling he has previous convictions", not "I have a strange feeling about this man"? - Yes, it is. Yes, "Check that this is a definite No. I have a feeling he has.....", yes.

You see, it might be thought that if what lies behind your intervention at all or what lay behind your intervention in the first place was a gut feeling that you had had about this man, one might have expected that gut feeling to be recorded? - My gut feeling was back to, as I said, l979 or l980 and it was in purely social circumstances and it was nothing more than that.

But it was a gut feeling which prompted you to ask somebody to check out the previous convictions? - Yes.

So it is not purely social, is it? - But it is now in the police environment when as a supervisor I was wanting her to carry out that check, PC Anderson to carry out that check.

What was your understanding at the time as to the reason for a firearms certificate holder requiring to apply for a periodic renewal of the certificate? - Sorry, I don't quite understand that question.

What was your understanding as to the reason/

reason for the requirement that a firearms certificate holder would require to apply from time to time for a renewal of the certificate? - Because his previous one was due to expire.

What training, if any, did you receive in the law relating to firearms regulation? - Well, going back to my probationary period, I would have received input from the Scottish Police College and I would have received input at local level, at Headquarters, and also I would be referred to local Standing Orders and obviously the experience over the years of having dealt with firearm and shotgun renewals and grants.

So it may be a difficult matter but did you receive any training in the law relating to firearms regulation? - In relation to firearms, yes, I would have in my probationary period and, as I said, at local level.

So in l995 were you aware of the matters which required to be taken into account by those responsible for renewing Mr. Hamilton's certificate? - I was aware of the role that the constables enquiring, making enquiry, had to do and I was aware of the role that I had to play in the renewal process.

What was your understanding then of the role which you were required to play? - Obviously to check that all the details on the renewal form married with the details on his certificate which was due to be renewed and that they married with the enquiry officer's report on the form RL3a.

So the instruction which you had as to your role did not go beyond that purely administrative matter? - Well, basically that would be the case, yes. I give it to the enquiry officer and with the answers that she gives me and the RL3a I can see or otherwise that the enquiry has been done.

But we can see that you have taken it upon yourself, because of the gut feeling, to do just a little bit more than that and you have written the note here of the l8th January l995 to PC Anderson? - Yes.

Did anybody ever come to you and say to you "We have read your note here. Why did you write it?"? - No, nobody.

So/

12.40 p.m.

So the only response which you received was a note received from PC Anderson relating to the CI Intelligence? - Yes, that is correct. When I put this back on the Inspector's desk -- well, when I initially got that I actually folded the docket up and when I put it on the Inspector's desk it may well have been the case that was down and nobody would have reason to actually see it.

In the paperwork is there any record of a contact with the counter-signatory Mr. Campbell? - In the paperwork -- as I say, there isn't. I must add that it is normally something that I stress that it is done and I normally get the officer to put another part, at No. 7, on the rear of form RL3a, to say that the counter-signatory has been verified, but on this occasion this has not been put on.

What do you mean verification of the counter-signatory? - By that I would expect the officer to call on the counter-signatory and confirm that he has signed the counter-signatory's section of the form, the application form.

BY LORD CULLEN: Is that all, nothing further than to ask, simply that? - Well, I can personally say that I would generally ask him to maybe write his signature so that I could personally confirm rather than just taking his word.

This is all directed to making sure the person who bears to have signed has in fact signed? - That is correct, yes.

That's the object? - Yes. Although PC Anderson hasn't signed it to that effect, knowing PC Anderson as I do as her supervisor, I would think it would be a fair chance that she would actually do that, although, as I say, I haven't actually put that on.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Would you expect any such visit to be recorded? - Recorded in what way?

In some shape or form? - Again, as I say, I normally record it on the rear of the form, the RL3a, but on this occasion that hasn't been.

Would/

Would this be done by a visit or done by a telephone call? - Again, depending on the individual, speaking from my own experience I would do it from a visit.

But others may have a different approach? - Well, they may well do, yes.

RE-EXAMINED BY MR. BONOMY: You were asked there about the role you played in supervising the constable. Is the extent of your check that the paperwork looks as though it has been done properly? - To my satisfaction, yes.

You don't go asking her: well, did you check this, this, this and this? - No, in general that wouldn't be the case. I would think that PC Anderson is a fairly experience officer, a fairly mature individual, and she is an officer I could trust to do that.

ANNE ANDERSON (31) Sworn

EXAMINED BY MR. BONOMY: Are you a constable in Central Scotland Police? - I am, yes.

How long have you been in the police? - Five years.

Where are you based at the moment? - Stirling Police Office.

Over what period were you a probationary constable? - For two years I was a probationer.

That is the first two years? - Yes.

During that period did you get some training in firearm renewals and grants inquiries? - Myself personally I would go with a senior officer on enquiries and I would learn basically how to do an enquiry from that.

Did you attend Tulliallan? - I did.

Were there courses there about firearms that you remember? - Basically at Tulliallan, the basic training course would cover various aspects of firearms/

firearms.

So far as the Central Force is concerned, during the period when you were a probationer constable was there any formal training in firearms certification? - Yes, I got some training from the Firearms Department as part of a module that I took part in.

And did you undergo that? - Yes.

That was in force when you were a probationer? - Yes.

Can you remember who it was that taught that module? - PC Moodie.

Now, who is he? - The firearms officer for Central Scotland Police.

In the period since you completed your probationary training how many firearms enquiries in a year on average have you done? - I think possibly only the one. That would be the one for Thomas Hamilton.

Have you any recollection of doing any others? - Not for firearms. I did, however, do shotgun renewals.

How frequently? - During the time that I was an area constable for St. Ninian's and Braehead, I would guess probably four or five.

Do you shoot at all yourself? - Yes, I was a member of the Police Gun Club. I don't go any more.

When did you stop going there? - Basically the club tended to run when it was quite a good attendance, and it tended to fall off during the summer months, so whenever it was up and running and if it fitted in with my shift.

Had you shot before when you were in the Royal Air Force? - Yes, I had.

So you have some practical knowledge of firearms? - Yes, that is correct.

In/

In carrying out an enquiry and looking at individual application forms you would know what they were? - I would recognise some weapons. I wouldn't say I could tell you exactly everything.

Did you shoot with handguns or rifles? - Yes, both.

Did you get any renewal applications in 1995 to enquire into? - Yes.

Could you have the form in front of you which is D91. This is the form you were given to make an enquiry into? - Yes.

Would you also have D92 which is a note that went with it -- it may even be attached to it in fact. This is a message from Sergeant Cowan? - Yes, from the rear of the note.

Did that come with the application form? - Yes.

Now, that really instructs you to look into something in particular, that is the previous record, Criminal Intelligence? - Yes.

But without this instruction would you have done that? - Yes, I would have.

Would that be automatic? - Yes.

So far as the record is concerned, is it you who does the check yourself or do you get someone else to do it? - I would get someone else to do it. I am not qualified to use the PNC/SCRO computer.

And on this occasion did you get someone else to make these checks? - Yes, I went to the PNC/SCRO through a phone call to the Control Room which I made.

And they did the check for you? - They did the check.

On the spot? - Yes, they do it on the spot and ask for your own personal shoulder number.

What about the DVLA. Do you know if there/

there was any check there, in Swansea. Did you have any reason to check with them? - No.

That is not part of your process? - No.

It has been suggested earlier in evidence that is a way of getting additional evidence, additional material on criminal records that might not actually have got on to the SCRO? - Yes, I think that is right, but it would generally be for road traffic offences.

They may be relevant, but it wasn't your understanding such a check should be made? - That is correct.

How did you go about dealing with the Criminal Intelligence check? - That came about after I had been on a home visit to check the security at Hamilton's house. I came back and had a feeling about -- I had never met him before, and I had a strange feeling about the man. I came back, and because he had a firearms certificate the chances are he would have no previous convictions, so thereafter I spoke to one of my colleagues who was in the office at the time, PC Stolaker, and I asked him if he knew Hamilton. He said he didn't know him. I explained I had been at his house and found him a bit strange and he had an effect on me when he had presented or showed me the handguns which I had to check.

Can I just interrupt you because I do want to ask you quite a lot about this. But what I was more concerned about was whether at that stage, about whether you had actually done the check automatically because Sergeant Cowan had given you instructions? - No, I hadn't done it immediately.

You say you would have done that anyway? - I would have done it.

You are telling us about doing the Criminal Intelligence and seeking advice of a colleague? - I was trying to explain how the check came about.

On you go then. It may be best if I just let you do that? - The check came about after speaking to the Detective Inspector at the time, Detective/

Detective Inspector Anderson. He knew of Hamilton and there were no previous convictions on him although he did know of him. I thereafter went to the Criminal Management Unit where they have various computers and I wanted to check the Criminal Intelligence on Hamilton because obviously what I seen in the note for my personal reference. When I went in there I spoke to Douglas Hamilton and Gordon Munro and a check was carried out.

You wouldn't be able to do the check yourself? - I couldn't do that because I didn't -- I wasn't very familiar with the Textrack at the time; that is the search you do on the computer.

So you relied on them to do it for you? - Yes.

Did the Criminal Intelligence check throw up anything? - Yes, it did.

What was that? - There was one piece of information on Thomas Hamilton. It was only about three lines in total and it was referring to Hamilton trying to set up boys' clubs in Bannockburn area, and because I didn't know Hamilton, I knew nothing about him, I personally actually found that irrelevant because it had nothing to do with a firearms certificate. As I say, I had no idea of this person at that time.

What did it say about him trying to set up boys' clubs in Bannockburn? - That was all it said really. It was very brief. There wasn't a lot of information on it. It just had his name, where he lived, the fact he had either tried to set up clubs or was actively setting up a club in Bannockburn, something like that. I can't actually remember.

It is not certainly in that sort of form the type of material you would expect to find on Criminal Intelligence? - I couldn't say.....

Unless it was related to something else? - Just depends. Criminal Intelligence is just basically snippets of information that, if the police know a character it may be that they have changed their appearance or whatever, and if they know this character and if there is anything different/

different about the character that can help to identify him or whatever, and they put it on. Basically it builds up a picture.

Douglas Hamilton thought that it threw up nothing at all when he gave his evidence. That is wrong? - That is wrong. I read it.

On stream? - Yes.

Nothing was printed out? - No.

And that's the only thing you read; is that right? - Correct.

And you regarded that as irrelevant? - Basically to his firearms inquiry I did.

You actually replied to Sergeant Cowan's note by saying "No trace"? - That is correct, no trace on PNC.

And CI intelligence? - No. There was a full stop after "PNC". "No CI intelligence on Hamilton". I signed it and put "Nothing to stop firearms application going through".

Whatever way we read it then you did contact Sergeant Cowan that there is no reason from your searches why the firearms application should not be granted? - That is correct.

If I can go back and ask you just a little about the circumstances in which you decided yourself that you needed to know more about Hamilton. You went and asked other officers. That was because of something that happened in the house? - Just when I went to do the enquiry at his home address. I recognised him by the photograph on the application. He invited me in, I was only in as far as the hallway. Generally when you go to people's houses they quite like to chat, small talk, invite you into their living room, whatever. I was aware that there was someone else in the living room of the house, I could see through the hinge of the door. Mr. Hamilton closed the door but he didn't lock it and it was slightly open. I remember feeling a wee bit uncomfortable about the fact there was someone else in the house who could possibly hear what we were speaking about. Thereafter, I had taken/

taken a copy on a blank RL3a form with me which I filled in in handwriting and would go back to the office and type up. We went through the form section by section.

Now, something in the course of that disturbed you? - It was just basically when I was checking the serial numbers of his guns, just the way -- it may sound strange -- the way he looked at me. It is very difficult to put it in words, you know.

Was it the way he looked at you that caused you to be disturbed in some way? - Yes.

Anything that he did that contributed to that? - Nothing in particular, just, as I say, it was just he came over as being very strange.

You have said a bit more than that in a statement you gave about this. Can you help us a bit more, what it was you felt, how it was you felt he was viewing you? - Sometimes people when you are dealing with them, they don't particularly like female officers for one reason or another, and I just got the feeling that he might have thought he could get some kind of reaction from me when we were talking about these guns. I remember when I was completing the form actually having to kneel down, because there was nowhere for me to write, so he was standing up and I was kneeling down. It was as if, you know, he was above kind of thing and he was sort of gloating -- like when he was opening up the oilcloth and showing me the gun it was like "Look what I have got".

So it is at this stage when you are looking at and checking the weapons that you felt most uncomfortable? - Yes.

After/

2 p.m.

After an adjournment for lunch.

EXAMINATION CONTINUED BY MR. BONOMY: I just want to look now a little at the Intelligence position when you carried out this check. Could you have a document D10I(iii), which is D Intel F1, and I think it is D10 -- but needless to say the hole in mine has been punched through the number. Now, is that an Intelligence submission with a date 25th of something? - 25th of January.

Which year? - 1995 I think.

Now, the check you were doing was after that date, was it? - I believe so.

This isn't what you saw? - No. The Criminal Intelligence I saw was only that one piece.

My problem is I can't find anything that looks like that at the moment, but I want to look at this just to make sure it isn't what you did see, and secondly, to discover what difference it might have made if you had seen it. You will see that says the following: "There is a previous Criminal Intelligence submission regarding the above named and his activities in connection with young males"; do you see that? - Yes.

And if you go down to the bottom paragraph does it say "There is little doubt that Hamilton's interest in the males does not stem from any footballing interest, and, judging by his past dealing with youngsters and the training, Boy Scout and Youth Ranger sections, he should be considered as a suspicious youth worker"; do you see that? - Yes.

If you go over the page does it say "Hamilton resides by himself at the address given and has been the subject of police interest in the past"? - Yes, that is correct.

"He has not been charged with any crime resultant from these incidents, and will vehemently deny any abnormal associations with youngsters"? - Yes.

And/

And then "This information was received third-hand, that one of the three parents mentioned contacted a friend", and so on. Now, if you had found that piece of information what would you have done? - It is very difficult to say. I would probably have got in touch with my supervisor at the time and made him aware of it, with a view to having it printed off.

You will see it talks about a previous Criminal Intelligence submission, the very first line. That wouldn't have encouraged you to perhaps look a bit further into the Criminal Intelligence system? - Yes, I would have. I would have been looking to find out anything I could about Hamilton, but because there was only one submission at the time when I made the enquiry, then this didn't come about.

Now, if you look at one more, just for the moment, which is D9, and it is also D9I(iii) in the folder I. You will see that is an Intelligence information input form? - Yes.

And it comes from a Constable Farquhar at Bridge of Allan on the 12th of May 1989? - Yes.

Do you see the heading -- can you read the heading for me? - "Indecency file".

And then Hamilton's name, date of birth and address, and then the words "He is suspected of being involved in indecent practices with young boys"; have you got that? - Yes.

Now, if you had that Criminal Intelligence, would that have made any difference to the approach you took to the application? - It is very difficult to say, because at the end of the day he would not get his licence revoked on the Criminal Intelligence. It would be on having previous convictions, and he still didn't have any previous convictions. But I wasn't privy to any of this information, so it is very difficult to say what I would be doing, but I would also be looking to find out what Criminal Intelligence had on him. When you do a search that is what you do, to piece everything together.

You were looking for Criminal Intelligence?/

Intelligence? - Yes.

Therefore it must have had some potential relevance to your investigation? - I was looking for Criminal Intelligence because of the feeling in the house that I had about him -- I just wanted to find out if there was anything on him with regard to his background or behaviour.

But does it not follow from the fact that you were making that enquiry, not now because you were told to, but because you wanted to, that there could possibly be something in Criminal Intelligence that would affect the issue of whether he should get his certificate renewed? - I know what you mean, but could you rephrase that?

Well, perhaps one other way of looking at it would be that Criminal Intelligence information might point you in a direction that gave you enough material, but if your starting point is that convictions are necessary for the decision not to renew the certificate, what good is Criminal Intelligence going to be to a person like you, making this firearms enquiry? - I think probably the only thing I can say is I would probably be able to add my feelings about Hamilton to it. As far as the application goes it wouldn't actually stop him getting his firearms certificate.

Now/

Now, could you look at the RL2a -- sorry, the RL3a which you completed? Can you remember much about completing it? - I remember completing and going through the questions with Hamilton regarding the various sections, in his house -- which I had a blank pro forma form with me -- and filling it in in my own handwriting, and then coming back and typing it on to the paper.

The first question: "Is the applicant a suitable person to hold a firearms certificate?" you have answered "Yes". Now, applying what criteria did you answer "Yes"? - Basically because I have carried out the checks on the PNC and the SCRO, and he has not got any previous convictions. So from that point of view everything regarding the security, which was in order, and all the various sections, he actually did qualify.

Then the second question is to do with his reasons for requiring firearms or ammunition. You have written "Competition and shooting practice with Stirling Shooting and Pistol Club"? - Yes.

Did you make any check with him about how much shooting he had been doing? - When I was in Hamilton's house he basically volunteered -- you know, he had had that many firearms enquiries done he knew the formula they went along, and he said "You will be wanting to see my membership card?" and he showed me it.

Did you check with the club? - No.

So you accepted what he showed you? - Yes.

Did you ask him at all about how much shooting he was doing at the club? - No. He told me that he did do the shooting at the club, and did various different competitions, disciplines and whatever.

Did he give specification of these? - He wasn't particularly chatty.

So you didn't check on what these competitions were? - No.

And you would check his security? - Yes/

Yes.

And it was satisfactory? - Yes.

Now, you then have to sign the form; is that right? - Yes.

Now, when you sign the form what is the effect of that? What are you actually saying -- "I have done the enquiry, I recommend the grant", or what? - When I sign the form I have completed the enquiry to the best that I can and I am basically signing it to say that the RL3a has been completed and it will be going back to my supervisor.

And I presume you would have signed it even if the answer to some of the questions had been "No", and you had explored that, and even if you thought he shouldn't get the licence -- or is that not your understanding of the procedure to be followed? - Not really. If any of the questions were "No", then obviously that would be getting brought to my supervisor's attention, and I couldn't put my name there.

So you wouldn't be signing it formally? - I wouldn't have thought so. It is all "ifs" and "buts" just now.....

I am just trying to find what the procedure is if the answer is "No", and you are unhappy with the explanation. Is the procedure that you hand the form in without signing it? - Well, I have never had one of those, so I can't answer that.

So you don't know? - No.

Did you ask why he wanted authority to acquire additional weapons? - Yes I did.

And what explanations did you get for that? - The question at No. 4, his words were obviously that he required duplicate firearms because he did different disciplines within his club, and therefore he requested that he could buy the duplicate weapons for competition.

And you just passed on that information? - Yes.

In/

In that form? - Yes.

How long do you reckon you were in the house? - About l0 minutes, l5 minutes.

Now, taking account of what you said before lunch time about his attitude towards you, did you think that he was uncomfortable in female company? - I can't say.

What did you think he was trying to do, then? - I just felt that he was looking for some kind of reaction from me. And it is very difficult to describe the feeling I had.

Did you feel intimidated? - Slightly, but I wouldn't let it show.

I appreciate you have had difficulty answering the question about signing the form, but bearing in mind what you have said, and your view about signing it if you had doubted his fitness, may I take it that the fact you did sign the form meant that you could see no reason why he shouldn't get his firearms certificate renewed? - That is correct. I didn't know a lot about him, so I can't say I doubted his fitness. I felt that I wanted somebody to know that I had been in his house and done the enquiry, and although I found him strange, the fact that he had guns in his house made me want to let somebody know that I had been there and come across this chap and had a feeling about him. That is the only way I can explain it.

But what had you in mind as the reason for conveying that to other people? - Because basically if anything happened I wanted them to know I wasn't particularly happy about signing his form. That is how I felt then, not knowing him.

The person, I suppose, who should really be told that is the person who is responsible for granting it at the end of the day, the Deputy Chief Constable? - Well, obviously I am not going to go and chap his door, but I felt happier when I had spoken to the Detective Inspector at the time and when I was basically told by him that they knew of him and that reports have gone in about him, and he had no previous convictions, and that there was nothing we could do or I could do to stop, or not to sign/

sign his form to allow him to have his firearms certificate.

That is basically what he said to you? - Yes.

And that is by one of the Detective Inspectors? - He is now a Chief Inspector.

But he doesn't really feature in the chain of command which is dealing with the application? - That is fair comment. Obviously my supervisor wasn't working the same shift as myself. I would have spoken to him about it, but because I had spoken to PC Stolaker and he knew I was unhappy about this chap Hamilton, he advised me to go and speak to someone.

The man who gave you the note in the first place was Sergeant Cowan? - Yes.

And he actually underlined in the note "Check that this is a definite 'No'" -- in relation to previous convictions. You didn't take from the note that he had an anxiety not unlike your own which might have merited discussing your feelings with him? - As I say, I would have discussed it with him, but for some reason we have either been working different shifts or on leave or whatever. With him putting "a definite 'No'", I took it he meant he was pretty sure there was intelligence on him; and when I checked and there has only been that one piece, that is when I have written back to him.

CROSS/

CROSS-EXAMINED BY MR. CAMPBELL: Even if you hadn't had any feeling about Hamilton, and even if he hadn't intimidated you in the way that you have explained, what did you do to enable you to sign a form to the effect that Hamilton, in January, 1995, was a suitable person to hold a firearms certificate? - What did I do?

Yes? - Well, basically the form was signed by a J.P., who has known the chap for 26 years. He is saying he is of good character. I am not sure what you mean, what did I do?

Well, you had signed a form which is D106L. Part of that form is a question: "Is the applicant a suitable person to hold a firearms certificate?", and the answer to that question is "Yes" -- right? - Right.

On what basis did you answer that question "Yes" -- on what information? - Right -- on the basis that I had no previous convictions on him, that he is known to a Justice of the Peace who has known him for a considerable length of time, and there is basically nothing about him that could stop him being a firearms certificate holder.

Did you speak to the Justice of the Peace? - I can't recall. I think -- obviously knowing how pernickety Sergeant Cowan is, I would have just telephoned him to confirm that he did know Thomas Hamilton, although I have had several warrants signed by Mr. Campbell and I do know Mr. Campbell, and I did recognise his signature. But I would have got in touch with him.

Just to check that he did sign it? - Yes.

Of course it goes beyond just that. You in fact, having met Hamilton, had a very unpleasant experience? - I don't know if it is fair to say an unpleasant experience. At the end of the day it is a feeling I had, and basically I can't stop someone getting a firearms licence because I have a bad feeling about them. Really I don't know what the feeling was, there was nothing on him that would put him as being any kind of risk. The feeling -- it may have been if someone else had done the enquiry they could have come away thinking he was pleasant, or/

or whatever.

I'm a little puzzled, because you are not being asked to determine whether he does or does not have a firearms certificate. You were asked: "Is he a suitable person to hold a firearms certificate?"? - Well, I can hardly say he is unsuitable because I had a feeling about him, but I couldn't explain what it was about this man.

You see, in the statement which has been provided -- and confirmed in your evidence-in-chief -- you say that you did not feel threatened by him, "But I did feel he might have intended in some way to intimidate me in the manner in which he unwrapped his Smith and Wesson revolver". Now, if you as the investigating officer feel that you have been intimidated by the applicant, by the way in which he treats you, is that something which is at all relevant to his suitability as a person to hold a firearms certificate, in your view? - Again I would say that everybody can interpret different things -- I can't really answer that, I am afraid.

Does it come to this, that having gone to a more senior officer and communicated your feeling to him, the message to you in a nutshell was "There is no criminal convictions so there is nothing you can do"? - Basically, yes.

Who was that person who said that to you? - My Detective Inspector -- Detective Inspector Anderson at the time.

Were you encouraged by anybody to record in a formal manner that you had concerns about the way you were treated? - No.

Do I understand, if I have understood what you have been saying correctly, would it be fair to say that you were hoping that you would find evidence in the search of the records which would justify refusal? - Yes. I was hoping that there would be something else that would back up my feeling. As I say, it was only a gut feeling that I had, and because there was nothing else there I felt maybe it was just me misinterpreting his manner.

Now, more generally, your role, if I have understood matters correctly, in addition to completing/

completing the form which we have seen, was to generally check the terms of the application with the applicant? - Yes.

You would check security of the guns? - Yes.

You would check that the guns tallied, presumably, with the declared information? - Yes.

And the ammunition? - Yes.

You would check that the counter-signatory signed the counter-signatory part of the form? - Yes.

And you would check that the applicant was a member of a gun club, as he said he was? - There is no actual requirement to check that they are a member of the gun club, although he did show me a membership card.

So did you do any checking on that, apart from that? - No.

Was there anything else that you were required to either check, or investigate and confirm? - Not that I recall.

This is something -- a procedure which you have carried out, I take it, on a number of occasions? - No. That was the first one I did.

That was the first one you did? - That was the first one I did on my own, but there was nothing wrong with the security or anything else in his application.

Perhaps just moving away from this one specific case, either from your experience before or since, what we have just been through is a comprehensive list of the matters which would require to be checked or investigated by the officer concerned in this part of the renewal process -- yes? - Yes.

So would you agree with me that in effect apart from relying upon the counter-signatory's declaration, the terms of which we can read for ourselves? - Yes.

And/

And a check on criminal convictions, nothing else is done to check whether the person is a suitable person to hold a firearms certificate? - No.

You would agree with me? - I would agree.

Is/

Is anything else done at the time when a certificate is applied for for the first time? - The application form, the renewal and the grant, are basically the same.

So the procedure and the checks are the same whether it is a renewal or a first time application? - Yes. If he had been applying to shoot on land or anything like that and it was the first time, you would get that in writing from the landowner but if it was just a renewal then obviously just contact with them would be sufficient.

Would you agree with me that this is a wholly inadequate system for finding out whether a person is or is not suitable for a firearm? - Yes, I would agree with you.

CROSS-EXAMINED BY MR. GIBB: You have indicated that you only did four shotgun renewals and only one firearms. Why did you get this renewal to do? - Basically because I work as Community Constable for St. Ninian's and the Braehead areas and basically he resided within the area which I covered.

And all you got was the present certificate and the application? - Yes, which obviously had been completed.

You didn't get any sort of protocol or brief resume of the firearms legislation which would enable you to refresh your memory as to what the Acts said about people who hold firearms. That was not given to you? - The only other thing is obviously the Standing Orders that are kept within Headquarters but there is nothing else given. As I say, I had been with other persons when they had carried out enquiries.

But here is a one-off enquiry that you don't do very often and you were not given even a copy of the relevant Section of the Act which showed what people who hold firearms certificates require to be? - No.

I think we have heard evidence of the training/

training that you get at Tulliallan. Did you attend both the basic training course and the advanced training course? - Yes.

And do you recall as part of these training courses periods dealing with firearms? - Yes.

I think we heard there were five 50-minute periods in the initial course and I think three in the second, in the advanced? - I couldn't honestly tell you.

But you got course papers with it and again I think we have heard evidence that these course papers were not as full as they might have been about the criteria in relation to holding firearms certificates? - Yes.

In your view is it appropriate that someone such as yourself should carry out a firearms enquiry with the information you had available at that time or do you consider in hindsight you should have had more information? - My personal view does not really come into it. I would say basically I had got an enquiry to do and I have to do it.

You had this gut feeling and you went to speak to a Detective Inspector, is that right? - Yes.

Who was that? - John Anderson.

Did he suggest that you might put in a Criminal Intelligence memo? - No.

Did he suggest that you might qualify your report, your RL3a, to simply make a comment about your gut feeling? - I basically went to him because I didn't know Thomas Hamilton and because he had had an effect on me which I was not particularly happy about. I wanted to know if the Detective Inspector knew of him because obviously, as I say, he would not have had any previous convictions if he is holding a firearms certificate and if he didn't know about him I wanted him to know I had been in his house and I found him strange and because he clarified that by saying "Yes, we know of him, there has been reports gone to the Fiscal's in the past, Paul Hughes put reports in", or whatever, because he knew/

knew of him I felt happier in myself that it just sort of confirmed that he was particularly strange and it wasn't me that just found him like that.

But you indicated earlier you certainly would not go and knock the Depute Chief Constable's door? - No, hardly.

Did it occur to you you might put some sort of additional paper with your RL3a simply expressing your concern? - No, because at the end of the day it is just a feeling.

Well, it may be just a feeling but we have heard a lot about feelings in this case? - Yes, I know that.

Clearly if you had put such an addendum on to the Chief Inspector's report it might have.....? - It wouldn't have made any difference.

But you see, we know that it goes up the line. You enquire into the facts. You do the basic enquiry? - Yes.

And you didn't see other intelligence logs that clearly were somewhere? - No, I only saw the one entry which I described to you.

CROSS-EXAMINED BY MR. TAYLOR: One of the checks which you carried out, one of the computer checks which you carried out, is in relation to the Scottish Criminal Records Office, isn't it? - Yes.

And when one looks at what is contained on the SCRO one finds that there are cases pending? - Yes.

And if you on checking SCRO discover that a case was pending and you were in the course of your firearms investigation at the time, would that be a relevant consideration? - Yes, I would have thought so.

And if the offence which was pending was sufficiently serious, would that give you some grounds for concern as to whether there ought to be a renewal? - Yes.

And/

And does it therefore follow from that that it would not just be in the case of a conviction that you would consider the refusal of an application? - Yes.

When you spoke to Inspector Anderson I think you have just told us when answering questions put to you by Mr. Gibb that what you were told was that the police knew of him, that there had been some reports made to the Fiscal in the past and I think also reference was made to the then Sergeant Hughes' memo, is that right? - Yes. Well, he told me that the Family Unit had put in reports regarding Thomas Hamilton and basically that they did know of him because I said to him that I obviously felt quite unhappy and he said there were no previous convictions and there is nothing we can do about him.

Well, is that right? - Yes, he did mention that reports had been put in, that there were a number of reports put in by Paul Hughes and various people.

Yes, but the bit that I am wanting to clarify is the bit which you added on just at the end there when you said that because there were no previous convictions there was nothing which you could do? - Yes.

I mean, are you sure that is not something which has developed in your mind since then? - No.

I mean, you have just told us that is however not the test, haven't you? - Sorry?

You have just told us a few minutes ago that whether someone has previous convictions is not the test? - No, he didn't have anything pending when I made the enquiry. That would obviously have made a difference to it.

Would it be fair to say that since the events of the l3th you have been under quite some pressure? - Yes.

And you have felt quite emotional at times about what has happened? - Yes.

Would/

Would it be also fair to say that some of your concern about Mr. Hamilton may have become more acute since the events of the l3th? - It is difficult to say. I can't answer that.

Well, can I look at it this way then; you have told us a little bit about Criminal Intelligence. How is it that Criminal Intelligence is built up within Central Scotland Police? - Basically officers put in submissions regarding an individual, snippets of information, some knowledge that they have, which helps us obviously to build up a picture about a particular character.

And how are officers told about Criminal Intelligence and their role in providing information to Criminal Intelligence? - It used to be that you filled in a handwritten or typed submission on a form which was actually a form with four copies. It now goes on to a computer system. You have to put it in manually and then if you want to refer to it you have to carry out a search.

I am looking more to know when it is that something ought to be put on to Criminal Intelligence. What sort of guidance are you given as to what sort of material you should be referring to Criminal Intelligence? - Just basically if you feel that you have heard or you have seen something of some relevance that might help someone else with further investigations. You would put that on.

Now, you didn't do anything such as that after you had met Mr. Hamilton in the l995 renewal, did you? - No, I didn't.

So does it follow therefore that the feelings which you had after meeting with him in his house did not perturb you sufficiently to cause you to put something on to Criminal Intelligence? - That is correct, because at the end of the day he didn't point any gun or anything at me. It was down to a feeling that I had about him.

Yes, you would not have been able to formulate any reason which would have been able to stand up to any scrutiny as to why he should not get a firearms certificate? - Yes, that is correct.

What means did the police have available to/

to them in order to make checks on individuals? What records do they have which they can research to make checks on individuals? - Obviously you have the PNC and SCRO computers and you have what we call the trace terminal.

That is Criminal Intelligence? - That would be part of Criminal Intelligence. Not everyone can search Criminal Intelligence if they have not been shown.

But everybody knows about it? - Yes.

And everybody can access it if they choose to access it? - They can ask someone to do it for them if they can't work it themselves.

In the same way as you did? - Yes.

So we have got the Police National Computer and the Scottish Criminal Records Office and we have got Criminal Intelligence. Is there anything else which is available? - Not that I can think of.

You see, it was suggested to you and you agreed with the proposition that the procedures which you adopted when carrying out this enquiry were inadequate. Do you remember that? - Yes.

And I was wondering what further checks you think you could have done from those which you did? - Well, I am hardly in a position to change the law. I mean, it is not for me to look into. It may well be that someone obviously a lot higher up than me could make these changes, you know.

So does it come to this then; that it is the law you think is deficient as opposed to any procedures of Central Scotland Police Force? - Yes, absolutely.

You were also asked one or two questions by Mr. Gibb, that is the gentleman sitting three along from me, in relation to the courses which you attended at Tulliallan and the adequacy of the documentation which was presented to you at that time. Can you recall clearly what was contained in such documentation at this stage? - Not at this stage, no.

So/

So any comments that you made upon the adequacy of that have to be looked at in the context that you can't remember clearly what was there, is that correct? - I suppose if you put it like that, yes.

THE DEAN OF FACULTY: My lord, I wonder before Mr. Bonomy comes in, if I can really seek clarification through your lordship on one matter.

In view of the questions that my friend Mr. Taylor was asking this witness, can I just establish through you, sir, that Central Scotland Police Force is not dissociating itself in any way from Constable Anderson and that it accepts that what she did was in accordance with the procedures and the system then in force because if not, clearly I would want to make representation.

LORD CULLEN: Well, Mr. Taylor, what is your position?

MR. TAYLOR: I am quite happy to give the assurance which is requested by Mr. Hardie, that Central Scotland Police Force is not in any way seeking to suggest that this witness has done other than that which she ought to have done.

LORD CULLEN: Very well. Now, Mr. Bonomy?

RE-EXAMINED BY MR. BONOMY: I just want to ask about one matter which I should have found earlier but I found while cross-examination was proceeding. Can you look at one other Intelligence entry please which is No. ll? Now, I know that this is too long for it to have been the entry that you say you saw on the screen but can you read the first paragraph of the entry please? - The heading is "Matter of Interest/Person of Note" and the first paragraph is "This evening I was contacted by a member of the public from Hillpark who was expressing his concern for a youth club which was or is presently being run at Bannockburn High on a Tuesday evening".

Just stopping there. If we forget the rest of this for a moment, is that entry similar to what you say you saw on the screen? - What I recall or pieces of what I recall about the entry was that Thomas/

Thomas Hamilton from 7 Kent Road was either in the process or was applying to set up a boys' club in Bannockburn so it could refer to that.

Now, what is the date of this entry? - l3th February l995.

And if you look please at the RL3a form, which is D106, what is the date of your signature? - l3th February l995.

Now, does that make it impossible that we are actually looking at the right entry? - Yes.

I mean, how long before you signed the form was it that you did the check? - I can't actually pin down when I actually did the check. However, I know in the week prior to that I had been on sick leave and when I had done the home enquiry and came back I would have had the RL3a in my handwriting. I was on a course actually on the l3th and I came in knowing that the renewal date was coming up very soon and I didn't want the application to run out so I came in from my course and typed it and then submitted it.

Well, was the Criminal Intelligence check done days before? - Yes, before I had been off on sick leave. But it would appear to be relevant, along these lines, but this is not exactly what I saw.

JAMES/

2.50 p.m.

JAMES MOFFAT (49) Sworn

EXAMINED BY MR. BONOMY: Are you a Chief Superintendent with Central Scotland Police? - I am, sir.

How long with the police? - 28 years.

Now, you had some responsibilities to undertake in respect of renewal of the certificate of Thomas Hamilton in February, 1995? - That is correct.

Would you have various documents in front of you. These are the application itself (D91), the RL3a (D92) and what we know as D92, a separate piece of paper that accompanied the application. At some stage did you deal with this application? - I did, sir.

And if you look at the RL3a form can you tell us at what stage we see signs of your involvement? - On the second page, on the reverse side I should say, in the second last paragraph which is marked "To Chief Constable".

You have stamped it. Are these your initials on the right-hand side? - That is correct.

What forms did you have in front of you when you dealt with this? - The form RL3a, the firearms form DMT101 and the applicant's firearm certificate.

Did you also have the note that is there? - I have no recollection of that note.

What is the job you were doing at that point in processing the form? - To satisfy myself that all relevant checks had been carried out by the reporting officer, validate the details on the firearms certificates -- correction, the firearms themselves -- and either recommend or not recommend that the renewal should go ahead and then pass the relevant correspondence onwards to the firearms licensing section.

So/

So if the answers which are given to the various questions justify recommending grant when viewed against the background of how those are normally dealt with, and the paperwork looks as though it has been completed properly, is the course you would follow to recommend grant of the application? - That is correct, unless I had other reasons or other information that would cause me to take a different course of action.

Did you have any information that caused you to hesitate about recommending the grant of this application? - No sir.

Did you know Hamilton? - I knew of Hamilton but I had never had any direct contact with the gentleman.

Did you know about a police investigation into his camps, for example? - I knew that there had been a police involvement with Hamilton and that he had subsequently complained against Central Scotland Police but that was my limit of my knowledge of the man.

Did you know of complaints that were coming in about the way in which he conducted clubs in the area? - I was aware of gossip, uncorroborated statements regarding Hamilton and the boys' clubs that he was involved in.

And were you aware though that other people have actually made complaints to the Family Unit. While no action had been taken on these I think the Family Unit had taken them seriously? - At that time, no.

No cross-examination.

MAUREEN JOHNSTONE (23) Sworn

EXAMINED BY MR. BONOMY: You work in the Firearms Department of Central Scotland Police? - That is correct.

What is the title of your job? - Firearms Certificate Disposal Officer.

How long have you held that job? - About five/

five years.

Who did it before you? - Maria McEwan.

Exactly the same job? - No, Maria McEwan would be called a clerical assistant.

What is the difference between the job she did and the job you do? - The difference between what Maria McEwan did and what I would do is that when the work comes to myself I would look at the paperwork, assess it as okay, process it, and put it straight through to the Deputy Chief Constable.

What did she do that was different? - She would put it up to the Chief Inspector.

Before going to the Chief Inspector was she essentially doing the same job as you did? - Yes.

Can you tell us in a little more detail what it is you do in relation to applications for grant, renewal and variation of firearm certificates? - When the grant of a certificate is received at Headquarters we would, the paperwork is sent out, we would send it out a station and get a reporting officer to go and see the person. Once the paperwork comes back to myself there would be either an RL3a or an RL3b completed, and once the RL3a or b is completed we would check the paperwork, see the person's reasons, their security, check their guns, the counter-signatory and the photograph, and once it is all complete we would then process the paperwork.

You are taking that on the face of it the answers given are adequate and are consistent with your historical records of what that person has had in the past, for example? - That is correct.

And are you saying that applies to both grant and renewal? - The only difference between grant and renewal is once we receive the grant it goes for a check to the department that the renewal does not go to. It would go to a Special Branch Department who would check.

What check would they do? - They would check/

check the records to see if they had any note of that person.

Now, this is a specialised area of police activity? - Yes.

Have Special Branch got their own Criminal Intelligence records? - I don't know the answer to that. I don't know.

You mentioned a form 3b. We have seen a few 3as in our time but what is a 3b? - It is a form for a shotgun certificate.

And serving the same purpose but in relation to a shotgun? - Yes.

Does the work you do differ when it comes to a variation? - In what way?

Do you do the same things with a variation or is it not as formal as the system you have told us about for a renewal or grant? - When we get a variation we would do as much checking as we would do on a renewal and we would ensure the form is complete and the historical paperwork we have and the application form we have tallies together.

Is there an enquiry done by an enquiry or reporting officer in relation to a variation the same as that in relation to a grant or renewal? - Yes, we would expect the officer to do the same enquiry into a variation as they would for a grant or renewal.

Is an RL3a form completed? - Yes.

Do you have at your fingertips figures for the number of certificates held by firearms and shotgun holders in the Central Region? - The exact amount?

Yes? - No.

What is the closest estimate you can give from your knowledge of the system? - About 1200 firearm certificates and about 3,000 shotgun certificates.

If/

If a renewal is being dealt with by Mr. Lynch who has explained his role to us already is it handled or is it not any differently from the ones which are being dealt with in areas he does not cover? - No.

The Central Scotland enquiry began into events on 13th March and it would be necessary to go to you, would it, to find the firearms records relating to Thomas Hamilton? - Yes, that is correct.

Did you turn them over to the investigating officers? - Yes, that is correct.

Could you describe to us just what these records were, just in general terms, what they were and how they were stored and kept? - They were kept in a manual file which is in numerical order and consisted of all applications and all documentation we would have relevant to that certificate holder.

So that documentation would relate to past grant and renewals? - Yes, and variations.

Did the file have copies of his firearms certificates in it? - Yes.

Did it contain much in the way of ancillary information about police inquiries into Hamilton? - No.

Did it contain anything of that sort? - No.

Did it contain anything in the way of Criminal Intelligence inputs in relation to Thomas Hamilton? - No.

You may be relieved to know I am not going to go through your statement and all the documents that you had some dealings with; I simply want to ask you about a number of matters that you can help us with. One transaction that is mentioned is the private sale of the firearm to Hamilton. Can I ask you what the system is for informing the police if a private firearm owner sells his firearm to another private owner. How does that differ from the situation where the gun is sold by a dealer? - What would happen would be the person/

person selling the firearm should make an entry on the Table of the person to whom he is selling the firearm to and he then has within seven days of the transaction to send by Registered or Recorded Delivery a notice to the Chief Officer of Police by whom the certificate was granted that he has sold the firearm.

Does that mean there is no difference between a private sale and a commercial sale? - No.

No difference at all? - No.

Which Police Force does the seller notify of the sale? - When he makes the entry on the certificate he should notify the Chief Officer of Police by whom the certificate was granted. He should notify the Chief Officer of Police for whom the certificate was granted.

If Mr. Hamilton goes into a shop in Glasgow and buys a gun that should be entered on his certificate? - Yes.

And the shop should send the notice to the Chief Constable of Central Scotland Police? - That is correct.

Have you had experience of sellers in a private sale sending notice in fact to their own local police rather than to Central Scotland Police? - Yes.

Is that acceptable? - No. What would happen in these circumstances is we would send a copy to the Police Office.

Could you look please at Production No. D34. It may be ME17. I am looking at a membership card for the Clyde Valley Pistol Club. Was that card on the file? - No.

So you had never seen that before? - No.

But it is a membership card of the Clyde Valley Pistol Club; is that correct? - Yes.

In the name of Thomas Hamilton? - Yes.

And it has the club secretary's signature on/

on it; is that right? - Yes.

Is it "McFarlane"? Is it illegible to you? - Yes.

And it covers season 1985-86; is that right? - Correct.

But that didn't come from your folder? - No.

Could you look please at FA39 now which is an application dated 15th March, 1987? - That is correct.

Is that an application for variation? - Yes.

Is one of the variations to add a 7.62 rifle? - Yes, that is correct.

And does the form include the declaration that Hamilton already possessed 100 rounds of 7.62 ammunition? - Yes.

Even though he didn't have the rifle? - Yes.

Is that okay? - I would have to look at the application before to see if he was allowed to purchase or to acquire a 7.62 rifle before.

Can/

3.10 p.m.

Can I take it from that answer that if you have authority to acquire a 7.62 rifle you thus have authority to acquire ammunition? - That is correct.

But that you ought not to have ammunition before you have got authority to acquire the rifle? - That is correct. You would need to apply for the rifle and then you would automatically get the ammunition or you would have to apply for the ammunition.

LORD CULLEN: Do you want to refer to an earlier document, Mr. Bonomy? D50 I think is the certificate of the year before. The 31st January. That varies referring to a 7.62 rifle and 100 rounds of 7.62 ammunition.

MR. BONOMY: I wonder if I might have a moment because I want to deal with this here and now. This has arisen once or twice, sir, in the course of the evidence.

EXAMINATION CONTINUED BY MR. BONOMY: So it follows I think from what you have said that once a person has authority for the weapon and the accompanying ammunition there really is no reason in law why he should not acquire the ammunition without ever acquiring the weapon? - No.

And each time he renews his certificate and he has not acquired the weapon but his application discloses that he has ammunition, there is nothing that you would do about it? That would be acceptable? - In normal circumstances, no, we would not query it.

Now, can I ask you please to look at FA68. Does that have a D number? Is there a number on the top right-hand side? - No.

MR. BONOMY: Sir, I'm sorry I don't know the number for this.

LORD CULLEN: Do you have a date?

EXAMINATION CONTINUED: Can you confirm that is a Criminal Intelligence submission which is dated/

dated the 1st September 1995? - That is correct.

It is irrelevant for our purposes in connection with the renewal but are you able to tell me whether that was on the file? - It was not in his file until the day after the incident. I was given the criminal intelligence submission.

Who gave it to you? - Depute Chief Constable Mr. McMurdo.

And did he give you that on the 14th March? - That is correct.

Now, this is a submission by one of the constables of Central Scotland? - Yes, that is correct.

Does it name anyone? - A police officer?

No, does the submission give you a name of any complainers or any people? - I don't understand the question?

Is there any person named in it? - Apart from Thomas Hamilton?

Yes? - Billy Caven.

LORD CULLEN: That is D12 I(iii).

MR. BONOMY: Thank you, sir.

EXAMINATION CONTINUED BY MR. BONOMY: I think it records that on the 28th August 1995 a reporter contacted the office to inquire about Thomas Hamilton, is that right? - That is correct.

And that was in relation to a letter dated the 18th August which had been posted through letterboxes in Dunblane and signed by Hamilton? - Yes.

Does it go on to say "The gist of this somewhat rambling letter is basically Hamilton attempting to dispel any doubts parents may have regarding rumours he thinks are circulating about him"? - That is correct.

"Also/

"Also circulating is a hand bill advertising the re-opening of Dunblane Boys' Sports Club on Thursday, 7th September, 1995 at Dunblane High School gymnasium"? - That is correct.

"(The reporter) has spoken to Hamilton and also to local reporters who filled him in with Hamilton's background", is that right? - Yes.

And then it says "(The reporter) is no longer interested in looking into this matter any further", is that right? - Yes, that is correct.

If someone noted when your statement was taken that there were 3,420 shotgun certificate holders and 1,214 firearm certificate holders in the Central Police area, does that sound right to you? - Yes, that sounds correct.

Now, you have certain training duties for police officers? - That is correct.

What are they? - We give lectures on Module 8 to probationary constables.

On what subject do you lecture? - On firearms administration.

And can you tell us the sort of areas that covers? - We would go through the process of firearm or shotgun grant or renewal and explain to the constables the processes that they go through and also other aspects of firearms administration.

You will given a document just now which is a police document and it says "Firearms Licensing" which should have been handed over this morning some time which will have the number R38 if it has not already been numbered. Now, what is that document? - This document is a package that we give out after we have given the lectures to the probationers and this basically goes over everything that we have gone over the lecture.

Apart from yourself, who lectures in firearms? - Both myself and Norman Lynch, my colleague, give lectures on everything which is within here.

It deals with things like what is a firearm/

firearm and what is a shotgun, is that right? - Yes.

It deals with a number of things like certain offences and possession by minors and so on? - That is correct.

It also I think deals with security which is something that officers do have to know about if they are carrying out these firearms inquiries, is that right? - Yes.

And it deals with cabinets and clamps, is that correct? - That is correct.

I take it all of this material is submitted in the course of the lecture? - Yes.

Do you deal at all with the question of what would amount to a good reason for a person applying for a firearm certificate? - Yes.

Can you tell us what sort of instructions an officer is given on that? - We would explain to the officer that if a person is applying for a firearm certificate, if it is for the use of sport that we would require written permission from the area of land over which they are shooting on and that would need to be from the landowner who would permit that. If the person is applying for a firearm certificate which is for target shooting we would expect a letter to be given from the Club Secretary to say that that person is a full member of a Club.

Now, if you go to the page which is headed "Firearm Certificate", do we see on that page reference to good reason and that there must be good reason for requiring each gun? - That is correct.

And does it also say what we have seen elsewhere, "A certificate for a handgun with ammunition will not be granted (except in very rare cases) unless the applicant has regular and legitimate opportunity of using the gun, for instance for target practice as a full member of a pistol Club. To obtain full membership of a Club it is normal that a six months' probationary period is served"? - That is correct.

And/

And you talk about the initial written permission from the Club, is that right? - Yes.

And it goes on to say "If the applicant is applying for Club use then the Club must be one that is approved and recognised by the Home Office"? - Yes.

Do you give any instructions to police officers on the elements of a person's character that have to be considered and some decision taken upon before the application is granted? - We would say to the officer that when they were out doing the inquiry, the question on the RL3a and RL3b is is the applicant a suitable person and if they think that he is suitable they would put a yes or a no. We would also explain to the officer that if they had any doubt at all of the person they are doing the inquiry into then they should note that on the RL3a or RL3b.

Any doubt at all? Now, what does that mean? - I mean if they found a person was of intemperate habits or they had numerous previous convictions or they did not have legitimate use for the gun or good reason.

So you are thus instructing the officers on the language used by the statute when you talk about intemperate habits but that is a bit different from simply being in some doubt about a person's character? - Well, we would say to the officer that if at all they felt that there was a reason that the person was not suitable to have a firearm, we would tell them to put it on the form.

And do you give examples of the sort of reason that would make a person unsuitable? - Yes.

Can you tell me again these examples that you gave? - We would say to the officer if they felt that the person had a drink problem or a drug problem or, as I say, if they felt they didn't have legitimate use or good reason to have a weapon, we would tell them to note that on the form. If they have local knowledge as well of the person.

BY LORD CULLEN: Is there some standing instructions for that purpose? Is there somewhere where all of this is written down in black and white?/

white? - No.

EXAMINATION CONTINUED BY MR. BONOMY: Now, did you ever speak to Thomas Hamilton? - Yes.

How often was that? - I spoke to him I think that I can recall on two occasions.

What about? - The first time I spoke to him was with regard to him putting his firearm certificate in to have a condition attached for expanding ammunition. I returned the firearm certificate to him stating that he didn't need a condition to be put on because the ammunition which he held did not require the condition. The second time I spoke to him was when he had acquired a gun from a gun dealer and he was not happy with the weapon and he phoned me to inform me that he had returned the weapon to the dealer.

Do you remember where the dealer was based? - If I recall correctly it was York Guns that he had dealt with and that he had got the weapon from.

We heard evidence from someone from York Guns. Can I take it that he would be doing that because he would be expecting you to be notified of the transaction? - That is correct.

And he was effectively cancelling the transaction? - Yes, he phoned us up to say that the gun had been returned to them and that it was no longer in his possession.

Did either of these conversations give rise to any anxiety or concern on your part about him being the holder of a firearm certificate? - No.

Since you have mentioned the question of expanding ammunition in this context, can you explain a little more for us why there was a problem over that subject? - He put his certificate in and asked that he have a condition put on it for expanding ammunition. At that time we had a Scottish Office circular which showed you types of ammunition on two lists. One list had ammunition that didn't need a condition put on and the other list had the ammunition that did need a condition put/

put on. When he put his certificate in for that condition to be put on, when we checked it against the list he didn't need the condition put on for expanding ammunition.

And did he know of somebody else who had had a condition in similar circumstances added to his certificate? - I believe so, yes.

And was that a mistake or was that interim measure that had been resolved or not? - Yes, what had happened was that we had received notification that all expanding ammunition was to have a condition put on. What we did was put the expanding ammunition condition on the certificates held at the time and later there was the Scottish Office circular saying some types of ammunition did not need the condition so that is why he didn't need it.

And the condition you are talking about is a condition especially to allow a person to possess that type of ammunition? - That is correct.

There does not sound as though there was anything sinister in that from Mr. Hamilton's point of view, was there? - No.

CROSS-EXAMINED BY MISS DUNLOP: Can you tell us please what you did when you left school? Did you go straight into the police? - No, I worked for one of the local Councils here in one of their offices first.

And when did you join Central Scotland Police? - On the 8th August 1988.

And at that time you would have been what, about 16? - Yes.

What/

3.30 p.m.

What has been your progression within the Force? - When I started I started off in the mail room and from there went into the Accounts and Administration Department and from there on I moved into the Firearms Section.

You explained that in March you withdrew Thomas Hamilton's firearms file; you were asked to do that following this incident? - Yes.

Contained within it were all the firearm certificates going right back to the first one for 1977; is that correct? - That is correct.

And in some cases there was both the original and the copy? - That is correct.

In fact, in your statement -- it may be difficult to find because there are no page numbers on my copy of your statement -- you do list at one point all the firearms certificates which were in the file and they were all there when you looked? - Yes, that is correct.

Was there any record in them of when they had been placed in the file? - There would be a date when the certificate was signed by the Deputy Chief Constable. What would happen is we would post the original and take a photocopy of the original and put it in the file on that day, so it would be round about that time.

But the original certificates which were found within the file must have been returned by Mr. Hamilton at some point? - Yes, that is correct. What happens is when Mr. Hamilton applied for a renewal he returned his original certificate along with the renewal papers.

But in the period before somebody asks for a renewal certificate they may need their certificate. You send it out to them and they send it back or.....? - What happens is when they put in renewal papers they put their original certificate in along with the application form.

And you hang on to the previous certificate?/

certificate? - Yes, correct.

You told us that the Criminal Intelligence submission which is D12Y3, that is the form relating to the reporter from the Daily Record, was given to you by Mr. McMurdo the day after the incident at the school? - That is correct.

What did Mr. McMurdo tell you to do with that document? - To place it in the file.

In the firearms file? - Yes.

Did he give you any idea why you were to do that? - No.

One of the checks that you said may have to be made on an applicant was that he had permission to shoot over land. If he was seeking a firearm for the purpose of shooting over land it has to be checked that the permission he has is given by the land owner? - Yes.

Can you explain what is the nature of the check made in these circumstances is? - We would ask the landowner or the person who has the shooting rights on the land to issue a letter to us saying that the person is being permitted to shoot over the land and it is suitable for the calibres of weapon that he is applying for.

Do you make any independent checks that person actually owns that land? - That would be for the enquiry officer to do that.

One of the examples you gave of something which might make a person unsuitable was if they had numerous previous convictions? - Yes.

Is that on the view that one or two previous convictions would be all right? - It would depend on the type of convictions.

But if a new constable attending one of your training courses asked for some examples of the sort of things that would disqualify a person you would give an example such as the one that you have given today, like intemperate habits or numerous previous convictions? - Yes.

BY/

BY LORD CULLEN: How is the constable to know when convictions become sufficient numerous or sufficiently serious? - We would ask the officer obviously to put a copy of the previous convictions in with the application and judge each conviction on its severity. We would say to the constable if there was, for instance, somebody with two or three convictions for serious assault then it may be found the person isn't suitable for a firearm or -- I mean, we would also ask the officer if somebody applied for a firearm certificate or a shotgun certificate and he had 30 or 40 convictions to look at each conviction and determine again whether or not they are suitable to have this licence.

CROSS-EXAMINATION CONTINUED BY MISS DUNLOP: How many members of staff are there in the Department? - At this moment in time?

Yes? - There is myself, my colleague Norman Lynch, we have a cadet working with us and we have a sergeant working with us.

Have you been there longer than Mr. Lynch has? - We roughly started round about the same time, 1991.

Who is the senior member of the Department? - Chief Inspector Colin Mather.

But the day-to-day running, who is in charge of the Department? - From the administration point of view?

Yes. Who oversees the job that you are doing? - Chief Inspector Colin Mather.

But he presumably has other responsibilities within the Force? - Yes.

How often do you see him? - We would go and see the Inspector first obviously if there was a problem with some of the certificates. If it was a serious problem and we were to decide somebody maybe wasn't suitable we would go to the Chief Inspector and discuss it with him.

If the Chief Inspector doesn't hear from you she assumes everything is working well? - That is correct.

CROSS/

CROSS-EXAMINED BY MR. GIBB: How frequently are you in contact with the Inspector? - We could be in daily contact with the Inspector if need be.

In practice, does it work out that you are in daily contact with her? - Do you mean is she available daily?

No, I take it she is available daily? - Yes.

In terms of how often are you in fact in contact with her? - I would only go and see the Inspector if there was a problem with one of the applications.

So how frequently are you in contact with her? - Well, I would probably say I would have been in contact with her at least once a week anyway.

You won't know what sort of contact she then has with the Chief Inspector I take it? - No.

BY LORD CULLEN: Who are you referring to? Who is the Inspector? - Inspector Dewar.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: The Chief Inspector I think you told us is Colin Mather? - That is correct.

We have heard some evidence at the Inquiry that if an officer finds any trace when carrying out a PNC or SCRO check he gets a print-out and that he appends that to the RL3a when submitting it up the line? - That is correct.

So if there is any trace that is something which is put up for discussion with the superior officers? - Yes.

RE-EXAMINED BY MR. BONOMY: The role of the Inspector has been raised with you: can I take it from what you said that most applications will go straight from you to the Deputy Chief Constable? - That is correct.

Only if you see a problem do you raise it with the Inspector? - That is correct.

How/

How long has that system been in force? - Roughly since about May, 1995.

What was the system before that? - Once the paperwork was received and processed by myself all files would go to the Inspector, so I would see the Inspector on a daily basis for all renewals, variations and grants.

Why did that change? - I think it was due to the HM Inspection. It was felt we were working with the job and it would be better to go from ourselves direct to the Chief Constable.

JAMES MARSHALL (47) Sworn

EXAMINED BY MR. BONOMY: You are a Chief Inspector in Central Scotland Police? - I am.

And how long in the police? - 28 years service.

I am going to ask you about one matter before I get to the meat of your evidence. I am not having a good run with the Productions but the reference to this may be D53. It is an AD2 form dated 29th January, 1986 (FA36). You have been mentioned in dispatches in relation to this form. I think we may find your initials are shown on it? - That is correct.

Your initials appear on the handwritten note to Sergeant Binning? - Yes, that is my handwriting.

You wrote that note. Do your initials appear on the AD2a as well? - Not on the AD2a. That is Acting Chief Inspector Mill.

Now, do you remember this? - Very vaguely. It is 10 years ago.

We see it says "Apparently it is unlikely a second 9mm pistol will be granted". Was that something you were relating on behalf of someone else or was that personal knowledge or can you not remember? - I believe I had a conversation with a senior officer as Force Standing Orders say just cause/

cause for purchasing or acquiring a weapon of the same calibre as you have already held on the certificate is required, and a 9mm Browning -- he already had a 9mm pistol.

Was it you who was raising this with a senior officer? - I honestly can't say how the conversation started. I believe someone mentioned it to myself first.

What was your role in this particular application that led you to write the note at all? - To check the relevant enquiry by the enquiry officer who was the constable who did the original enquiry.

Would you also have D52 which is an RL3a form. Do we see your initials anywhere on that? - That is correct. Immediately under "Station" in the middle of the form.

The reporting officer signed it apparently on 12th January? - That is correct.

The AD2a is dated 29th January? - That is correct.

So can I take it it looks as though you instructed this additional check after the RL3a form was submitted to you? - Yes.

And the check resulted in material information about Hamilton's reasons for wanting these two additional weapons? - Yes, that is correct.

Did that pass muster with you? - It didn't go through me at that stage.

At all? - It has gone through the Acting Chief Inspector who was above myself.

How then has it got your signature on the RL3a? - Because the form originally came through myself.

Does that mean you have signed the RL3a before initiating the enquiry? - The conversation came after my signature.

If I can turn to the other matter that you/

you are able to deal with: I think you have certain responsibilities in regard to firearms officers within Central Scotland Police Force? - That is correct.

What are your responsibilities? - I have the responsibility for the training and supervision of operational firearms officers.

Are you a firearms instructor yourself? - No, I am not.

You are supervising that operation? - Yes.

Have you anything to do with the selection of suitable officers to be firearms officers? - Yes, I do.

What are your duties there? - Well, anyone who wishes to become a firearms officer is first and foremost a volunteer. They apply seeking to join the Firearms Unit of the Force. The initial paperwork is processed by myself at all stages and comes back through myself.

Who actually makes the decision that they should be given the duty of a firearms officer? - At the end of the day it is a matter for the Chief Constable and he has powers to delegate.

Who does he principally rely on for advice on an officer, as to which officers should be selected? - Once everything is completed, every one of the supervisory officers of that officer must submit comments as to the suitability of the officer for that role.

How important is your role in deciding which ones are the appropriate ones? - I have to collate all the information and make sure nothing has been missed out and highlight any matters which I feel are relevant which may preclude that officer being considered for firearms, and to maintain checks for the duration of the time the officer remains in the Firearms Unit.

You'll appreciate I am asking these questions to see if there is something to be learned from the way in which the police go about deciding who/

who should bear arms in the Force? - Yes.

With a view to comparing it, I suppose, with the approach to members of the public? - Yes.

Can we look at R35 which is a questionnaire. Is that a document completed in respect of each officer who wishes to be a firearms officer? - That is correct. It is the initial form which starts off the officer as a firearms officer.

Now, it goes into a lot of personal detail on the first page including marital status, whether divorced, whether right or left handed, whether the applicant wears spectacles or contact lenses, why he wears spectacles or contact lenses, and whether he suffers from any hearing deficiency? - That is correct.

There is consent sought for eyesight and hearing tests? - That is correct.

A question about drugs, being examined for hay fever? - That is correct.

Whether he is a smoker or non-smoker? - That is correct.

Experience with the Forces or any organisation where he might have used weapons in the past? - That is correct.

Information about marksmanship skills and tactical firearms experience? - That is correct.

And then there is question 23, "Have you discussed this application with your partner, spouse or family"? - That is correct.

And then, "Have you considered that an additional strain or stress may be imposed on your domestic situation if you become involved in armed operations"? - That is correct.

There is an obvious difference between the potential duties of an armed police officer and the things that are done by marksmen as part of his leisure or sporting activity. Can you tell me what in particular it is that you have to try and find out about a person who may use firearms with these questions?/

questions? - These officers are in a fairly unique position, sir, and the use of firearms by the police is a last resort when all other avenues have failed. We are authorising officers, knowing full well that there is a distinct possibility that at some stage while they are firearms officers they may require to fire their weapon at another human being, which is totally different to licensing a gun for other people.

But/

3.50 p.m.

But you have obviously decided that not every police officer ought to have this authority?
- That is correct.

So what is it that you are looking for in the individual police officer before he gets authority? - Maturity, stability, responding well under pressure and able to work as part of a team which is essential from the firearms point of view and that none of these things change at any time when he remains a firearms officer.

If a person gets authority to bear arms at times in the course of their police service, do you do anything to monitor the continued stability and reliability of such a person? - Yes.

How do you do that? - There are several ways. On his or her annual staff appraisal the supervisors must draw to attention any matter which might affect that officer's ability to carry on as a firearms officer so that comes through in their annual appraisal. The firearms officers themselves are seen regularly by the instructors who will comment on anything which they think is affecting that officer. The officers themselves are duty-bound to notify any matter which may affect their continuing as a firearms officer. For example, marital difficulties, financial difficulties, anything which means they are not able to concentrate l00 per cent on what they are doing and their supervisors are duty-bound to report similarly.

When the initial form is completed and you are collating information in the way you described, what other officers who have contacted the applicant do you get reports from? - From the Sergeant or if it is the Sergeant that is applying, the first one would be from an Inspector. From the local or Sub-Unit Commander who can be an Inspector or a Chief Inspector and Chief Superintendent in charge of operations. The form also goes to the Director of Human Resources to check if there is anything in that officer's personal record which would debar the officer from becoming a firearms officer or might cause concern.

What/

What gets into their personal record? - Virtually everything.

Well, can you give me examples of things that we might not readily assume would be in the personal record of a police officer? - Anything they get into trouble on outwith the police service, problems marital, financial or anything like that.

Intelligence? I mean, is this intelligence on police officers? - It is exactly what it says. The personal record is the personal history of their career as a police officer. That is exactly what it is.

Does that lead to information in the form of intelligence that other officers might actually submit in relation to a colleague or does it not work that way? - Other information officially put in by supervisors, yes, in regard to that officer. It also goes as a check to our Complaints and Discipline Department because if that officer has a complaint pending against him or her at that particular time then there is no way that they are going to be able to concentrate on firearms.

Do the officers who are asked to comment on the applicant give their account in narrative form or do they themselves answer a questionnaire? - It is part of this initial form initially and they complete the relevant section.

So we have the assessment by Sergeant at No. 26? - That is correct.

Assessment by local Sub-Unit Commander at 27? - That is correct.

And the Chief Superintendent's comments under that? - That is correct.

And then we have various searches carried out into his record, complaints and discipline and previous staff appraisal, is that right? - Yes.

And then your paragraph 29? - That is correct.

And/

And then the decision whether it is to be recommended or not or reviewed in due course? - That is correct.

Now, what do you expect the supervising officer to actually tell you about in these comments? - The maturity of the individual concerned and they must state whether they consider that that officer is worthy of considering recommending for training.

Is there anyone else in your Department considers the application along with you? - I consult with the firearms instructors.

What about higher up the scale than yourself? - My Chief Superintendent.

You discuss it with him? - Yes.

But is it you who actually makes the recommendation to the Chief? - No, I give them my recommendation but the decision is his delegated from the Chief Constable.

What about training thereafter for the officers? - There is considerable training which is ongoing all the time so that the officers are being seen virtually every other week so that we can see if there is any change in their make-up.

Well, how important is their being seen by other either training officers or colleagues on a range on a regular basis? - Very important.

What do you learn from that? - How they are responding under stress because the levels that they have to achieve to maintain their authorisation as marksmen are very high.

How often do they go to the range? - It depends on the skill that they possess. Training can vary up to as much as 33 days in total per year.

Do you have no minimum requirement? - There is a minimum requirement, yes.

Do you know what that is? - It is three refresher courses per year plus re-qualification/

qualification which means in addition to that they must re-qualify.

At the refresher courses are you able to see how they are performing? - Yes.

Are most of the officers also marksmen for leisure or sporting purposes or is there not a pattern to that? - There is not particularly any pattern to that.

Do officers lose this authority readily? - Yes.

Or when they have got it is it easy to hold on to? - No. They must maintain standards continually.

Do you find that you regularly have to remove officers from these duties? - Bearing in mind that the officers are volunteers themselves, as soon as an officer does not want to take any further part in firearms then when they say they want to leave that is them left.

But of course they are only volunteers in the sense that they are willing. You are the person or your Chief Constable is the person with the decision to make about whether their services are retained as firearms bearing officers? - Yes.

Now, are decisions taken from time to time that a person can no longer be allowed to remain in that position? - Yes.

Can you look please at R37? Now, here we have a series of extracted material. What has that been taken from? - The Police Manual and Guidance to the Use of Firearms.

Is that a nationally-used Manual? - It is.

Is it confined to Scotland or the United Kingdom? - It is the National UK Instructions to Chief Police Officers in England and Wales with a Scottish Revision.

Now, the sections that have been extracted to form this Production relate to what? - Selection/

Section and training of firearms personnel.

Now, the first page is really concerned with monitoring the performance when on duty? - That is correct.

And there is then Chapter 2 dealing with "Minimum Standards for Authorised Firearms Officers, Selection Criteria and Safety Factors"? - That is correct.

And I think selection is Chapter 2.2? - It is.

And there are a number of factors mentioned there as important in this, including "Motivation and Interests"? - That is correct.

"Temperament, Maturity and Personality"? - That is correct.

"Relationships with Colleagues and Supervisors"? - That is correct.

And then there is a section dealing with "Quality of Initial and Refresher Training", is that correct? - That is correct.

Can I take it then that the approach which you have outlined taken by Central Scotland Police is the approach taken nationally to the selection of suitable persons to hold firearms from time to time in the course of their duty? - That is correct. These are the minimum standards to be applied.

CROSS/

CROSS-EXAMINED BY MR. CAMPBELL: Do I understand correctly that the general idea behind the various tests and investigations which you have outlined is to assess the character and personal attributes to any applicant for the position of Firearms Officer? - That is correct.

Because it is appreciated amongst other things that a firearm is a lethal weapon? - That is correct.

So it is important that a legal weapon of that nature is not given to an unsuitable person? - Yes.

So it is not enough for the officer to demonstrate technical competence or accuracy as a marksman? He must display other appropriate personal qualities? - No, it is not enough just to display marksmanship. He or she must be the right type of person.

And do I understand correctly that having become a firearms officer that the officer submits himself to in effect ongoing continous assessment? - He does or she does.

Amongst the checks is there a check to determine whether or not there is an relevant complaint or disciplinary record relating to the applicant? - Yes, that is part of the checks.

What if an officer is currently the subject of a complaint? Would that at least delay his application until that matter is resolved? - If he was just applying to start that would delay the application. If he was already an authorised firearms officer it would result in a temporary withdrawal of his authorisation. In other words, he would not be used operationally.

Is there a minimum period of time of police service before an officer can apply for this position? - Four years.

Supposing a review for example revealed that the applicant had been to blame in a road traffic accident. Would that be relevant? - It would be relevant if that officer was suffering personal guilt because of that road accident, yes. Yes,/

Yes, that would be relevant.

But not if he was not suffering personal guilt? - Each incident would be taken on its own merit and considered as to how it would affect the officer because we are looking to protect that officer as well.

So it is the sort of thing that might be relevant? - Yes.

Do I understand correctly from what you have been saying that having become a firearms officer, that officer may be either suspended completely or subject to interim suspension from time to time in appropriate circumstances? - Yes, that happens frequently.

A change in domestic circumstances? - That is correct.

If your wife left you or your husband left you, something of that nature? - Well, I don't think your mind is liable to be on your work and bearing in mind in these circumstances firearms are the last resort, we do not want anyone out with a firearm in these circumstances.

So a whole variety of domestic circumstances, serious illness in the family or divorce and the like? - That is correct, yes.

Presumably also any illness or medical condition relating to the officer himself or herself might be a cause for suspension? - Yes, and they must submit themselves to an annual medical.

Suppose colleagues came to the view that the officer was behaving oddly or there was some deterioration in his personal performance. Would that be relevant? - If there was any doubt at all I would have no hesitation in recommending a temporary withdrawal until we sorted out whether it was right or not.

So safety first? - Absolutely. They are in a unique position.

Is there an obligation on an authorised firearms officer to report himself any change in circumstances/

circumstances which might be relevant? - There is.

Are persons such as yourself provided with guidance as to how to go about assessing applicants? - Yes, in the use of experience.

Is there, apart from the documents which we have seen, written guidance or documentation relating to the assessment of an applicant and ongoing assessment? - The main items are the minimum which were laid down in the manual. We actually have higher than that in our own force orders.

Sorry, can you tell me again what you are referring to? - The minimum is what is laid down in the manual of Guidance. Each force can apply their own level as long as it is above that minimum, again bearing in mind it is safety first all the time.

Is there any Guidance as to what might be described as contra-indicators? - That would come through their own workmates or their supervisors. Acting out of character, anything like that would be enough to raise a doubt which would result in temporary withdrawal so that an investigation can be made.

So any aggressive tendencies would be a contra-indicator? - Yes.

What about things that might be regarded as extremist views? For example, towards race or religion? - I think that would result.....I am quite positive that would result in a temporary withdrawal of authorisation until a full investigation could be made.

And in a case where somebody occasionally lost self-control or their composure? - That would result in temporary withdrawal for a full investigation. As I say, they are in a unique position and we have to make sure it is correct.

Suppose I was a police officer of five or six years' service and I joined a gun Club and became an enthusiast in firearms and indicated that I wanted to become a firearms officer principally because of my interest in firearms. What would your/

your approach to that application be? - You would still be subject to the same strict procedures as anyone else wishing to become a firearms officer but the fact you are in a gun Club is not automatic.

The fact that my principal reason for wanting to become a firearms officer because of my enthusiasm for firearms would not rule against me in any way? - Yes, it would. They are asked to say in the form why they want to become a firearms officer and I would have grave doubts about anyone who said they wanted to become a firearms officer because they enjoyed using guns. Guns are still the last resort as far as I'm concerned and I would raise that as a grave doubt.

There is obviously a very considerable body of experience and expertise in firearms in persons such as yourself and others like you and firearms officers in the force but has any consideration ever been given to using these resources in the context of civilian applications? - Not from my side. It is purely police response in firearms which is the function which I serve.

Just one last matter. If I was an authorised firearms officer in the police force, would I be allowed to take my weapon home? - No.

Why not? - Because you would then require a firearms certificate, your own, and the weapons belong to the police and I think it would be rather remiss of us to allow these weapons to go
outwith our care and protection and into the Community.

Even/

4.10 p.m.

Even an authorised firearms officer must hand in his weapon to the firearms armourer? - Check in and check out.

CROSS-EXAMINED BY MR. GIBB: One point: In Section 2 of the application there is a requirement for a supervisory officer to complete an assessment and among the other things he has to encompass such issues as general temperament, stability and relationship with colleagues and supervisors? - That is correct.

The only equivalent we have on the firearms application for a member of the public is the counter-signatory -- in fact, now no longer needed -- and simply one is dealing with it in a negative way, if that person knows of good reason why the applicant should not be permitted to possess a firearm. Do you think that general temperament, stability and relationship with their peers are important considerations in assessing those to hold firearms? - I think the two disciplines are very different. We are looking for a certain type of individual in the certain knowledge that they may have to use that weapon against another human being and therefore we have to be ultra-cautious about getting that right. In terms of the general public, we are not receiving firearms and firearms certificates for anything other than competitive shooting or for sporting purposes. I think the two disciplines are very much removed from each other.

Would I not be entitled to know as a member of the public that anyone who was applying for a firearms certificate had a temperament which was suitable and had personal stability and appeared to have a reasonable relationship with his or her peers? - I don't know how you would find out that information, sir.

Well, what about, for instance, on each renewal a confidential report from the secretary of any gun club this person was a member of. Would that be a way of dealing with this particular question? - It wouldn't solve the question of the person who is shooting for sporting purposes on land.

It/

It may not do that, but what about the gun club? Is there something to be said for a confidential report to show (a) that someone is using a gun for which they have authorisation and (b) that they continue to be of suitable temperament to hold a firearm? - I don't know if the secretary of a gun club would be qualified, a qualified person to talk about someone's temperament.

I am just trying to think of something.....? - In fact, he may not see that person a lot really.

Well, if he doesn't see that person he reports that he is not in a position to assess therefore that is taking the matter.....? - I honestly don't know that he would be in a position to do that.

No re-examination.

Adjourned until tomorrow at 10 a.m.

TWELFTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

THURSDAY, 13th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
DOUGLAS McMURDO,	
Examined by Mr. Bonomy.....	4
Cross-examined by Mr. Campbell.....	57

_____

THURSDAY, 13th JUNE, 1996.

TWELFTH DAY.

DOUGLAS McMURDO (55), Sworn:

EXAMINED BY MR. BONOMY: What is your present position? - I am presently assistant to Her Majesty's Chief Inspector of Constabulary.

Is that based in Edinburgh? - It is.

How many years have you been a police officer? - I joined Dumfries and Galloway in l959 so I have been a police officer up until April of this year.

When did you move to your current position? - l987. September l987.

No, your present position with the Inspectorate? - Sorry, the lst of April.

And until then you were? - Depute Chief Constable in Central Scotland Police.

From when? - From September l987.

As Depute Chief Constable you had delegated to you responsibility for granting firearms certificates and renewals and variations? - That is so.

And that had been the position in Central Police before your time? - Yes, it was a continuation of present practice at that time.

You also had responsibility for complaints and discipline? - That is so.

What did you have to do in respect of complaints and discipline? - It was my responsibility to decide who the investigation officer would be, decide on what action I would take in any disciplinary matter, whether I put it up in front of the Chief Constable or whether I would issue/

issue a warning and so forth.

Does actual disciplinary action, if it involves resignation or something significant, require the decision of the Chief Constable? - Yes, indeed.

What are the range of decisions you yourself could make? - The range of decisions varied from deciding to warn an officer, to warn under Regulation 6(5) which is part of the Regulations or I could decide to put the case in front of the Chief Constable and if in fact I did put it in front of the Chief Constable I could also decide what level of punishments were available to the Chief Constable.

But warnings were something you could do yourself? - Yes.

Now, that is two areas of responsibility which we have covered. As No. 2 in the Force you would have a wide range of operational responsibilities? - Yes, that is so.

And in that connection when did you first become involved in the investigation into the Dunblane tragedy? - I was one of the first senior officers there on the morning of the l3th.

Around what time? - Just shortly before l0 a.m.

Can you tell me just very briefly the structure, the management structure, of the Force below Depute Chief Constable? - Yes, we have three Chief Superintendents who carry responsibility for Crime Management Services, for Operations and for Traffic and Support Services.

And who at that time in March was in charge of Crime Management Services? - Chief Superintendent John Ogg.

And that is still his position? - It is indeed.

Territorially was the Central Force area divided into Divisions? - It was divided into six Command Units.

And/

And that is territorial Command Units? - Indeed.

Are there also Divisions which are constituted some other way? - Yes, there are three distinct areas. As I said, one is Crime Management Services and what we traditionally see as the CID and Community Safety and then we have operations which virtually covered the six territorial Command Units and then we had Traffic and Support Services which is a fairly wide Department which covered Traffic and Firearms Support and the Control Room and a fairly wide area of Support Services.

So the Divisions that each of the three Chief Superintendents are in charge of are Divisions constituted according to the work that they are in charge of? - Indeed.

The impression may have been created earlier in the Inquiry that there were two territorial Divisions as it were in Central, that there was Falkirk and there was Stirling. Now, that is a false impression, is it? - That is the historical position.

What do you mean by historical? - Once that was the case.

So when Mr. Lynch told us that he was dealing with renewals in the Falkirk area and that was for about half of the territory, is that something which is understood within the Force? - Yes. If I could explain. There used to be two Divisions, 'A' Division and 'B' Division. 'A' Division consisted of the Stirling and Clackmannan Counties and 'B' Division consisted of what was the old Falkirk District. Does that perhaps explain that?

When did these Divisions cease to exist in that form? - It is certainly two or three years ago.

So when Mr. Lynch is dealing at the moment with renewals, is he largely doing this in the area that formerly was the Falkirk Division? - Indeed.

And does that make up three of the current/

current Command Units? - That is so, yes.

Now, at Dunblane Primary School on the l3th March what were your initial responsibilities? - When I first heard of the tragedy, the news was broken to me, I spoke with the Chief Constable who was in his office. I explained to him the information I had and said I would go to the locus and ascertain just what sort of incident we in fact had on our hands and he would go to the information room and set up the procedures there. So the first duty I had was to assess the situation.

What information did you have before you left the police station? - That there had been a shooting at Dunblane Primary School and it was feared that people had been killed.

When you got there and assessed this situation, what was the initial decision you had to make? - The first priority was to ensure that the injured were removed as soon as possible to hospital. That was the first priority.

What about dividing up responsibilities of the senior officers immediately below you? - Yes, that happened very soon afterwards when the senior officers started to arrive. I should explain that once having assessed the situation I put a call through to Headquarters telling them exactly what the tragedy was that we had on our hands and to put into place the Force Standing Orders for an emergency. That brings in automatically a whole host of procedures. We then decided who would in fact handle what area. Mr. Matchett was put in charge of the school and its immediate environment and all operational matters. Mr. Ogg was put in charge of the Inquiry and Mr. Moffat was put in charge of the Force Incident Room and the various other aspects that went with it.

Now, I don't want to dwell on that except to place you on the day. Did you spend very long at the school or did you go elsewhere to attend to your duties? - I spent some time at the school and we then had a visit from the Secretary of State and Under-Secretary of State and I left to go down to Headquarters to prepare a brief for the Chief Constable and also to assess the situation at Headquarters.

Were/

Were you still at the school when the Procurator-Fiscal arrived? - I was indeed.

By which time can I take it that attention had to be turned towards identification? - It had already turned to..... well, it depends on what you mean. We had already tried to identify the children before but if you mean formal identification, yes, this was discussed with the Fiscal.

And when was it you reckon you left the school to go back to the police station? - About mid-day probably.

Before l987, was it, when you moved to Central, did you have any direct responsibility for firearms control? - I had obviously enquired into firearms certificates but if you mean did I have an overview of firearms, the answer is No.

You would have conducted the enquiries we have heard about officers carrying out in the course of applications being considered by the Force? - Indeed, and being a Sergeant and Inspector and so on, but I certainly was not in charge of a specialised department.

But you had been at the various stages of the chain of command that dealt with these enquiries? - Indeed.

In the time that you were doing the job was there any significant change in the procedure that was followed for dealing with firearms certificate applications? - No major change.

One feature we have seen as a change and you can perhaps time it for us was the introduction of a counter-signatory on the application form? - Yes, that followed the Hungerford incident when they changed the Regulations. I think it was l988 and they brought in a counter-signatory at that time.

During your time there has been what has been described as civilianisation of the system? - That is so.

Now, did that make a significant difference to the procedure that was followed in dealing/

dealing with an application? - It didn't bring any difference in the procedure other than that the police officers handled approximately half of them and the civilian employee covered the other half. It had been our intention in fact to totally civilianise it.

One thing we have seen in this Inquiry is that the involvement of the Sergeant, the Inspector, the Sub-Divisional Officer and the Chief Superintendent disappears when Mr. Lynch is involved? - Well, I'm not sure that is just absolutely accurate. Like every organisation, we flattened the structure and whereas previously you are right in saying that the document would have gone through the Sergeant, Inspector, Chief Inspector, Superintendent and possibly Chief Superintendent, we considered that to be unproductive and there was a first line supervisor and then there was a Commander who looked at it.

When you came to consider any application for a firearms certificate, did you feel that the legislation provided a sort of policy framework which meant that you should either approach it on the basis that the individual has to justify his application or on the other side that the police have to justify refusing the application? - I think it is twofold. It is not as simplistic as that. I think he has to justify his good reason but then we have got to find a reason for not granting it. Providing he provides a good reason to justify applying.

A good reason for a number of reasons we have seen as we go along in relation to handguns has tended to be simply target shooting? - And membership of a club.

And was that a requirement from your Force, that there should be club membership? - Indeed, following Home Office guidelines there.

In relation to handguns? - Indeed.

In your period in Central Scotland Police have you had any occasion to refuse an application for the grant or renewal of a firearms certificate? - On a number of occasions, yes.

Did/

Did you ever revoke any? - I did indeed.

And revocation was a power you had? - Indeed, it was.

These decisions would be subject to the possibility of appeal? - That is so.

Can you tell the Inquiry to whom an appeal would be taken? - To the Sheriff.

Were any of your decisions ever subject to an appeal? - Yes.

Were any appeals successful? - No.

Can you remember how many appeals were taken against any of your decisions? - There were numerous appeals against my decisions. Some of them ceased at the time of applying for Legal Aid. Some went on in an exchange of letters between solicitors but in all the time I have only actually had to appear in front of the Sheriff once although I have had one put off because of this Inquiry so I would probably have had two.

Do you remember how many roughly you either refused or revoked? - I think I can only go back to l99l. That is as far as I can go back through the records. 34 people, which involves something like 45 shotgun and firearms certificates because some were duplicate holders.

These were either refused or revoked? - Indeed.

In any of these cases, and I appreciate we are relying largely on recollection, in any of these cases were grounds for refusal or revocation used that related to complaints about the individual which were never substantiated by a Court decision or by a clear admission of guilt of something that would be a criminal offence? - Certainly there were a number of cases which I felt so seriously about at the time that I didn't wait on the Court decision and I made my decision on reading the police report but these were cases which I felt were solid, that the grounds were there and indeed I had a fear that the person might do something with the firearm/

firearm.

Yes, I can understand that you might take action before there is a conviction for obvious reasons? - Yes.

But what I am asking you is were there cases in a sense like the present one where you have complaints, they are over a period of time, there looks to be some substance to them, they don't directly relate to the use of a firearm, they don't result in a conviction and they don't contain material which was likely to result in a conviction in something serious. Now, are there any cases like that? - I can't think of any.

I know I am asking you this at an early stage but if I can put it in these simple terms; were any of the cases comparable to Hamilton's case? - None.

Now, I will ask you that question again at the end when we have come through the circumstances of his case. Is there a system for ensuring that pending the determination of proceedings a person's firearms certificate can be suspended rather than revoked? - Can you repeat that one please?

Yes, is there a system for suspending a person's firearms certificate pending the outcome of proceedings that he might be involved in? - Not officially.

Is there an unofficial way? - Sometimes you would speak to a person and say "Look, I am not happy with this, there is a date fixed for trial and would you mind handing your firearms over to a firearms dealer until this matter is clarified".

And have people co-operated with that? - Yes, quite often it was a short-term thing. Perhaps there was a breakdown in a marriage or something of that nature and real aggravation between the couple and you might take it from him in an attempt to be sensible but it would be by agreement.

Did/

Did you have examples where people refused? - I did not.

So people co-operated when you made the suggestion? - They were usually responsible people and if you put it to them in a way which they understood it was usually accepted.

You could, of course, revoke such a firearm certificate; that would be within your power? - Indeed.

BY LORD CULLEN: Would that suspension, informal suspension, involve handing over the firearms or merely doing something about the certificate? - No. The certificate was given to us and the firearm to a firearms dealer.

EXAMINATION CONTINUED BY MR. BONOMY: When did you first encounter or learn of the existence of Thomas Hamilton? - This is in July 1988. He was running a summer camp in Inchmoan Island and that's when he first came to my attention.

Can you remember how he came to your attention? - Yes. There was a camp started on the 3rd of July of that year, and one of the lads who had been camping on the island spoke to his mother on his return and expressed his dissatisfaction with the camp. The mother decided to return to Balmaha the following Saturday, that would be the 17th, to speak to other parents of other children as they arrived for the second week's camping, because this was a camp that was continuing to, I think until the 14th of August.

How was it you found out about all of this? - It was reported to me eventually I think probably by Mr. Hamilton complaining about our, as he saw it, intrusion into something which was none of our business.

Did you know about it before there was any correspondence started? - Not really I don't think.

Can I take it then that other officers within/

within your Force were dealing with it before you ever came to know about it? - Oh, indeed.

Was one of these officers Inspector Mill? - Yes, Mike Mill.

And was he in fact in a position where he tried to resolve what appeared to be a complaint emerging from Hamilton? - That's right. I knew about it later, pretty soon after the initial action by the police, and in fact I asked Mike to give me a report on it in order that I could answer various letters that were coming in.

I wonder if you would look at a Production DCD6 which is K(iii)D5. Do you recognise that document? - Yes.

What is it? - This is from Mr. Hamilton writing to me about the camp. I should explain that he had spoken to various officers to try and ascertain why it was that after 55 camps and having been complimented on them in the past they suddenly began to intervene as he saw it for no good reason. This starts to explain various parts about how he ran the club and about complaints and the answers to them.

It is actually written to Mr. Oliver, the Chief Constable? - That is so.

Could you read this handwritten letter please? - "I trust that you are keeping well. I am upset by events which took place this summer. My aim is to find ways to avoid any similar problems at future camps. For your information, I have enclosed brief extracts of a report of events of which I have passed to my solicitors for advice. This letter is not a complaint. I am reluctant to make a formal complaint as we have always had such good relations with the police in the past. Can you help in any way?" He copies it to Mike Mills at Dunblane Police Office.

The report on the camps runs to how many pages? - Seven and a small bit at the back -- seven and a bit pages.

Does it include a list of complaints that appear to have been made about his camp and his answer/

answer to these complaints? - That is so. These were some of the things that had been highlighted by the boys and this was him answering various complaints.

These are things like some boys not enjoying the camp, not being allowed to return home early, not being allowed to phone home? - Yes.

Not liking the food? - Yes.

Not being allowed to know the time? - Yes.

Parents not being allowed to visit? - Yes.

Not being allowed to wear long trousers most of the time? - Yes.

Having to gather firewood? - Yes.

And doing exercises in which they had to keep their tummies in? - Yes.

Now, there is no reference there at all to any complaint that he was hitting boys? - He saw that as chastisement. This was something which came over once or twice, that it was not assault, it was simply acting on behalf of the parents to chastise a child for misbehaving.

It does go on a bit and becomes extremely repetitive; is that fair comment? - Yes.

I think in the weeks following that letter there were a series of letters sent to Inspector Mill; is that right? - Yes.

All centring on the actions of two of the officers at the camp. Who were these officers? - George Gunn and -- I can't recall the other.....

Could a name have been Sloan? - Yes.

I can't remember the order but Constable Sloan? - Yes.

I think you can confirm that most of his letters bore the heading "Disruption of summer camp"?/

camp"? - Yes.

I wonder if you could look please at a document DCD16 which is D12 in the volume. This is a letter dated 19th October replying to the one you have just looked at and perhaps taking account of intervening events; is that right? - Yes.

It is written to Thomas Hamilton and it is signed by you? - Yes.

So you are replying on behalf of the Chief Constable? - That is so.

Could you just read that letter please? - "I refer to your letter of 28th September, 1988 to the Chief Constable, together with subsequent correspondence to Inspector Mill, Dunblane, relative to the above. I understand that the matter has now been thoroughly discussed by yourself and Inspector Mill and there is little that I can add to his explanation. I have examined the statements provided to Strathclyde Police by police officers of this Force after their visit to the camp. These contain a straightforward report of the prevailing circumstances and conditions, as observed by them, at the time of their visit. They refute any suggestion that their observations were other than a fair assessment of the situation as viewed by them and indeed there is nothing in their statements to indicate that their actions were improper or in any way biased. You will appreciate that I cannot comment on the subsequent action taken by officers of Strathclyde Police but I am advised that this action was as a result of the overall information available to them and not based merely on observations made by officers of this Force".

Can I stop you there for the moment. The action that he is referring to there is that the Strathclyde Police contacted parents of children at the camp and gave them the opportunity to come and see if they wished to take the children away? - Yes.

And that decision depended to some extent on information that Gunn and Sloan are provided to Strathclyde Police. They had been at the camp? - They had indeed.

Could/

Could you carry on reading the letter please? - "As you are aware the action taken on this occasion was not initiated by the police but by concerned parents of boys returning from the camp. In such circumstances the police have no option and indeed would be failing in their duty if they did not make enquiries into any such allegations. As the location of this particular instance was within the jurisdiction of Strathclyde Police, the matter was passed over to them for investigation. The course of enquiries thereafter was as directed by them and without pre-empting anything that they might say, it would be fair to comment that these enquiries would be pursued until the matter was satisfactorily clarified. The report from officers of this Force would form a part of that investigation, viewed in the light of other available information. I understand your concern relative to similar disruptions occurring in the future and I can only emphasise that where allegations are made to the police then an investigation has to be undertaken. I cannot therefore give you any positive assurances in this respect other than that any action taken by the police will only be when circumstances dictate a necessity for it".

You got a reply to that letter. Look at DCD18 which is D13 in the folder. Can you confirm this is dated 24th October from Hamilton to the Chief Constable and the last paragraph says, "Regardless of the disagreement which still exists over your officers' report I thank you for your help and please accept my personal assurance that should circumstances dictate a necessity for the police to visit the summer camps in future, your officers may always be assured of my fullest co-operation"? - Indeed.

Looks as though he is not satisfied but accepts what you have said? - You would have thought so.

Look at DCD19 which is D14, the same date; is that right? - Yes.

Another one also to the Chief Constable? - Yes.

Handwritten this time? - Yes.

He/

He has learned from Inspector Mill that Constable Gunn lives in Dunblane and is a Scout leader? - Yes.

Was that information accurate? - No, it wasn't.

He lived in Dunblane; that was accurate? - He was not a Scout leader.

In the last paragraph did he say, "In view of the long history of resentment shown to our group by many adult members of the Dunblane Scouts, I do not feel that it is right or proper to have a police officer who lives in Dunblane and is a Scout leader to visit our summer camp for the purpose of making a fair and impartial report"? - Yes.

It looks as if that letter must have been written after the one we have just looked at? - Yes.

Do you remember if they came in together or not -- or is that a silly question? - I honestly couldn't say.

I think there was more correspondence keeping the issue going, mentioning police observations on the camp, and he did enlist the assistance of his Member of Parliament simply to forward correspondence to you? - Yes, he wrote to Michael Forsyth.

And he was concerned I think about the inadequacy of the police complaints procedure? - That is so.

Could you look at DCD25 which is D20. This is your reply to another letter that was in fact keeping the issue going; is that right? - That is correct.

I think this is a letter extending to four pages from you to Mr. Hamilton's Member of Parliament giving him a full explanation of events? - That is so.

I think that outlines the involvement of the police and the difficulty that you saw in giving any assurance that the police would not interfere in future/

future camps? - I didn't think I could give that assurance.

And did you make it clear that if there was a complaint raised about the welfare of a child that would have to be investigated? - I did.

Now,/

10.40 a.m.

Now, look please at DCD27, which is D21, and is that Hamilton's formal complaint to the Chief Constable about the actions of Duncan and Gunn? - That is so.

As a result of that you, as the Complaints & Discipline Officer, would have to take action? - Yes I did.

What action did you take? - Appointed an investigating officer.

Who was that? - Jim Keenan.

I think the correspondence continued and Hamilton continued to query points that you had tried to explain, through his Member of Parliament? - That is so.

And indeed these points became personal in the sense that there was criticism of the professionalism of yourself and the police force? - Indeed.

Do you remember any of the descriptions he gave of the police officers who had been involved? - I think he referred to them as "Village idiots" or something of that nature.

Generally did you reply to his correspondence? - If he raised something new I replied. If he got bogged down in something and I didn't think there was a reply necessary, then I didn't.

Now, could you look at FA41, and I am afraid this is in a different D file. It is D58L.

MR. BONOMY: Sir, to put this in a chronological context it is necessary to pass between the K and L folders.

EXAMINATION CONTINUED BY MR. BONOMY: Now, that is a firearms certificate? - That is so.

You have signed it? - Yes.

And in February 1989 you were dealing with/

with one aspect of that certificate? - It was a variation. The number had been wrongly noted as "FND", I believe, or is it "FNO" -- the "O" and "D" had been misread, I understand.

So on the 9th February we see an entry relating to that mistake; is that right? - That is so.

And I think a letter was sent to Hamilton apologising for that; is that correct? - I can't recall.

I may be wrong. Sorry, it is my mistake. Could you have DCD41?

MR. BONOMY: Sir, this is in the bundle of additional material which was given to you this morning and distributed.

EXAMINATION CONTINUED BY MR. BONOMY: This is the letter I am thinking of. It is 10th February, from you to Thomas Hamilton. It is replying to some of the things he has been saying, and I think at the end you ask him to apologise -- would you just read the last paragraph? - "I would be grateful if you would reconsider the contents of your letter of 8th February 1989 to Mr. Forsyth and make a wholesome apology for the remarks which impinge on my professional ability and integrity; that without prejudice to any further action I may take on this matter".

Now, if you have still got the firearm certificate in front of you, we may see on the back of it you also dealt with the renewal? - Yes, that is right. That was 14th February I signed that.

And that was you formally renewing it for three years? - Indeed.

Now, if you had simply been in charge of firearms you may have got reports from other officers alerting you to things that were going on with your force involving a man like Hamilton, but you happened to be in charge of both Discipline and Firearms, so you knew all that was going on? - Indeed.

And you knew what the allegations were against/

against him? - Yes.

Can you briefly summarise for us your understanding at that stage of the allegations against him? - Yes. The majority were clearly non-criminal -- not being able to phone home, send postcards, food perhaps not the variety it ought to have been, conditions at the camp. The only one which possibly could have been criminal was the chastisement of children could have been a simple assault.

Was that a significant factor in deciding whether or not to query his renewal? - On a certain view of the circumstances of the case, I didn't consider it serious.

At that stage you would have to consider the various provisions which would allow you, on the basis of his behaviour or character, to refuse to renew? - Indeed.

As far as he is concerned, these could be summarised too. Could you summarise too as to the terms of the statute which would have allowed you to consider refusing on the basis of his character or behaviour? - Yes. If he was intemperate, if he was insane, or if he was in any other way considered to be dangerous to the public safety or to the peace.

That is not quite.....? - Unsound mind, then.

Unsound mind is one, yes. There is a third category in relation to character which you haven't touched on there. You have dealt with the unsound mind now? - In any other way unfitted to hold a firearm without danger to public safety or peace.

Well, is it not just "Otherwise unfit to be entrusted with a firearm"? - Yes.

Which is really not directly related, certainly in the terminology of the statute, to the public safety or peace? - That is right.

But you didn't think there was a serious issue here over the renewal of his firearm certificate?/

certificate? - I did not.

When you dealt with this renewal, apart from your knowledge of this complaint about him at the camp, what other material was placed in front of you to consider? - None.

Well, you must have had the application, you must have had his old certificate? - I had this certificate.

You had that one, so you had his application, certificate -- RL3a? - No.

Would that not be in front of you? - No.

Why not? - It was only brought to my attention if there was anything in it worth reading -- in other words, if there was any detrimental comment made upon it.

Well, that is certainly not the impression we have been given by other witnesses so far. We, I think, could fairly have formed the impression on the evidence so far that the RL3a form always accompanied that certificate for your signature? - No.

What about the firearms file? - No.

Now, could you look please at DCD42, which is D26. This time the letter is addressed to you? - Yes.

Dated 20th February 1989? - 14th February it is, sir.

Sorry, I should have asked you to have DCD45. Now, in that letter there is a number of points made, but could you again read the last paragraph? - "I am planning the 1989 summer camp to be held on the north-east point of Inchmurrin Island from 2nd to 30th July, and although we will be in Strathclyde Region you and your officers will be welcome to visit the camp at any time and enjoy our hospitality".

And sign of the apology you were looking for? - No.

Did/

Did that come in any of the other letters? - Not that I am aware of.

But you got the invitation to visit the camp? - Yes.

"And enjoy our hospitality"? - Indeed.

Did you ever go to the camp? - No.

Now, would you look at DCD48, which I think is D28. Bearing in mind that Mr. Keenan is on the job of investigating Hamilton's complaint, do we get another complaint? - Well, he is questioning how the Inquiry is being carried out.

"The only question I was asked by Inspector Keenan was whether or not I would like a cup of coffee" -- is that his comment -- the second paragraph? - Yes.

So he is complaining about the way in which Keenan is carrying out the investigation into his complaint? - Yes.

Would you look now please at DCD54, which I think is D32, dated 5th May 1989? - Yes.

Just read that one out please -- the heading included? - "Disruption of summer camp. I refer to the photograph of members of the Dunblane Brotherhood of Scouts & Police which apppeared in the 'Stirling Observer' on the 3rd May 1989".

Now, does the expression "Brotherhood of Scouts & Police" appear elsewhere in the correpondence? - I am not sure if it is in exactly that terms, but certainly their relationship is mentioned.

And the word "brotherhood" appears in relation to the Scouts, I think? - Indeed.

Now, could you read the second paragraph? - "Please confirm that one of the Cub Scout leaders in the photograph is the wife of the officer appointed to investigate my complaint, Inspector Keenan".

So we are now into an area of obsesssion,/

obsession, paranoia, that you come to learn more about as time passes? - I wouldn't put it in those terms.

You don't think that he was obsessed and paranoid about the way in which from time to time he saw a relationship between the Scouts and the Police? - He certainly had a resentment against the Scouts and us.

I take it you refused to get into a debate over this particular point? - Indeed.

Now, would you look please at DCD56, which is D34. Just read the second paragraph? - "Why, therefore, are members of the Brotherhood of Dunblane Scouts permitted to be photographed with police officers, and for publication on 3rd May 1989 in the 'Stirling Observer' newspaper".

And the next one? - "This photograph and other photographs in the local press show to me the blatant bias and favour that the Central Scotland Police has for the Brotherhood".

You would describe that as a further example of resentment? - Indeed.

Perhaps you would also look at DCD58, which is D36, where perhaps you would read to us -- in fact, just read us the second paragraph. Again can you confirm it is headed "Disruption of Summer Camp"? - Indeed.

It is dated 12th May 1989? - That is so.

Right. Read please the second paragraph? - "I understand that many Members of Parliament are concerned about police officers being involved with, or being members of, the Brotherhood of the Masons, and indeed some Members of Parliament have also expressed concern about members of the police being involved in any 'brotherhood' organisations. Why, therefore, do you not also tell those Members of Parliament that their similar concerns -- 'would be an unwarranted intrusion of personal liberty', and what about the 'unwarranted intrusion of the personal liberty' of our summer campers?"

So/

So "brotherhood" does feature a lot in his correspondence? - Indeed.

Now, would you look please at DCD 275 which is D80 in L. This is an AD2a -- or is it? Now, that is a memorandum with accompanying papers from Inspector Nimmo to the Chief Superintendent of A Division? - That is so.

Now, this was drawn to your attention, was it, at the time? - Yes. Mr. Gunn drew it to my attention.

And we see his handwriting, addressed to the DCC on it? - Yes indeed.

Now, this was a report of activity of Hamilton on 20th May 1989? - That is so.

Can you just read the memo please? - "About 11.25 a.m. on 20th May 1989 Mrs. Doreen Hagger, 57 Auldhill Crescent, Linlithgow, telephoned Police Headquarters' Control Room to report that the above-named had possession of firearms which he had taken to 44 Acredales, Linlithgow, occupied by the Smith family. I was aware that Inspector Keenan, Stirling, was investigating a complaint against the police made by Hamilton, in which Mrs. Hagger was a witness. I contacted Sergeant McGrane, Bathgate, and requested he visit the Smiths' and obtain statement regarding Mrs. Hagger's allegation.

The attached statements and photographs have now been received and I forward them for your information and attention".

MR. BONOMY: Sir, I should have directed Mr. McMurdo not to go into details of names there, and I hope the privacy of those people will be respected, as it has been all throughout this Inquiry.

EXAMINATION CONTINUED BY MR. BONOMY: I think accompanying that were photographs and statements from the witnesses? - Indeed.

Did you have to decide on any action to be taken in regard to this complaint? - Yes.

What did you do? - I read through all the/

the information which was available and came to a conclusion.

And what was your conclusion? - My conclusion was that this was a visit by Hamilton to a home at the instigation of the people there. He showed them guns, he allowed the children to hold them. He apparently had been informative in his instruction on the safe handling of weapons, and what was important was that there was no ammunition there, and indeed at no time were the family in any way distressed or concerned by Hamilton's visit.

So does that mean "No action"? - Yes.

Is it appropriate for a person with weapons such as these ones, one of which I think was an automatic rifle? - Yes.

Or a semi-automatic rifle -- was it appropriate for such a person to be carrying the weapon round the country to demonstrate it to other people, particularly children? - As I have said, the statements are plain there. They had been talking about weapons. They showed an interest. He took them there. He was instructional in how to use them and how safely to handle them. Whether it was a good idea to do that or not, you know, is open to question, but it seemed to be absolutely an innocent instruction.

It/

It is not an offence to do that, is it? - Well, if it was an offence it would not have been my problem because it was not in my police area but I didn't consider it was. The possession clearly by a person under l4 is an offence but I didn't consider that he relinquished the weapons to the child. He was there all the time and still in possession in all senses of the word.

With hindsight, is it behaviour that warrants a warning? - Yes, with hindsight I could possibly have sent him a warning. I think you are right in that.

Now, did that report find its way on to the firearms file? - I have no idea. I gave it back to Chief Superintendent Gunn after noting it.

I take it it remained in your head anyway? - Indeed.

You will see that that particular one has been recovered from the Complaints and Discipline file I think. There will be a backing indicating where it came from? - Yes, I see that.

BY LORD CULLEN: Can you say in what capacity that was being handed to you? I mean, what role were you fulfilling at the time? - Well, clearly you can see by the note from Chief Superintendent Gunn he says "This may be a harmless display but it leaves a lot to be desired". I think he wanted to make sure that I was aware of it. He himself didn't show any great concern about it but he felt in my position as Depute Chief Constable I ought to be aware of this particular incident.

Was that having regard to your responsibility or matters of firearms? - Indeed, and also..... well, clearly in firearms and of course there was an association across from the person who had reported it to Complaints. I think it was Mrs. Haggar who was also a witness in the Inchmoan business so there was a connection there.

EXAMINATION CONTINUED BY MR. BONOMY: I think you also learned around that time that Lothian Regional Council were suspending a let Mr. Hamilton had/

had at Linlithgow Academy? - That is so.

And they sought information from you, is that right? - That is correct.

Did you actually speak on the phone to someone from Lothian Region? - Yes, I looked through the file to see if there was a letter. I can't recall ever writing a letter but I do recall speaking on the telephone.

Can you remember the gist of the information you gave Lothian Region? - Yes, I told them what the facts were.

Can you give me the gist of what you said to them? - Yes, I gave them a balanced view on it, that Hamilton was a person with no criminal record whatever. He had been running children's clubs, boys' clubs, for many many years. However, in l988 there had been a complaint against him that had been investigated by Strathclyde Police and that I still had not received at that time the outcome of that investigation.

Did you receive a visit or a call from the Ombudsman? - I did indeed.

Was that a visit? - Yes.

What was he interested in? - He was interested in what I had said to Lothian Regional Council Education Authority.

And did you get the impression the Ombudsman was investigating actions by Lothian Region? - Indeed.

When you got Inspector Keenan's report into his investigation, what did you do? - I did two things. Firstly, with regard to the complaint itself I read through it thoroughly and came to the conclusion that the officers had acted quite properly. I also did a second thing in that in the report from Inspector Keenan he suggested to me that perhaps there were statements within that report that had not been available to the Procurator-Fiscal in Dumbarton as a result of the Strathclyde enquiry, so I telephoned the Depute Chief Constable there and made him aware of that and sent the file to him in order/

order that the Fiscal would have the full information available to him.

Now, Mr. Keenan gave his evidence that his understanding was the Fiscal re-considered the complaint against Hamilton on the light of these additional statements? - Yes.

Do you know whether in fact that happened? - Yes, I got a letter back. I got a phone call and then it was confirmed by letter.

And that is a letter from Strathclyde Police I think? - No, both.

You got a letter from the Fiscal? - I got a letter from Mr. McMaster who was signing on behalf of the Depute Chief Constable and attached to it was a letter from the Fiscal.

I will get these documents and show them to you when they are available. There may be evidence later in the Inquiry that the papers did go back to the Fiscal in Dumbarton but he didn't consider that it was for him to look again at this complaint and the papers simply made their way to the Fiscal in Paisley to deal with the complaint against your officers. Now, you don't know whether or not that is what happened, do you? - I can't answer for what the Fiscal Service did.

I will give you the letters as soon as they come down and you can see if you recognise the correspondence. In any event, your intention was that the Procurator-Fiscal at Dumbarton should look again at the case against Hamilton because there were additional statements? - I simply wanted to make the Fiscal have all the available information before him in order to ensure that he took a decision on full information.

But Hamilton still had not been charged with anything? - That is so.

And no one had drafted any charges against him that were being proposed to the Fiscal? - None at all.

Now, what was Hamilton's reaction to your decision that the complaint against your officers/

officers was unsubstantiated? - None too pleased.

So did you begin to get more correspondence? - Indeed.

And eventually did you offer to meet him? - I did.

And did you meet him? - I did.

Do you remember the date of the meeting? - Oh, would that be about October, somewhere about l989, is that right?

Look at DCD87 which is D49. That is a letter dated 3lst October l989 from Hamilton to you? - Yes.

Can you read the heading and the letter please? - "Disruption of l988 Summer Camp. Thank you very much for giving me the interview with you today which was a general discussion and exchange of views and present-day attitudes and opinions relating to children's camps. Although we may not be in absolute agreement, I feel that our communication today can only be helpful to both parties in bringing about a better understanding of our positions. Moreover, I am obliged to have had the opportunity of replying to you personally concerning various criticisms of the camp which, until today, were secret. I am very impressed with most respects of your work in investigating the concerns and with your grasp and understanding of the matters involved. Since my efforts at achieving better communication with Central Scotland Police have now been achieved, I am happy to consider the entire matter closed and I thank you for your co-operation".

What was the meeting like? - It was a fairly lengthy meeting but it was very courteously conducted.

Had you met him before? - I hadn't, no.

What did you make of him? - I can't say I really warmed to the chap at all but we had a very amicable discussion. He had different views from me on how to run camps. That was obvious. He seemed/

seemed to be taken aback when I suggested there could be improvements made.

Well, did he accept it? - His difficulty was that he tried to run camps that people who were perhaps out of work or whatever could afford and one of the great difficulties he had was that he said he wanted to reach families who might otherwise not have a holiday and some of my suggestions would mean that the camp would go up-market and the people he was trying to help would not be able to afford it.

Did he question your qualifications to criticise his camps at all? - Indeed he did.

How did he go about that? - Well, I think that this was with regard to the physical chastisement of children. I told him that there was always a danger that there would be a complaint from parents if he used physical chastisement and I was making that point as a policeman and, more importantly, as a parent. I really did not put myself up as an expert in running camps. I am sure he knew far more about it than I did. I was just trying to make sure, as he was, that there would be no more complaints and disruption to his camps and the sullying of his good name.

Did the apparent lull in the barrage of resentment last long? - Indeed it did not.

What happened? - I am trying to remember just how it started up again but he clearly thought about some of the things I had said and he took issue with some of them.

I think there was some correspondence in November or just after Christmas in fact of l989. There was a whole barrage of correspondence about the failure of the police to investigate the complaints properly? - Yes.

And ultimately he took it further? - Indeed he did.

Look please at DCD97 which is D56. This is a letter dated 5th January addressed to whom? - Her Majesty's Chief Inspector of Constabulary.

Can/

Can you read the second last paragraph of the letter? - "Following a meeting with the Deputy Chief Constable of Central Scotland Police on the 30th October l989, I have given the matter further consideration and with regard to my suspicions and the information available to me, I can no longer accept the statements by the Deputy Chief that my complaints cannot be substantiated. I have always been a strong supporter of the police in their often difficult and thankless work and my sole objective in pursuing this matter is simply to try to prevent a recurrence of such blatant police incompetence at future summer camps for the protection of our members. Each summer camp can cater for about 80 boys on a rota basis and involves a total cost of around £5,000".

That was a formal complaint against you and your investigation and indeed Inspector Keenan's investigation of the complaint he had made? - Indeed.

Now, that was investigated by the Chief Inspector's staff? - That is so.

I think by looking at the paperwork? - Yes, the Superintendent came across and I think he spent about two days going through the report and looked at both the investigation and at the decision I had taken.

So Hamilton was told I presume that there was no substance in that complaint? - That is so. I didn't see the report but I got a letter from Mr. Sim saying that he was happy with the way matters had been investigated and with my decision.

In early l990 do you remember a series of letters complaining about another employee of the police called McKellar? - Yes.

What was all that about? - Jim McKellar had put his police extension number on notepaper of the Scout Movement and this he objected to.

And that went on for some time, did it? - Not really.

Did he not raise the matter in a number of/

of letters? - I can't recall that.

What was your feeling about that correspondence? - I wrote back and said it was none of his business really.

Yes, but what did you think was the objective of this particular line of complaint? - He had real animosity towards the Scout Movement and any excuse to write about the Scout Movement he would do so.

LORD CULLEN: I think as the evidence of this witness is going to be rather protracted it might be useful if we had a short break in the course of this morning so I intend to break now for l0 minutes.

After/

11.30 a.m.

After a short adjournment.

Coming back to the report of the Procurator-Fiscal on which I said I would try to find some documents, could you have in front of you DCD273 which is D2K, Mr. Keenan's report of the investigation. In there there are some loose documents including a letter from Mr. McMaster to you which may be the letter you were referring to? - There should in fact be another letter there.

Well, have you got the one of the 24th October? - Yes.

And there is one with it? - I haven't got it unless it is further down the file.

There should be one dated 17th October from the Regional Procurator-Fiscal to Chief Inspector Brockie? - Yes.

If you go back to the first one, I think it says, "I refer to your report dated 22nd May in the above regard". Could you read the rest of it please? - "I refer to your report dated 22nd May in the above regard and have to advise you that the circumstances of this complaint was reported to (1) Mr. James Cargill, Procurator-Fiscal, Dumbarton, who advised that no criminal proceedings would be taken in respect of Thomas W. Hamilton, and (2) Mr. Robert Lees, Regional Procurator-Fiscal at Paisley, who decided that no proceedings should be taken against the police officers concerned. A copy of the letter indicating Mr. Lees' decision is attached for your information".

We have a letter dated 17th of October from Mr. Lees. Mr. Lees was considering the complaint against the police? - Yes.

That is in fact the letter that is being referred to in Mr. McMaster's letter to you? - Yes.

He has also said that the Fiscal at Dumbarton was considering the complaints against Hamilton? - Yes.

But he doesn't refer to a letter. There doesn't/

doesn't appear to be a letter there in the file? - My understanding was that there was no proceedings. That was the indication to me.

But you have not got a Fiscal's letter to that effect; that's what I'm trying to establish? - It does say "Mr. James Cargill, Procurator-Fiscal, Dumbarton, has advised no criminal proceedings be taken against Thomas Watt Hamilton".

That is a letter from the police to you? - Yes.

In the chronology we have got to July 1990 in the correspondence with Mr. McKellar. Could you now look at the correspondence a bit later that year and DCD125 which is D76K. This is a letter of 8th June, 1990 to you from Mr. Hamilton. This time it is headed "Arbitrary disruption of 1988 summer camp"? - Indeed.

Could you read that letter please? - "I read in the Stirling Observer about the Chief Constable being refused £1200 by the Regional Council for a trip to Korea. I wholeheartedly agree with the Council particularly as many children from deprived homes can no longer afford to attend their summer camps due to the circumstances arising to our group due to the arbitrary condemnation of our 1988 summer camp by Central Scotland Police. A change in tax laws in recent years means that people such as salesmen etc. who have the personal use of their company cars have to pay tax for this perk. I am therefore writing to ask you if the Chief Constable pays for any formal use of 'Tango One' to Central Regional Council and Her Majesty's Inspector of Taxes".

Now, would it be fair to say that he is looking for -- taking the account of McKellar in this -- he is looking for any opportunity to get at the police? - There is no doubt that he never missed an opportunity to write if something was upsetting him.

Then in early 1991 he tried to re-open the issue of the summer camp with the then Chief Constable Mr. Wilson? - Yes. This occurred because we had a change of Chief Constable and he started to reiterate the same points to the new Chief/

Chief Constable. I had words with the Chief Constable and suggested in fact the ground had been covered.

Then we get to July 1991 and something happened at another camp? - That is so.

How did you first learn about that? - I think probably through the morning briefing by the Detective Superintendent.

Could you look at DCD148 which is D94. Is this the briefing you are talking about? - No, I had briefings prior to this. This was an up-date.

This was a report by DCI Holden? - I told him I wanted to know the ins and outs of it.

At the conclusion it says, "The inquiry is ongoing at present but I fully expect a police report containing charges of assault, Section 12 of the Children and Young Person's Act, lewd and lib. practices against Hamilton will be submitted to the Procurator-Fiscal"? - Indeed.

So this is a bit after you first learned of the investigation? - Yes.

Was one of the issues at that stage the propriety of photographs that Hamilton had been taking? - Yes, he had been taking photographs since 1988.

In relation to the 1991 camp what was the concern? - The concern was were the photographs he was taking in any way indecent.

I think one of the issues you did get involved in was the question of whether equipment removed by the police should be returned to him? - Yes.

Can you remember what equipment was removed by the police? - Cameras, I understand.

Who was the reporting officer in relation to that investigation? - Paul Hughes who was then a D/S.

I think it was he who made the report to the/

the Procurator-Fiscal in which there were charges drafted? - Yes.

And the decision was to take no proceedings on those? - Yes.

Before that decision was taken I think there was a memo sent by Hughes up the line which eventually got to you? - The decision was known but it was not on paper.

Look at FA207 which is D82 in L. This is the memo which ultimately came to you? - Yes.

And the view of Hughes that consideration should be given to revoking the firearms certificate appeared to be endorsed by Holden? - In a sort of a way.

He agreed with Hughes' appraisal of Hamilton; is that right? - Yes.

Then said, "Do we have any latitude for progress in respect of the revocation of his certificate"? - Yes.

Mr. Miller, on the other hand, said while he appreciate Hughes' concern he could not recommend the action proposed for obvious reasons. Hamilton hasn't been convicted of a crime and it seems that the Procurator-Fiscal is likely to No Pro the recently reported case? - Yes.

What was the total information available to you when you got that? - I knew all about the case.

You marked it "No action", it is stamped on the front? - Yes.

What was the date of that? - Yes. The date stamp shows 10th but that clearly can't be right. My recollection is that was brought up by the Detective Superintendent in the morning and perhaps the date stamp hadn't been changed.

Was this discussed the day it comes in? - Yes.

And a decision taken that day? - Yes.

Who/

Who did you discuss this with before deciding on no action? - Discussed it with the Detective Superintendent.

Anyone else? - I knew all about this case. It had been discussed between myself and the Detective Chief Inspector, between myself and the Detective Superintendent, and I had reports. I had read the reports and I knew all about the case.

Did you discuss it with the Detective Sergeant? - No, I did not.

You and Hughes never actually discussed this? - No.

His suggestion? - No.

Did you discuss it with Mr. Holden? - Yes.

Out of that it had appeared that Holden supported Hughes? - Yes.

In your time with Central Scotland Police did you get any other memos from officers suggesting revocation which you did not accept? - Invariably reports come in such as this, sometimes a constable who suggests revocation, and sometimes it would be agreed by the senior officer and sometimes it was decided the other way. Sometimes they both agreed. I mean, that decision was mine.

Here we have got a sergeant and was it Chief Inspector Holden at the time? - Yes.

Agreeing and the Detective Superintendent disagreeing? - Well, that is not quite so. You have got the view of the Detective Sergeant, you have got Holden's views asking a question, and you have got the Superintendent who disagrees.

Did you consider there was any basis at all for doubt even about whether Hamilton should be allowed to continue to hold a firearm certificate? - I don't take a report like that lightly.

So/

11.45 a.m.

So what was your assessment of how close we had got to deciding to revoke his certificate? - Well, frankly there was no evidence in this report whatever -- I agree with the first paragraph, he was a controversial person, but a controversial person is not someone that you take their licence away.

There is evidence of assault, though? - Beg your pardon?

There is evidence of assault further down the document in the second bottom paragraph on the first page? - That is quite misleading.

Why is that? - It says "It emerged from inquiries that he, during the course of the first week of camp, seemed to become increasingly stressed and had difficulty managing the group. It was during one such moment that he became extremely angry and assaulted one of the boys. This particular child was in fact assaulted three times by Hamilton during the first few days of the holiday, and was eventually removed by his parents". You would be led to believe if you read that that this was an unprovoked assault by Hamilton on a child, when in fact it was chastisement for bullying other children, kicking and punching, throwing a stone at a child and hitting him on the head. If you didn't know the circumstances you would be led to believe that this was an unprovoked assault.

So would your view be that in 1991 it was acceptable practice for someone in Hamilton's position to slap a boy on the face? - I had already told Hamilton -- you know that -- back in 1989 that I disagreed with that, and it would be liable to lead to further complaints.

Well, I will ask you that question again. What is your view that in 1991 it was acceptable practice for someone in Hamilton's position to slap a boy on the face? - No.

So it was an assault? - It is not for me to decide whether it was an assault. It was for the Procurator-Fiscal. We simply report the fact.

You are not going to tell me when a police/

police officer charges someone with assault he hasn't made a decision he thinks it is an assault? - He didn't charge him with assault.

No, not in this case, but surely police officers regularly charge people with assault? - Yes.

And it is their job to make up their mind whether they think there is evidence of assault? - Indeed.

Well, in this case do you think there was evidence of assault? - The evidence was for the Procurator-Fiscal. What I am saying to you is it wasn't an unprovoked attack.

I am not arguing with you about that. What I am suggesting to you is that there was evidence of assault? - It is a grey area.

Now, the investigation by Hughes resulted in a complaint against him? - It did indeed.

And would you look please at DCD163, which is D117. Is that the complaint? - Yes.

And was that submitted after Hamilton had for some time been shadow-boxing or pussy-footing around, and making complaints that weren't formal complaints? - He said he had no faith in the complaints procedure, and he tried to go through his MP.

And he was told by his MP that the way to deal with this was to make a formal complaint to the Chief Constable? - Yes.

But there had been a series of letters again, which could be construed as complaints, but where he had carefully stressed he wasn't making a formal complaint? - Yes.

And I think there was also correspondence around this time where he got in touch with parents, trying to defend himself and attack the police. Look please at DCD167, which is D121. Now, is that an example of a letter being circulated to parents, copied to Mr. Wilson, among others?/

others? - Yes, indeed.

And it is a lengthy letter justifying his position? - Yes.

Was it around this time that he also tried to involve the Scottish Office in a significant way in his complaints? - Yes.

And tried to -- or wrote to them in a sort of informal complaining way about the way in which the police were handling his complaint? - Yes.

As a result of which you had to regularly update the Scottish Office on what was happening? - Yes, that is right.

Now, could you look please at DCD174, which is D133? Is this one of the letters in which you had to explain things to the Scottish Office? - Yes.

Now, the second paragraph I think may sum up the state of play on the 1988 camp. Could you read that paragraph please? - "If I may refer to the points in your letter I would make it clear that the inquiry into your correspondent's complaint about the 1988 camp is concluded, has been independently assessed by a staff officer to HMCIC and will not be reopened by me. Every point repetitively and tediously dragged up by Mr. Hamilton has been examined and re-examined, explained and re-explained, to the point where I am seriously considering referring the matter to the Legal Department of the police authority. I am in no doubt that his ever more offensive statements are becoming actionable and I would refer in particular to his circular to parents dated 20th December 1991 and his letter to Mr. Forsyth of 9th January".

I think you also go on to explain the extent to which the 1989 complaint against the police was investigated? - Yes.

Now, could you go to the second page and read the second paragraph there, please? - "References to the statements being noted in pencil but signed in ink are a regular feature of the complainer's letters. His inference can only be that/

that they were subsequently altered, although he avoids saying so directly. I have personally examined the notebooks concerned and I'm totally and unreservedly satisfied that they have not been tampered with in any way, not that I expect this inconvenient fact to alter Hamilton's opinion in the slightest".

Would you read the next paragraph also? - "It is true that many police officers do give up some free time to helping with voluntary youth organisations, including Scouts, as do bus drivers, engineers, airline pilots and thousands of other public-spirited people who do not find it necessary to make a charge for their time. How Hamilton can draw a sinister inference from such a healthy and worthwhile pastime is beyond my comprehension".

And I think also on this page read the next paragraph please? - "For Mr. Hamilton to see his tiny local organisation as a serious rival to the Scouting movement indicates a certain lack of perspective. The Scout movement is a world wide organisation of longstanding with about 16 million members. As far as I am aware its reputation as a bona fide organisation has never been in doubt, and it has never been suggested to me by anyone other than Mr. Hamilton that an officer's credibility or professionalism could be in any way affected by membership of the Scout movement".

Now, if you go to the third page, and can you read the first full paragraph to the end, that is "For the Record", to the end of the letter? - "For the Record, my principal administrative officer at this Headquarters holds the distinguished position of Area Commissioner with Forth Valley Scouts; at least three serving officers are Cub/Scout leaders; my personal clerical assistant and her husband are actively engaged in the organisation, and the wives of several officers contribute to Scout work in numerous ways. In common with most right-minded people I am proud of the connection between Central Scotland Police and all the Youth Organisations which which we work. Only a bitter and petty-minded individual like Thomas Hamilton could pervert such a relationship into something sleazy and dishonourable and imagine some undercurrent of corruption".

Just/

Just read the whole letter please? - "I am sorry about the length of this letter but, as a comparatively recent beneficiary of Mr. Hamilton's vindictive correspondence, you should be aware of the background to almost four years of ever more irrational outpourings. Both I and two Chief Constables have tried very hard to resolve the matter but, as always when trying to reason with a zealot, each time a point appears to have been settled he reintroduces it in another guise, adjusts the facts selectively to suit his ends, and it all begins again. Now that he has managed to involve yourself and the SOHHD into the debate I can see the correspondence continuing indefinitely and this, quite frankly, I am not prepared to do".

Now, Mr. McMurdo, you on that page describe Hamilton using a number of adjectives. You describe him as a bitter and petty-minded individual who perverts a relationship into something sleazy and dishonourable. That is the first description I think. You talk about vindictive correspondence and you mention ever more irrational outpourings. And then finally you talk about the difficulty in trying to reason with a zealot. Are we by this time talking about someone who is obsessive and paranoid? - I think by this time you have got somebody who has lost his cool. This is three and a half years after I started writing letters. The letter was designed for one purpose and one purpose only, to signal to the Scottish Office that I was not prepared to enter into any other correspondence. I admit I lost my cool on this occasion, but I think I was entitled to call him a zealot. I mean, if somebody continuously goes on about the same things time and time again -- and I have got to admit I did lose my cool when I wrote that letter.

I won't be surprised if you find no one disagreeing with your view at that stage. What I think my concern was is whether, when you take that along with the advice you had got from other officers in relation to his behaviour at Milarrochy Bay, that perhaps it was time to revisit the Firearms File? - No. We are talking here about something totally different. We are talking about his persistent follow-up of complaints. I thought he was taking absurd complaints, but it was something he was entitled to do. That is the society we live in -- and probably it is all the better/

better for it. But he can approach his MP, go to the Scottish Office, go to HMCIC. These are all there to ensure people in my position do their job properly. But it does really eventually -- you get somewhat fed up with it, and I certainly lost my cool on this occasion. But there is another factor to it too, if I may add. It was about the same time that one of the officers expressed his feelings about the letters as well.

That is Mr. Gunn? - Yes.

And he really was wanting some legal advice I think about his own position? - That is right.

And you indeed consulted the Legal Department of the Regional Council? - That is so.

And I think the advice was "Better left alone"? - Yes.

Which no doubt you now agree was probably sensible advice, looking at the isolated circumstances of Gunn? - Yes.

I think there was also a complaint made around this time to the Chief Executive of the Regional Council about the involvement of a man called Keilloh, who was the social worker who accompanied Hughes when he made his investigation? - That is so.

So we get a quite separate complaint that the Chief Executive of the Region has to deal with? - It is because of the joint working between social work and police.

Can you tell us about that system? - Yes. In the Family Unit the police and social workers do joint investigations. So when the complaint at Milarrochy Bay was undertaken it was by a joint team of social workers and police.

BY LORD CULLEN: How long has that arrangement been in existence? - 1988, January 1988.

EXAMINATION CONTINUED BY MR. BONOMY: Now, could you look please at another AD2a, which is DCD277, and which is the result of the investigation by/

by Ferguson. That is D4K, which is the large report.

MR. BONOMY: Sir, it is D4K.

LORD CULLEN: It is D154; is that right -- it is in D4, but I think it is D154; is that right?

MR. BONOMY: It might be.

LORD CULLEN: I have a helpful list beside me which seems to tell me that is the answer to the question. Is that a letter of 6th May?

MR. BONOMY: If your lordship would just give me a moment. I had one marked, and it is not this one.

It is D4 I want to look at, and I am not so sure it does have another number. It is the large report, and the very first thing in D4 -- it could be D276, DCD276.

EXAMINATION CONTINUED BY MR. BONOMY: Now, is that a report to you by Chief Inspector Ferguson? - No. What I have got here is a Report to the Procurator-Fiscal by Mr. Allan.

Have you now got the right one? - Yes.

What is the number of the back of it so we are clear? - DCD277. On the label is says "DCD277".

All right. It is good to be right occasionally. I think the first item there is a memo from Ferguson to you dated the 21st April 1992? - It is not the first thing I have got, but I could turn to it?

Right? - I think I have got it now. It is the 21st April 1992.

That is it. And is this a report to you following an investigation that Ferguson carried out? - That is so.

And he was the person you appointed to investigate the complaint against Hughes? - That is so.

It/

It is simply a number of the points on this that I want to look at. Mr. Ferguson is referring to how he conducts his enquiry and I think in the last paragraph on the first page he says "About l0 a.m. on Tuesday, l7th December l99l I called once again on Mr. Hamilton at his home. The visit lasted approximately three hours, again the main topic being his l988 boys' camp. However, on this occasion and with great difficulty, I obtained a form of statement from Mr. Hamilton", is that right? - Yes.

And if you go to the next page and go to the middle, can you read the paragraph beginning "I have completed thirty years....."? - I have completed thirty years' police service, a long number of these as a CID officer. Throughout these years I have interviewed many hardened criminals, many aggressive people, many reluctant witnesses, many complainers against the police but I can honestly say the interviews with Mr. Hamilton were the most exasperating of my career".

I think if you go to the third page there is reference to just how wide this enquiry went because in the fourth paragraph Mr. Ferguson reports that he interviewed the Procurator-Fiscal Depute at Stirling and the Procurator-Fiscal's precognition agent at Dunfermline? - Yes.

So it was a wide-ranging enquiry looking for evidence of improper conduct by Hughes? - Yes.

And I think there were two expressions of concerns by parents about the enquiry, is that right? - Yes.

But neither of these was of any real significance in the context of the enquiry? - I don't think so.

The mother of the child assaulted however was concerned about the fact that there were to be no criminal proceedings? - That is so.

Now, again Hamilton was unhappy I think with the result of this investigation? - That is correct.

And/

And your decision was what? - Unsubstantiated.

And you intimated that to him? - Yes.

And I think there then followed a flood of correspondence to a Member of Parliament, the Scottish Office and so on? - Yes.

I think you again offered to see him? - Yes.

Did he accept your offer this time? - He declined.

Now, while all this has been going on his firearms certificate was due for renewal again in February l992? - Yes.

Did you play any part in that renewal? - In 1992 it was renewed by Mr. Adamson. I was on holiday at the time.

So you just don't get involved at all? - Not when I am on holiday, no.

No, but you were not involved at any stage in the renewal? - No.

What rank was Adamson? - He was a Chief Superintendent then and he was at Headquarters and when I was on holiday he was Acting Depute Chief Constable during my absence.

Is it normal for him to deal with firearms renewals in that capacity? - Yes.

Or would that not normally have gone up the way rather than down the way? - It could have gone either way.

The Chief Constable could have dealt with it? - Yes.

If the form that you indicated was followed then Adamson would only have a certificate stuck in front of him and he would be expected to sign it unless someone brought something adverse to his attention? - Unless there was something adverse, yes.

Would/

Would he know the history of Hamilton? - Yes.

Were you consulted at all in relation to that particular renewal? - No.

Now, would you look please at DCD203 which is Dl74? It is a letter dated 6th April from Hamilton to the Chief Constable? - Yes.

Do you recognise this one? - Yes.

What was this about? - Apparently Mr. Hamilton had witnessed a child being chastised and had reported it to the police because the child was crying. The police had gone to his house but he was out and we had attended to the incident. We spoke to the parents. We found in fact the child was having a tantrum and the mother had left it to come out of it on its own in time and the officers were satisfied there was no child abuse.

What did you make of this complaint? - He is quite entitled to bring it to our attention in fact. The actions of a good citizen really.

Well, read the first sentence, though, of his view of the complaint? - "On Thursday lst April l993 I reported by telephone to your Force an incident of a young boy being forcefully and repeatedly hit on the head by a woman who frog-marched the boy into a house at 5 Muir....." will I miss out the details?

Yes please. So that is his view of it and your officers established that it is someone dealing with a child having a tantrum? - Yes.

And I think he is really comparing the approach in that case or trying to compare it with the police approach to himself? - Indeed.

And if you go down to the last paragraph. Would you read from "In my own view....."? - "In my own view, when I opted out of the Scout authority 20 years ago and set up what they considered to be a rival group, I was told by a senior official that if I continued they would see that I failed and it was said that they have influence throughout the country. What we are seeing/

seeing in l988 and l99l is the Scouts using their influence within Central Scotland Police to undermine my group as they did in l983 using a gullible Central Regional Council. Indeed, it took two years for Central Regional Council to fully understand that they had been used as a vehicle to further the aims of the local Scouts by removing our competition."

I think I ought to take this short from you; I think in September of l993 you were aware of complaints about Hamilton's behaviour at other clubs where he was requiring children to dress in swimming trunks? - And shorts, yes.

And nothing on their upper body and was taking photographs? - That is so.

And a number of these complaints came to the attention of the police? - Yes.

Now, can we take it that in so far as there has been evidence here of these complaints coming to the notice of the police, you would know about them? - Yes.

One of the things that occurred during that period was an attempt by your Child Protection Unit to get a warrant from the Fiscal to search Mr. Hamilton's house principally for photographs? - Yes.

Which may be of an indecent nature? - Yes.

And what was the decision of the Fiscal on that one? - I don't think we got one.

Well, you got a decision but you didn't get a warrant? - Yes.

Were you aware of an incident in the summer of l992 where children were running away overnight from the camp at Dunblane High School? - As I recall that, they were got wandering about about l0 o'clock in the evening or something.

Yes? - That is when he held the camp actually within the school.

You/

You were aware of that incident? - Yes, indeed.

So we then come to February of l995 when his firearms certificate is up for renewal? - Yes.

Can you now have Dl06L which should be an RL3a form for the l995 renewal? Now, can I take it that you didn't actually have that form in front of you when you dealt with the renewal in l995? - You are quite correct.

What did you have? - I had the certificate.

Can you have FA64 please which is D101? Was that sent to you for signing or handed to you? - Yes.

Which? - I would get it in my basket.

And if it came with nothing else you would sign it? - Yes.

So when it came to dealing with this application in l995, was it just a piece of paper amongst a number of other pieces of paper that you just more or less automatically signed? - I don't sign anything automatically.

So what attention did you give to the certificate before signing it? - I read it through and signed it.

Is there anything really on reading this that is of significance to the issues which arise on renewal of a firearms certificate? Is there anything in there that will tell you whether he is of unsound mind or otherwise unfit to hold a licence? - I should explain to you actually the way the system works. If there was anything at all being said about any individual who applies for a firearms certificate or a shotgun certificate, anything at all which was said other than the straightforward application, it was brought to my attention. Now, as you see if you look at the form RL3a, my staff officer has checked it through and he has passed it. There is nothing there that I could have read which would have made one whit of a difference to my decision. There is no point in me looking/

looking at files which tell you absolutely nothing. If they have nothing on them of a detrimental nature it is pointless me reading them. If there is something, no matter how little, of a detrimental nature on it, the file is brought to my attention.

Any chance that the name of the individual would not mean anything to you when you were dealing with the renewal and you had no other material in front of you? - You are joking. Thomas Watt Hamilton I think was pretty well known to me by that time.

So can you just take us through the exercise you undertook when this came out of your basket? - Yes. I knew there was obviously no new information had been raised.

Since when? - Well, there was obviously nothing further had been reported by the officers who made enquiry or the senior officers or it would have been on my desk.

So what did you do? How did you apply your mind to it? - Yes, I thought about it but there was absolutely nothing that I knew about Thomas Hamilton that would prevent me from signing the certificate and I doubt if there would be many people who would know any more about him than I did.

Now, I recognise we don't live in a police state, thank goodness, and that you do have to have reasons to make decisions which remove a certificate or an entitlement a person has? - Yes.

But by February l995 had things not got to such a pitch with Hamilton that you ought to have been collating all the information available on him, studying it again and reconsidering it before you made your decision? - What we had against Hamilton at that time was a report that went to the Fiscal at Dumbarton for child chastisement which was no pro'd. We had one at Milarrochy Bay for chastisement which was no pro'd. We had a memo from Paul Hughes which was a gut feeling and no more. The man had made complaints against the police but he was quite entitled to make those complaints. There was nothing there to suggest that this man would in any way be dangerous with a firearm.

There/

There were a number of complaints made by parents about what they perceived as inappropriate conduct towards their children? - They all centred round the wearing of shorts and a bare top. There was not one single photograph that I have seen, and I have seen hundreds upon hundreds of them, which were in any way indecent. Things almost had reached a witch-hunt by that time. Rumours were circulating about the town but there was nothing, nothing at all, in all the photographs we looked at. There was not one we found that was in any way indecent.

We know that on the police intelligence system, if it produced all the material which was on it, there was a card, an index card, which classified him as "homo" and then the letters "indch" which is suspected indecency towards children. So it went that far so far as police intelligence was concerned, did it not? - Intelligence I am not proud of. Intelligence does not add up to much, I am afraid.

What do you mean not proud of? - So many things I doubt if they should have been there.

It is better you have them than you don't have them because you can always consider them and discard them, can you not? - Yes, you are supposed to weed them from time to time.

But there was a feeling, wasn't there, that there was something about Hamilton's attitude to children which was very peculiar? - There was always a debate of whether this was a man who had a genuine interest in children or whether there was something unwholesome about it but it was never ever proved that his interest in children was in fact unwholesome.

But he appeared to have an attitude which was quite different from what might be described as the normal attitude in the late l980s and early l990s, for example the way children should dress when they are carrying out exercise? - In shorts and bare tops.

And in swimming trunks? - Swimming trunks. Well, you have seen the correspondence on it. He said when they were on the island they were better/

better in swimming trunks rather than long trousers and when he did allow one to wear long trousers he came back with his legs all sore from wet clothing.

But he knew the attitude of parents to that sort of thing. He would never see reason from anyone, either you or the parents? - But there was nothing..... I mean, he used to say he took videos and photographs because everybody who was into gymnastics took such things so that they could improve performance. I think it went beyond that but there was absolutely nothing in those photographs which you could in any way say was indecent. Indeed, the Procurator-Fiscal at Stirling told us not to bring any more back because there was nothing he could do about him.

There is something very odd, isn't there, about somebody who has 80 hours plus of video recordings of the activities of children in his home? - He was proud to send them out to parents and he sent them photographs as well.

Have you seen any parents come forward and demonstrate a framed photograph they are keeping of a child? - I haven't seen a framed photograph, no.

Has any parent come forward with photographs Hamilton gave them? - Some parents in their statements said that they saw nothing wrong with the photographs and kept them still.

Did the enquiry reveal parents who had actually received photographs and kept them? - Yes, indeed.

Did that happen to a significant degree or were these isolated cases? - He sent photographs to me as well to show me what he was doing at the camp.

That is to justify himself, which is not what I am looking at, and we know he sent videos and photographs to parents to try to justify the type of activities he was engaging in but is there any evidence he actually produced photographs fairly professionally so that parents could have them and put them in a frame and stick them on the wall? - Yes.

Did/

Did he do that frequently? - Yes.

Have we got any as exhibits in this case? - No idea.

One of the features of the firearms certificate history is changes of weapons. Indeed, his final position approved by the police was to enable him to have two 9mm pistols and two .352 revolvers? - Yes.

I think that is quite a common feature of a firearms certificate in Central and perhaps elsewhere? - Yes, where it involves shooting at clubs. It is less common, in fact, fairly rare, for sporting.

Was the obtaining of two firearms of the same calibre fairly easy? - You had to show good reason for having them but, I mean, the guidelines were wide open. If the person said he took part in certain disciplines and he needed the guns for that -- it is even shown in the guidelines if he requires it as a back-up weapon, so the reasons for the police turning it down were not too strong really where it was used in clubs.

Now, the Inquiry has revealed certain incidents which may or may not be true -- the evidence may or may not be true, certain incidents which you were not aware of. I'd like to ask you just a little about these. We have heard a little about Hamilton showing guns to other people, particularly children, from time to time when he had been transporting his guns, doing nothing untoward and there is no sign of ammunition with the guns except perhaps on one occasion. Do any of these incidents or would any of these incidents have put a different complexion on renewing his certificate? - I would certainly have wanted to know all about it. You don't seem to be telling me anything that caused anybody any alarm. I would have wanted reports on them and look at them in detail.

You have dealt with the one which was reported to you where a gun was taken to a house? - Yes.

These other incidents are similar but perhaps a bit worse in the sense that a youngster on his own in company with Hamilton may be shown a gun? - Yes.

Which he happened to be carrying with him, and he may have been perfectly entitled to carry with him. Would that sort of situation have been viewed differently by you from the incident in Linlithgow? - Yes.

Would it have merited any action if it had been known to you? - I would need to know the full circumstances of it, but clearly if he started showing guns around to various people I would be very concerned about that.

If the incident involving Mrs. Haggar -- possibly two incidents involving Mrs. Haggar -- where at least on one occasion a gun may have been pointed in her direction by Hamilton: if you had known about that would that have affected your judgement on his firearms renewal? - Yes.

To what extent? - Well, you are saying to me he pointed a gun at someone.

Yes, if that is true? - Well, if it is true. If it had been true.....

And if it had been reported to the police. You have got two hypotheses in there? - Yes, two "ifs".

What effect might that have had on your decision? - If it had happened, and if it was true, I would have viewed it very seriously indeed.

Would that have meant revocation? - Indeed.

Would you have needed really to know much more? - I think it is quite sufficient if somebody points a gun at somebody in a threatening manner. Surely to goodness that is not behaviour acceptable from a firearms certificate holder.

And if the incident involving James Gillespie we have heard had occurred and the empty gun was aimed at him and the trigger pulled, would that/

that have an effect on the question of renewal? - Yes, totally irresponsible.

What would have happened in the light of that if you had known about it? - Well, I would have revoked it.

One other incident that we have heard of I want to ask you about to complete the picture involved the surrendering of a weapon following changes in legislation after 1988? - Yes, I recall that.

Hamilton had one of these rifles which became illegal? - Became a prohibited weapon.

He wouldn't get authority to keep it from the Secretary of State; it would be pointless asking? - Indeed.

And he would have been entitled to compensation for surrendering it? - Yes.

There was a compensation scheme arose out of that change in the legislation? - Yes.

And there was correspondence again in the form of complaints about police action when he tried to surrender that weapon? - Yes.

Do you remember the circumstances well enough just to summarise that for us? - Yes. First of all he volunteered to make a present to the police which I declined and brought to his attention the "buy-in" scheme. We put out an order saying that people were to be advised to come to see the Firearms Section between nine and five because they were the people who knew best about how to handle these things. Mr. Hamilton came in on a Saturday and he handed a bag with the weapon, as I understand it, with ammunition and with clips, ammunition clips, over to the bar officer. He accepted them and sent them up to the Firearms Department on the Monday when they returned. They looked through the bag and found that they contained not only a firearm but it was accompanied by about 800 rounds of ammunition plus the clips for putting the ammunition in. Now, the "buy-in" scheme applied only to weapons, it did not apply to accessories or to ammunition, so an officer in the Firearms Department decided/

decided to send the bag back together with a slip asking Mr. Hamilton to relinquish his ownership of the ammunition and the accessories. An officer was appointed to go to Mr. Hamilton's house to hand over the bag and get a relinquishment for the rest if that is what Mr. Hamilton wanted to do about it. It was a young officer who went to the door, asked if he was speaking to Mr. Hamilton, he was told that he was, so he asked him, gave him the bag back and asked him to sign the relinquishment form for the ammunition and other accessories and this he did. Unfortunately the Mr. Hamilton he was speaking to was in fact Tom Hamilton's father and the officer clearly hadn't established it was the right Mr. Hamilton. Following on from that, Mr. Hamilton asked about the compensation for the ammunition and the accessories. Now, it was then discovered that in fact he had not signed the relinquishment form and in fact it was his father. By this time -- in fact it was the day before -- the ammunition etc. had been destroyed. So Mr. Hamilton I think on this occasion was quite right in pointing out that we had made a mistake.

You accepted it was a mistake? - Indeed.

Was there anything about Hamilton's undertaking his responsibilities under the firearms certificate that you were aware of which caused you any concern about whether he should retain his certificate? - No.

CROSS-EXAMINED BY MR. CAMPBELL: In the course of my cross-examination I will ask you to look at a number of additional documents. The first one I would like you to look at please is D60K which is also DHNCIC/F140. D60K is to be found in file K3. I think we know that amongst other things Mr. Hamilton complained about the investigation into him carried out by Constables Gunn and Duncan? - Yes.

And that matter then became the subject of an investigation by one of your staff officers, by Mr. Moulson? - No, that was HNCIC's staff officer.

The HNCIC officer reported to Mr. Sim? - That is correct.

Who/

Who was then the Inspector of Constabulary? - He was.

I think we know this is a copy of Mr. Moulson's report to Mr. Sim dated 20th February, 1990 and one might expect also it was copied to yourself? - No, it wasn't in fact.

Sorry.....? - It wasn't copied to me.

It appears to suggest on the top page -- I may be wrong -- a copy was sent to DCC Central Scotland? - In fact I got a letter from Mr. Sim which indicated that he was satisfied with my handling of the complaint, Mr. Keenan's inquiry, but I didn't in fact get this whole report. I got a letter to Mr. Hamilton and a letter to me.

You didn't ask to see the report? - I didn't, no. I was happy he had looked at it and he was satisfied with the way it had been handled.

Well, that explains that. Perhaps we can put that document to one side for a moment. Still on that file, the immediately preceding document, D59K, which is also DCD100, that is a letter to Mr. Sim from yourself dated 12th January, 1990? - Yes.

You have obviously been asked to provide Mr. Sim with some kind of summary of events; is that right? - Yes.

And making reference in the front page to events with which we are now reasonably familiar? - Yes.

And turning the page, you indicate that Mr. Hamilton refused to accept your decision on the matter, and then there is reference to a meeting you have talked about this morning. Mr. Hamilton wrote to you declaring himself happy to consider the entire matter closed. Could you read from the second paragraph on that page to the end of the letter please? - "Unfortunately this desirable state of affairs was short-lived and since 14th November I have received a number of increasingly bitter letters going over all the old ground again as if our meeting had never taken place. I have now stopped answering these. As an aside you may care to note that Mr. Hamilton invariably copies his correspondence/

correspondence to Michael Forsyth, M.P., and has recently complained to the Ombudsman, Mr. Peggie, about the refusal of Lothian Regional Council Education Committee to renew his long-standing let of school premises. This decision too, he alleges, is as a result of the police inquiry about which he originally complained to me. As you will see this is a long and complicated matter which is not helped by Mr. Hamilton's prejudices. I look forward to discussing it fully with you on your next visit to this Headquarters".

What did you mean by your reference to Mr. Hamilton's prejudices? - He is -- anything which involved the Scout movement, he has a great deal of animosity between himself and the Scout movement and that would be referred to as "prejudices".

I/

I don't quite understand that, because this is a letter about the investigation into complaints against police officers who were concerned about certain camps? - Yes, but you recall what I said this morning, that the Scout movement came into all that, because he would complain that the actual inquiry officer would be influenced because of the fact that his wife was involved in the Scout movement, and so on. I mean, he was certainly biased in that regard.

So who was Mr. Hamilton prejudiced against? - I think it was the local Scout movement.

What about the local police force? - Well, I am sure he didn't have a high regard for us either, at times.

Was it your view that he had a prejudice against the local police force? - He certainly was no great friend, that is for sure.

No great friend? Now, just at this stage of events we know that Mr. Hamilton was complaining about almost everything, it would appear to be the case -- would you agree? - He was certainly a persistent complainer.

And you refer here to prejudice. At this stage was there any question arising in your mind as to his fitness as a person to possess a firearm certificate? - No. I mean, you speak as though this was quite unusual, for people to write and complaint and follow things up and write to HM Inspector of Constabulary. I mean, it is not unusual at all. Mr. Hamilton isn't the only one who follows things right through to the bitter end. It is not unusual to have persistent complainers who will complain to the police, in the first instance; if they are not satisfied, go to their MP; if they are not satisfied they will write to HMCIC. That is not an unusual case. I am sure that happens in every force.

And is it usual for these people to possess a firearm certificate? - I have no idea. I mean, there is nothing wrong with people doing that./

that. It is their rights.

But just looking at the matter generally it becomes plain that you regarded Mr. Hamilton's behaviour as excessive in this regard? - Yes I did.

Can I ask you to turn now, still in the same volume, to document 68K, and also 69. 68 is DCD115 and 69 is DCD69? - The one I have got, 68K, is that the first one?

Yes, a letter from Mr. Hamilton to Ian Oliver of the 7th April? - Yes.

And that is making a formal complaint to the Chief Constable at that time that the Central Scotland Police telephone number is given as a telephone number on the letterhead of the Forth Valley Area Scout Association? - That is right.

And he says "Although I am not fully aware of the involvement and relationship between Central Scotland Police and the Scout Association it seems to me that police time and telephones should not be used to conduct the business of the Scout Association"? - That is correct.

You reply to Mr. Hamilton in the next letter in the bundle, D69K? - Yes.

And you point out that many public spirited individuals give up a great dealt of their leisure time to youth and community work, and so on? - Yes.

Basically you are defending Mr. McKellar's position, and I suspect most people would understand why you did that. Could you read the second-last paragraph of the letter? - "The Chief Constable has no objections to Mr. McKellar's action, which he is sure would receive the approval of right-minded members of the public, who would appreciate its wider benefits to the Community at large".

This is a letter of 9th April 1990. It is a clear inference from that comment that your view was that no right-minded member of the public would make the complaint which Mr. Hamilton had made?/

made? - Mr. Hamilton made this complaint because of the bitterness that existed between himself and the Scout movement, but all other members of the Community I think would have accepted it quite reasonably, and that is really what I am saying.

Can I ask for a yes or no answer if it is possible? Please just say if it isn't. Isn't it a fair inference from this sentence in your letter that you took the view that no right-minded member of the public would make Mr. Hamilton's complaint? - I think I explained fully what I meant by that remark.

Is the answer to my question yes or not? - I don't think there is a "Yes" or "No" to it.

BY LORD CULLEN: But you must have a view, I think, on this matter? - Yes. I have stated my view quite clearly. I think because Mr. Hamilton -- there was considerable bitterness between Mr. Hamilton and the Scout movement -- one can understand how he felt about it, but for normal members of the Community where his animosity did not exist, they would have seen this as perfectly reasonable.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: So your view at the time was that Mr. Hamilton was not a normal member of the Community? - No. He had a grudge against the Scout movement. That was clear. And because of that he was looking for any reason to find fault. What I am saying to you is generally speaking -- he was saying members of the public would object to this. I didn't think they would. And what I am saying is "Okay, he objected to it, but I would have thought most people would have found it quite acceptable".

Is it in your view appropriate to arm a member of the community who holds a grudge against the Scout Association? - There was simply bad feeling between him and the Scout movement. I don't think that is a reason at all for taking away a firearm certificate.

Well, forgive me, some may take the view if a man has a grudge that may raise a question as to whether he should be given lawful possession of firearms. You take a different view, do you? - We/

We know there has been a history of animosity between Mr. Hamilton and the Scout movement for many many years about something that happened away in the past. I don't think it was any more than that.

Turning all through the bundle -- I don't want to go through all the detail, and I certainly don't want to cover the detail already dealt with by my learned friend -- but if we go on just a little in time to June of that year, June 1990, to D76? - Yes, I have it.

This is another letter from Mr. Hamilton to yourself dated 8th June 1990 and it is headed "Arbitrary Disruption of 1988 Summer Camp". Just pausing there, is it a common theme of Mr. Hamilton's correspondence that he regarded many of the police investigations as arbitrary and wholly unjustified? - Yes. I mean, clearly he had run camps. This was I think the 55th he had run before any complaint had been made, and it was part of his claims that he had run the camps in the same way over many many years, "So why should the police intervene on this occasion when I have run the camps in exactly the same way year upon year upon year". And in fact he thought he had improved the camps over the years by adding equipment.

But did you think Mr. Hamilton had any justification for any complaints about so-called arbitrary disruption of the camp? - I don't think so.

Anyway if we read on this letter, he says that he read in the Stirling Observer about the Chief Constable being refused £1,200 by the Regional Council for a trip to Korea? - Yes.

"I wholeheartedly agree with the Council, particularly as many children from deprived homes can no longer afford to attend their summer camps due to the circumstances arising to our group due to the arbitrary condemnation of our 1988 summer camp by Central Scotland Police"? - Yes.

"A change in tax laws in recent years means that people such as salesmen, etc., who have the personal use of their company cars have to pay tax for this perk. I am therefore writing to ask you if the Chief Constable pays for any personal use of 'Tango One'" -- I take it that would be the Chief Constable's/

Constable's car? - The Chief Constable's car, yes.

"To Central Regional Council and her Majesty's Inspector of Taxes"? - Yes.

What did that letter tell you about the type of person Mr. Hamilton was? - It certainly would show there was no love lost between him and the Central Scotland Police Force.

That is all it tells you? - He is trying to find fault with them.

If you look on to your reply to him in D77K? - Yes.

It is quite a short letter. Could you just read it out for us please? - "I refer to your letter dated 8th June 1990, which you head 'Arbitrary Disruption of 1988 Summer Camp'. As you are well aware, the visit by Central Scotland Police to your Summer Camp was not arbitrary, but in pursuance of a complaint by members of the public, and at the specific request of Strathclyde Police. I have written countless letters to you and given you the benefit of a lengthy interview, and which there was a frank and free exchange of views. In addition, my files on this matter have been meticulously scrutinised at the instance of HM Inspector of Constabulary. I am frankly at a loss to think of any other way which would satisfy you that the officers involved in this inquiry were simply acting in good faith in the execution of their duty. It is now almost two years in which we have been in fairly regular correspondence, and I do feel it is time we brought this matter to a close. I very much regret that after all this time we have been unable to reach an amicable agreement".

Now, am I right in understanding that whenever a member of the public applies to Central Scotland Police, in particular to the Chief Constable of Central Scotland Police, for a Firearms Certificate, or for renewal of such, that person would require to fill in a form and declare that the information on that form was true and accurate, or something to that effect? - Indeed, that is so.

And I think we have learned in this Inquiry -- and can you please confirm -- that at least/

least a degree of trust is placed upon the applicant in signing a true declaration? - Yes.

So it would be important that the police officers involved had trust in that individual? - Yes.

So if he has demonstrated himself as an untrustworthy person then that would be a very relevant consideration in assessing the application? - Yes.

And putting it bluntly, if a person has demonstrated himself to be a liar, then that would raise a very serious question when scrutinising his application? - We don't have authority to take firearms certificates off liars.

That is not an answer to the question? - Yes, it is a factor.

After an adjournment for lunch.

I/

2 p.m.

I wonder if I might start by just asking you some general questions. Let's take as an example the renewal of Mr. Hamilton's firearm certificate in the early part of 1995. You have told us a little bit about that earlier on today. How much time did you spend on that particular exercise, do you think? - Personally a very short time.

What is your best estimate? - I have thought back over the various incidents before I signed it.

I'm sorry, I am not quite catching you? - What I'm saying is the time that I personally spent on it as opposed to the time spent by other officers.

Yes, the time you personally spent? - I thought through the various actions which had affected Mr. Hamilton over the years and I signed the certificate.

How long would it have taken? - A very short time. A few minutes.

And the only documentation which you had in front of you during those few minutes was the form that we looked at this morning? - That's correct.

Did you consider at that time that you had to come to any decision? - A decision whether to sign the certificate or not. Whether to grant it or whether not to grant it.

Did you consider that you had to exercise or apply your mind to anything in the course of deciding whether or not to sign the certificate? - Yes, whether there was reason not to.

BY LORD CULLEN: Sorry, I didn't hear that? - Whether I had good reason not to.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: What are we to understand by a reason not to? - Whether there were any factors in the whole of the history of Mr. Hamilton to justify taking/

taking away his certificate.

Taking away his certificate? - Well, failing to renew it.

You said something this morning about a difference depending on whether or not there was any adverse comment coming to you from the officers below you in the hierarchy? - Yes.

Can I just be clear as to what that difference is? - Can I explain the form RL3a is completed by the enquiry officer. The enquiry officer should make the necessary checks and enter on the form whether or not they have made those checks. It will then to go the first line supervisor, the sergeant, who will check that all the various actions of the officer making the inquiry has been done to his satisfaction. It then goes to the Commander in charge of the local area, in this case it would be a Superintendent but not necessarily so depending on the size of the area, and he would make his recommendation on whether or not the certificate should be granted. Now, where there is any adverse comments in the file, and it is not unusual for a constable perhaps to say "I found this or that out about the individual and I don't recommend you give it", it then goes to the supervisor who sees it perhaps with more experience and knowledge of the reason why or why not you should revoke a certificate and he would make a recommendation. In those circumstances I always saw all of the file and the basis on which he came to those conclusions and then I would make my own decision.

Why should the issue as to whether you see all of the file or not depend upon the actions of the officers below you? - Well, in roughly about 30 or 40 certificates probably a week, and I'm saying roughly weekly, there is nothing for me to read. If there is nothing for me to read there is no point in bringing the file to me. I mean, we are talking here as if I was dealing with firearms certificates as an exclusive part but it is only a very, very small part. I have got stuff to read from a dozen different directions and I have a limited amount of time. There is no point in bringing a file to me that contains absolutely nothing that would in any way influence my decision./

decision. Where there was something in it material then it is brought to my attention. It is simply relying on the officers to draw to your attention matters of concern.

You said a moment ago that the decision, as you understood it, was whether there was reason to take away Hamilton's certificate or more correctly any reason not to renew it? - Yes.

The view may be taken that the decision which you were called upon to take went a little further than that and required you to consider the suitability of Mr. Hamilton as a fit person to be entrusted to have firearms? - Indeed.

Now, as at January 1995 did you apply your mind to the question as to whether Hamilton was a fit and proper person to be entrusted with firearms? - Yes.

And what was your view? - My view was clearly that he was.

Now, did you apply your mind to the question as to whether there were any contra-indicators? - Yes.

What were these contra-indicators? - There were none.

None? - Well, I mean, what we had was a report to the Procurator-Fiscal at Dumbarton in which not only had the police report by Strathclyde gone to them but all of the information that Mr. Keenan had acquired in the course of his investigation into the complaints against the police and that was No Pro'd. We then come to the Milarrochy Bay incident. The incident was reported to the Procurator-Fiscal. We thoroughly investigated it, including having the children precognosced, and his decision is no proceedings. We have various incidents about photographs being taken and not one did we find which is of an indecent nature. So much so that the Procurator-Fiscal tells us not to send any more because there is nothing in it. So over the period, I mean, I have got absolutely nothing at the end of it.

But when you say absolutely nothing, just so/

so that we understand the position correctly, nothing which in your view would stand up in a Court of law? - Nothing that I could not renew his certificate on.

Well, did the question as to whether or not any of these matters amounted to proof which would stand up in a Court of law enter into your decision making process?

MR. TAYLOR: Before the witness answers that question, I think it would be appropriate if the question were to define which Court of law.

LORD CULLEN: Well, I assume we are talking about the Sheriff Court. Is that what you were talking about, Mr. Campbell?

MR. CAMPBELL: I am happy to make that plain, sir.

MR. TAYLOR: And the particular procedure in the Sheriff Court.

LORD CULLEN: Well, I also assume that that was to do with any matter of appeal. Is that what you meant, Mr. Campbell?

MR. CAMPBELL: Indeed, sir.

THE WITNESS: I understand what you mean and it is always a consideration for any police officer in my position who takes these decisions that he has got to justify his decision before the Sheriff and I knew I couldn't.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: You knew you couldn't? - I couldn't.

Was there anything in all that you knew about Hamilton which indicated that he may not be a fit and proper person? - I had reservations about his running of boys' clubs. The question about him being dangerous with firearms, quite frankly I never saw any evidence of that at all.

Not a jot? - No.

Suppose there had been something which would provide some foundation for a belief that Hamilton/

Hamilton was not a fit and proper person to be trusted? I appreciate you regard that as hypothetical but allowing me that hypothesis, what would your approach then be? - If you had produced to me some evidence that this person could not have been trusted with a firearm certificate.....

Well, if there was something in all of the information which would provide a reason or a reasonably minded person to believe that he was not fit and proper? - If I believed that I would not have issued the certificate.

You see, I think you set out the terms of the relevant legislation in your precognition or your statement? - Yes.

At page 10? - Yes.

Can you have your statement before you please. That is S909L? - Can you remind me which bit we are on?

I am not sure if they are numbered. I have numbered my copy and it is the 10th page in if that helps you? - Is this the relevant section, 27(1), that the firearms certificate shall not be granted by the Chief Officer.....

That is it. I don't need to ask you to read it out at the moment? - Okay.

If we look at that provision we see that, as you point out in your statement, it falls into two parts, doesn't it? - Yes.

And the second part is a proviso and it says, provides, "The firearms certificate shall not be granted to a person who the Chief Officer of Police has reason to believe to be prohibited by this Act from possessing a firearm to which Section 1 of this Act applies or to be of intemperate habits or unsound mind or to be for any reason unfitted to be entrusted with such a firearm", is that correct? - Yes.

Now, would you agree with me that all that is required before the proviso operates is a reason, indeed any reason, to believe that the applicant is an unfit person? - Yes.

Now,/

Now, is it your evidence to this Inquiry that no such reason, that all the information available to you discloses no such reason? - Absolutely.

What would be required before such a reason existed? - Oh, many things.

Well, like what? - Well, let's suppose that Mr. Hamilton had been convicted of one of the.....the Fiscal first of all had decided there was evidence to support a charge of assault and that resulted in a three month sentence, then clearly that would have provided it. Let's say it was a lower amount, then we would have needed to consider the particular case and all of the various ramifications of it to see whether it would be enough to cause us some concern as to his holding a firearm.

Anything else? - I mean, there's a whole host of things. I mean, if he had been in some way threatening with a firearm for example, although it does not necessarily mean he had to be threatening with a firearm. There could be instances of two or three drunk driving convictions for example which might have suggested to me that this person was unsafe to have a firearm certificate. I mean, reading through past refusals and revocations, approximately 80 per cent arise as a result of previous convictions or a strong pending case. That is generally speaking.....I'm talking about Scotland, that generally is the main reason why refusals or revocations come about. There may be many other ways. It may be an offence where there is additional medical evidence to suggest that a person is suffering from a mental disorder or whatever. There is a whole host of different circumstances which would give you cause to revoke or refuse a licence.

Would you look please at Detective Sergeant, as he then was, Hughes' memorandum of the 11th of November 1991 which is D82L? - Yes, I have it here.

Now, I take it you are familiar with the terms of this document? - Yes.

Does it describe a person who is fit to be/

be entrusted with firearms? - I think you have got to look beyond the actual memorandum to the evidence on which Mr. Hughes bases his opinion.

Before you go on to that, can I ask for an answer to my question? - Which is?

Does it describe a person who is fit to be entrusted with firearms? - No.

So your view would be that Mr. Hughes is describing an individual whose firearms certificate, if he had one, should be revoked? - I'm not saying that at all. I have said you can't look at this memorandum and say there it is, there is evidence here to remove the firearms certificate. There clearly is not. From the start of the memo the only part that I thoroughly agree with was that he was controversial which would not be a reason for cancelling the firearms certificate. The whole memorandum from Mr. Hughes was an impression. An impression. A gut feeling. A sixth sense or whatever. It did not have any evidence to substantiate these remarks at all. I have got to look at the evidence substantiating the remarks. If the remarks that were made could have been substantiated then what you are saying I take it when you said you would revoke it if all of these things were true, the underlying facts and circumstances to back this memorandum up are not there. It is an impression. It is a gut feeling. A sixth sense. It is whatever but that is certainly not evidence.

BY LORD CULLEN: Just to be quite clear about this point; if you look at the last paragraph in that memorandum you see there the Detective Sergeant's description of Hamilton as an individual? - Yes.

If that was an accurate description of him, would that indicate somebody who on the face of it was unfit to be entrusted with firearms? - Yes, I would agree with that but what I am saying is that the underlying evidence wasn't there.

That is what I wanted to get quite clear. It is the evidence you are talking about rather than the conclusion? - Indeed.

CROSS/

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Again just to be clear; I think you indicated just a moment ago that a gut feeling that a person was unsuitable would not be enough? - No.

Now, having received this memorandum and having decided to take no action despite its terms, before coming to that decision did you speak to Detective Sergeant Hughes? - No.

Why not? - Because I knew all about the case. I had read it. I had spoken to his senior officer. I didn't need to speak to him.

Well, forgive me just a little surprise about this. Here is presumably a competent officer, Detective Sergeant Hughes? Agreed? - Yes.

Stating to you, would you agree, in very clear and unequivocal terms that his view was that Hamilton was unfit for firearms? - Yes.

And setting out in detail the reasons for that, is that correct? - The reasons are that this was an impression that was left by Hamilton.

I don't want to go into the reasons at the moment but are you agreeing he sets out in detail his reasons in the memorandum? - There is very little evidence at all there.

He sets out in detail his reasons, doesn't he? - Can you draw my attention to it?

Well, do you not read them here, looking for example at the third last paragraph on page two? - That is an opinion. It is not a reason.

Well, we won't quarrel about that and you took it upon yourself to decide that this is wholly without foundation without even speaking to DS Hughes about the matter? - I read the case on which he had based his judgement. Not only that, I have spoken to Mr. Hamilton every bit as long as had Mr. Hughes and had the opportunity of a two hour interview with him. I can go further than that. I can say that very much later on the Chief Inspector who agreed with him at this point was asked by me personally to go back and see Mr. Hamilton. He had a lengthy discussion with him and he came back and said/

said "Well, he is a bit of an oddball but maybe we have misjudged him a bit" and that was his view at that time and that was prior to me taking the decision in 1995 on the firearms certificate.

Did you share the view he was a bit of an oddball? - He was somebody you wouldn't take to. He was not a personable sort of individual. He could perhaps be described as a bit effeminate but that is all you could say about him.

Bitter and petty minded? Could he be described as bitter and petty minded? - He could certainly be bitter in certain circumstances, yes.

Petty minded? - Yes, I thought he picked up on small points which weren't worth it to me.

I am sorry? - I think he picked up on small points at times. That is what I mean by petty minded.

Was he somebody who was in your view fit to be given the let of Local Authority premises? - Well, that was a debate that went on as well.

Can you answer yes or no please? - Well, I know that the Council looked at this very carefully and their view was that there was not sufficient evidence to take it away.

Well, did you at any time express a view prior to 1995 that he was not an appropriate person to be given the let of Local Authority premises? - I certainly, when I was asked about the situation in Linlithgow, told them exactly what the situation was and because the matter was still under review by the Fiscal at that time I think they decided to take it away and then re-let it when the case was No Pro'd if I remember correctly.

Am/

2.25 p.m.

Am I not right in saying -- we can go to it in due course and indeed we will go to it in due course -- that your view was he was not an appropriate person to be given the let of Council property? - I wouldn't have said that.

You wouldn't say that? - Not that I can recall.

Can we for a moment revert to Mr. Hughes' memorandum. You were faced with a recommendation from Mr. Miller which we read at the bottom of the page; is that correct? - Yes.

"While appreciating Detective Sergeant Hughes' concern I cannot recommend the action proposed, for obvious reasons, i.e. Hamilton has not been convicted of crime and it seems the Procurator-Fiscal is likely to No Pro the recently reported case." What was your reaction when you read that recommendation from Mr. Miller? - Mr. Miller didn't agree there was evidence to support Hughes' claims.

Did you indicate to Mr. Miller that he plainly had a mistaken understanding of the relevant criteria? - No.

So you agreed with his approach, did you? - Well, I spoke to Mr. Miller. He did not support the view of Sergeant Hughes on the basis that there was no evidence to support his conclusion.

We have heard a good deal of evidence over the last few days -- indeed I think you have largely confirmed this in your evidence so far today -- that great importance was given to whether or not any applicant for the grant or a renewal had received any criminal convictions? - That's so.

But would you agree with me, Mr. McMurdo, that society in the shape of Parliament when it passed the 1968 Act and the various amendments to it placed a degree of trust in Chief Officers of Police that they would carefully consider and form a judgement themselves as to whether any applicant for a firearms certificate was or was not fit to have one? - I agree.

The/

The whole phrase "Fit to be entrusted with a firearm" indicates that trust is being put on that person, doesn't it? - Yes.

And the safeguard between society and people like Mr. Hamilton is people like yourself? - Indeed.

So it is an extremely solemn task; would you agree? - I agree.

And a very important one? - Indeed.

And above all, it is a decision or judgement which a Chief Officer of Police requires to take? - Indeed.

Having regard to the system which was operated by Central Scotland Police -- we have obviously learned a lot about it and you will be very familiar with it -- how did that system go about identifying whether or not a person was or was not fit to be entrusted with a firearm? - We had a system whereby any pending case or indeed any conviction was drawn to the attention of the Firearms Department. This was done because the men within the firearms office had no access to the SCRO and PNC computer. I also put a memorandum out at one point also to consider any Intelligence which may exist within the Force. In normal circumstances those issues would arise. In addition to that, in the Force Standing Orders officers were told to draw to our attention anything at all which they thought might assist on the question of whether or not a person should be allowed to have a firearm or a shotgun certificate.

Can you help me with this: assuming some thought was given to it in the first place, why was it considered that that system stood a chance of identifying whether or not a person was fit and proper to be entrusted with a firearm certificate? - I don't follow your line of questioning.

Well, I understand the description of the system which you have given to us. The fault may be mine, but where I have difficulty is in understanding why it was thought that that system would identify whether or not there was any reason to believe that a person was unfitted to be entrusted/

entrusted with a firearm. I understand what you said about pending cases and presumably previous convictions; it doesn't seem to go much beyond that? - We asked all officers of police to bring to our attention any matters they regarded as important. I mean, what more can we do. It is the system that is used universally.

Of course, we know that in the case of Hamilton this is not an example of a paucity of information, you have file upon file of information upon him, don't you? - Yes, there was several incidents all of which came to nothing.

None of which was in the firearms file? - No.

Why not? - Well, there were some things which I would expect to be in the firearms file and there were others which I wouldn't have expected to be in the firearms file.

I am not asking you what you would expect to be in the firearms file. I am asking you why was none of this in the firearms file? - I don't know what the answer is.

Why not? - I don't do the filing.

Was there any system in force for the provision of information about firearm certificate holders to be placed in the firearms file? - Yes. I would anticipate that any matter which related particularly to firearms would be placed in the firearms file. What I wouldn't expect to be placed in the firearms file was pending cases. I wouldn't expect intelligence to be in the file because it maybe got from the Intelligence Unit. It is the same with previous convictions. I wouldn't expect them to be in the file because you can get them through a check with the SCRO. Provided the information from any other aspect, you can put your hand on it, it doesn't need to be in the actual firearms file provided the officer knows how to go about getting it.

Forgive me, but your expectations or anticipations are not a system. What I am asking was whether there was any system to ensure that relevant information was in Hamilton's firearms file?/

file? - Yes. There was a system of filing. I don't know how it wasn't there. I would expect certain records to be in it.

What was that system? - Well, there was a system of filing which -- I don't know how I can describe to you the filing system of the whole Force -- but it was under different heads. If it was a disciplinary matter it would be in the disciplinary file. If it was a case file it would be in the case file. If it was a firearms matter it would be in the firearms file. If it was an administrative matter it would be in the administrative file. There is a host of files in a police Force all under different headings. I wouldn't expect every single scrap of paper that bore the name Hamilton to be in the firearms file.

Do we find this system written down anywhere? - Yes. There was an administrative memo -- I can't remember the number of it -- but I am sure there is.

No doubt that can be checked. Did you ever have any occasion to look at Mr. Hamilton's firearms file? - No.

So throughout the whole history of your involvement in the matter you never once looked in his firearms file? - Not until after the event.

After the event we heard from Constable Anderson yesterday that you took a document to her and asked it to be put in the firearms file, Hamilton's firearms file? - I don't think that is the case.

Sorry, Maureen Johnstone's evidence? - I really don't know what you are talking about.

We heard evidence yesterday from Maureen Johnstone who is I think an officer in the Administration Department relating to firearms -- correct? - Correct.

You know Maureen Johnstone? - Yes, I do.

She told us that on the day after the incident, that is the 14th March, you gave her a Criminal Intelligence Report and asked it to be placed/

placed in the firearms file? - I remember speaking to Maureen Johnstone on the day of the incident. The file was brought through with various other piece of information when I was making up a briefing note for the Chief Constable, and I did tell Maureen at that stage to make sure that everything was kept under lock and key because it would be required for the Inquiry. But as to a piece of Intelligence, it is of no relevance really.

We can maybe take a look at the document concerned with is D/12/5/3? - I don't really know why I would want an inconsequential piece of information like that to be put in the firearms file. That could be got from the Criminal Intelligence file. I don't really see the significance of it at all.

Have you seen that document before? - Yes.

When did you see it? - I think the Fiscal showed me it, Mr. Miller.

Did you ask Maureen Johnstone to do anything at all with the firearms file? - Yes, I told her to keep it under lock and key because it would be required for the Inquiry.

Did you carry out any investigation as to what was on Hamilton's Criminal Intelligence record? - Yes. I was shown that by Mr. Miller, that precognition.

What was on the Criminal Intelligence file? - Very little really.

Was it just this document? - No, there were other documents -- nothing of any great consequence.

So it is just a mystery, is it, as to why Maureen Johnstone told us that you asked her to do this? - I think it is totally inconsequential. I don't recall ever telling her to put that in the file. I certainly sat with Mr. Moffat and with Maureen, with the file, the number of children who had been killed, injured, all the rest of it, all the rest of the information, to put together a briefing paper for the Chief Constable that day. But/

But as to saying "Put this....." -- there was absolutely nothing in this. I could see no reason why it should be put in the firearms file or whether it was not put in the firearms file. It is totally inconsequential.

With respect, the question is not whether it is or is not inconsequential, the question is whether Maureen Johnstone gave accurate evidence yesterday at page 1413 of the transcript that you gave her this document on 14th March? - Well, I have no recollection of it.

So you may have done? - Well, as I say, we were sitting with a whole pile of papers and I was making up a briefing note, and whether that was part of the papers that was there or not I have no idea. I can't honestly remember reading it at that time.

In cross-examination she told us that you specifically asked her to put this document into the firearms file. Is that evidence accurate? - Well, I'm saying I have no recollection of it at all.

Is/

2.40 p.m.

Is that something you may have done? - I mean, I am not going to contradict her. I have certainly no recollection of it. As I say, the whole purpose of the actual meeting was to make a briefing note for the Chief Constable. And whether she took from my comment that she had to make sure everything was to be locked away for the inquiry, and this document was to be locked away as well, I have no idea if that is the conclusion she drew from it. But I can see no point in the question. The paper is inconsequential, and whether it was in the Firearms File or not is of obviously no consequence.

Should it have been the Firearms File? - No.

Why not? - There is no point in putting things in the Firearms File that you can get quite readily from the Criminal Intelligence.

Could you look please at a document you have already looked at, which is D133K, which I think is in K(iv)? D133K is also known as DCDI74, and it is a letter from yourself to a Mrs. Hogg in the Scottish Office. This I take it was dated the 14th January 1992? - Yes.

All part of what must have seemed the interminable correspondence relating to Thomas Hamilton? - Indeed.

And if we look in the first page of this we see that you are responding to a letter from Mrs. Hogg which had enclosures from Mr. Hamilton about what you described as "Misconceptions concerning the relationship between the police force and various youth organisations"? - Yes.

In the handling of his 1989 complaint? - Yes.

You tell us in the next sentence that "Every point repetitively and tediously dragged up by Mr. Hamilton has been examined and re-examined, explained and re-explained to the point where I am seriously considering referring the matter to the Legal Department of the police authority"? - Yes.

And/

And was that, as you explain in the next sentence, because you were in no doubt "That his ever more offensive statements are becoming actionable"? - Yes.

So you were contemplating in January 1992, about a month before his certificate was renewed, suing him for defamation? - Yes.

Now, would any indication of this be in -- obviously not -- I take it there was nothing to this effect in Hamilton's Firearms File? - You are correct.

So when you were on holiday, whoever was in your place, if they had chosen to look in Hamilton's Firearms File, they would have been none the wiser? - The officer that took the decision in 1992 was well aware of it.

And over the page -- sorry, just pausing on Page 1, in a nutshell why was it you were considering suing him for defamation? - One of my officers had been disturbed by the continuing letters in which he was named. As the officer said, it was okay for a while, but things had gone on long enough. So as I said this morning, I think I had lost my cool when I wrote this letter, and I wrote it in fairly severe terms to the Scottish Office, with one purpose in mind -- "Don't send me any more letters about Mr. Hamilton because I am not wanting to reply to any more". And I think after three and a half years I was justified in perhaps going over the top a bit in this letter.

I am not sure that will do, because we know that in fact you did seek advice whether to sue him or not? - Yes, that is very true.

So this was not just a pretext put up to Mrs. Hogg to try to persuade her to stop bothering you? - Oh no, that is perfectly true, I did consult the Council. Unfortunately they didn't think I had sufficient evidence.

And I take it you would appreciate that the essence of defamation is an untruthful allegation? - Yes.

So you were of the view at that time that/

that Mr. Hamilton was making untruthful allegations about police officers? - Yes. I mean, he was never ever satisfied that the officers had given an unbiased report to Strathclyde. He thought that they had defamed him in that particular statement, and he never changed his opinion on that. I thought the officers put in a perfectly reasonable report to Strathclyde.

If we turn the page, you deal with certain of the allegations made by Hamilton, and am I right in understanding that one of them was an allegation that officers were altering their notes or tampering with their notebooks? - Yes. I mean, officers can write in their notebooks in pencil or in ink. It is up to them, but I mean he never ever said that they had altered them, but the inference was there.

But some may think that if a member of the public makes a very serious allegation like that without any foundation whatsoever to do so, that raises a very substantial question mark as to the character and personality of that individual; would you agree? - Yes.

Yes. Nonetheless that same individual, in your view, is somebody who can be safely trusted with firearms? - Yes.

You have worked with other police forces -- am I right? - Yes.

Is the general approach which you adopted to Hamilton's applications over the years representative of your understanding as to how others in similar positions to yourself would deal with the matter? - Yes.

So to broaden the question a little bit as to the procedures and systems adopted by Central Scotland Police in processing firearms applications and applications for renewals, is it your evidence that the system in Central Scotland Police is broadly representative of other police forces throughout Scotland? - Yes. Most forces follow the Home Office Guidelines. In fact, I am sure they all do.

But as to the way in which Central Scotland/

Scotland Police followed the Guidance, in your understanding is that broadly representative of other forces? - Yes, indeed.

Not just in Scotland, but also in the UK? - I wouldn't like to speak so much of the UK, but in Scotland we have different Committees of the Association of Chief Police Officers, and normally when there is legislation comes out the matter is discussed there and pretty well a common policy is adopted throughout Scotland. This is also important because we have only one National Training Centre, and they are all trained in the same centre. So generally speaking the police forces in Scotland work in a very similar way.

I don't know -- his lordship may receive evidence about how other police forces deal with these matters, but the implication from your understanding would be that if -- and I am just putting it forward as a hypothesis -- if there were any failings or deficiencies in the system operated by Central Scotland Police, the chances are they will be repeated in other police forces throughout the country? - They may be.

Going back to the letter, there is a reference -- this is in the third paragraph -- to public-spirited people giving up their time to help voluntary youth organisations? - Yes.

And you ask: "How Hamilton can draw a sinister inference from such a healthy and worthwhile pastime is beyond my comprehension"? - Yes.

And "For Mr. Hamilton to see his tiny local organisation as a serious rival to the Scouting movement indicates a certain lack of perspective". What did you mean by that? - I am referring -- if you go back through the correspondence, Mr. Hamilton took issue because we apparently -- there were photographs taken with the Chief Constable and the Area Commissioner of the Scout movement, and there was no such endorsement of his own group. But when you look at the particular occasion as I recall it, it was a new Scout Police badge, so it was of fairly reasonable local interest. He referred to another occasion when his group were given instructions by the police

on/

on some matter, and there was no photograph taken on that occasion, so he seemed to think we were treating him differently.

You indicated "It has never been suggested to me by anyone other than Mr. Hamilton that an Officer's credibility or professionalism could be in any way affected by membership of the Scout movement"? - Well, I honestly don't think somebody's professionalism is affected by being a member of the Scout movement.

What does it tell you about somebody's character and personality if they do have that view? - As I said, there was tremendous animosity between Mr. Hamilton and the Scout movement which dated back to what he saw as an unjustified removal of his warrant.

And this goes back to the grudge which we were talking about? - Well before my time in Central Scotland Police.

Can I ask you a question: suppose somebody applied for a firearm certificate in 1995 to yourself and it transpired in the course of investigations that that person held a grudge against his next door neighbour, a longstanding grudge, of an almost obsessive nature to the extent that he lacked perspective? - Well.....

Now, let me ask the question: if that was the general picture that emerged, would you nonetheless regard him as a fit and proper person to be entrusted with a firearm certificate? - Yes.

Why? - Just because you disagree with your next door neighbour doesn't mean to say you can't get a firearm. You are not going to shoot him. We are talking about somebody who has a disagreement.

No, I am talking about somebody with a longstanding grudge which has become an obsessive matter and a matter on which he completely lacks perspective? - Well, I think we have to treat each individual case as it arises. It is difficult. It is hypothetical. You would have to take each case as it arose.

Well,/

Well, we will leave that at that point. We will read on in the letter. We see that Mr. Hamilton -- this is the second-last paragraph -- "Mr. Hamilton's interpretation of these events" -- this is a photograph of Chief Constable Oliver with the Scout Area Commissioner to mark the inauguration of a new Cub Scout Police badge -- "Mr. Hamilton's interpretation of these events in his letter of 4th May 1991 was that 'this clearly illustrates the influence which the Scouts have over Central Scotland Police'. And we read on "At no time to my knowledge has the force been asked to take part in a photograph" -- we can read this for ourselves -- "It is for the Chief Constable, or for that matter any other officer, to choose with whom he should wish to be photographed. In doing so he would use his professional judgment and good sense". You then in the next sentence wrote "It would not be good sense in my view to associate with an organisation or person where serious allegations were under investigation, as has been the case with Mr. Hamilton since 1989"? - Yes.

What did you mean by that? - This is one of the great difficulties with Mr. Hamilton. He went out of his way to ask us to come to his camps, to come to this, come to that; but while somebody is under investigation it is always difficult for us to endorse wholeheartedly his organisation. In other words, we were being asked to put a stamp of approval on something which was under investigation, and that to my mind would not have been wise.

So it would not be good sense to associate with Mr. Hamilton, but there was no problem in giving him a firearms licence? - We are talking about two separate things entirely.

And then in the next paragraph we come to the passage which my learned friend Mr. Bonomy read out to you earlier on this morning, and again we can read that for ourselves, but what it boils down to is that Mr. Hamilton was to be distinguished from most right-minded people, that he was a bitter and petty-minded individual, he was somebody who could pervert a straightforward relationship into something sleazy and dishonourable, he was somebody who imagined undercurrents of corruption, he indulged in vindictive correspondence, and there was a/

a background of almost four years of irrational outpourings, dealing with him was like trying to reason with a zealot, and he was somebody who adjsuted the facts selectively to suit his ends, and then it all begins again. Now, that is not Detective Sergeant Hughes' views, these are your views; is that correct? - Yes.

And do you stand by them? - When I read that letter -- I recognised this morning I had gone over the top when I was writing. I said this morning at some points you lose your cool, and I certainly lost my cool when I wrote that letter, but after three and a half years I think I was entitled to.

BY LORD CULLEN: You say you lost your cool, but is there anything in that letter that you would want to withdraw? - Yes. I think I went over the top in the second-last paragraph.

Just tell me which bits of it you would withdraw? - "Ever more irrational outpourings". What I meant by that, he was taking his complaints to what I thought was almost absurd lengths. Fair enough, he is entitled to go through all the various avenues, write to his MP and so on, but now we were on to the Scottish Office, and it was a step too far, I suppose, for me.

Is that the only passage you would withdraw? - Some of the language is a bit strong, but generally speaking, I mean, most of it I stand by, in general terms. I mean, he was selective in the way he chose to write things, and take parts out -- and every single word you had used would be put under the microscope. The general tone of it is a bit strong. But it served the purpose that I had written the letter for, it stopped the correspondence from the Scottish Office.

Presumably/

Presumably after you dictated this letter it would have gone up for typing; correct? - Yes.

In due course it would have been brought back to you for signature? - Yes.

And you signed it? - Yes.

Without entering into any debate about the tone or the choice of words, it was based upon your personal experience of Hamilton, wasn't it? - Yes.

Nothing that we have learned about Hamilton suggests that anything you said there was factually incorrect; would you agree? - Certainly the various points that are covered here are covered fairly well.

Just to take one of them, "He adjusts the facts selectively to suit his ends". You are saying he is a liar? - He was certainly economical with the truth. He would select parts out of it, which were accurate, didn't tell the whole story.

Forgive me, Mr. McMurdo, but I think there are probably at least some people who find it very, very difficult to understand how such a person can be entrusted by you as a fit and proper person to have a firearm. Could you enlighten us at all? - This gentleman gave me no reason to believe that he was in any way a danger or to be untrustworthy with a firearm. He had a firearm certificate for many years and to the best of my knowledge had given nobody any concern whatsoever about the handling of firearms.

Well, that can hardly be true standing Detective Sergeant Hughes' memorandum when he said -- well, when he clearly stated his view he was an unsuitable person? - What I am saying is never did Mr. Hamilton give people cause for concern about his use of firearms; that is what I am saying.

Do you still have your statement before you? Could you turn please two pages beyond the page setting out the terms of Section 27? - "Looking back since 1991"?

That/

That is it, you say, "Looking back since 1991 I am able to say I have refused or revoked 35 firearms or shotgun licences and temporarily suspended one pending inquiry. In each and every case I considered public safety as being paramount. However, I was also conscious of the freedom of the individual in remaining within the parameters of the discretion given to me under the law". That reference to freedom of the individual: can I ask you to explain what you mean by that? - That is the law of the land -- provided a person has good reason to have a firearm and can be entrusted with it he should be able to have one. That is the freedom of the individual.

Yes, but is the proviso not of critical importance, clearly that he is regarded as a fit and proper person to have a firearms certificate? - That is true.

What has the freedom of the individual got to do with whether he was a fit and proper person? - What I mean by that is there are certain freedoms available to a person under the law to hold firearms certificates, and that freedom has been changed over the years. It used to be you could hold a repeater rifle for example prior to the late 1980s and they put a restriction on this freedom, but it is a freedom to hold certain firearms; that is what I am saying.

I probably didn't put the question very well. Let me put it another way. If you are required to exercise a discretion as to whether person X is or is not fit to be entrusted with a firearm why does any notion of freedom of the individual enter into the exercise at all. What has that got to do with it, as to whether person X is or is not a fit and proper person to be entrusted with a firearm? - I really don't know where you are going with this question.

You told us in each and every case when you considered whether or not to refuse or revoke a firearm or a shotgun certificate you were conscious of the freedom of the individual. What I am asking you is why is the freedom of the individual relevant, if it is relevant, to the question of whether a person is a fit person to have a firearm? - I mean, I wouldn't revoke a firearm certificate on/

on a whim. I have got to remain within the law. Provided there is good reason for a person, he is to be entrusted with it, he has the freedom to use a firearm under the firearms legislation. It is as simple as that.

One may think that there is really only one question which needs to be asked -- is there reason to believe this person is not a fit and proper person? - Absolutely. I have got to have good reason to say that. I don't just come to an arbitrary decision; I have got to have good reason for revoking a certificate. In making that decision Chief Officers are always very conscious of how Sheriffs or indeed how people would react to that decision.

So the applicant gets the benefit of the doubt? - No, he doesn't.

That is what it comes to, isn't it, according to your philosophy? - We made a judgement on other firearms certificates in the past which was upheld. If we got it wrong then the man can go to the Sheriff and the Sheriff can either agree with me or disagree with me.

What has the Sheriff got to do with it? Why should consideration about a man going to the Sheriff make any difference? - Why shouldn't it?

Well.....? - Police officers come to a decision, and it is a decision on what is right and proper and what is good reason.

Let's just look on a paragraph in your statement. "I never refused an application unless I had reason to do so. I was conscious that I could be called before the Sheriff to justify my decision"? - Yes.

What has that got to do with your decision as to whether or not a person is or is not a fit and proper individual? - What I am saying is I can't do it on a whim. I do it where you have got evidence, no more than that.

What I am puzzled about is why you thought it necessary to emphasise that to be an issue that you could be called before the Sheriff to justify/

justify your thinking? - I think all Chief Officers are.

Why? - Because it is just the way the law is. It is the appeal system.

So unless you are happy that a Sheriff will agree with you you wouldn't do anything? - No, I am quite happy to go up in front of a Sheriff provided I can show him good reasons and provided it is not shown it is totally unreasonable why I have made that decision, I would be very happy to go up in front of a Sheriff and say those are the reasons why I took this away.

What is more important -- the proper exercise of discretion by the individual charged with that responsibility by law, or the avoidance of embarrassment in the Sheriff Court? - The former.

Let's take an example of it in 1995 when Hamilton's renewal application came to you. What was your understanding at that time as to the law that would be applied to an appeal by the Sheriff? - The Sheriff would consider whether or not he felt that my judgement was reasonable.

So did you anticipate that the Sheriff would investigate whether or not in his view Hamilton was a fit and proper person? - He would have considered whether my judgement on the matter was reasonable.

BY LORD CULLEN: I didn't catch the end of the answer? - What I was saying was the Sheriff looked at the circumstances and he judged whether my decision was reasonable. I mean, two reasonable people can come to totally different decisions and it was up to the Sheriff to say: "Well, I think your reason was good".

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Were you never given any advice that the legislation entrusted the decision with Chief Officers? - Indeed.

Would you agree with me, looking again at the terms of the proviso to Section 27(1) which you will find two pages back in your statement, the thrust of it is if there is any reason to believe that/

that someone is unfit then the application must be refused? - Agreed.

And there doesn't have to be a reason which will satisfy any particular legal standard to prove in any Court of law; it is simply any reason which would justify the belief that a person was unfit? - It has got to satisfy me in the first place.

There is no hint there, though, is there, that the applicant has the benefit of any presumption arising from the freedom of the individual or civil liberties? - No.

Quite the reverse in fact; would you agree? - Yes.

So if we turn back two pages on, you told us that during the course of your time as Deputy Chief Constable you had decisions that were challenged on a number of occasions and none were subsequently overturned? - Yes.

Would you agree with me that is hardly surprising if a man like Hamilton might be granted a licence? - The number of firearm certificates and shotgun certificates that I revoked were probably more than most Chief Officers did. At no time did I have any reason to revoke Hamilton's firearms certificate.

Going back to Detective Sergeant Hughes' memo, D8224, how much time did you spend considering this matter? - Quite some time.

And did you consider that the renewal of a person's firearm certificate gave rise to any different consideration or any different approach from the consideration of a suggestion from an officer that a person's firearms certificate should be revoked? - The only difference between a renewal and a revocation is good reason doesn't come into revocation.

So the consequence of that would be that having decided to reject this request in November, 1991 then that decision would apply to any subsequent renewal applications? - Yes.

There/

There would be no need for you to revisit or reconsider Detective Sergeant Hughes' concerns in the context of a renewal? - I had already considered it. By the time the renewal comes through I think there is no difference in the circumstances.

Can we look again at the relevant statutory provisions which you will find at pages in your precognition. If we turn to Section 30(1) "A firearm may be revoked if a Chief Officer of Police for the area in which the holder resides (a) The Chief Officer is satisfied that the holder is prohibited by this Act from possessing a firearm to which Section 1 of this Act applies or is of intemperate habits or unsound mind, or is otherwise unfitted to be entrusted with such a firearm"? - Yes.

The wording is noticeably different, is it not, from Section 27(1), in particular the provision to Section 27(1)? - That is the part I said no good reason.

Well, what we have in 30(1) in relation to revocation is that the Chief Officer must be satisfied, for example, the holder is of intemperate habits or of unsound mind or otherwise unfit to be entrusted with such a firearm? - Yes.

On the one hand, whereas the prohibition in the proviso against grant is triggered by any reason to believe that the person is unfit to be entrusted with a firearm? - Yes.

Do you detect any difference in approach? - In one it says the Chief Officer is satisfied, and the other one says "shall not be granted" which surely comes to very much the same thing.

So you yourself, I take it, you having detected no difference in approach, you certainly didn't understand there was any difference in approach when you were dealing with Hamilton? - No. The only thing I said that was different is whereas in the first Section it says the applicant has good reason for having it in his possession or for purchasing or acquiring, when it comes to revoke that part was missing. That is really the only difference I can see between the two Sections.

BY/

BY LORD CULLEN: What about the words in Section 27 before we get to the proviso, "And can be permitted to have it in his possession without danger to public safety or to peace". That is not in Section 30, is it? - No.

Do you attach or did you attach any significance to that expression when it came round to renewal as opposed to the question of revocation? - There is a difference in words, my lord, but really in essence I don't see a great deal of difference.

So far as you are concerned, other than the language, the words of the language are more extensive, you says it made no practical difference? - Not really.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Did you as the officer responsible for the granting or renewal of all firearms certificates ever seek or obtain legal advice as to the meaning of the relevant Statutory provisions? - I never sought legal advice unless we were into an appeal situation.

I am just wondering whether your understanding of this Section was based upon legal advice which you had received or whether it is simply on your own reading of the words? - I have had legal advice on a number of occasions all arising from my decision to revoke or fail to renew or not to grant in the first instance these certificates which happened fairly frequently before.

What/

What is the answer to the question? Is your understanding, that we have just been discussing in the last two or three minutes, based on your own reading of the provision or on legal advice? - My own.

Going back to Sergeant Hughes' memo, did you consider it, or was it appropriate that some note be taken of Detective Sergeant Hughes' advice or recommendation the next time Hamilton's certificate came up for renewal? - I took the decision on that memorandum in November l99l.

That is not quite an answer to my question. Did you consider that it was appropriate that some consideration be given to Detective Sergeant Hughes' recommendation when Hamilton's certificate came up for renewal? - No, I didn't think there was evidence in the memorandum in l99l. I was not going to think any different later.

One difficulty I have about this aspect of your evidence, Mr. McMurdo -- maybe you can help me with it -- but if a question did arise as to whether or not there was reason to believe that Hamilton -- as to whether Hamilton was or was not a fit and proper person, and if the matter did end up in the Sheriff Court, would I be correct in assuming that Detective Sergeant Hughes' memorandum would be very relevant evidence? - Yes.

And would I be correct in understanding that you would anticipate that the Sheriff would pay careful attention to what Detective Sergeant Hughes was saying? - The underlying facts of Inspector Hughes' memo is important, and the report there is not supported by any facts at all. It is a gut feeling it starts from, a feeling he had, and I have already said this morning that it is biased in aspects in so far as it is leading you to believe that, for example, in the second-last paragraph, that Mr. Hamilton assaulted a boy on three occasions because he became extremely angry and stressed, when in fact the facts underlying this incident is that he chastised a boy on three occasions, two of which he was kicking and punching somebody, and another occasion when he was hitting somebody with a stone. Now, that doesn't come out on reading that memorandum/

memorandum, and what I am saying to you is you have got to look at the facts and circumstances underlying what is there.

So does it come to this that your approach to this is that a gut feeling, however understandable in the circumstances it may be, could not amount to a reason within the meaning of the Section? - Absolutely.

So was it your approach that a gut feeling could never be treated as a sufficient basis for coming to the view that a person might be unfit? - I think you have to have some evidence.

Well, would it surprise you to know that the Guidance given to Grampian Police Force officers under the heading "Suitability of Applicant" says this: "The enquiry officer is in the prime position to assess the suitability of an applicant. Personal knowledge, local intelligence, and often gut feeling may convey that an applicant is unsuitable"? - That was one of the factors, I take it?

"Personal knowledge, local intelligence and often gut feeling may convey that an applicant is unsuitable"? - And what was the evidence in addition to gut feeling in this particular case you are talking about?

This is the Guidance given to Grampian Police Force officers? - In all the stated cases I have ever read I haven't seen one that there wasn't evidence. I mean, I don't know which case you are talking about, but I can never ever recall any case I have ever read through that, purely on the basis of gut feeling, was the decision taken in favour of the police. In fact, I don't even know one that was ever taken by a police officer purely on gut feeling.

BY LORD CULLEN: I take it it is your view that memorandum should have gone into the firearms file? Why? - Well, it was to do with the firearms certificate subject.

Well, I understand that, because it is concerned with something to do with firearms, but if it has the status you have just described, why would it go into the file? - Well, the decision was taken/

taken on it, but certainly, I mean, I think it is something that should have been put in the file.

Yes, but I want to know why? - Just simply because it is a firearms certificate-related subject, no more than that.

Well, is it because it might assume added significance if later events had tended to confirm its conclusion? - Yes.

And I suppose there will be an importance that although you know a great deal about Mr. Hamilton, and of course a lot of the correspondence concerning him, the person taking the decision, the person in your position, might not be you but might be somebody else? - Indeed.

So it would be important that he should be au fait with what was already known in the past? - Yes.

And I suppose in a situation like this there could easily be significance in the cumulative effect of a number of different pieces of information arriving at different times? - Yes.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Could you have before you please D3K, which is Detective Sergeant Hughes' report to the Procurator-Fiscal in Stirling, and it is also known as -- well, I don't know what it is also known as, but it is found in K(II)? - Yes, I have it.

LORD CULLEN: Sorry, what is the date?

MR. CAMPBELL: I am not sure I know the date, sorry. I don't know that it has the date on it, but I think it was submitted, if I remember rightly, round about August/September l99l. Does my lord have that?

LORD CULLEN: The numbering is D.....

MR. CAMPBELL: D3K, which is in K(II)

LORD CULLEN: Yes, I have got it now.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Just to put this in its context, were you/

you aware that round about the time when Detective Sergeant Hughes was writing his memorandum about his recommendation that Hamilton's firearms certificate should be revoked, there was also a report going to the Procurator-Fiscal which included a list of some l0 proposed charges? - I think the timing is wrong, with respect, on that. This was submitted, as I recall, about August. I was well aware of this report. Mr. Hughes' memo was in fact put in not when the report went in, but when it was well known that the Fiscal would be taking no action. I think you will find the memo was dated in November. This report went in in August. The incident happened in July.

Do you regard that as a matter of some significance, that the memorandum came in when it was well known that the Fiscal would take no action? - Well, that is when it did come in.

Why do you specifically mention that? Is that a matter of some importance, in your view? - Well, I think it is pertinent it didn't come in earlier.

Why? - Well, why wasn't it put in at the time the report went in?

Well, what is the significance, if any, of the Fiscal's failure to take action? - Well, clearly the Fiscal didn't see there was evidence to take any action.

But the legislation asks you to take a decision yourself as to whether or not Hamilton is a fit and proper person? - Yes. I have got to base this on facts, and the facts are that the Fiscal decided this incident wasn't worthy to take to Court.

But that decision by the Fiscal may have been based on a whole variety of reasons -- for example, the view may have been taken that the evidence didn't satisfy the criminal standard of proof beyond reasonable doubt? - Yes.

Or it might have been some other reason. The Fiscal has a wide discretion on these matters, I understand -- am I right? - Yes.

Whereas/

Whereas the legislation entrusted you with the solemn task of applying your own mind to whether or not there was any reason to revoke the certificate? - Yes, but I think I said earlier on that when there is a case goes in to the Fiscal it is not necessarily an occasion for me to wait until the judgment on the case, provided there is sufficient evidence there in the case, I will take the decision to revoke at an earlier stage. The view that I took on reading this report was that there was no evidence to do that.

So you read through, did you, everything which we have in D3K? - Yes.

And in your view there was quite literally no evidence? - Yes.

In support of the charges drafted by DS Hughes? - I didn't say there was no evidence to support the charges. It is a very mixed report. You have some children there who were perfectly happy with Mr. Hamilton. You have an adult helper who was perfectly happy with him. You have some children who say that the striking of the child was because he was a bully. So it is a very mixed report with very many different views contained within it. There was no one injured. There was no one who suggested gratuitous violence had been used here. The question was whether or not in the circumstances it amounted to assault or not, but it certainly didn't indicate gratuitous violence.

Would you look please about two-thirds of the way through at the statement of Stephen Ramsay.

MR. CAMPBELL: I do apologise for having mentioned that person's name, Sir. I trust that the usual admonition will be understood.

LORD CULLEN: Yes, I hope that is the case, as per normal practice.

MR. GIBB: It is page 90.

THE WITNESS: Yes, I have it here.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Now, please don't follow my example, but if/

if we could try to avoid mentioning specific names? - Yes.

But if we see the statement of this particular child, and if we turn to I think the fourth page. This is a time I think when the children are being video-ed for the purpose of some film that Hamilton was wanting to make, and I think we see from the previous page that he had a bag of trunks and the children were asked to put on the trunks? - Yes.

One of them got trunks that were too big for him, and we can read much of this for ourselves. The child was asked to lie in freezing cold water. The witness was crying, wanted to come out of the water, and Hamilton then said "We're no' fucking going to get this film done", and then he was swearing at another boy called Ross, and he said to him "You need fucking disciplined"? - Yes.

"When we were on the island it started to rain and we all had to stand, and nearly everybody was greetin'"? - Yes.

One boy was allowed to put a towel over himself, but everybody else had to stand in the rain for about half an hour, asking if they could go back, and he said 'No, we still had the video to do'. Then the sun started to come out and Hamilton rubbed suntan oil over everyone "and we had to rub it in to each other" -- they had to make out as if they were enjoying themselves? - Yes.

And then there is a reference at the bottom of the page to Hamilton shouting and swearing at another boy; do you see that? - Yes.

He shook the boy back and forward, had a hold of him by his clothes, and he threw him back and forward, and then threw him down into his seat. There was another time the child was spanked on the legs because he had been picked for the football team. Hamilton took him into a green tent and when he came out he had red marks on his legs. The child was crying? - Yes.

Now, that can't just be dismissed as some equivalent to parental chastisement? - Excuse me, that is a statement that you have chosen to read out/

out. It is not typical of all the statements that are there. There are very different views of the incident, and the one you have picked out is not the only view. I think somebody, to get a proper perspective on this particular case, would need to read all the statements and not just pick out one statement which can put an emphasis on a thing and which is totally different from all the other statements contained within the report.

Well, you may be back here tomorrow, and I will certainly have a look through the documentation to see whether I am being unfair, but are you suggesting that there is some information in Detective Sergeant Hughes' report which would suggest that this particular witness's evidence is actually incorrect? - No, I am not saying that at all. I am saying that the different children in the report have different stories to tell, they are conflicting, and all I am saying to you is that not every child saw it in that way. That is all I am saying. I am not saying that is not the statement that was taken and that is not what the child said. All I am saying to you is there are very different views between the different children.

Well, one understands that some of the children perhaps were not assaulted and therefore their views may be somewhat different? - But they saw the assaults differently, they saw the reasons for them differently. That is what I am saying.

Well, if you just forgive me, I won't take up a lot more time on this, but if you look on to the next witness statement -- have you got that one? - Yes.

And turn on to the second page of that, we see about the middle that the witness says that the child was taken into a tent and Mr. Hamilton's hand was lifting up, and he thinks it hit across Ross's face; that Ross came back out of the tent crying, holding his face, but he couldn't see any red marks. And then a little while later football teams are being picked.....? - I don't know if I have the right -- could you just excuse me a wee moment?

Yes, sorry. It is the third page of narrative. It may be my fault? - I have a blank page/

page here.

Yes, so do I. The blank page is the second page, so go on past the blank page and then there is a page of typing starting at the top "couldn't afford it"? - Yes, I am with you.

And then the next page is the one I am wanting to refer to. It begins at the top "We were on the island. The child swore at Hamilton and Hamilton said to him 'You need fucking disciplined, ya bastard'"; do you see that? - Yes.

And all the child was really doing was he was talking to a boy standing beside him? - Yes.

And then there is another incident, as I mentioned earlier, where there is evidence of Hamilton hitting the child across the face; do you see that? - Yes.

Then/

Then the incident at the bottom of the page where the child is told by Hamilton he should need spanking for no apparently good reason; you see that? - Yes. You will find if you look at some of the other statements that will tell you why that happened.

But the result of all of this, putting it shortly, was that Detective Sergeant Hughes who carried out the investigation not only wrote the memorandum to you but set out detailed charges for submission to the Procurator-Fiscal? - Yes.

Charges relating to breaches of the l937 Children and Young Persons (Scotland) Act and various charges of assault, breach of the peace? - Yes.

Whether you agree with the Fiscal's decision can I suggest is beside the point so far as your duty under Section 30 was concerned; your duty under Section 30 was to come to a view yourself as to whether there was fitness or unfitness on the part of Hamilton to have a firearms certificate? - Yes.

Can I put this to you for your comment: whatever else there is, even if you look at nothing else in the whole catalogue of information we have about Hamilton, there is evidence within the report from Sergeant Hughes which amounts to a reason to believe that Hamilton was unfit to be entrusted with firearms? - I don't agree with that.

No evidence at all? - There is no evidence there on which I could have refused the firearms certificate; that's my view.

Did you ask Sergeant Hughes to explain to you why he considered it appropriate to make a report in the terms which he did to the Procurator-Fiscal? - What do you mean by that?

Did you, before you decided to take no action on Detective Sergeant Hughes' memorandum, make contact with him and ask him to explain his thinking which led him to make a report which he did to the Procurator-Fiscal? - The Procurator-Fiscal instructed/

instructed him to put the report in without caution and charge.

That is not an answer to my question, Mr. McMurdo? - Sorry, would you repeat the question?

Did you, before you decided to take no action on Detective Sergeant Hughes' memorandum of llth November l99l, make contact with him and ask him to explain to you the reasons why he submitted a report to the Fiscal in terms which you see in D3K? - It was his duty to report it to the Fiscal. I didn't see why I needed to speak to him about it.

But you have told us, if I have noted you correctly, that you read this material? - Yes.

You did read it? - Yes.

All of it? - Yes.

And took a view which plainly differs from the view taken by Detective Sergeant Hughes? - Yes.

All I am asking you is before deciding to take no action on Mr. Hughes' memorandum did you ask him to explain to you why he submitted the report in the terms he did? - No.

It may be thought somewhat cavalier to disagree with Detective Sergeant Hughes on such an important matter without even discussing it with him? - On the information before me -- I made my decision on it.

Can I ask you to look please at the statement of Chief Inspector Colin Mathers which is S7l9L? Do you know Colin Mathers? - Yes, I do.

He is a Chief Inspector in the Chief Constable's staff office at Police Headquarters in Stirling? - That is so.

Amongst other things in the statement I think he gives us some information about revoked certificates. If you turn to please page l0? - The one highlighted half-way down "revoked"?

Over/

Over the next few pages I think on an annual basis Mr. Mather gives brief details of the instances where firearm or shotgun certificates have been revoked by Central Scotland Police? - Yes.

Would I be correct in understanding that the person responsible for these decisions would generally speaking be yourself? - Indeed, that is true.

Nearly always yourself -- unless you were on holiday or something? - Yes. There were occasions when other people did it but most of these will be mine.

Many of them, as one might expect, relate to previous convictions or discharging of guns in inappropriate circumstances? - Yes.

I would like you to have a look at an example on page ll. In l992 do we see that a gentleman's shotgun certificate was revoked after a domestic incident at home, and it was felt in view of his depressive state he should not have guns? - Yes.

In the last incident for that year another gentleman was refused I think a firearms certificate on the view of having no land and on checking his permission it contained a false declaration? - Yes. He failed to show good reason.

So far as l993 is concerned, the top of the page, a gentleman's firearms certificate was revoked because he was not a member of a club and would not make himself available to the police to carry out the renewal enquiry? - Sorry, he needs good reason and he didn't have good reason.

Two down from that, a gentleman's shotgun certificate was revoked by you because in view of his depressive state it was felt he was not suitable to hold firearms? - Yes.

If you go on to l994, the second entry, a gentleman's shotgun certificate was revoked because of marital problems and it was felt he was not stable to hold a shotgun? - I think there was medical evidence on that particular one.

And/

And then in the next page, the second entry, a gentleman's shotgun certificate was revoked -- had been revoked previously -- eventually he got a certificate and then he was convicted of assault? - That was one where the previous convictions prevented the man getting a certificate over a long number of years and he applied year after year. Eventually the convictions became quite old, the evidence was that he had changed his ways completely, he was now safe to hold a firearms certificate, but unfortunately that didn't prove to be the case.

Then in l995, the second entry, a shotgun certificate is revoked because of the applicant sexually abusing his step-daughters, and a letter was received to say he was medically unfit to possess a shotgun? - Yes.

Just generally speaking, it would be open to you to require anyone to undergo medical examination or to require medical evidence of somebody's fitness before coming to a decision? - Medical evidence was volunteered in that instance.

But might you say to somebody: well, we are seriously concerned about your mental state and in the absence of satisfaction in the form of medical evidence that you are medically fit we will refuse you a firearms licence? - I didn't have the power to look at anybody's medical records.

That is not quite an answer to the question. Might there be circumstances where you would have a concern as to an applicant's mental state and intimate to him that until he satisfied you by medical evidence his application would fail? - I have never done that and never heard of it done either.

I did not ask you whether you had ever done it or ever heard of it being done. I am asking you whether you can envisage such a circumstance might come about? - It is possible.

At the foot of that page a gentleman's shotgun certificate is refused, it is in somewhat similar circumstances to the previous one, refused because the applicant was sexually abusing his grandchildren and where he was thought to be medically/

medically unfit to possess a shotgun? - That was the view of the doctor. These were brought to our attention by family members.

And you sought medical evidence, did you? - Yes, medical evidence was produced.

So whatever else it would appear that there are documented examples in recent days that certificates have been revoked in the absence of any criminal conviction? - That is so.

Can I take it that there is one point of distinction between these examples which I have just given and Hamilton, in that Hamilton had proved himself over the years to be a troublemaker? - A troublemaker?

Yes, trouble? - What do you mean by that?

Well, is it not a reasonable description of somebody continuing to make unfounded complaints and putting you to all the bother which he did? - He certainly put me to considerable trouble; there is no doubt about that.

That would be a point of distinction as between Hamilton and most if not all of these other cases? - Well, I honestly couldn't tell you. I think there will be a few troublemakers among that lot as well.

Must have been pretty clear to you that if you had revoked Hamilton's certificates then that would have inevitably provoked complaints to all and sundry? - I don't think so. I think he would have gone to the Sheriff. I don't think there is any doubt about that. I wouldn't have been bothered about that, if I had good reason to take it away.

Only human nature, wouldn't it be, to have regard to the troubled history of unjust complaints and bother that Hamilton put you to? - I think it would be the only avenue he would have to go to the Sheriff, same as everybody else who had their certificate revoked. That wasn't a problem.

But did the history not demonstrate or strongly indicate that whether he went to the Sheriff/

Sheriff or not there would be letters written to almost everybody you can think of complaining about what you had done? - I don't know I can answer that question. I would have thought he would have put in that position to be reviewed in front of the Sheriff. I don't think I am really concerned about anything else.

Am I correct in understanding that Detective Sergeant Hughes has received promotion since? - Indeed.

Since this memorandum? - Yes.

What position does he hold? - Chief Inspector.

He is a University graduate; is that right? - I don't think so.

Detective Sergeant Hughes? - I don't think so.

I may have got that wrong. Did you consider that in exercising your discretion in these matters you exercised any form of what may be described as preventative police work? In other words, let's anticipate a problem before it happens? - Yes.

However, the general culture in your Department appears to have been that nothing could be done until a person was convicted of a criminal offence? - I don't think that is the case. You have been through quite a number of cases which are quite to the contrary. I was going on to say it is true to say that about 80 per cent of the revocations in Scotland rest on conviction, that's a fact.

We heard evidence yesterday from Police Constable Anderson to the effect that she was, putting it generally, concerned about Hamilton's conduct towards her when she visited him in the course of her investigation? - I didn't know anything about that.

And she spoke to Detective Inspector Anderson about this who told her that in the absence of criminal convictions nothing could be done? - That is not the case obviously.

And/

And it was made quite plain to her that in the absence of criminal convictions there was really no point in her recording her concerns because the eventual outcome would be just the same? - I don't know anything about that.

Would you agree that that would the direct opposite of preventive police work in this context? - Yes. I mean, even when you are talking about preventive, and you are talking about previous convictions -- for example let us say a man had two or three drunk driving convictions. Now, there is nothing at all which is violent or whatever. I have no doubt it would be preventive by taking away his firearm certificate, because if he is going to be so reckless in his attitude to the proper use of the car then he might be equally reckless in the use of the firearm -- and that is when he has not done anything like physical assault or violence, or the use of the firearm wrongly.

It has been suggested in this Inquiry that this terrible tragedy can be blamed upon some fault or defect in the law. Do you subscribe to that theory? - I think the law could be improved.

In what way? - Well, I would have questioned, post 1988 when we took away the rifle, which had a similar shooting capacity to the guns Hamilton had, and I wonder why they weren't taken away at that time. I think there could be much more helpful Home Office Guidance to police officers. It is very vague in certain areas -- and this could be tightened up. I also would question whether in fact if a person was using a gun for shooting at a pistol Club, whether he actually need have that gun at home at all.....

BY LORD CULLEN: We really would like to hear what you are saying. We are not hearing you? - Sorry. I am saying I really honestly can't see why a person needs to have a firearm at his home at all if he is shooting at a Club. Now, I understand at the moment Clubs wouldn't be safe places to keep firearms on many occasions, but the law can lay down conditions in which it would be safety to keep firearms there.

What is that last point you were making? - The security could be very much improved.

At the Clubs? - Yes, and the firearms could be there as opposed to being in the person's house. I don't really understand why he needs a gun in the house at all if he shoots in a firearms Club. He doesn't need it at home. There is no purpose for it being at home. I think too even the rifle weapons that were available to Mr. Hamilton, I really honestly don't see any need for that type of firearm to be on the market. There is a thing that concerns me -- and I am not just too sure what the right way about it is -- but I was interested this morning when there was put to me various information by members of the public who had come forward after the event of Dunblane to say "I was asked". Did you know about this? Did you know about that?" And I have also seen it mentioned that the person should advertise that he wants a gun. I know the danger -- you are saying it would advertise where the person lived, if he had firearms; but if they were kept within a Club in most cases, that position wouldn't arise. And what interests me is the fact that I have had various hypothetical situations put to me which were coming from people who have thrown into this Inquiry facts and circumstances which the police were totally unaware of. And what I am saying is if we had known all those facts, if people could be encouraged to come forward and tell us all they know about a person, then we would be in a better position to have a full assessment of the facts.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: One very noticeable feature about this tragic case is that relatively little that is new has been learned about Hamilton since the incident? - Indeed.

Almost all of the information which we have before us just now was information available to Central Scotland Police before the incident occurred? - Yes.

So, whatever else, the view that was taken by you as to Hamilton's fitness tragically was erroneous? - If we had been sitting here on the 12th March discussing this matter I don't know what conclusion we would have come to, on the evidence; but/

but clearly with hindsight, which is a great thing, Mr. Hamilton ought not to have had firearms; but it is a different question if we had been discussing it on the 12th March.

Detective Sergeant Hughes didn't need the benefit of hindsight -- you agree? - In 1981 he was predicting that this would happen in 1996?

In 1991 Detective Sergeant Hughes was telling you that Hamilton was an unsuitable person to have firearms? - He had no evidence to support that.

And that recommendation was supported by Mr. Holden? - At that time. I think if you asked Mr. Holden what his view was after he had had the benefit of a two hour interview, it might be quite different.

Who in Central Scotland Police takes responsibility for the decisions that were taken concerning Hamilton's certificates? - Me.

Are you, to your knowledge, the most senior police officer who will be giving evidence at this Inquiry from Central Scotland Police -- or former officer? - As far as I am aware.

What lessons, if any, has Central Scotland Police Force learned from this tragic event? - Central Scotland Police will be having a full debrief on this whole incident to see what lessons can be learned.

What lessons have been learned as a result of this tragic event to date, to your knowledge?

MR. TAYLOR: Before the witness answers that question, it requires to be borne in mind that he is no longer a member of Central Scotland Police Force, having left the Force on the 1st April.

I am authorised to say it is the intention of Central Scotland Police Force to make a submission to your lordship in terms of which they will be indicating to your lordship areas where they consider -- instances where learning can take place.

LORD/

LORD CULLEN: Do you want to press the point in view of that?

MR. CAMPBELL: Yes, please, Sir.

LORD CULLEN: In what respect then?

MR. CAMPBELL: Perhaps I can rephrase it.

LORD CULLEN: Well, rephrase it and we will see what happens next.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: You were the individual who took the decisions in the end of the day? - Yes.

I mean, this was just an awful tragedy, and you must have turned it over in your mind many times? - It has never been out it.

What lessons do you think can be learned from what happened? - I mean, to be frank with you, I left Central Scotland Police a matter of weeks after it. I don't want to make a hasty decision here about what lessons Central Scotland Police can learn. I am sure everybody who was involved in this will be sitting down and looking at every aspect of the whole business and seeing what changes can be made and what lessons can be learned. I don't want to make some off-the-cuff remark here when I haven't even been involved in it.

Well, is it a possibility that one lesson might be learned, namely that if any senior police officer has any doubt whatsoever about an individual's suitability then that should be acted upon immediately in a positive way? - I think that is what always happened.

And if we look at Page -- to go back to your statement just for a moment, at Page 19 -- I am sorry, yours is not paginated. It is about halfway through and it begins on the top "On 14th February 1989 I signed Mr. Hamilton's firearm certificate, formally renewing it for the next three years". Have you got that? - Yes.

We read there "In reality, unless as I have previously stated, there was something which the/

the staff within the Firearms Department or Senior Police Officer in Headquarters Administration, to whom they reported, required to draw to my attention, this and all other similar uncontested applications were routinely passed to me. In this type of instance there would be no need for me to refer to the actual Firearms File. I should make it clear that even where the grant or renewal was recommended, if there was some adverse comment the file was brought to me for final decision"? - Yes.

Can I suggest for your consideration that one lesson may be that no application should ever again be categorised as "uncontested"? - Well, what I mean by that is if there is nothing in that file for me to read other than the person who made the inquiry saying "The applicant I think is suitable", and the Chief Superintendent or whoever it was saying "I recommend this" -- I mean, what is the point of me looking at something there which would in no way influence my decision? I mean, it is purely an administrative process. If the decision is taken earlier then I am going to learn absolutely nothing from reading the file.

The legislation, presumably for good reason, has asked the Chief Officer to consider the matter? - Yes.

Not some subordinate further down the chain? - I take your point.

The obvious difficulty in this system -- among a number of others, if I may respectfully suggest to you -- is that you were proceeding on the basis of decisions taken below, and those below were proceeding on the basis that you would take the decision upstairs? - I am sorry, I just can't agree with you on this one. I mean, if there was anything at all in that file which in anyway would influence my decision, the file was brought to me. If there was nothing for me to read on the file I see no point in bringing it to me. I mean, it really isn't adding anything to it.

You/

You see, the clear implication of your statement here is that in the absence of any adverse comment from officers below this was treated as a matter of routine? - All the checks had been made. There was nothing to tell me -- other than to say the officer had done all the inquiry, and there was nothing -- the senior officer agreed with them. I mean, what reason is there for me to read it when there is absolutely nothing there for me to read? I mean, I could certainly have the file in future brought in front of me, but it wouldn't add one whit to it.

Would you agree in general terms that any system of firearms licensing should be rigorous and effective? - Yes.

Both in concepts and in enforcement? - Yes.

Would you agree with me that one lesson to be learned from this terrible event is that Central Scotland Police Force failed to identify Hamilton as an unfit person? - That is clear.

And that, given all the information that Central Scotland Police Force had about Hamilton, one can have very little confidence that other "Hamiltons" are not at large in this area today? - They could be anywhere in the country.

BY LORD CULLEN: If you agree that they failed, as I understand you do, where was the failure? - We have a man who has shot children. I am not saying there was a failure in anything that we did. I don't think anybody could have done anything which would have weeded this individual out, but clearly how can I say otherwise when somebody has shot so many people, than that somebody got through the system but ought not to have. I mean, I just couldn't answer the question in any other way.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: You have agreed that any firearms licensing system should be rigorous and effective? - Yes.

And you have agreed that that should apply not only to the conceptual framework, but also to/

to the implementation of that framework? - Yes.

Trying to lift our eyes above and beyond this terrible tragedy, to the future, can I seek your help in this way: suppose one comes to a position whereby society at large can have no confidence that any firearms licensing regime will be rigorous and effective in these two manners -- it is a hypothesis I am putting to you.....? - If you are expecting me to say that whatever system we put in will be 100 per cent foolproof, I doubt if you can have that, quite frankly.

That is helpful, thank you. Do you think any system would have identified Hamilton as an unfit person? - No. In all the time I have known Hamilton I never ever dreamt for a moment this man would be dangerous with a firearm. My only concern about him was whether his actions towards youth were totally wholesome, which was a different matter entirely. I never dreamt for one moment that Hamilton would do such a thing, that he would be dangerous with a firearm.

If one does reach the view -- I appreciate it is a big "if" -- but if one does reach the view that we can have no confidence that any system would be put in place and implemented which will identify other "Hamiltons", if I can put it that way, in that very general way, would you agree that those who make the rules in our society face a very stark choice either to ban such weapons more or less completely, or even completely, on the one hand, or on the other hand tolerate the risks that flow from the possibility that unfit persons may have lawful possession of firearms? - Yes. I think there are various ways you could think of to try to tighten it up, but at the end of the day to have some system which is 100 per cent foolproof, I obviously don't believe that would ever be possible. I mean, I have tried to suggest that supposing Mr. Hamilton even had the exact same firearms as he had now, if they had been kept at a club under lock and key for his own use, then he wouldn't have had the use of them outside. And this is one of my suggestions. But quite frankly, there is lots of things you could put in which would improve the situation, but to ask me can we ever have a 100 per cent system, I doubt if we ever can. You never know when somebody is suddenly going to crack.

And/

4.20 p.m.

And one issue which presents itself to the law-makers, would you agree, is whether indulging those who want to spend their leisure hours using firearms outweighs the risk flowing from ready availability, lawful ready availability of firearms? - I don't think there is any comparison. I would ban them before suffering another crisis like this.

Adjourned until tomorrow at l0 a.m.

THIRTEENTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

FRIDAY, 14th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
DOUGLAS McMURDO, Recalled,	
Cross-examined by Mr. Taylor.....	4
Re-examined by Mr. Bonomy.....	41
JOHN SHARP ADAMSON,	
Examined by Mr. Bonomy.....	50
Cross-examined by Mr. Campbell.....	52
Cross-examined by Mr. Taylor.....	54
Cross-examined by Mr. Gibb.....	57
Further crossed by Mr. Taylor.....	57
ALEXANDER ROBERTSON,	
Examined by Mr. Bonomy.....	59
ROBERT IAN HANLEY,	
Examined by Mr. Bonomy.....	71
Cross-examined by Mr. Campbell.....	75
Cross-examined by Mr. Taylor.....	77
ALEXANDER ROBERTSON, Recalled	
Exam. cont'd by Mr. Bonomy.....	78
Cross-examined by Mr. Campbell.....	101

FRIDAY, 14th JUNE, 1996.

THIRTEENTH DAY.

DOUGLAS McMURDO (Recalled)

MR. CAMPBELL: I have no further questions for the witness.

MR. GIBB: Can I simply say, as I think I said previously, Mr. Campbell and Mr. Bonomy have ably covered the concerns I had on behalf of the Mayor family and in light of the police view they will review their procedures in-house I do not need to cross-examine on these matters.

CROSS-EXAMINED BY MR. TAYLOR: Mr. McMurdo, I would like to explore with you just exactly what it was that was in your mind at the various periods of time with which we are concerned. The starting point is the incident which took place at Inchmoan Island in 1988. Can you tell us what it was that you analysed the Inchmoan Island incident to amount to? - Yes. The Inchmoan Island event showed in my view a number of matters with regard to the running of boys camps which could have been improved upon. First of all, in my personal view there were insufficient supervisors at the particular camp. There were incidents happened there which ought not to have happened at a camp such as drunken behaviour, albeit not by Mr. Hamilton, but nevertheless it did take place at a camp. Whether there was total consideration of the children's comfort and interests, wet trunks, is a matter of opinion, but nevertheless they were things which we debated. We also debated the question of whether physical chastisement was right or was wrong in the circumstances. So we talked through a host of things and I thought it was a learning point there in terms of running a camp. I am not an expert on it but really it was about the way in which a youth leader conducted himself when running a boys camp.

But apart from your own ability to analyse the statements which had been obtained -- sorry, can I just check that with you, did you have the statements which had been obtained? - I certainly had a summary of the case and I knew a fair bit about it.

You/

You would have had an opportunity to have discussions with other officers? - Indeed.

In fact, we have heard that you requested Mr. Mill to have an informal look at the conduct of the two officers against whom a complaint was eventually made? - That is so.

Did you enter into dialogue with Mr. Mill after he had carried out that investigation? - Yes.

Did Mr. Mill at any time express any reservation about Mr. Hamilton's continuing to have possession of a firearm? - Not at all. The whole consideration was whether he was a suitable youth leader.

So after Mr. Mill had carried out his inspection, albeit informal, Inspector Keenan then became involved on a formal footing; is that correct? - Correct.

After Inspector Keenan had produced his report did you have dialogue with him? - Yes, I did.

In the course of that dialogue did Inspector Keenan at any time raise concern about Mr. Hamilton being a suitable person to be in possession of a firearm? - Again all his concern was restricted to his suitability as a youth leader.

Did you have respect for these two officers? - I did.

And when you came to form views as to whether or not there should be revocation or whether there should be renewal were these views taken into account by you in influencing your decision? - We take into consideration all we hear and see.

I think you told us yesterday this was Mr. Hamilton's 55th camp? - That is correct.

Had the manner in which he conducted himself at the previous 54 camps ever come to your attention? - Well, I wasn't in the Central Scotland Police area over all of that time but I have not ever heard anybody say there had been a complaint from the previous camps.

What/

What was the position to your knowledge taken by the parents of the children who attended Inchmoan camp? - They were mixed. Some parents were dissatisfied; others were satisfied. There were independent people who thought it was the best camp they had been to, they had been there for years, so there was a very mixed response from parents and people who visited the camp.

Did you later learn that the Procurator-Fiscal had elected to take no proceedings in relation to the Inchmoan incident; is that correct? - Yes. I hadn't heard anything up until the point that I had Inspector Keenan's report, and if you look at the summary which is at the start of that report Inspector Keenan suggested to me that perhaps some of the witnesses that he had interviewed might not have been interviewed in the course of the Strathclyde enquiry.

I think you told us this yesterday? - He suggested I send the report over which I did.

Now, you told us yesterday that you had a meeting with Mr. Hamilton on the 31st October, 1989? - That is so.

Can you tell me what the purpose of that meeting was from your perspective? - Yes. There has been considerable correspondence, as we heard yesterday, between us, and clearly there was just no way that by letter we could ever reach agreement. It was my hope that we could sit down and discuss in an open and frank way the various issues and come to some resolution of the matter.

Can you tell us very briefly if you can just what sort of points you were putting to Mr. Hamilton in the course of that meeting? - Yes. There were really two issues in it, because in the first instance he clearly thought our intervention at the camp was quite unjustified and that the camp had been run very well indeed. So the first part of the interview was with me saying to him various issues that had arisen to my knowledge at the camp which I thought were unsatisfactory. I told him too I was doubtful about the age, as young as eight, for the type of camp he was running, I didn't personally think it was appropriate.

What/

What was that type of camp? - Well, it was quite rugged. His view was it was boys who needed toughening up, he wanted to get discipline into them, healthy bodies meant healthy minds and all the rest of it. For someone of eight I just couldn't equate that point of view. But I am not expert in it, it was only a personal opinion. In the letter writing he was trying hard to get an assurance from me that I wouldn't intervene with a future camp but I couldn't give him that assurance, but I tried to help him on how we might prevent it.

When you were putting the various points to him which caused you concern in relation to the camp did he have answers for each of the points which you put to him? - By and large, but there were some points on which he gave way and accepted, yes, that ought not to have happened.

On the points which he didn't give way on and which he provided answers for did you accept these answers? - They were very logical. Whether there were some points that myself -- they were well reasoned.

Did you find in the course of the interview that you were forming a view about him that he was an irrational man? - Not at all.

Did you form the view during the course of the interview that he was in any way unstable? - No.

So does it really come to this, that you were expressing some views, he was expressing the opposite view in some respects which you could follow but which you didn't necessarily agree with? - Yes. I mean, the points I made that he ought to improve the camp, for example, he said, "Well, look, you are pricing this out of the market. I am trying to run camps in many cases for people who can ill afford the holiday I'm trying to give them." Some of my suggestions were going to make the camp quite a bit more expensive.

Did the impression which you formed of Hamilton at that meeting influence you in the decisions which you had to make on subsequent occasions? - Yes. We had a very good discussion, and at the end of it we shook hands and went away quite/

quite amicably. I mean, we fully disagreed or didn't disagree in an angry fashion. It was quite an amicable discussion.

After you had met with Mr. Hamilton on 31st October Inspector Mill came back on to the scene, as I understand it; is that your understanding? - I think that was in relation to one of the officers being a Scout leader as I recall. There was certainly that incident, yes.

Do you recall that Inspector Mill had occasion to visit Milarrochy camp? - We are not talking about the Inchmoan one. This is a later year he visited the camp, not that year.

We heard evidence from others in the course of the Inquiry that Mr. Hamilton had been extending interviews to the police to attend camps following the 1988 camp? - He was very keen we attend any of them that we wished.

And to your knowledge did the Inspector take that up? - That is so.

Did you hear from Inspector Keenan after he had taken that up? - He had no complaint to make at that time.

We heard yesterday of the fact that Mr. Hamilton wouldn't accept Mr. Mill's informal report and also Mr. Keenan's informal report and that subsequently there was a report completed by Mr. Moulson. I wonder if you could have before you the letter D61K (DCD102). You should have before you a letter from Mr. Sim, Her Majesty's Inspector of Constabulary? - Yes.

I think this is a letter in which he says that because of the circumstances of the complaints made by Mr. Hamilton and the very large correspondence which followed he deemed it appropriate that Superintendent Moulson prepared a detailed report for his consideration. "I am most grateful for the assistance he received from you and your officers in undertaking this task. I have now had an opportunity to study the report and Superintendent Moulson's statement and I enclose a copy of the letter I have sent to Mr. Hamilton"? - That is it.

It/

It does appear that supports the evidence you gave yesterday to the effect you didn't have sight of Superintendent Moulson's report? - No, I didn't.

Following the incident in 1988 we have heard of the considerable volume of correspondence which you had with Mr. Hamilton, but from that date until 19991 at the Milarrochy camp did Mr. Hamilton come to the adverse attention of you or any other member of the Force throughout that period in any way? - Not that I'm aware of.

So if it hadn't been for the fact he was making these complaints about the conduct of the two officers you wouldn't have had any contact with Hamilton in that three year period? - That is so.

Now, yesterday you were asked to have a look at some of the statements from the boys who attended the Milarrochy camp. Whilst I am not proposing to take up much of the Tribunal's time I think it may be helpful if we were to look at some of the alternative views which were expressed in fairness to yourself. I wonder if you can have D3K before you. I think we have established already this doesn't have an alternative number; it could be DFU145. You should have before you a report to the Procurator-Fiscal, Stirling, in the case of Thomas Watt Hamilton? - Yes.

I wonder if you could look please at a statement from a child which you will find at pages 41 to 43. The initials should be GW? - That is so.

We see there the child indicates that he is nine years of age? - Yes.

And says that he attends one of the sports clubs run by Mr. Hamilton? - Yes.

The last sentence on that first page says that he likes Mr. Hamilton? - Yes, "I like Mr. Hamilton".

I think when one goes to the second paragraph on the next page he says that he liked the camp but there was one of the boys whom he didn't like and he named that child? - Yes.

He/

He said he didn't like him because he was a bully? - Yes.

He kept bullying some of the other boys? - Yes.

He goes on to say he saw him kick and punch another child? - Yes.

The child who had done the kicking and punching had been taken into a tent and emerged crying? - That is so.

And then if we go on to the next paragraph where it is said they were playing football again and the same child kicked the person whom he had previously kicked; do we see that? - Yes, he did the same again.

And again the perpetrator of the kicking was taken into a tent? - Yes.

And/

10.20 a.m.

And if we move on to Pages 48 to 50 we have a statement there from the child who was subjected to the kicking and the punching; do you see that? - Yes.

And he states his age as being that of eight and states at the bottom "I like Mr. Hamilton. We play football and acrobatic stuff at the Clubs". Do you see that at the bottom of the page? - Yes I do.

And if we turn over the page we see in the third paragraph that the person giving the statement didn't like a particular individual because he kept on being bullied by him? - Yes.

And he was hit on the eye with a stone? - Yes.

And the person who had caused the witness to be hit on the eye with a stone was given a row by Mr. Hamilton? - Yes.

And then he goes on to describe the footballing incident which was spoken to by the other child? - Yes.

And he goes at the very end of the statement to say that he liked his holiday, he did like Mr. Hamilton but he didn't want to go back, he missed his Mum and he didn't like chicken curry? - Yes.

Now, those were the views which were expressed by two of the children? - Yes.

There were also in this report some statements from some of the adults; is that correct? - Yes, an adult leader.

And I think from some of the parents of the children as well? - Yes.

Could you very briefly look at Pages 70 to 72, and we find there a statement from somebody who has "D" for the first initial of his surname? - Yes.

And/

And he tells us that he has known Mr. Hamilton for about two years and he has helped Mr. Hamilton on a Friday night, and he has allowed his son to go to both Clubs which he knew Mr. Hamilton was then organising? - Yes.

And he then describes the activities as being football, swimming, relay racing and some exercises? - Yes.

He tells us in the next statement that his son has been on three camps? - Yes.

And he concludes by saying that he is more than happy with his son going on camp and more than happy with Mr. Hamilton's handling of the kids? - Yes.

And he had no problem with the supervision of the kids, as Mr. Hamilton can handle them? - That is so.

But in order to get a proper view and a proper perspective of this one would really need to look at them all, wouldn't one? - Yes. That was what I said yesterday. You can take selective items, but you have to take an overview of them.

And do I take it that you did look at all of the statements when they came to you at the time shortly after the camp incident? - Indeed.

Put briefly, what was it that the facts amounted to in relation to the Milarrochy Camp? - I think that it does again raise concerns about whether or not he was a suitable person to run a camp, despite some very favourable statements, there are others which are not favourable. And the whole problem I have got about it, I don't think there was sufficient supervision. Again, it is quite interesting that in the second week of that particular camp you can see some of the statements from the children who were at the second week, with the additional helper it went very very smoothly. And the root cause of this I think was there were far too many kids there for one person, no matter how capable.

In terms of assault/chastisement, how many children were actually subjected to such conduct/

conduct by Mr. Hamilton? - On this occasion, one.

And on each occasion was it after that child had done something which most would consider to be wrong? - Yes. One was the stone-throwing incident, and then there was the two times when he allegedly, one of the boys, kicked and punched one of the boys on the football field.

I think there was an incident on one of the boats as well? - Yes, but that is spoken to in different fashions, but it would appear that he was leaning over the side of the boat.

I think some of the statements suggested Mr. Hamilton might have been shouting and swearing on occasion? - Yes.

In the report is any explanation accorded by Mr. Hamilton as to why he might have been shouting and swearing? - He said the shouting and swearing came to him first, and he replied in kind.

And I think there was also some suspicion regarding certain photographs? - Yes.

What did you take from the statements in relation to the photographing of the children? - This is a difficult one. We never ever came across a photograph which anybody could describe as indecent, but he did seem to take a tremendous number of photographs, taking photographs of children in activities and poses -- this is something some of us don't feel comfortable about, but not something you could put your finger on and say it was an offence.

And on looking at the statements does one form the view that Mr. Hamilton might not have been fully forthright with the inspecting officers in relation to the number of schools? - It would appear so, yes.

Yesterday you were shown a document which was D94K and I don't think it is necessary for it to be before you just now. It was a memorandum from Mr. Holden, and was dated, from memory, round about 12th August of 1991? - Yes. This was an update on the inquiry report.

That/

That is correct, yes? - Yes.

Now, did I understand you to say yesterday that you had been aware of the investigation which was taking place in relation to the Milarrochy Camp before you received that memorandum? - Yes, indeed. I had letters from I think Mr. Hamilton, even, before that date, so I was getting constant updates about what was going on from my senior investigating officers.

And did that dialogue with the senior officers continue through their investigation? - Yes indeed.

I wonder if you could have before you document D154K, the alternative reference being DDH202. That should be a letter from yourself dated the 6th May 1992 addressed to Mr. Hamilton; is that it? - That is correct.

And this is a letter in which you are informing Mr. Hamilton of the fact you are aware of the formal complaint against the police pertaining to the police inquiry of the 1991 Summer Camp, and the fact that Inspector Ferguson had investigated the camp, and you now have his report? - That is so.

If one goes over to the second page of the letter we see in the second paragraph that you first of all narrate the assertion made by Mr. Hamilton that the police officers have, by tone and innuendo, influenced the parents of children into staying away from Clubs and summer camps wasn't borne out in the statements which had been taken? - That is so.

And then you go on to give a balanced view by saying that while some parents and children do not wish to return, and the reasons range from lack of supervision, being bullied, favouritism being shown, pumping them for information, and so on, you then in the next paragraph set out the alternative views? - Yes, that is so.

Can you just read what these alternative views are for us please? - "A number of the parents have in fact indicated their support for your Clubs and camps, and the following comments were/

were noted: 'My son still goes to the Club and I would not stop him going to the camps'. 'My son still goes occasionally to the Boys' Club and I would allow him to go to another camp'. 'Mr. Hamilton does good work and my son still goes to the Club and if he so wished would be allowed to attend another camp'. 'I personally think Mr. Hamilton's commitment to the Boys' Club is excellent"'.

BY LORD CULLEN: Just for the notes, I think these are are a series of quotations, are they, all from different parents? - They are all from different parents.

You read them out without indicating they were -- it is just for the notes? - I beg your pardon.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: And again were the views of the parents which we see expressed in that letter matters which were taken into account by you in the decisions you made in relation to firearms? - Yes.

The next incident which one comes across when looking at this in chronological order is the incident at the summer camp which was held by Mr. Hamilton in Dunblane? - Yes.

What in your view did that amount to? - I think there was three boys had wandered out of the school, I understand.

And what time of day? - I think it was about 10 o'clock at night.

And what did you read into this in relation to Mr. Hamilton's character? - I don't know what you could read about his character.

Well, perhaps that wasn't a particularly well-framed question. What did this inform you of Mr. Hamilton, if anything? - Well, you could say perhaps a lack of supervision, that it wasn't what it ought to have been.

And after that I think we have heard evidence of a number of incidents at various Boys' Clubs which were run by Mr. Hamilton? - Yes.

Can/

Can you tell us just in your view and in your perception what these amounted to? - They all really had a similar vein, that he was taking pictures of boys in black shorts or black trunks and bare chests, and parents felt uneasy about this. On any occasion to your knowledge did the boys appear to be alarmed or concerned? - It usually came from the parents.

Was there any evidence of any improper act? - None at all.

I think it was at this point that you asked the officers in the Child Protection Unit if they would make some inquiries of the Procurator-Fiscal? - Yes.

And we have heard that they sought a search warrant in respect of Mr. Hamilton? - Yes.

To your knowledge was that search warrant granted? - I don't think so.

Did that say anything to you about the view which the Fiscal was taking in relation to the incident? - Well, I could understand the Fiscal's view, because I mean it is very very difficult to see any criminal offence in a child in swimming trunks or shorts and bare-chested. I mean, what was the Fiscal going to see in that?

And meanwhile, whilst these issues were coming to you attention, Mr. Hamilton continued to correspond with you in relation to this dissatisfaction over the conduct of the police; is that correct? - I didn't have all that much from him, I don't think, from about mid-1994. I can't really recall much correspondence from him from around that date.

Yes. I think it did start to taper off about 1994? - Yes. We had a sort of flurry when the new Chief came, but really from I would say somewhere about mid-1994, if my memory serves me right, I don't think I was in correspondence.

I think there might have been some letters, but nothing like the correspondence there was before? - Well, there could have been some copy to me for my information.

But/

But in any event there was the occasion when Mr. Hamilton made the complaint to the Scottish Office, and this resulted in an inquiry coming from them which you responded to by letter of 14th January 1992? - Yes, I did.

And I think it would be helpful if you did have that letter before you. It is D33K, and it is Production No. DCD174. Now, this is a letter which we have already spent some time going over in the course of your evidence? - Yes.

And I would just like to spend a little more time looking at it. The first paragraph, which was taken from you, was that contained on the first page, the second paragraph, where it says that "Every point repetitively and tediously dragged up by Mr. Hamilton has been examined and re-examined, explained and re-explained to the point where I am seriously considering referring the matter to the Legal Department of the police authority".

You/

l0.40 a.m.

You told us yesterday that having taken advice you did not take the matter any further in Court? - That is so.

And then if we go over the page we see in the third paragraph, in the final sentence, you say "How Hamilton can draw a sinister inference from such a healthy and worthwhile pastime....." -- that is being involved in Scout and other youth organisations -- "..... is beyond my comprehension"? - Yes.

Now, this may seem a silly question perhaps but what do you mean by "comprehension"? What does "to comprehend" mean to you? - To understand.

So are you saying no more there than you could not understand Mr. Hamilton? Is that what it comes to? - I think I did say yesterday that if I learned one lesson from writing this letter, if you write it when you have lost your cool, leave it till the next day to sign it. Yes, I mean, what I was trying to say was that he seemed to be of the opinion that we were biased because we had people connected with the Scouts which was not so and I couldn't understand that.

And over the page in the second paragraph, the second whole paragraph on page 3, it is stated in common with most right-minded people I am proud of the connection between Central Scotland Police and all the youth organisations with which we work". The phrase "right-minded" is one which I think you have used? - I use that quite a bit. I just mean ordinary people.

You are not there meaning any sort of psychiatric analysis, are you? - No. I mean, unfortunately this is a letter which was written in a totally different context and is being picked over word by word and it was written not with regard to his capabilities with firearms but because I was by this time totally annoyed with the number of letters written about complaints and I think we are looking at it in a totally different light today.

You see, you use the word "zealot" as we read/

read about yesterday. What did you mean by the word "zealot"? - Well, really somebody who pursues a cause with great determination.

And are we to read into it no more than that? - No.

You also just above that make reference to his "ever more irrational outpourings". Now, you have also indicated that in October of l989 you did not consider him to be irrational. That is following your meeting with him? - I regret making that remark.

BY LORD CULLEN: When you say you regret it, are you saying that it was not justified or are you saying it is unfortunate you said it? - No, I am saying it was unjustified, my lord. Can I elaborate, my lord?

If you wish to, yes? - I thought he had taken things to considerable lengths and that is as far as I would go on that one.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: And you were trying to stop him from taking them to even further lengths, is that correct? - Well, that was the whole purpose of the letter.

BY LORD CULLEN: You see, on the previous page, you do say of Hamilton that his attitude indicated a certain lack of perspective. So was it your point of view that he could not, in certain respects, see matters in their proper perspective? That is the paragraph right in the middle of the previous page? - Yes, "For Mr. Hamilton to see his tiny local organisation as a serious rival to Scouting Movement indicates a certain lack of perspective". Yes, I mean, I may have been lacking a bit in understanding there as well. I mean, Mr. Hamilton as far as the local situation was concerned spent four and five nights a week with various boys' clubs and it was probably a bit churlish of me to say that his organisation could not be a serious rival to the Scout Movement which had been going for I don't know how many years and it is a world-wide movement but in terms of locality, probably Mr. Hamilton as an individual did a great deal for the youth and perhaps it was a bit churlish/

churlish of me to put it in that way.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: Well, perhaps Mr. Hamilton's little organisation might not have been a serious rival to the Scout Movement on a national basis but looked at locally from his perspective would it be reasonable for him to conclude that perhaps he was a rival? - Well, that is what I am trying to say. In terms of a world-wide Movement it clearly was not but in terms of locality he had quite a number of boys at various clubs.

But in any event, what is important at this stage is what your perception is of the facts. Do you still come to the view that describing Mr. Hamilton as having a certain lack of perspective was a fair summary to apply? - No, I have indicated you could take that view of a world-wide scheme but locally you couldn't say that.

Also in that letter you make reference to Mr. Hamilton taking a point which at one stage in the dialogue appears to have been settled but then finding that he reintroduces it in another guise and adjusts the facts selectively to suit his aims and it all begins again? - Yes.

Is that something or an attribute which is unique to Mr. Hamilton? - Unfortunately not.

Does one find such attributes relatively commonplace? - Yes. I am afraid that in my position as Depute Chief Constable we do have a number of people who complain about things and you write a letter of explanation and you get it back slightly changed, slightly altered, picked up on one or two words you have said in your letter and quite frankly it goes on and on and on and on. It is not all that strange. Indeed, since I've been in my present post I have seen similar people from all Forces in Scotland and I have only been there two months.

Is it not just a function of somebody looking at a set of facts from a different perspective from another person? - Yes, indeed.

BY LORD CULLEN: But we have heard yesterday and seen correspondence where he seemed to have/

have expressed satisfaction? - Yes.

And all seemed to be well and yet a matter of months later he returns with the theme with even greater vigour? - Yes.

Now, is that usual or unusual in your experience in dealing with awkward people? - Yes, they sit and think and brood over it and come up with another opinion.

Well, is it common or uncommon? - Yes, it is fairly common, sir.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: Now, in October of l99l, who was your Chief Superintendent? Can you remember? - I think it was John Adamson.

I wonder if you could have Dl05K which is DCDl56 before you please. This is a letter addressed to Mrs. Mary Hogg at the Scottish Office and it is dated 3rd October l99l and it appears to have been signed by a Chief Superintendent and the Chief Superintendent has initialled the copy letter which is what we have as a Production? - Yes, that is John Adamson.

How closely did you work with John Adamson? - At that time John Adamson was if you like my right-hand man and he was the person who always deputised for me when I was on annual leave.

How often would you be in conversation with your Chief Superintendent at that time? - I would say, if I wasn't away on other business, every day. I mean, I kept him informed on all that was going on because he undertook my duties when I wasn't there.

And would he have been aware of the actings of Mr. Hamilton? - Yes.

LORD CULLEN: Perhaps that is a matter we should ask Mr. Adamson about. We may have that opportunity.

MR. TAYLOR: Very good, sir, in which event we will leave that letter for the next witness as well perhaps.

CROSS/

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: Still looking at the matters which influence you, we have heard evidence that Mr. Hamilton first acquired his firearms certificate in l977 and apart from the incident in Linlithgow in the early l990s involving the photographs which we have already heard evidence about, has any other improper use of a firearm by Mr. Hamilton been brought to your attention? - No.

And was that a factor which influenced you in the decision which you had to make in relation to him holding a firearm? - I think I explained yesterday I thought that was innocent.

I don't want to go into the facts of that incident but leaving aside that fact and looking at the negative if you like, the fact that there was not anything else drawn to your attention during that period from l977, was that a matter which influenced you? - I understand. Yes.

Now, yesterday the statement which you gave to a police officer was put to you and I wonder if you could have that again in front of you. It is Statement 909L and the page which I would like you to look at again, if it is numbered correctly, is page No. 12. It should start at the top with a paragraph saying "Looking back since l99l....."? - Yes, "Looking back since l99l....."

Yes, it is not that particular paragraph I would like you to look at, however. It is the next one which is the one where you say "In each and every case that I considered I held public safety as being paramount. However, I was also conscious of the freedom of the individual and remaining within the parameters of the discretion given to me under the law. I never revoked or refused an application unless I had reason to do so"? - Yes.

Now, you answered a number of questions which were put to you yesterday in relation to that paragraph and I wonder if the answers which you gave could be summarised as being that in that paragraph which has just been read you are no more than saying that you have to make your decision by applying the relevant statutory provision? - Indeed.

And that if an individual meets the criteria/

criteria set down in the statute for possession of a firearm you have a duty to issue to him a firearms certificate? - Yes.

Is that what you were meaning to convey in that passage? - Well, that was the full meaning, yes.

Now, you told us yesterday on a number of occasions that in your view there is no need for a conviction before you would be entitled to revoke a firearms certificate or refuse a firearms certificate, refuse to renew a firearms certificate? - Yes, that is so.

And that must be borne out by the statute because one does not see the word "conviction" appearing I think in Section 27 or 30 of the Act? - That is so.

And in a sense it will work both ways because whilst there is no need for a conviction before revocation or refusal, on the other hand you can have a conviction and still be entitled to have a firearm? - Yes, indeed.

So the mere fact of conviction on that analysis does not really say terribly much to the person who is deciding whether a firearms certificate should be revoked or issued? - It depends on whether the particular offence gives rise to an apprehension that the man might be a danger to public safety or to the peace.

BY LORD CULLEN: Is that the test for revocation? - No, I understand it has two parts to it.

MR. TAYLOR: I think, my lord, to be fair I said revocation or refusal.

LORD CULLEN: I'm sorry, I was thinking about revocation.

BY LORD CULLEN: It is right, isn't it, as far as revocation is concerned that the language is not that language? - Yes, if I could just enlarge on that point, my lord. While you are absolutely right in saying this, police officers and senior police officers in particular do take guidance/

guidance from cases which your lordship's or Sheriff's decide, and whether it is revocation or not we frequently refer to that, that evidence.

Yes, indeed, it is highly pertinent? - Yes.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: So if the conviction itself is not per se of importance, I think you have just said you look at the facts? In other words, you discard the label which is attached to the facts and look at the underlying facts themselves? - Yes, indeed.

Now, let's go back a little bit and take the Milarrochy incident, and in particular the issue of an assault or chastisement? - Yes.

On one view of the evidence there was a child who was saying he had been assaulted by Mr. Hamilton, is that correct? - Yes, that is correct.

And one had I think an admission from Mr. Hamilton that there had been some laying of his hands on to the child? - Yes.

Albeit it gives an explanation for why it is that he did it? - Indeed.

And perhaps on one view that might be thought to be an assault? On one view? - That is so.

But looking at the facts themselves, leaving aside whether it is an assault or not, looking at the conduct of Mr. Hamilton do you consider that such conduct as was described there in relation to that assault such as would warrant you to revoke his firearms certificate? - No.

Since there is a different test in relation to renewal, would it be such as to justify you in refusing to renew his firearms certificate? - No.

Now, if subsequent to you coming to a view that you were not going to revoke you learned that the Procurator-Fiscal had decided that he would take proceedings and that he subsequently perhaps even gained a conviction, what would that cause you to do, if anything? - It certainly would cause us to/

to review the case, because it would automatically be put in front of me for review.

But you may change your mind or you may not? - That is so.

And I suppose some cases will be quite easy to assess as to whether there ought to be revocation or a refusal to renew? - Yes, some are very straightforward.

If somebody had for example committed an act which could be described or given the label of armed robbery, it might be difficult in the circumstances to see how you would avoid coming to the view that there ought to be revocation? Would that be fair? - I think that would be a fair decision.

And if one went to the other end of the spectrum and considered an act of petty shoplifting, a single petty shoplifting commission, what would you do then? - No, I don't think that would give me any rise for concern.

And that would be concern in relation to the holding of a firearms certificate? - Yes, that is so.

And then there will be perhaps those circumstances, facts, which would come in the middle? - Indeed.

Tell/

11 a.m.

Tell me, what would your view be in relation to somebody who was charged or convicted with reset. Would that be something which you would need to enquire further into or is that something which would give rise to a clear-cut decision for you? - No. I think you have got to look at each one and know the background of it I know there is a stated case where his lordship makes it quite plain the convicted person has been convicted of receiving stolen property but nevertheless does not give rise to any concern about his safety to hold a shotgun I think it was; I think it was Lord Bingham who gave the judgement in that one.

You were talking about receiving stolen property? - It was an English case.

Which would be English equivalent. If we can just stick perhaps with the concept of reset meantime, from that answer you have given do I understand that somebody could be convicted of reset in your view and yet still in your opinion be a person who was fit in terms of the legislation at any rate to hold a firearms certificate? - That is so.

Now, reset I think can be defined as the retention of goods obtained by theft, robbery, fraud or embezzlement with the intention of keeping them from the true owner. Would you accept that definition of reset? - Yes.

What if theft, robbery fraud or embezzlement, one of these four constituents as go into the constitution of the charge, if you could apply labels to them, on these descriptions could one equally well be taken as deceitful? - Certainly so, deceitful.

Could it be in fact somebody might be devious? - Yes, could be.

Certainly might not be trustworthy? - That is so.

So anybody who commits the act of reset could have these labels applied to them; is that so? - Yes indeed.

You/

You have just told me it wouldn't necessarily be the case anybody convicted of rest would necessarily in your view lose their firearm certificate? - It would be a question of whether we thought he was unfitted to be entrusted with a firearm. The fact he is convicted of an offence per se doesn't mean to say you would consider him to be unsuitable to be entrusted with a firearm.

You see, yesterday Lord Cullen asked you very specifically if someone who could be said to be deceitful, scheming or devious or untrustworthy was somebody who per se was a person unsuited to be the holder of a firearm.

LORD CULLEN: I am not sure that was quite my question. I was simply referring to that description of Mr. Hamilton.

MR. TAYLOR: I haven't checked the transcript.

LORD CULLEN: I think it was rather more specific. I was referring to the passage in the memorandum. I am not sure if I was quite as general as that.

MR. TAYLOR: I stand corrected.

THE WITNESS: I think the word is "trust" there with a firearm.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: So if you could have D82L in front of you again please, if you could look please at the final paragraph of that memorandum you will see it says, "It is my opinion he is a scheming, devious and deceitful individual who is not to be trusted". Is that right? - Yes.

Do you consider, given the evidence which you have just given in relation to the offence of reset, if that description applied to Mr. Hamilton it would cause you to have doubts as to whether he ought to be the holder of a firearms certificate? - No, it is in the context -- scheming, devious and deceitful itself is not.

If that description could be applied to Mr. Hamilton do you consider that that ought to have caused/

caused you to revoke or fail to renew Mr. Hamilton's firearms certificate? - No.

LORD CULLEN: I have some difficulty because that seems to be essentially the same question I asked yesterday. The witness, as I recollect it, indicated it was not that that concerned him, it was the evidence that supported that conclusion. Could we possibly get hold of the question because I would like just to be quite clear what the witness's position is. I am afraid I don't have the notes with me.

MR. TAYLOR: Sorry, sir, we can perhaps move on and we could perhaps check in the meantime.

MR. CAMPBELL: It may be page 1509.

LORD CULLEN: Is that the passage, Mr. Taylor?

MR. TAYLOR: Yes, I think it is, sir.

LORD CULLEN: In that case perhaps we can deal with it now. Perhaps you could read the question and the answer to the witness and just let it be quite clear what he said and what was put to him.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: At 1509 yesterday his lordship put to you, "Just to be quite clear about this point: if you look at the last paragraph in that memorandum you see there the Detective Sergeant's description of Hamilton as an individual?" and you said "Yes".

And then question "If that was an accurate description of him, would that indicate somebody who on the face of it was unfit to be entrusted with firearms?" and you said "Yes, I would agree with that but what I am saying is that the underlying evidence wasn't there"? - Scheming, devious, deceitful in itself -- it may be the word "trust" should be added on. It all depends on the context of "trust" whether you are talking about trust in relation to something trivial or whether you are looking at it in relation to firearms. That is one of the essential facts, that the person should be being entrusted with a firearm. I am sorry if I am causing confusion. It is not scheming,/

scheming, devious and deceitful which I take issue with, the word "trust" does come in from the firearms section. That is perhaps where I was being confused.

BY LORD CULLEN: I want to be quite clear, do you stand by what you said or do you want to change it? - I can understand somebody may be scheming, devious and deceitful in itself in certain circumstances where it would have no bearing on whether you felt they could be entrusted with a firearm; that is what I am saying.

I simply want to know, do you stand by what you said or do you want to change it? - Change it.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: If I have understood you correctly, what had caused you difficulty was the use of the word "trust" as we see being the final word in the paragraph? - Yes indeed.

And if you came to the view that somebody wasn't a person who could be entrusted with a firearm then you would be honour-bound to revoke or fail to renew? - Yes indeed.

Does that mean that anybody who could not be trusted, using "trust" in the wide sense, is somebody who ought not to be entitled to have a firearm? - No.

If the facts were such that the label "lack of trust" could be put on them, and "untrustworthy" might be put on them, do you still need to look at the facts; is that what you are saying? - Yes.

Because you know of no circumstances in which lack of trust arose? - Yes. We use the word "trust" in so many ways. You can trust somebody to be there on time and that is quite trivial and you could be talking in terms of trust to be safe with something which is entirely different.

Just taking that on a little bit then, and applying it again perhaps to Milarrochy, you told us a few moments ago about the fact that persons Mr. Hamilton hadn't told the police officers everything/

everything about the photographs he had been taking in that he hadn't shown all of the photographs he had taken? - That would appear to be the case.

And on your understanding of the facts is that what gave rise to the trust or lack of trust which was narrated in the memo? - Yes.

Were there any other facts which you could identify in the report which gave rise to the view of lack of trust on the part of Hamilton? - I am trying to think of something else about -- the parents trusted there would be more youth leaders there. There weren't any serious issues that I can think of.

If we look at the facts as opposed to labels, do you consider if somebody says to a police officer that he has taken only six spools of film when in fact he has taken eight spools of film, that is somebody who is not fitted to hold a firearm? - No. He may be telling lies but that's it.

Does somebody who tells lies, again using the label of "lies", does that mean they ought not to be able to hold a firearms certificate? - No.

Again I suppose one has to look at the lie which has been perpetrated by them? - You have got to look at everything. It is very, very difficult to answer these questions without looking at the whole circumstances which arose.

You were asked some questions also in relation to whether the fact that Mr. Hamilton had a grudge against the Scouts would be such as to disqualify him from holding a firearm certificate. To your knowledge when was it that Mr. Hamilton was removed as a Scout leader? - I think it was around 1974. It was about 15 years before I arrived in Central Scotland Police and that was 1987, so about '74 as near as I can get it.

From your knowledge of Hamilton at the time, did you consider that he had borne a grudge since then against the Scouts? - Yes. I don't know if "grudge" is the right word or not but he felt he wanted to show that he could compete with the Scout movement.

At/

At any time in the course of that period from 1974 on when you came to be considering his firearms certificate did you consider that his conduct towards the Scouts was such that would justify you doing anything in relation to removal of his firearms certificate? - No, I did not.

Apart from writing letters in relation to the Scouts had he taken any other action to your knowledge? - No.

You were also in the context of "grudge" asked whether you would revoke or refuse the grant of a firearms certificate to a neighbour who had a grudge against his fellow neighbour; you remember that? - Yes.

You remember that question yesterday? - Yes.

Is the fact of a grudge sufficient or do you require to go beyond that? - I think it has got to be a bit more than that. There is a lot of neighbours don't get on with their neighbours but arguing over the garden fence is hardly a reason for not getting a firearms certificate.

I suppose if the grudge had manifested itself in threatening behaviour by one neighbour to another.....? - That is quite a different matter.

Then/

11.20 a.m.

Then you might consider that there would be reason to.....? - Yes. In each one you need to look at the full circumstances involved.

Now, yesterday you said that you would have to look at the facts to see if there was anything to suggest that a person would be a danger with a gun when you were coming to consider a revocation or refusal to renew; is that right? - Yes.

Now, it was pointed out to you yesterday that the criteria for revocation and renewal were slightly different? - Yes.

And I think you had answered the question in relation to revocation, where the concept of "Danger to the public safety or peace" does not enter the equation? - That is so.

Looking at the test in relation to renewal, where one does have the concept of "Danger to the public safety or peace", is it your view that any danger to the public safety or peace justifies a refusal to renew? - With the use of firearms.

It has to be a danger to the public safety or peace arising out of the use of firearms; is that what you are saying? - Yes, or if you perceive it could have.

Or the likelihood of that happening? - Yes.

Now, applying these tests which you have just given us to the facts, which you have also been telling us of today, and the various influences which bore upon these facts, you would have had to come to your view in 1995 as to whether Mr. Hamilton should have been granted the renewal of his firearms certificate? - That is right.

And you told us yesterday that it didn't take a great dealt of time for you to come to that view? - Yes. I knew Mr. Hamilton fairly well, I thought.

But for the avoidance of doubt, had the consideration/

consideration of Mr. Hamilton and the possession of firearms been something which had exercised your mind prior to 1995, when you came to consider his application? - Yes indeed.

So this wasn't the first time that you had to look at all the facts and consider and weigh up all the facts? - No.

I suppose it is easy for us now after the events of the 13th to say that the conclusion which Mr. Hughes came to in his memo was correct and that you were wrong, but on the facts then known to you, that is the facts known to you on the 12th March 1996, do you still consider that it was a reasonable exercise of your discretion to renew Mr. Hamilton's firearm certificate? - Certainly.

And is that looking at the incidents both individually and cumulatively? - Indeed.

I wonder if you can help me just a little bit in relation to the chain of command which exists in the force when one is making inquiry into the holding of a firearm certificate -- that is an application to hold a firearm certificate? We heard the evidence that the Detective Constable or the Firearms Officer goes out and visits the applicant at the first time that an application comes from that individual. Now, if we look at the role of the Detective Constable first.....? - The constable?

The constable, sorry. What is it that you are expecting that constable to do when he or she goes and visits the applicant? - Well, there is a number of things. First of all, he has got to satisfy himself that the form has been correctly filled in. He checks -- if it is an absolutely first application he checks the firearms. He has to establish the reason why he wishes the firearm, check it out that the reason is right -- say for instance he says he is going to shoot over land for vermin, has he got written permission? Is the land suitable for the type of weapon he wishes to use? If he is using it at a Club, has he got membership of the Club, and is the Club one which is suitable for that bore of weapon that he is applying for. He would make an assessment of the security arrangements for the firearm -- were they satisfactory? He would check the man out, using the/

the SCRO computer and the PNC, check out if he has had any criminal convictions or pending cases. He would check out Intelligence to see if there was anything there. In other words, he would make inquiries to ensure that all of those things were satisfactory. He would also check.....

What about -- sorry, carry on? - He would also check with the countersignatory to see if that was genuine, that it wasn't a forgery.

How significant to the police force and to the individual who has to make the decision is it that the countersignatory has certified as he is required to do? - Yes, it is important. As I say, it was a safeguard which was brought in by the Amendment Act of 1988, as I recall, in which a countersignatory was seen as someone who knew this man well, and he has got to say from his knowledge that the man is not unfit -- he has got no mental disorder and so on.

Do you know why that was introduced? - It was introduced as a safeguard so that we could have another view of him from somebody who knew him, who would be able to say that this person could be entrusted with a firearm.

How long would you expect the constable to spend in interviewing the applicant? - I don't know -- about half an hour.

And that would be the total -- potentially the total exposure of the particular applicant to the police force, in total, wouldn't it? - Yes.

And when the constable returns to the police station, armed with that information, and completes the RL3a, as we have seen? - Yes.

To whom does that constable then pass it on? - To his immediate superior, which is the sergeant.

And what role does the sergeant play? - Well, that is a difficult one, because on every shift you have officers of different ability. I mean, at one end of the scale you will have officers there who will have done that type of inquiry many many/

many times, and maybe you have recommended him already to be a sergeant. You know he is perfectly capable of doing this, you have checked it out many times before. You would probably give that a supervisory check over. But at the other end of the scale you might have somebody who is a very junior officer, and you would ask questions -- "Did you do this? Did you do that? How do you know that is right?", and so on. So what you would do -- it is not a simple answer. It would depend very much on the age and experience of the officer who did the initial inquiry.

And is that approach peculiar to firearm certificates, or does that come into play in other aspects of policing? - It pertains to the whole range of police duties. I mean, you have certain members of your shift who are highly experienced officers you can entrust with any type of job, and you have others who will be less experienced and less able, who you need to help along and give assistance. In fact, there might be somebody you could feel they might just not be capable of doing it.

And from the sergeant where does that then go to? - Well, the procedure changed and I really can't recall the exact date it changed. At one time it used to go right through the chain of command. Now the position is it goes from the sergeant to the local commander. Now, he could be of various ranks. He could be a Superintendent or a Chief Inspector.

And what role does the local commander play? - It is his duty to look at all the material that is in front of him and make a recommendation. I would also expect him to exercise his own knowledge of that particular area. Usually when you get to Chief Inspector or Superintendent you have a very good knowledge of the people and of the force.

And from there where does it go? - It would go to the Firearms Department.

And what function are they performing? - They look through carefully to see everything is there, and if there are any adverse comments at all -- by that I mean anything in there -- supposing it is/

is convictions, but they still say he should get it -- if there is something adverse there they would bring it for me to look at.

What different role does the Firearms Department play than that which was played by the local unit commander? - Well, it is the centre of administration for them, really. That is where they finish up.

And from there -- by "there" I mean the Firearms Department -- it goes to where? - It goes to me for signature -- although can I just make clear there is a staff officer in between them and me who checks it too.

So there is a further check? - Yes.

But again is that check more for administrative purposes? - To make sure there is nothing there that should be drawn to my attention.

Am I right in thinking that the system relies upon the inquiring officer and the sergeant, between them, making sure that all proper inquiries have been made? - Yes.

And thereafter it is other people inputting such information as they have to the final decision-making, but the inquiry is done at the lower end? - Yes. The recommendation is made by the local commander.

I asked you some questions earlier about what had influenced you, and I omitted to look at certain items which you didn't, I think by common consent of the Inquiry -- you did not see, and that was the local intelligence. I just would like you to have a look please at the various items of intelligence which were contained in the force's system at one time, at any rate, and to see if any of what is contained therein would cause you to have a different view. I think these items have been put before you. They are found in Chapter I, starting at D1I(iii), or alternatively D INTEL FD1. I think it was known as the nominal card for Mr. Hamilton? - That is D INTEL F1?

D INTEL F1 -- that is D1? - Yes.

Apart/

Apart from the comment which is "OMO" and "INDCHE", the rest is of a purely factual nature, or formal nature. There is nothing in that document which tells you anything; is that correct? - Nothing at all.

I wonder if you could over to the next item which is D2 I(iii), and this is dated the 15th November 1981, before you had joined the force, and what we see is a flyer? - Yes.

And a comment is put in the top left-hand corner. I wonder if you could just read out what that comment is? - "Hamilton is a suspected homosexual and operates the above-mentioned Youth Club. Boys playing truant from school, and being members of this group, have been found in Hamilton's shop. He would appear to encourage these boys and is prone to influence them against their parents".

Is there anything contained there which was unknown to you when you were coming to your view in relation to the holding by Mr. Hamilton of a firearm certificate? - I am not actually sure that I read that particular one, but it would not have influenced me one way or the other.

The next item is D3 I(iii), and that is from Sergeant Lowe. Is that something which you had seen at any point? - Yes, I have seen that before.

Can I ask you this, had you seen it when you were coming to your view as to whether Mr. Hamilton ought to hold a firearm certificate? - I don't think I did see it, but it would not have influenced me at all.

The next item is a submission from Detective Sergeant McBain of Alexandria, and it is D4I(iii), and that relates to the Inchmoan Island incident, of which you were aware? - Yes indeed.

The next items is a press cutting, and that is D5 I(iii), and again I think that is further comment upon the incident on Inchmoan Island? - Yes. I knew about that.

And you knew about that. The next one is D6 I(iii), and that is Mr. Hamilton's response in relation/

relation to the previous news cutting which we saw? - I am aware of that.

And finally -- sorry, not finally, but the next one we have is D7 I(iii), which is another cutting from a newspaper dated the 20th January 1989, and relates to a dispute which has been ongoing with Mr. Hamilton and Central Regional Council regarding the letting of schools? - I am aware of that.

You were aware of that. And going through we next come to D8 I(iii), which is a further cutting from the Falkirk Herald of 31st March 1989, and that would appear to be the further information which came to light after the police inquiry, Inspector Keenan's Inquiry, into the Inchmoan Island incident? - Yes, indeed. I am aware of it.

And there is nothing there of which you were unaware. D9 I(iii) is a comment that Mr. Hamilton is suspected to have been involved in indecent practices with young boys at a Boys' Club which he runs. I think you were aware of that allegation, I think, having been made against Mr. Hamilton? - Yes.

Is/

Is there anything else contained there which you were unaware of? - No, I don't think there is anything at all there.

The next item is Dl0 I(III) and that is dated in l995 I think, is that correct? The 25th? - l995, yes.

I think we have established it was l995. The month I am afraid is still obliterated on my copy? - Yes, the 25th January l995.

And again is there anything contained in that piece of intelligence of which you were unaware at the time when you were coming to your views? - No, not a thing.

Dll I(III) refers again to an expression of concern about a youth camp being run at Bannockburn High on a Tuesday evening? - I think that also was something which you have told us you were aware of even if you had not seen that particular piece of paper, is that correct? - Yes.

And the final item, D12 I(III) is an entry following a contact made by a reporter from the Daily Record? - Yes.

And it narrates that hand bills advertising the re-opening of Dunblane Boys' Sports Club were being circulated on the 7th September l995. Sorry, the sports club was to be held on that date but leaflets were circulating advertising its existence but that the reporter was no longer interested in looking into the matter any further? - Yes.

Is there anything in that at all? - Nothing of any significance there at all.

Can you recall having seen that before, before it was shown to you yesterday? - Not really.

You see, I think it was suggested to you yesterday that this contains a document which you had asked to be inserted into the file after the events of the l3th and perhaps it might be taken in some/

some way that this was a devious act on your part to put into the file what ought to have been there but wasn't there. Can I ask you whether this document ever should have been in the file? - I mean, there is nothing actually in it in the first place and if it should be anywhere it should be in the Intelligence file where anybody can have access to it. If I understand the question, it is a totally innocuous document and could be got from where it should be got, the Intelligence file.

THE DEAN OF FACULTY: My lord, I wonder if I may just seek clarification. There were a series of questions from my friend, Mr. Taylor, on behalf of the Central Police about the system and commenting in a question to the effect that the system is relying upon proper enquiry being made by the investigating officer and the Sergeant and the witness agreed with that and it was left in the air at that. I wonder if there is any implied criticism of the investigating officer or the Sergeant in that question and perhaps I could seek through your lordship an assurance that there is not to be any suggestion that the proper enquiries were not made by the investigating officer or Sergeant.

LORD CULLEN: I am not aware of that. I think he was simply giving a description of what their respective roles were, that that was part of the exercise going through the chain, as it were. Is that right, Mr. Taylor?

MR. TAYLOR: That was certainly my understanding, sir, and I did give an undertaking in relation to this matter when Constable Anderson was in the witness box and I have no reason to depart from what I said on that occasion.

THE DEAN OF FACULTY: It was the fact the Sergeant was introduced as well. That would concern me but presumably that would be covered?

LORD CULLEN: Just for the notes, the role you are fulfilling at the moment I think is on behalf of the Federation?

THE DEAN OF FACULTY: Indeed.

LORD CULLEN: I think that is the first time you have actually donned that mantle.

THE/

THE DEAN OF FACULTY: No, the second time. I think the first time I secured an undertaking from Mr. Taylor in respect of the Constable. I am just seeking it to the extent of the Sergeant now.

LORD CULLEN: Yes. Very well.

RE-EXAMINED BY MR. BONOMY: One suggestion emerging from your evidence was that there is no entry in Scottish Criminal Records if a person is not charged with an offence, is that right? - Yes, the way the system works is we put on pending cases with the various charges that have been put against an individual and then it is updated later on when either, you know, no proceedings are taken or if in fact he is convicted and the punishment, the sentence, goes on to it.

And if he is acquitted is it removed? - It is indeed.

No matter how suspicious it was? - Yes.

Are there also certain charges, even when a person is convicted, which don't get on to Scottish Criminal Records Office? - That is correct.

What are they? - Traffic offences which go on through the DVLC.

Now, serious traffic offences must get on to SCRO I take it? - Yes, we have a list of disqualified drivers for example which is on SCRO. That is used to indicate the more serious ones.

If someone is disqualified, can we take it that will be on SCRO? - Indeed.

One of the additional matters that you mentioned in cross-examination was the view, as you put it, of Mr. Holden of Mr. Hamilton after the benefit of a two-hour interview with Mr. Hamilton? - That is so.

Were you suggesting that at some stage in this whole history Mr. Holden's view might have changed? - Yes.

When/

When was that? - Subsequent to his interview of some two hours' duration with Mr. Hamilton following on from a complaint round about l993 I think.

Right now, is that an interview that Mr. Holden had with Mr. Hamilton at Mr. Hamilton's home? - Yes.

Can you remember the nature of the complaint he was investigating? - It was regarding photographic activity.

Was this a complaint about a child being photographed in what were circumstances that disturbed a parent? - Yes.

Can I take it that following that interview Mr. Holden had a discussion with you? - Indeed he did.

And what was the change in his impression of Hamilton? - Well, he said to me that perhaps the man had been misjudged and that he had answers to all of the questions he had put to him.

Now, that is a gloss obviously on Holden's comments on Sergeant Hughes' memo? Would you agree with that? - I am sorry.

That is a qualification to the view that Mr. Holden had expressed when he put his piece on to Sergeant Hughes' memo? - No, this was long after that.

Yes, I appreciate that but at the time his position was "I do agree with Detective Sergeant Hughes' appraisal of Mr. Hamilton. Do we have any latitude for progress in respect of revocation of his certificate?"? - Yes.

So by l993 are you saying that his position was different? - Yes.

Did that difference affect your overall judgment on your approach to Hamilton on the question of revocation if it was going to arise in l993 and the question of renewal in l995? - Yes, we take into consideration everything that comes to us and certainly I hold in high regard the officer's points/

points of view.

So if anything could be said it is that the concern of the officers below you by l995 might be viewed by you as not so great as it was in l99l, the end of l99l? - No, I am not saying that at all. I am only telling you that the particular officer's view had changed.

Now, you were asked a number of questions about where lack of trust might be relevant to a firearms certificate and you have quite rightly pointed out that many of the questions are hypothetical and might be said to be posed after the event. However, do you agree with me that the only proper way to read Detective Sergeant Hughes' memo is that he was talking about trusting Hamilton with children? - Yes, that was the subject matter.

And indeed he uses the words "I would contend that Mr. Hamilton will be a risk to children whenever he has access to them"? - Yes, that is correct.

Now, if we then take the last words of the memo, "He is a scheming, devious and deceitful individual who is not to be trusted", I take it we can view that as not to be trusted with children? - Yes, in terms of that being the memo.

If that is an accurate description of him, does that provide a basis for saying that his firearms certificate should be revoked? - No.

Why? In what circumstances do you think he can be trusted with children? - We are talking about his abilities as a youth leader, whether he can be trusted as a youth leader, which is entirely a different matter to considering whether he could be trusted with firearms.

This is a man that you, by that time, know has exhibited his weapons to children? - Yes.

So how do you divorce the question of possessing a firearm from the care of children when you know these things about the individual you are dealing with? - I think I explained that I felt that that incident that you are referring to has been totally innocent.

"I/

"I would contend that Mr. Hamilton will be a risk to children whenever he has access to them". You say you can divorce that? - Yes.

From the possession of firearms? - Yes.

Now, you were also asked about trust in one other regard and that was in relation to lying about whether or not he had taken eight rather than six spools of film but that lie was in the context of an investigation into a complaint that a child had been filmed posing in compromising positions wearing scanty clothing. Now, taking that lie in that context, does that affect the question of whether he is a fit person to hold a firearms certificate? - No.

Have you during your period in Central Scotland Police had complaints about any other youth leader insisting on this type of scanty clothing and photographing children? - No.

So we have a complaint repeated on a number of occasions that is unique? - I am certainly not aware of another.

And that unique complaint is well known to you both in l99l, late l99l, and in l995? - Yes.

Have the police in Central Region ever in your period of service had to attend at any other youth leader's camp because of complaints? - If they have I am unaware of it.

Have they ever had to attend at any other youth leader's clubs because of complaints? That is a general statement, complaints without qualification? - Quite frankly, all I can say to you is that if they have I am unaware of it. I won't want to give a categoric assurance that they have not.

You said at the end of your evidence yesterday that the only way to avoid a repetition of Dunblane or to be sure to avoid a repetition of Dunblane was to ban, I think you said, these semi-automatic weapons or did you say guns in general? - Yes, I was asked if there was, as I understood it, any/

any system which could be l00 per cent foolproof and I was asked what my preference would be to people losing the privilege of their sporting activities or banning all guns and my answer was to ban the guns.

That is guns completely. Can I just ask you a few questions which I think will arise in the minds of Lord Cullen in due course? That is whether short of that there are other methods of improving the system of regulation of gun control. You have described the system which exists at present which means that enquiries are done by a fairly junior officer, a decision is made by you as senior officer but without going back over the old ground as it were on the basis of what you know and have in your head about somebody. Can that system be improved upon? - There is no doubt that we would be moving every way in which we can to improve the situation. The trouble is that no matter how much you improve the present situation, within the definition of the law just now I can see no way of making it foolproof. I mean, there would be no system you can't improve clearly but readily off the top of my head I don't know what we can do under the present legislation.

There is a suggestion we may hear a little more about later on today that the decision should be delegated further down the line to the civilian officers or civilian staff that police forces are being encouraged to employ? - It has been suggested.

Is that a good idea? - It is an onerous responsibility.

But it goes then to the person who is actually conducting the enquiry to make the decision? - Yes.

Is there no room in this for a suggestion that the person who makes the decision, whether he be at a more junior level or whether he be the Depute Chief Constable, should undoubtedly interview an applicant at every renewal stage? - Well, the opposite has been suggested as you are well aware. I mean, we are being encouraged to do it by postal method. We didn't go down that particular road. I think it is important that they are spoken to at each renewal but we are being encouraged/

encouraged to take an opposite view. We have not adopted that although some Forces have.

Well, it is not for me to give evidence. All I was trying to do was to see if you have identified any particular thing that the officers of your Force might have done or could do in the future in relation to improving the way in which the system works to try to avoid a repetition of this. Now, can you think of anything such as further interviews and so on that would help? - I honestly can't think of any.

Now, just lastly you were asked to describe the system as it is or at least as it was just before the Dunblane tragedy. Would you look please again at FA63 which is Dl06. That is the RL3a form relating to the l995 renewal and if you look on the page with the signatures on it you will see we have got Constable Anderson? - Yes.

Sergeant Cowan, Inspector Cameron, Chief Superintendent Moffat, is that his initials? - Superintendent.

Superintendent Moffat, sorry? - Sorry, you are correct, yes, he was not at that time.

But as Superintendent Moffat he has signed it as Unit Commander? - Yes.

And then Mr. Mather, the Chief Inspector in the Firearms Department, is that right? - Yes.

The only difference I think there from the list you gave was that the Inspector has got involved down the line here? - Yes.

In addition to the Unit Commander? - Yes, I wouldn't have expected that.

BY LORD CULLEN: Just one or two matters about procedure I would like to get clear in my mind; so far as the enquiries are concerned, do I understand from you that there may be circumstances in which a Sergeant may make some enquiry of the enquiry officer? - Yes.

As opposed to merely taking the paperwork which appears to be all in order, is that right/

right? - Yes, my lord, it depends very much on the experience of the officer.

It is a variable thing depending really on the discretion of the Sergeant? - And the confidence he has in the officer.

And according to the procedure you have now, neither the Sergeant nor the enquiry officer has the file, is that right? - Yes.

But that will be before the Superintendent and the Chief Inspector, is that right? - Yes.

So/

So far as the counter-signatory is concerned what enquiries are to be made of the counter-signatory? - To see if in fact he has signed the form and he is happy with the applicant.

He is happy with the applicant? - Yes.

What does that mean? - Well, just to make sure he has read the form through and knows exactly what he is signing.

Do you mean that he is confirming to the enquiry officer that he fully appreciates what he is putting his signature to? - I agree with what you say.

So it is not just a question of asking him "Is that your signature? Did you sign this" but asking, going further than that, making sure he is fully aware of what he is putting his signature to? - I would expect that.

Presumably that would involve drawing attention to the substance of the guidance notes? - Yes. It does say so on the form.

And was that the practice? - That is what I would expect.

Is that laid down in Standing Orders? - In the Standing Orders it says you have to validate the counter-signatory.

What does that mean? - Check it and make sure the person who signed the form -- I would say I would expect them to phone the chap up and make sure he has signed it, make sure he is spoken to and understands what he has signed.

Is that what validate means? - Maybe I am expecting too much. I am only saying that is what I would expect.

You have been asked a number of questions about the terms of Section 30 which uses the expression about being a person unfitted to be entrusted with a firearm? - Yes.

If a person is entrusted with a firearm does that involve certain responsibilities are expected of him? - Yes.

And I suppose to be unfitted to be entrusted with a firearm means that a person is unfitted to discharge those responsibilities? In other words, he couldn't be trusted to discharge those responsibilities? - Yes.

Can we perhaps just explore for a moment what those responsibilities might be. Can you give me some indication as to what they might include? - Well, it certainly would include safe handling of the weapon, safe storage of it.

Safety is one? - Yes.

Presumably that means the safety of everybody, whether it is a member of the public or a fellow shooter? - Yes indeed.

I suppose obedience to the law would be another so far as was concerned with the use of a firearm? - Yes.

Or anything involved with a firearm? - Yes. Poaching, for example, would be one.

One responsibility is to act safely; another is to comply with the law. Can you think of any other responsibilities that would be effectively undertaken by a person who gets a firearm certificate? - (No answer).

What about his relationship with those in authority particularly so far as firearms are concerned. Are there certain responsibilities which would be expected, which you would expect off somebody holding a firearm certificate? - In relation to authority?

Yes, the police authority in particular? - I really don't understand the question.

For example, would you expect him to be honest in his dealings with the police authority? - Yes. I think that is expecting a bit much.

Well, if one can't rely upon a person to be/

be honest in his dealings with the police authority is he fit to be entrusted with a firearm? - You get many people who have dealings with the police and are not 100 per cent honest but doesn't in any way make him, mean this person is a danger with a firearm.

I don't know whether this applies to Central Region but I suspect that some police authorities do issue some kind of guidance to certificate holders as to what is expected of them. Is that the case in Central Region? - No.

Are you aware of any authorities issuing any form of written guidance to certificate holders to show in black and white what are the responsibilities of a certificate holder? - I know there is some guidance but whether it goes as far as that, my lord, I am not too sure.

Thank you very much. I am much obliged to you.

JOHN SHARP ADAMSON (50) Sworn

EXAMINED BY MR. BONOMY: Do you live in Stirling? - Yes.

Are you a retired police officer? - Yes.

I think you work with the Scottish Office? - Yes.

When did you retire from the police? - I retired from the police in April, 1995.

After how many years service? - 30 years service.

What rank did you hold then? - Chief Superintendent.

Could you please have a document in front of you which is FA64 (D101). You will see that is a firearms certificate of Thomas Hamilton which was current at the time of the Dunblane tragedy. I think you actually signed that certificate? - No sir.

Whose/

Whose signature is it you see there? - Douglas McMurdo.

Sorry, I have given you the wrong document, my mistake. I should have asked you to look at D87 which is an earlier certificate in 1992 (FA57). Is that one where we see your signature? - Yes.

And at that stage were you a Chief Superintendent? - Yes.

And what role would you be fulfilling when you completed that certificate? - I was Chief Superintendent in Headquarters Division and in the absence of the Deputy Chief Constable I had received a memo from the Chief Constable asking me to act in his stead for discipline matters and to sign papers acting as Deputy Chief Constable.

And did you regularly do that in his absence on leave? - Yes, I did.

Can you remember dealing with this document? - Not in particular, no.

Was it common for you to have a firearms certificate, whoever be the applicant, to sign in Mr. McMurdo's absence? - Yes, it was.

What documents did you have in front of you when you did that? - In the majority of cases I would have no documents other than the certificate itself.

In what circumstances would you have any other documents? - If the enquiry into the application or renewal had raised any question as to the suitability of the applicant then I would have been passed the file.

In the absence of a file what did you have to do before signing the certificate? - I had to be satisfied that the enquiry into the application and into the renewal had raised no facts which affected that renewal.

And how would you be satisfied about that? - The file was not passed to me.

So/

So in other words you are just having a piece of paper put in front of you for you to sign automatically? - The enquiry would have been carried out by officers and would have been checked by senior officers who would have recommended the certificate be renewed. It would have been checked by Headquarters and passed to me. I would only expect the certificate to have gone through if the process hadn't shown up any facts which.....

That means you didn't make the decision, you were signing the document as a formality? - No, I was making a decision inasmuch as I was satisfied the enquiry had been completed.

Only because nobody handed any other documents to you? - Yes.

CROSS-EXAMINED BY MR. CAMPBELL: Would you have a look at D82L. That is a memorandum dated 11th November, 1991 from Detective Sergeant Hughes. Have you seen this document before? - No, I haven't.

Could you just take a moment to read through from the beginning of the memorandum. You will see it relates to Thomas Watt Hamilton in relation to his firearms certificate. Were you aware when you were carrying out the renewing process in 1992 that in terms of the legislation you were required to consider whether you had any reason to believe that Hamilton was unfitted to be entrusted with a firearm? - Yes, I was.

If you had had in front of you Mr. Hughes' memorandum would that have provided a reason to believe that Mr. Hamilton was unfitted to be entrusted with a firearm? - No, it wouldn't.

Why not? - In my view the information contained in the report wasn't sufficiently factual to prevent the renewal in terms of my understanding of the Act.

I thought a moment ago you told me you hadn't seen the document before? - I was aware that the document had been submitted. I hadn't seen it before.

So you hadn't seen it but you were aware that/

that it existed? - I was told by Mr. McMurdo the report had been submitted and he had recommended no action be taken.

When were you told that? - I would assume that it was about the time that the report was submitted.

Let's just see if I am following this. You were aware in general terms that a report had been submitted about Hamilton's fitness? - Yes.

And you were aware that the decision was taken to take no action? - Yes.

Mr. McMurdo had mentioned this to you? - Yes, he did.

What -- just in the course of conversation or some specific reason? - I can't recall whether it was a specific reason or whether it was part of a conversation.

Now, when the matter then came before you for you to exercise your decision you were aware that this memorandum existed but you hadn't looked at it? - No, I hadn't.

Why not? - As far as I was concerned at that time the decision had been taken by the Deputy Chief Constable.

So when you say the material in this wasn't factual you are expressing that view having only seen the document for the first time five minutes ago? - Yes.

So/

12.20 p.m.

So what happened in 1992 was a rubber-stamping exercise? - I signed the form in 1992 in the knowledge that Mr. McMurdo had dealt with matters previous to his departure on leave; that the people who deal with matters, who directly reported to him and I would have expected to report directly to me, had brought no other matters to my attention -- in other words, the decisions that Mr. McMurdo had taken, nothing was given to me which indicated that those decisions could or should be altered.

At any time before you gave evidence to this Inquiry has anybody discussed the content of this memorandum with you? - No.

CROSS-EXAMINED BY MR. TAYLOR: Mr. Adamson, you were at the time the Chief Superintendent; is that correct? - Yes.

And Mr. McMurdo was the Deputy Chief Constable? - Yes, he was.

How often were you in contact with Mr. McMurdo in the course of your duties? - Daily.

And in the course of your discussions with Mr. McMurdo did you become aware of the dealings which he was having with a Mr. Hamilton? - Yes, I did.

Can you tell us what you knew of the dealings which Mr. McMurdo had with Mr. Hamilton? - I was aware that an inquiry had been carried out into a camp which Hamilton had run on a island in Loch Lomond, and later into a camp at Milarrochy Bay, again at Loch Lomond. In addition to that Mr. Hamilton was a prolific letter-writer to the Deputy Chief Constable, and it was almost a continuous process, as far as I was aware, in replying to his correspondence.

Were you aware of Mr. Hamilton having made complaints against the manner in which the Central Scotland Police Force had investigated the incident at the Loch Lomond Island? - Yes I was.

Can you tell us the nature of the incident/

incident which was investigated by Central Scotland Police in relation to the Loch Lomond Island incident? - As far as I was aware it was an allegation that the camp wasn't being properly run in terms of the environment and the conditions that the children were being exposed to at that camp.

Are you familiar with the nature of the complaint which gave rise to the investigation for Milarrochy Bay? - As far as I am aware the allegation was very similar. It was the nature and the regime of the camp that had raised the complaint.

In the discussions which you had had with Mr. McMurdo did he make reference to any reports which he had received in relation to Milarrochy Bay? - I can't recall a specific occasion, but I am sure he did discuss the matters at the time.

You have been shown a report from a Detective Sergeant Hughes. Were you aware that Mr. McMurdo had received that report? - Yes I was.

Had he discussed that report with you? - He, he did.

Had he expressed a view on that report? - Yes. His view was that the report in itself contained no evidence which was sufficent for him to make a decision on a revocation at that stage.

And were you aware of this at 1992, when you came to sign the renewal of Mr. Hamilton's firearm certificate? - Yes I was.

So you wouldn't have considered of new the facts which had been investigated in Milarrochy Bay and the content of that report which you have just looked at just now? - Sorry, can you repeat that please?

You wouldn't have looked further into the facts in relation to, or the facts underlying, the report which you have before you, D82L? - No, sir. The matter had been dealt with by Mr. McMurdo and as far as I was concerned he had made his decision on that basis.

So/

So although you may not have seen that report until just now, you were aware of its existence and you were aware of Mr. McMurdo's views on it? - Yes I was.

When you came to sign the certificate for the renewal of Mr. Hamilton's firearm's certificate, did you make the connection between the person whose name appeared on the form which you were to sign and the person who had been involved in the 1988 and 1991 incidents which you have talked of? - Yes I did.

MR. GIBB: Sir, there is one matter I meant to raise and I omitted it.....

MR. TAYLOR: Sorry, there is one document I meant to put to the witness as well -- if I might be permitted to do so.

LORD CULLEN: It seems to be catching.

MR. TAYLOR: Yes. I apologise.

LORD CULLEN: Right. Let's deal with you first and then Mr. Gibb can have his crack after that.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: I wonder if you could have before you document DCD156, which is D105K? That should be a copy of a letter addressed to Mrs. Mary Hogg at the Scottish Office, and it is dated the 3rd October 1991? - Yes.

And we see that it is signed by a Chief Superintendent and the Chief Superintendent who signed it has appended his intials to the letter. Do you recognise the initials which you see on that letter? - They are mine.

And can you recall the circumstances in which you came to write this letter -- to sign this letter to Mrs. Hogg? - As far as I can recall it was a letter prepared in response to an inquiry which had come from the Scottish Office, prompted by a letter from Hamilton. The letter, as I recall it, has been prepared by Superintendent Archibald for my signature.

And/

And the facts which one finds in it -- and feel free to take a little time to look at it -- were facts which were within your knowledge even although the letter may have been prepared by another officer? - Yes.

And having read the letter, are these facts facts which were within your knowledge? - Yes.

CROSS-EXAMINED BY MR. GIBB: If in fact there had been any doubts expressed anywhere down the line, would you get the certificate to sign just on its own, or would the file be made available to you? - No. Had there been any doubts then the whole file would have been passed to me.

Let us assume that administratively there had been a mistake and the file hadn't been passed to you, and you got the certificate simply on its own. Presumably then you would have signed it? - Under these circumstances I probably would have done.

Do you accept that that is not an entirely satisfactory system? - Yes I do.

You didn't even have the RL3a on which the firearm certificate was based? - As far as I can recall, I didn't.

MR. TAYLOR: A point arose out of the cross-examination by Mr. Gibb which I didn't fully understand, and I wonder if I could seek to clarify my own knowledge, perhaps, and it may be of benefit to the Inquiry.

LORD CULLEN: Well, if it is for the benefit of the Inquiry, carry on.

FURTHER CROSS-EXAMINED BY MR. TAYLOR: This may be my fault, but when the certificate in respect of Mr. Hamilton was put before you for signature did it come alone or did it come with anything else? - I can't recall specifically, but in the normal course of events certificates come in bundles.

Right. And it would only come with some other documentation if there was some concern expressed/

expressed further down the chain; is that a correct understanding? - That is correct. Had there been concern expressed anywhere in the administrative system I would have had it separately, with the file.

And can you recall if in relation to Mr. Hamilton's renewal in 1992 anything came before you other than the form for signature? - I can't recall that.

No re-examination.

BY LORD CULLEN: Just one matter. You told us you had been aware of the fact that the Deputy Chief Constable, Mr. McMurdo, had disposed of a certain suggestion that there should be revocation? - Yes.

That would be I think November of the preceding year. When it came to renewal you would have course have to deal with it as it was presented to you, namely an application for renewal of the certificate. So far as you were concerned was there any difference between the test which would require to be fulfilled for renewal as opposed to the test which might be applied in considering the revocation? - Yes. I would have considered if it had been a test for revocation then I would have been given the background and the evidence on which that was based.

What I am really thinking about was the approach you adopted towards the language of the statute -- you follow me? - Yes.

When dealing with revocation obviously you have to be satisfied that a certain matter is established? - Yes.

But when it comes to renewal what is the test? Is it the same kind of test dealing with the same kind of matters, or is it different? - In my view at that stage I would have expected that had there been anything whatsoever in connection with that renewal which had raised any doubt at all, the people who were reporting to Mr. McMurdo would have reported that to me, and in the absence of that I would/

would have accepted that the test had been carried out and this was the final part of the renewal process.

So as far as you were concerned, in the absence of any other information, you would dispose of the renewal in exactly the same way as the suggested revocation had been disposed of? - That is correct, if there was no other evidence then I would have.

LORD CULLEN: Now, Mr. Bonomy, what next?

MR. BONOMY: The timing is not very good in this, because I may seek leave in the afternoon to interpose certain evidence. The next witness I propose to take now is Alexander Robertson, the Chief Inspector who investigated the firearms certification history, and he will not be anything like as long as Mr. McMurdo, but he will be quite a lengthy witness when compared with many of the witnesses in the Inquiry. It is quite convenient to start him, though, at this stage, and it may well relieve some of the tedium to get 20 minute of it done before lunchtime.

LORD CULLEN: Well, perhaps if we start him, and if evidence is available after lunch.....

MR. BONOMY: Yes, if there is someone to be done I will do it immediately after lunch.

ALEXANDER ROBERTSON (37), Sworn:

EXAMINED BY MR. BONOMY: I am a Detective Chief Inspector with Central Police and I have been a police officer for 18 years.

Where are you based at the moment? - I am based in the CID Department at Police Headquarters, Stirling.

Now, what was your role in the investigation in this case? - I was asked to investigate/

investigate Mr. Hamilton's involvement with firearms, basically every aspect of that.

And did that include looking at the force's involvement with Hamilton in so far as they dealt with the certification? - Yes, indeed.

I think in some areas the inquiry has gone outwith the Central Force area into other areas? - Yes.

Now, much of the evidence you gathered has been given or dealt with by other witnesses, and I just want to deal with certain aspects of the Inquiry that have not so far been dealt with. The first of these is to look at what was described as the report on a thematic inspection of the firearms licensing systems of the Scottish Police forces in general? - Yes.

Now, before I ask you to look at the document, can you tell me what a thematic inspection is? - I think it is really just an inspection of a theme, so that licensing is a theme, so it is a matter of inspection of firearms licensing.

And this was by Her Majesty's Inspector of Constabulary and his staff? - Yes.

Now, would you look at first of all FA195, which is right at the beginning of folder L7? - Yes.

Now, is that a letter enclosing a copy of the draft report for the Chief Constable of Central Scotland Police? - Yes it is.

And the letter is dated 8th February 1996? - Yes.

For comments by the 26th? - Yes.

And with it do you have the report itself? - Yes, I do.

Would/

12.40 p.m.

Would you also have FA194? Is that another letter, this time dated 22nd November l995, also to the Chief Constable? - Yes.

But both of these letters came from the Chief Inspector himself? - Yes.

The November one I think was sent before the Inspection had been done before the report was available? - Yes.

I think if you look at the first paragraph of that letter it says "In the meantime, I thought it would be helpful to briefly highlight some of the main issues raised by the scrutiny of your own Force"? - Yes.

Can you read the next paragraph please? - "There is no doubt that the thematic report will encourage Forces to consider the civilianisation of their Central Firearms Licensing Registries and the appointment of civilian firearms examiners. Central Scotland Police have progressed well along this route and HMIC will continue to support the Force in relation to the appointment of a second firearms examiner to enable the majority of enquiries to be taken away from operational police officers. In addition, the difficulties within the Firearms Department resulting from a lack of permanent clerical support have been noted and, once again, the Inspectorate's full support will be given for the establishment of such a post".

I think the next paragraph really continues the same theme on the question of having a second firearms examiner by making the point that we have heard about, that the firearms examiner's work has been largely restricted to certificate renewals and he has been able to bring a consistency of approach which has not extended right through the whole Force area? - Yes.

It is noted that this issue will be resolved by the appointment of a second firearms examiner, is that right? I think that is the same paragraph? - Yes, it is. Yes.

The only other matter I want to ask you about/

about in this letter is at the foot of page 2. Can you read the bottom paragraph? - "The introduction of postal renewal arrangements have facilitated the administration process in a number of Forces and, once your firearms examiner has provided a solid foundation in terms of security, types of weapons held, etc., I would recommend that consideration be given to piloting a scheme in Central Region. One renewal initiative in your Force which is worthy of commendation is the provision of a Freepost return facility. I regard this as an element of good practice and will encourage its adoption by other Forces."

We have heard evidence that this was used in the context of Mr. Lynch actually going out with the application form and meeting the applicant for renewal before he sent in his form in that envelope, is that correct? - Yes.

Now, can I ask you to look at the report itself which is in a number of chapters. We will deal with the ones that are of relevance to the circumstances arising out of the Dunblane tragedy. The first thing I want to ask you to look at is the introduction and paragraph l.3. Can you read that to us please? - "The change is introduced by the Firearms (Amendment) Act l988 allied to concerns expressed by the shooting public in relation to inconsistency and the way in which Forces dealt with firearms licensing across the country have provided the impetus for a number of reviews of practice in recent years. As a result, there is already a wealth of good practice guidance on firearms licensing which has provided the framework for Forces to develop and improve their administrative systems".

That is fine, thank you. Would you now go over the page to l.4 and read that to us? - "Although there was some input from Scotland to both the ACPO and the Home Office reports there has never been a detailed examination of the firearms licensing practice specifically aimed at Forces north of the Border. This is partly due to the fact that during the period l992-l994 consideration was being given to the introduction of a national non-police Firearms Licensing Board to take over the firearms licensing activities carried out by the police. The proposal for such a civilian authority arose/

arose from a desire to produce a more consistent and arguably more effectively administered firearms licensing system at a reduced cost whilst at the same time enabling operational officers to devote more time to eventual police tasks".

Now, does it go on to say that this issue was resolved against having such a Board because the cost compared unfavourably with the best estimated costs of the police system? - Yes.

Now, would you read l.5? - "In view of the uncertain future at that time, HM Inspectorate considered it unreasonable to expect Forces to invest significant resources in their firearms licensing systems. However, now that the ghost of the Firearms Control Board has finally been laid to rest, there is no excuse and the Inspectorate therefore decided that the time was right in l995 to examine the firearms licensing service provided in Scotland".

I think l.6 gives us some interesting statistical information. Can you read that for us please? - "At the end of l994 there were 3l,952 firearms certificates on issue in Scotland and Forces had dealt with 2,005 applications for a new firearm certificate during the year. There were also 70,424 shotgun certificates on issue and 3,653 new applications processed. The estimated turnover of renewal during the year was 9,210 firearms certificates and 21,140 shotgun certificates. Information on the number of applications for visitors' permits was collected for the first time in l994 and Forces received 3,311 applications for a firearm visitor's permit and 5,428 applications for a shotgun visitor's permit. There are now 350 registered firearms dealers in Scotland, the highest number recorded in the past l0 years. Appendices 'A'-'D' provide full statistical information on firearm and shotgun certificates derived from the Scottish Office Statistical Bulletin published in December l995".

Now, can you miss the next paragraph please and would you read to us l.8? - "Many members of the shooting public object to the fact that their pursuit of a lawful sport or hobby is governed by Acts of Parliament which, along with the involvement of the police in administrative procedure/

procedure, are seen as placing too much emphasis on the criminal aspects of firearm use at their expense. However, the main customer of the system is the general public at large and public safety and protection is the fundamental principle underlying the current arrangements. HM Inspectorate of Constabulary is therefore firmly of the view that firearms licensing should continue to be a police responsibility".

Now, I think the next two paragraphs tell you the method by which the inspection was carried out throughout the country and that included taking account of points being made by people with an interest in shooting? - Yes.

Now, can I ask you to look at Chapter 2 which is "Organisation and Management" and the second paragraph of that, 2.2, deals with the issue of civilianisation? - Yes.

The second half of that paragraph I think says "However, until recently progress towards civilianisation in firearms licensing has been hampered by legislation which did not exempt civilians from the need to hold a firearms certificate when possessing firearms in the course of their duty" and goes on to say that legislation changes have allowed that now? - Yes.

I think if you go to 2.3, at the middle there is the statement "The lack of knowledge of firearms among some of the officers tasked with firearms enquiries has certainly been a cause for friction in the past and contributed little to the professional image of the service in such matters"? - Yes.

"In order to address this problem the ACPO....." -- that is the Association of Chief Police Officers -- "..... scrutiny recommended that nominated trained staff should be used to deal with enquiries"? - Yes.

Can you confirm what I think is already fairly clear from the evidence, that in so far as Mr. Lynch did not carry out enquiries in Central, it was just whatever police officer was in the area and available to do the enquiry? - Yes.

Rather/

Rather than a specially trained officer? - That is correct.

Now, can you look at 2.5 at the foot. It says there "Although Forces have a wealth of civilian firearms licensing experience, the level of delegated authority varies enormously across the country" and we are looking there at the question of who actually makes the decision, is that correct? - Yes.

And in some areas it is the Assistant Chief Constable who does so, is that right? - Yes.

And indeed in relation to shotgun certificates an Inspector in some areas actually signs the shotgun certificate? - Yes.

There is also reference to one area where all the certificates are passed to a police officer in Headquarters for facsimile stamping? - Yes.

Now, the last sentence I think gives us the opinion of the Inspectorate to that procedure? - Yes.

What is that? - "Such an arrangement is completely unsatisfactory".

Now, I think we then look at the question of how an enquiry is carried out at 2.6. Will you read that paragraph please? - "One of the most important aspects of firearms licensing is the procedure used by Forces for making enquiries with applicants for a certificate. This is the practical interface between the police and the shooting public and the way in which such enquiries are carried out can have a significant influence on perceptions in relation to the professionalism and efficiency of a Force in terms of firearms licensing. In addition, the recent change to a five-year certificate and progression towards the increased use of postal renewal arrangements place even more emphasis and importance on the need for thorough enquiry to be made into all initial applications".

So what we are looking at here is thorough enquiry into applications for an original grant/

grant? - Yes.

Because there is the potential for postal renewal coming along? - In the future, yes.

And then it goes on "Forces can only be certain of achieving this if the personnel undertaking the enquiries are suitably qualified and knowledgeable about firearms issues"? - Yes.

Can you read the next part please? - Of the same paragraph?

Yes, from "Many shooters....." towards the right-hand side? - "Many shooters are able to regale any willing listener with anecdotal evidence of police officers who have very little knowledge or experience of firearms and their uses attempting to make 'thorough' enquiries regarding an application for the grant or renewal of a certificate".

And the word "thorough" is in inverted commas there, is that right? - Yes.

Carry on please? - "If a professional approach is to be achieved then it is no longer acceptable for Forces to delegate such enquiries to police officers who have not been sufficiently trained to do what is expected of them".

So the encouragement is towards civilianisation, is that correct? - Yes.

And is it also correct to say that the Inspectorate confirms that the civilians who have been appointed are good at their job? - Yes, experienced.

I think if you look at just over half-way through the next paragraph, "They are all well qualified to undertake firearms enquiries and have a strong commitment to providing a quality service. The Inspectorate was impressed by their approach and enthusiasm and, although it is early days yet, their introduction appears to have been very well received by the shooting public"? - Yes.

And then just to complete this chapter, can you go to 2.9 where the recommendations are set out and do the recommendations go as far, at the end of/

of 2.9, as "that Forces delegate both decision-making and signing authority where appropriate to authorised officers who are directly responsible for the administration of firearms licensing"? - Yes.

Now, what officers do you understand that the recommendations relate to? - The civilians within the Department.

So in your case it would be Mr. Lynch? - Yes.

And the proposal there is that he should have the responsibility for making the decision? - Yes.

Now, the next section deals with technology. Can you confirm the one thing that the Inspectorate was concerned about was the lack of an available terminal within the Firearms Department on which the necessary checks could be made on records kept by the Police and by Scottish Criminal Records? - Yes.

And that there is a recommendation that that sort of equipment should be installed? - Yes.

I think there are various other recommendations about improving the technology used for processing firearms certificates in the administration part of the exercise? - Yes.

And anyone who wishes can read the detail of that in these documents? - Yes.

Can I take you to 3.7 please? It is also being suggested that technology could be used to improve the storage of records? - Yes.

And there is a recommendation at 3.8 that "Forces review the level of technology provided to their Firearms Registries, particularly from the point of view of providing 24-hour access to the database to operational officers"? - Yes.

If we now turn to Chapter 4. That I think deals with licensing procedures? - Yes.

Now, the paragraph in the centre there I think deals with the fact that there has been a review/

review of licensing forms? - Yes.

Apart from those in relation to firearms dealers? - Yes.

"And following protracted legal consultation, it is now anticipated that the revised rules will be issued in mid-l996". Now, does that suggest that it was anticipated at that stage there would be new forms for applying for a firearms licence? - Yes, it appears to be.

Do you know what the position is in regard to these forms? - No, I am sorry I don't.

Now, can you go to 4.5 which deals with the amount of guidance given to enquiry officers who are carrying out the enquiry at the homes of applicants? - Yes.

Can you read that to us please? - "The level of guidance available to enquiry officers differs significantly from one Force to another. One Force has designed an excellent 'Beat Officer's Guide to Firearms' pocket book which provides information and advice on a wide range of firearms issues. In other Forces guidance is incorporated into instructional or Standing Orders. The quality of this guidance varies enormously and in one Force the Standing Orders have been revised to such an extent that information on firearms licensing is almost non-existent. Officers with difficulties in relation to firearms licensing enquiries are directed to contact the Registry for advice. However, outwith office hours the Registry personnel are unavailable. In all cases where firearms enquiries continue to be carried out by operational police officers....." -- and that is highlighted -- "It is essential that they receive appropriate training and guidance to enable them to undertake the task required of them. It is unsatisfactory and unprofessional to expect officers to muddle their way through a firearms enquiry by relying on other shift colleagues, or even supervisors, who may themselves not be well acquainted with what is required. Comprehensive but concise and user-friendly guidance is required, supported by an input to training courses by firearms administration officers. In addition, the Home Office 'Firearms Law: Guidance to Police' publication should be readily/

readily available to all enquiry officers. In order to provide a quality service, not only to shooters but to the general public at large, police officers undertaking firearms enquiries must know what they are doing and be confident to ask the necessary questions".

Now, is that document, the Home Office "Firearms Law: Guidance to Police" available to all Central police officers? - It is available at most stations, yes.

Do you know which Force has this excellent "Beat Officer's Guide to Firearms"? - I think it may be Grampian but I am guessing.

It is not Central which has that? - No.

And can I take it the Home Office Guidance is generally available to officers along with Standing Orders? - It would be available in stations but I would imagine there is only one copy per station.

What about the Force Standing Orders? - The Standing Orders would be available to every officer in each station.

Is every officer sent a copy of the Standing Orders? - No, there will be a copy held by each supervisor so each Sergeant, Inspector and Chief Inspector would have a copy for use by the officers.

These are supplemented by circular letters every so often? - Yes.

Are they held in the same way? - Yes.

After/

2 p.m.

After an adjournment for lunch.

MR. BONOMY: Sir, I am sorry about the delay in re-starting this afternoon but a number of administrative matters have required attention and there are certain other matters I would like to deal with if I may.

The first of these relates to a witness who was invited to attend the Inquiry called Victoria Haggar who has been reported in the Press as missing from home. I have considered the position very carefully and have formed the view that the Inquiry would be put at no disadvantage by not hearing her evidence. From what I can tell of the police investigation it does seem to me that all the evidence that the Inquiry needs is covered by other evidence already before the Inquiry. So with that in mind I suggest to you, sir, that it will not be necessary, subject to comments that may be made by any other parties, to require her attendance here. I hope that that decision may give some reassurance to her if it is the invitation to this Inquiry that has caused her to leave home.

LORD CULLEN: Thank you. Any of the parties have any comment on that to make or any other alternative suggestion? Very well, we will proceed on that basis. I am content that should be the course of action.

MR. BONOMY: All I can do in the circumstances is to intimate to her mother by letter that her attendance is not required.

The second matter I wish to deal with at this stage relates to a report which appeared first of all in the Daily Record, at that time an anonymous witness making certain allegations about evidence given by Constable Hamilton. That witness has been identified and has been interviewed and an invitation extended to him to attend the Inquiry and give evidence that he thought may be of assistance to the Inquiry. He has declined that invitation. He has given a reason for declining the invitation which on the face of it does not appear entirely satisfactory. In view of the fact that it does appear/

appear he may be able to attend personally I have extended a further invitation to him to come on Monday. If, however, he still declines to come what I propose to do is to read to you, sir, the statement that was taken from him by the police following the report in the newspaper. Now, intimation will be made to his solicitor that that decision has been made so he is fully aware of what I propose and hopefully we may well have his evidence on Monday.

LORD CULLEN: Any party want to comment on that particular matter? Very well, we will proceed again on that basis, I am content with that having considered the matter.

MR. BONOMY: The third matter is this: I have invited Dr. Hanley who was Mr. Hamilton's general medical practitioner to give evidence to the Inquiry. It would be most unfortunate if, with his responsibilities, he was kept waiting for the rest of the afternoon which he may well be while we take the evidence of Mr. Robertson. I would accordingly invite you, sir, to allow me to interpose his evidence at this stage.

LORD CULLEN: Certainly.

DR. ROBERT IAN HANLEY (34) Sworn

EXAMINED BY MR. BONOMY: Are you a general medical practitioner? - I am.

I think your practice is at Park Avenue Medical Centre in Stirling? - It is.

How long have you been qualified as a medical practitioner? - Nine years.

What are your professional qualifications? - M.B., Ch.B.

I wonder if you would look please at a Production which should be the medical records of Thomas Hamilton which are in file H(iii)D1 (DANT13). Are these your practice medical records for Thomas Hamilton? - Yes.

What address did you have recorded for him?/

him? - There was some confusion about that. The address in the records is stated as 13 Charter Street, Stirling. There is a handwritten note next to that telling us that we were advised of that address by the Health Board in May, 1993. But that is wrong, given the recent entry, the only entry in the notes for the Casualty attendance when he gave his address at Casualty as 7 Kent Road, Stirling.

Apart from the Casualty Department entry which is a hospital entry were you aware of that address? - He isn't a patient I have ever consulted so I wasn't.....

Am I right in saying apart from the hospital record his address 7 Kent Road doesn't appear in the medical records but there are certain older addresses? - That is correct, yes.

Now, that may be a reflection of the frequency with which Mr. Hamilton consulted the practice? - Yes.

When did he last consult your practice? - From recollection it was 21 years ago; can I just check that.

Just confirm that, would you? - Yes, 22nd January, 1974.

We have already had evidence about the records to the effect that he only really had minor skin complaints and had stomach upsets to attend the doctor with. Can you also confirm that you have got there the Glasgow medical records from the time before he moved to Stirling? - There is an address in Bellrock Street, which I believe is in Glasgow; it doesn't actually say. Just about that, the Charter Street address subsequently listed -- we had another patient called Thomas Hamilton and I suspect the Health Board was confused over that and I think that is where that address came from.

I take it this follows the fact the only attendance that you know of at either doctor or hospital in the last 21 years was the attendance at the hospital for the sprained ankle? - That is correct.

And that was when? - 16th March, 1993 -- 5/

5 o'clock in the morning was the attending time.

Do you know anything about shooting? - No.

Do you know if you have got any patients who have firearms certificates? - Yes.

Have you ever had to do anything in your capacity as a doctor that relates to the fact they have a firearms certificate? - I have one patient that on the past two occasions I signed the necessary form.

You are the counter-signatory on the application form? - Yes.

Because you know the patient you fell into the necessary category? - Yes.

Apart from that have you had any involvement professionally with the granting of firearms certificates? - No.

If someone had wanted information from you about the fitness, the medical fitness of an applicant wanting to hold a firearms certificate would you have been able to provide it? - Certainly not without knowing him.

You would have had to carry out some sort of examination? - Well, in those circumstances, I mean, I certainly wouldn't sign a form for somebody I don't know. It isn't actually so far as I know a pre-requisite that a patient needs to be examined but obviously it needs to be somebody that you know, have knowledge which I clearly didn't have of Mr. Hamilton.

So if it was something separate from the application form, more of a medical opinion about fitness from a medical point of view of the person to hold a firearm certificate, if you were asked to do that for Hamilton you obviously would need to see him? - Yes.

Do you think you could do that on the strength of the records there? - Certainly not on the strength of his records, no.

Could/

Could you do it for a patient who attended regularly without having a special examination of him for the purpose? - I don't think I would be qualified to medically examine somebody as to his suitability for firearms in any event.

I take it you don't see a role for yourself in the process for applying for or vetting for a firearms certificate? - Not necessarily. I certainly don't think we should be put in the position where we say this person is fit to have a firearms certificate. I have thought about this, and I can see where I may be in a position if I know something about this patient that perhaps nobody else would know that in our opinion would raise doubt about that fitness.

It may be very difficult to devise a proper question and a proper scheme for that, but would you see your role as covering the role of identifying the reasons which should prevent a person getting a firearms certificate? - I think that is perhaps more realistic than saying somebody is fit. I think almost perhaps some sort of veto to say they should not be allowed a firearm, he would be a danger in that situation.

Even in the situation where you knew the patient well? - I think, yes, personally I would still perhaps in the light of this event, still have reservations about the proposition I might not have had before.

Are you aware of a procedure that you might follow which relates to something being pointed towards one of your patients being a danger with a firearm for which he had a certificate? - As far as I know I don't know of any procedure because I have never come across the circumstances.

There is a suggestion in evidence which I think the Inquiry will consider that at the present time it is possible for a doctor to inform the police that a person does have a weapon which the doctor has cause to think may be misused or be dangerous to others? Are you aware that that would be an acceptable thing under GMC guidelines that a doctor should disclose to the police? - Yes. I think that would probably be a course of action for which you would have to -- I mean, most GPs will not know/

know whether their patients have firearms certificates in the first place.

What I am anxious to establish though is whether it is generally known by doctors who have patients with firearms certificates they wouldn't be breaking any pledge that they have taken if they were to disclose to the police that one of their patients was a suspected danger with a firearm? - I think there is a potential problem in that you would be breaching the patient's confidentiality by informing the police the patient had -- this is assuming you are doing it outside the patient's consent, which perhaps is slightly.....

I am advised or instructed by some evidence to the Inquiry that the GMC has guidelines on confidentiality which does allow doctors to disclose that type of information? - The over-riding concern is you are acting in the patient's best interests. Obviously there is a duty to the public at large as well, and if you can make a sufficient case to say in all the circumstances you may breach confidentiality then you have an obligation to do so, but I would not be very certain of the situation.

Is that similar to the situation that applies to patients who are drivers with licences and if you think they may be a danger on the road? - Yes. The obligation clearly rests with the patient to inform the DVLA if they have a condition, if they have any complications, to let them know. If you know, you are certainly allowed to breach their confidentiality and pass that information on.

If any system involving doctors were to work of course it would be necessary for the doctor to be told in every case where a patient had a firearm certificate? - Yes.

Do you see any problem about a requirement that a person should disclose to a doctor or the doctor should be told he has got a firearm certificate? - I don't see a problem with the doctor knowing that. Almost intrinsic in that is that the doctor does have some obligation in terms of the patient maintaining his licence which I think some people may have some reluctance with.

CROSS/

CROSS-EXAMINED BY MR. CAMPBELL: Do I understand correctly from some of your evidence that what you had in mind as a potential role for the medical profession is to participate in what could be described as information gathering by the police in investigations for suitability of an applicant for a firearm certificate? - Personally, speaking personally, I think that is reasonable, but I can envisage circumstances where the only person that might know something that would be extremely relevant where a patient has a firearm certificate will be that patient's GP. If they are excluded from assistance that information may never come to light.

To take a hypothetical example: if a patient has been referred by yourself to a consultant for treatment of a psychotic condition and that patient subsequently applies for a firearms licence I think plainly it would be desirable that the police authorities should know about his mental state? - Yes, I think so.

And in these circumstances an inquiry of the GP would seem to be a fairly basic and obvious step? - I would have thought so. There again, the confidentiality aspect comes into that. It would involve certainly the applicant for the licence giving permission for medical details to be released to a third party.

Unless perhaps one has the kind of guidance from the GMC mentioned a moment or two ago by my learned friend Mr. Bonomy which might provide some reassurance to doctors in that regard? - My understanding of that was in different circumstances where it would be that something came to light and you have an obligation perhaps to pass on that information: whereas if you are talking about the initial application process -- I mean, probably these are grey areas -- perhaps somebody had a drink problem in the past, should they be able to have a firearms certificate. I don't think many GPs would want to have the responsibility to say Yes, this patient is fit. As I say, providing the information and somebody else makes that decision is perhaps reasonable.

I can understand that entirely, and what you have in mind is responding to a request for information/

information rather than responding to an inquiry as to stability? - Yes.

Would you agree that when police authorities are considering whether or not a person is or is not suitable to be entrusted with a firearm the more information they have about that person the better? - Yes.

CROSS-EXAMINED BY MR. TAYLOR: I wonder if you could elaborate a little bit on the evidence you gave a few moments ago as to why it is you feel that you wouldn't like to certify that a patient you have seen regularly was fit to be entrusted with a firearm? - I have thought a lot about that because of my personal views perhaps as a general practitioner, and I suspect that there are general practitioners who would say no member of the public should have a firearm, which then puts them in an impossible position in deciding on a patient where perhaps another GP would seem perfectly satisfied. It is maybe too much of a personal decision based on a GP's personality as to his thoughts on the whole issue of the public having guns, rather than just the suitability of that one particular patient.

What would be your position in regard to the suitability of one patient -- this is leaving aside reservations which a GP may have -- from the ethical point of view? - I think they would be able possibly to say I have no particular reservations about the patient in the light of my knowledge of him, of his past behaviour and illnesses that he may have, whether he is or isn't fit to hold a licence. The problem is that you can have people from perfectly stable backgrounds who then develop mental illness and that will always be at the back of a GP's mind.

Would that mental illness not be detectable by the GP? - It may develop the week following the consultation. You can't predict who is going to get a mental illness. It can happen to anybody.

BY LORD CULLEN: Your concern really would be you may feel somebody may be fit at one point and become unfit later? - Well, also you are making a value judgement about something perhaps which you are not qualified to do. Some patients you/

you get to know very intimately; a lot of patients you don't get to know at all because you have seen them a very few number of times, perhaps they are fairly new applicants for a licence, and we are put in a position of not knowing enough about them to say they are fit to hold a gun licence. Perhaps Thomas Hamilton was an example of that. Had he attended his general practitioner at the normal rate for minor illnesses, I don't know, I don't see that I or anybody else would have been in a position to say this man is mentally ill or in any way predict what he may be capable of.

No re-examination.

ALEXANDER ROBERTSON (Recalled)

EXAMINATION CONTINUED BY MR. BONOMY: We have dealt with paragraph 4 and 5 dealing with guidance of enquiry officers. Paragraph 6 deals with the question of the RL3a form by which the Force has developed its own style of enquiry report pro forma to assist in the processing of the application? - Yes.

I think there is a move afoot at the moment to standardise these? - Yes.

The Home Office seem to be working on that? - Yes, that is correct.

Can we move now to 4.8. That deals with background checks. Could you read the paragraph please? - "Before a firearm or shotgun certificate is granted Chief Constables must satisfy themselves that the applicant is not prohibited under the Firearms Act from possessing firearms. The police must also be satisfied that the safety of the public will not be endangered by an applicant's possession of weapons and ammunition. Forces therefore carry out full background enquiries on all applicants in order to establish their character. The Rehabilitation of Offenders Act 1974 does not apply to an application for a firearms certificate and applicants are therefore not entitled to withhold information on their previous convictions. In most Force the enquiry officers themselves are required to carry out the necessary checks with SCRO/PNC and details of any previous convictions need to be attached/

attached to the completed firearms report. If an applicant has resided within another Force area during the previous five years then background checks will also be made with the Forces concerned, particularly in relation to any cases where a previous application has been refused".

Was that last practice followed in Central? - As far as I know, yes.

The next paragraph deals with refusal or revocation. I wonder if you could read that please? - "The Police may refuse or revoke a certificate if they have good reason to believe that the applicant is of unsound mind or intemperate habits. All the relevant facts need to be taken into consideration and this includes drink-driving offences. Most Forces now automatically check with the Driver and Vehicle Licensing Authority (DVLA) and the use of such offences in consideration of an individual's suitability to become a certificate holder has been upheld by the Court of Appeal. Also of relevance are the applicant's antecedents and associates. For this purpose local Criminal Intelligence is of value. Although an applicant may not have any previous convictions local Intelligence may reveal a degree of involvement with criminal associates which would put public safety at risk. The level of guidance given to enquiry officers in this respect varies and HM Inspectorate would encourage all Forces to enhance the awareness of the importance of thorough Intelligence checks not only with local collators but with other colleagues who may have personal experience of the applicant which has not been recorded".

I think the rest of that paragraph goes on to deal with the civilian firearms officers who in the early days didn't have any personal contact perhaps that the police had, didn't know the police all that well, and stressing the importance of getting to know their colleagues and finding out all they can from police officers? - Yes.

And there is also encouragement there on operational officers to pass on information to enquiry officers and administration personnel? - Yes.

Now, there is a lot about security but that/

that really is not a subject I think that is of particular importance at the moment. If I can pass on to paragraph 4.25 which deals with counter-signatories? - Yes.

What I would like you to do is perhaps read the last six lines of the paragraph, "It is understood that"? - "It is understood that the ongoing revision of the firearms rules will probably abolish the list of appropriate counter-signatories and in future the requirement will be for such a person to have only known the applicant for two years, family members excluded. Notwithstanding this measure HM Inspectorate fully support the view that the current counter-signatory requirement should be discontinued".

So HM Inspectorate does not need a counter-signatory at all? - That appears so.

Now,/

2.30 p.m.

Now, can we move to Chapter 5 and 5.2? - Yes.

And do we see there the question of postal renewals? - Yes.

And does it say there that both the Association of Chief Police Officers and the Home Office have encouraged forces to carry out the thorough investigation of all initial applications so that a postal renewal system, supplemented by home visits only where strictly necessary, could be introduced, thereby reducing the time, workload and cost of the renewal process? - Yes.

And 4 Scottish forces have introduced a postal renewal system for shotguns; is that right? - Yes.

Now, no one has it, or does anyone have it for firearms? - I think Lothians may have some sort of scheme, but I am not sure.

They are the only ones? - Yes.

And it is suggested that home visits could be done on a random basis; is that right? - Yes.

Just to check up on how the scheme is working? - Yes.

Now, then, read 5.3? - "There is no doubt that, with the recent increase in certificate life to five years, there is a need to provide an adequate system of checks and balances to maintain the integrity of the postal renewal procedure and guard against complacency. A 10 per cent to 15 per cent monitoring sample would appear to be adequate for this purpose. However, the effectivenes of such a procedure might perhaps be enhanced if steps were taken to ensure that future samples do not focus on the same individuals to any large extent".

Could I just stop you there. That is so that the reviews will be spread over the whole population of holders of certificates? - Yes.

Could/

Could you go just to the end of the paragraph now. Does it say there, "Discussions with the civilian firearms inquiry officers revealed that discrepancies were often identified at renewal time, for example the possession of shotguns which are now classified as Section 1 Firearms"? - Yes.

Now can you go to 5.5, over the page. I think there we do have confirmation of the one force which has introduced a postal renewal procedure for firearms? - Yes.

And that force "Considers the postal renewal is both appropriate and safe, provided that thorough inquiries and checks are carried out at the initial grant stage, supported by an efficient system of quickly flagging any certificate holders who adversely come to the notice of the police"? - Yes.

Can you tell me this, if you have investigated the system at Central for notifying the Firearms Department should anyone come to the adverse attention of the police in connection with something other than firearms? - Standing Orders contain an instruction that anything which may affect the suitability of a firearms certificate holder should be notified to the Firearms Department via a particular form or report.

If something gets on to Scottish Criminal Records, does that automatically end up on a firearms administrator's desk? - It should, yes.

If you now go to 5.6, does that tell us in the second sentence that some forces appear more willing to progress towards the introduction of postal renewal for shotguns, but are opposed to extending the procedure to firearms certificate renewals"? - Yes.

And then "It is perhaps surprising that some of the critics of firearm postal renewals are the civilian firearm inquiry officers themselves"? - Yes.

And I think the paragraph goes on to stress that shotguns do play a large part in criminal activity; is that right? - Yes.

And/

And more shotguns tend to be stolen and used in criminal activity even than handguns? - Yes.

And then there is a recommendation towards the end of 5.7. Can you read the recommendation in black? - "That forces which do not currently have postal renewal arrangements consider the introduction of such a scheme, in the first instance for shotguns certificates, but with a view to extending the procedure to firearm certificates once the shotgun initiative has been fully evaluated. Suitable monitoring arrangements also need to be implemented to safeguard the procedure."

Now can I take you to 5.12, which deals with refusal or revocation? - Yes.

And I think it would be best if I just invited you to read that paragraph? - "The incidence of certificate refusals or revocations in Scotland is not high, and during 1994 there were 14 refusals to grant a firearms certificate (0.7 per cent of the total applications received), and 23 revocations (0.07 per cent of the total certificates held at the year end). With regard to shotgun certificates there were 35 refusals (0.9 per cent) and 61 revocations (0.09 per cent). Although there is no statutory requirement for a Chief Constable to give his reasons for refusing or revoking a certificate, the Home Office Guidance recommends that these should normally be given. HM Inspectorate is satisfied that forces adhere to this Guidance and only withhold such information if it is deemed absolutely necessary. All refused applicants and revoked certificate holders have a right of appeal to the Sheriff Court. The number of appeals made in Scotland is relatively small, and the BSSC questioned whether this was due to there being less chance of success north of the border. However, the Inspectorate is of the view that forces are correctly using their discretion regarding refusals and revocations and making their reasons clearly known to applicants, holders and their legal agents. This obviously influences the decision of those concerned regarding the justification for proceeding with an appeal.

So what that says basically is you don't get many appeals in Scotland? - That is correct.

Now,/

Now, the next section I don't need to look at on registered firearms dealers. Just one -- not quite peripheral matter -- but it is perhaps not as directly relevant as some that I might invite you to look at -- is Paragraph 7.7. It is dealing with a European Community Directive in 1993 about moving firearms between countries? - Yes.

The second sentence -- can you read from the second sentence? - "Exports had to be declared to Customs who checked the documentation in every case" -- do you want me to continue?

I am looking at the wrong part of it, sorry -- have you got 7.7? I don't mean the second line, I mean the second sentence. I think it is at the end of the third line -- "The obligation.....? - "The obligation to declare such movements of firearms no longer exists, and monitoring is by means of selective intelligence-based checks".

Read the next part please? - "Unfortunately, the participation of member states in the operation of the Weapons Information Exchange System (WIES), which was set up under the Directive, has been sporadic and this has not made the task of HM Customs & Excise any easier. Concern has been expressed by a number of forces regarding the checking of weapons entering and leaving the country under the Visitors' Permit Scheme. This concern is mirrored by HM Inspectorate".

This reflects a relaxation in Customs Controls within the European Union; is that right? - Yes.

And a concern by police forces about control of firearms coming into their areas? - Yes.

And can I then ask you to go on a bit now to certain miscellaneous issues, 10.3? - Yes.

And there we find a reiteration of the earlier problem associated with postal renewals that you can get discrepancies where perhaps weapons have changed hands in between renewal times? - Yes.

And can I then take you to 10.6? - Yes.

And/

And that is to do with the need for handguns as humane killers in certain circumstances, but could you read the last two sentences to see what the police view is -- "All forces"? - "All forces expressed extreme reluctance to issue a certificate for a handgun for any other purpose than target shooting, although every application is considered on its own merits. HM Inspectorate fully supports this stance".

So I think that takes us through the essential elements of that thematic inspection. I think that you recovered as part of your inquiry the Force Standing Orders. I think the ones that matter are D10 in Chapter L. In fact, it doesn't have a number on the back here. Are these the revised Force Standing Orders of 1990? - Sorry, yes, they are.

And I think the heading there is "Operations: firearms/shotguns: guidance on administrative procedures"? - Yes.

And is this a section of the standing orders that deals with firearms? - Yes.

I think if you go to 2.1, the standing orders set out for officers the circumstances in which a firearms certificate is granted? - Yes.

So we have there the test for the grant, the test for not granting, is that right, as well? - Yes, that is correct.

Go to 2.12. We have a statement there of what should be done or what the position is in relation to duplicate calibres? - Yes.

Can you read that one please? - "In normal circumstances the acquisition of two or more weapons of the same calibre including smooth bore guns (see paras. 2.26 to 2.27) will not normally be permitted. If, however, the applicant can show good reason for acquisition then his application may be viewed favourably".

And if you go to 2.15 you will see what Guidance is given in relation to renewals? - Yes.

Can you read that please? - "Applications for renewal will be made on Firearms Form/

Form 101 and afford an opportunity for reviewing the circumstances of each case and the extent to which the provisions of the Act have been complied with by the holder of the certificate and by the person supplying the holder with firearms and ammunition".

No. 16 as well? - "It is stressed that applications for renewals will not be granted as a matter of routine. The certificate will not be renewed if circumstances have changed materially since the original grant, unless a good and sufficient case is made for renewal. The same strict police inquiry must again be made in the same manner as that made into the original application, and a form RL3a submitted".

It doesn't spell out a renewal should be viewed in the same way as a grant. It rather suggests the circumstances in which you check up on renewals particularly are if there has been a material change in circumstances since the original grant; is that a fair summary of it? - It says each one should be treated as a review, so each one is really a review of the position, even if it is a renewal.

So the last sentence should be read as applying to all renewals, should it? - Yes I think so.

Perhaps it could be clearer? - Perhaps.

Now, could I ask you to go to Paragraph 6.9 with the heading "Firearms Certificates"? - Yes.

And here we are dealing with revocation? - Yes.

And I see the test for revocation is set out there? - Yes.

BY LORD CULLEN: Just while we are on that page at 6.7 -- is that the procedure which you referred to earlier? - Yes.

That is to say bringing to the attention of the Chief Constable any information relating to a firearm or shotgun certificate holder which may warrant revocation of that person's certificate? - Yes./

Yes.

Does it say to whom -- what the method of bringing that attention should be? - No. I think there are options. There is a form RL3e, which is a form devised for a report on the conduct of a firearm certificate holder. So that is a form devised for that purpose. But there is an option also just to submit an internal memorandum for his consideration.

Is that form part of the Standing Orders? - Yes, it should be in standing orders.

EXAMINATION CONTINUED BY MR. BONOMY: Is it part of these Standing Orders or is it a separate chapter? - Yes. If you go to Appendix A in these Standing Orders you will see at the bottom of the page "Force Forms", and Form RL3e is a report of Inquiry into the conduct of a firearm/shotgun certificate holder".

BY LORD CULLEN: In effect it covers the situation where, in a non-firearms related situation, something may bear on the suitability of the holder? - Yes.

EXAMINATION CONTINUED BY MR. BONOMY: Can you go now to Paragraph 9.20? That is dealing with approved Gun Clubs? - Yes.

And that says it is for the Secretary of State to approve these? - Yes.

And over the page, that approval allows the Club to obtain a firearm certificate free of charge? - Yes.

And then there is Paragraph 9.22, setting out the criteria for the Club constitution? - Yes.

Before the grant of such an approval can be given? - Yes.

And you see a number of notes there about membership and so on. Can you go to Paragraph E and read that one? - "An applicant for probationary membership must be sponsored by one full Club member and by one other person who knows the applicant personally".

And/

2.50 p.m.

And the next part? - "A probationary member must at all times when in possession of firearms or ammunition be personally supervised by the range master or by a full member of the club who holds a firearms certificate".

And then (g)? - "A probationary period of at least six months applies in respect of new probationary members (unless the club wishes to terminate a probationer's membership during this period) during which the probationary member must be given a course of regular instruction in the safe handling and use of firearms".

Now, in the same folder as you have got do you also have the various supplementary circulars that have been sent out by the Chief Constable in relation to firearms? - Yes.

Do you have D12 at all which is the one of 20th October l987? - Yes.

And that is clarifying certain definitions? - Yes.

What gave rise to that? - I think there was some dubiety with regard to interpretation of firearms legislation and officers were looking for further guidance on them.

And that is the sort of thing that would be issued by the Chief Constable to clarify matters of any uncertainty following changes in legislation, is it? - Yes.

Now, do you have D13? - Yes.

That is a circular about a firearms amnesty in August and September of l988? - Yes.

And setting out how the amnesty would work? - Yes.

And what police officers were required to do to make it work? - Yes.

And then Dl4, do you have that one? - Yes.

Now/

Now, what were the circumstances of this instruction? - This followed upon the Firearms (Amendment) Act l988 introduction.

So that is explaining the provisions of that Act which were then to be brought into force? - Yes.

And then if you go to Dl5, we see another of the same when more provisions to that Act were brought into force? - Yes.

Now, can you go to D16 which is dated 22nd October l990? - Yes.

And is headed "Firearm/Shotgun Certificate Enquiries". Can you read that one please? - "With the introduction of a computerised Force Criminal Intelligence file, enquiry can now be made more easily into the background of all firearm certificate/shotgun certificate holders. Consequently it will be the enquiry officer's responsibility to undertake a Force Criminal Intelligence check at the same time as an SCRO/PNC check when completing a firearm form RL3a and RL3b. While the Intelligence file is available on a 24-hour basis it is anticipated that firearm enquiries will only be carried out during normal office hours Monday to Friday. Firearm forms RL3a and RL3b will be amended in due course".

So that is an instruction to all officers carrying out enquiries to check Criminal Intelligence? - Yes, it is a reminder with the inception of the new system.

If you go to Dl7. Is that another one similar to earlier instructions giving information about further legislative changes? - Yes.

Do you also have in that folder "Firearms Law: Guidance to the Police" from the Home Office? - Yes.

Can you have that just very briefly in front of you? Does the second paragraph of the preface make it clear that the revised guidance was to be made available publicly for the first time? - Yes.

Would/

Would you look at Chapter 6 please? We have already looked at some of the detail of this, but can you just confirm to me that that is a chapter dealing with firearms certificate procedure? - Yes, it is.

Can you now look at Chapter l3? Have you got that? - Yes, I have it.

And confirm that this deals with Rifle and Pistol Clubs and Cadet Corps? - Yes.

Chapter l4 deals with security of firearms and ammunition held on certificate? - Yes.

And if you go to Appendix 2. If your pages are numbered like mine then it is page l62? - Yes.

Does that set out standard conditions that are to be put on all firearms certificate? - Yes.

Now, I take it that not all of them applies in every case because there is a direction given at the top? - Yes.

What is the direction? - "Please refer to Chapter 6 when considering which conditions should be applied to a firearms certificate".

Now, there are certain standard conditions on certificates in your Force, is that right? - Yes.

If you look at the example, the blank example, which you have which is D5. It is a bit further on in your book. Do we see the Standard Conditions? - Yes.

And these are to sign the certificate? - Yes.

To report the theft of any firearm or ammunition? - Yes.

At once? - Yes.

And then without undue delay to notify a change of address to the Chief Constable? - Yes.

And/

And then a condition about secure storage? - Yes.

And then security precautions when the firearm is removed from its storage for any purpose? - Yes.

Now, I appreciate there is other Home Office Guidance on more recent legislation. Having mentioned that without looking at it in any detail, can you tell me if I have missed out anything of the documentary guidance that was available for Central Scotland Police before the l3th March? - No, apart from the statutes themselves.

Now, perhaps the quickest way of doing the next exercise is to ask you to have Hamilton's firearms certificates. I am not so sure I have got all the proper backing numbers but I think you may be given them very quickly. The D numbers I will try and give you in order in a moment? - Yes, I have it.

Now, FA3 or D24 is the first one I think? - Yes, I have it.

Is that Hamilton's first firearms certificate? - Yes.

Now, that discloses on the table that he was fairly frequently purchasing ammunition? - Yes.

And that throughout l977 and l978 he was purchasing ammunition? - Yes.

Well, certainly more frequently in l977 than apparently in l978? - Yes.

Have you worked out just what sort of quantities he was buying over the various years that the certificate covers? - Yes.

Are you able just very quickly to give us a breakdown of the pattern? - I have it in my briefcase if I can refer to it.

Yes, I think there is no objection to that. If you have done that it will certainly simplify it for us. I think if you had one of the charts/

charts. That is perhaps what I should have directed you to? - That may be easier.

C3L1 to 4 and then we have a summary of rounds of ammunition purchased on various certificates. Now, do you have that? - I should have, yes. Yes, I have it.

Now, all I wanted to do was to ask you to confirm the accuracy of these so do you have in front of you C3L1, 2, 3 and 4? - Yes.

And do you also have a number of pages l to 12 setting out ammunition purchases? - Yes.

Now, is that an accurate record of what you found in the course of the enquiry? - Yes.

Right. I don't think I need to ask you any more about that. Now, at the end of your enquiry were you satisfied that Hamilton had been a member of Callander Rifle and Pistol Club some time many years ago? - Yes.

Roughly when? - Certainly from l977 until the early l980s. The exact year was not readily ascertainable.

Now, were there records to confirm that? - No, there were not any records to confirm that.

So we are relying on oral evidence for that? - From fellow members, yes.

Did the records not disclose the membership? - No.

I think some membership records had been destroyed but there are accounts and certain other items? - Yes.

In those days was Callander a full bore shooting club? - No.

Do you know when it changed to allow also full bore shooting? - The range was upgraded in l988.

Did you at some stage establish that Hamilton was a member of a club called the Clyde Valley/

Valley Rifle Club? - The Clyde Valley Pistol Club, yes.

Sorry, Pistol Club? - Yes.

Would you have D34 which is a membership card which I think we had out yesterday. FA14. I may have given you the wrong reference? - D34 is the reference I have here and it is a membership card for the Clyde Valley Pistol Club.

Where was that found? - That was found at his home address.

What year does it cover? - It covers the season l985 to l986.

Did you have any other evidence of his membership of that club? - No.

BY LORD CULLEN: Do you know where that club shot? - It is a range at Larkhall, my lord.

EXAMINATION CONTINUED BY MR. BONOMY: And Larkhall would also be consistent, we have heard already of somewhere called Ashgill? - Yes.

That is the same place, is it? - I believe so, yes.

There has also been a reference to a range under Hamilton Police Office? - They had the use of the range there prior to getting their own premises so it was the same club, the Clyde Valley Pistol Club.

Is the range under Hamilton Police Office a police range? - Yes, I believe so. I don't know if it is still in existence but it was at that time obviously.

Were you able to establish that Hamilton had prior to becoming a member of that club also been a visitor? - Yes.

Now, there is evidence from what you have already told us of purchases of ammunition in the early l980s but am I right in saying you have not got a lot of evidence of where exactly he was shooting in the early l980s? - No.

Then/

Then in l984 I think there are a series of transactions in which he disposes of weapons and purchases weapons? - Yes.

Was there anything in your enquiry to point to the motivation behind that? - No, apart from it appeared that he was moving towards full bore shooting. You know, having started off on small bore shooting.

So the disposals were in l984 and were .22 weapons largely? - Largely, yes.

And a rifle? - Yes.

And in l984 he acquired his first Browning semi-automatic pistol? - Yes.

Does his membership of the Stirling Club then commence about l986? - I think he attended around the end of that year but I don't think he joined until into the Spring of l987.

Had he prior to that on any former occasion been a member? - No.

In l987 Hamilton sought an increase in amount of ammunition he could hold and acquire to fairly substantial levels? - Yes.

Were you able to establish any reason for that? - There was nothing definitive but he did seem to go through the amounts he had been authorised up to that time fairly quickly and on a couple of occasions he had to have his firearms certificate replaced because the ammunition table had been completed so presumably he either worked out or perhaps he was advised that if he asked for more ammunition he would not have that trouble.

Was it on one or more occasion that he had had to have additional.....? - He had it replaced because it was full at least twice before the expiry of the certificate itself.

Now/

3.l0 p.m.

Now, you had occasion in the course of the enquiry to investigate a suggestion that Hamilton may have been involved in the reckless discharge of a firearm? - Yes.

Can you tell me the source first of all of that suggestion? - Inspector Ralph came forward and offered an explanation that having known Hamilton at some earlier stage he had come across him one day. Hamilton had approached him and alleged that a day or two previously he had been approached by two police officers who had accused him of recklessly discharging an air weapon in the area of Stirling Castle, in the Back Walk, which is behind Stirling Castle, and he was objecting to these officers' actions and the fact he thought perhaps he was going to be reported for that reckless discharge offence.

Was he able to give a period for that? - I think it was very vague. Inspector Ralph thought this may have happened between l986 and 1990.

Now, did you cause a search to be made of the records to see if this could be identified? - Yes.

And what was the result of the search? - There were no offences of reckless discharge recorded, detected or undetected, in that area, and certainly no evidence of any type by Mr. Hamilton. The only offence that could be found was an offence in l980 regarding an undetected reckless discharge, with regard to which no one had ever been traced, and there was no information.

Now, you were able to identify the officer who dealt with that? - Yes.

Who was he? - Constable Mailer.

What was his account of that? - He couldn't remember very much about it apart from the fact obviously he created a crime report to record the offence, and apart from that he couldn't remember any detail at all.

I think though he had no name for a suspect/

suspect for that? - No, there was no description of any suspects and certainly the circumstances did not fit with this version Inspector Ralph had given regarding Hamilton alleging he had been approached by two officers. None of that seemed to fit, nor did the timescale, which was at least six years out of date.

To be clear about this, I think there was another report you discovered in relation to April l983? - Yes. I think there were named persons detected for that.

So you excluded that one on the basis of the names of the suspects? - Not being Hamilton, yes.

And two people I think were cautioned and charged in relation to that? - Yes.

Neither being Hamilton? - Neither being Hamilton.

But that was an incident on 30th April l983 involving reckless discharge of an air weapon? - Yes.

At the Back Walk area of Stirling? - Yes.

So were you able to identify any report that would confirm the recollection of Inspector Ralph? - No.

Now, I think you have also compiled a report which sets out the details of the ammunition which Hamilton had at the time of the incident? - Yes.

Now, that I think has been circulated to everyone and given the number R39? - Yes.

Now, what I am concerned about is the position at the l3th March, and if you go to page 3 of your report, you have recorded there that when the certificate was renewed in l995 Hamilton declared his possession of four calibres of ammunition? - Yes.

What were these? - 643 9mm, 203 .357, 11/

ll times .38 Special, and l00 times 7.62 ammunition.

Now, between the renewal and February -- indeed l3th March l996, what purchases did he make? - In total he purchased l700 9mm and 500 .357.

And they were of different types? - Yes.

Now, I think on page 4 you have set out the details of the ammunition shot at the school and then the totals found in his house? - Yes.

Now, can you tell me what ammunition was found in his house please? - In total 7l5 9mm of different types, 280 .357 of the same type and ll .38 Special.

So if we take the total that he must have had when he went to the gymnasium, and what he had in the house, what do we have? - l2l6 9mm and 522 .357.

And then there is the ll -- I am just trying to understand that. Do we also have ll .38 Special? - Yes. These ll .38 Special were recovered in his house.

I am trying to get the total ammunition he possessed at the time this incident took place. Was it l2l6 9mm? - Yes.

And 522 .357 - Yes.

ll .38 Special? - Yes.

And what about -- we haven't lost the rifle bullets, have we -- he has still l00 7.62? - No, they are missing. They are not in the house.

They have disappeared? - They haven't been found.

So having been on his firearms certificate for about l0 years? - Yes.

And his never having had such a rifle?
- That is correct.

These were never found? - No.

Now/

Now, I think you then have set out on page 5 and subsequent to this an Inventory of all the things related to guns which were found in the house? - Yes.

And these included a box of gun-cleaning equipment, wooden gun handle butts -- now, what are these? - Well, it is just the insert. You can replace the grip -- if you like, I mean, you can have a wooden effect or metal effect or a smaller grip or larger grip, just depending on your needs.

And then gun target sheets -- where were they? - They were in the room where most of the equipment was all found.

And were they on the wall? - Yes.

And then there is a strongbox containing a number of cases containing ammunition? - Yes.

Where was it found? - In the same room.

Is that on the table? - Yes.

And were there actually two of these strongboxes? - Yes.

And we see the details of the other one later? - Yes.

In fact, I think there are another two mentioned? - There are, yes.

In fact, there is even more -- can you tell me how many strongboxes there were? - I think there were four in total.

And were they all in the same room? - No. I think one was actually in a cupboard in the hallway.

And then we have a whole catalogue of anything relating to the shooting that was found in the house? - Yes.

Now, I think you also did a study of the number of duplicate calibre weapons held on Central Police Firearms Certificates, by just dipping into the/

the certificates, choosing a number at random and seeing what the result was? - Yes.

And what was the result of that? - Well, we found that of 12 files that were chosen at random, at least l0 had one pair of duplicate weapons, and seven had more than one pair of duplicate weapons.

BY LORD CULLEN: When you say "duplicate weapons", do you mean according to the type of calibre shown on the certificate? - The calibre, my lord, yes.

So there may be more detailed differences perhaps between the firearms? - Yes, there may be different sights, maybe different weights, maybe different lengths of barrel, even, on the same calibre.

EXAMINATION CONTINUED BY MR. BONOMY: And now, just lastly, can I ask you this: I think you sought statistical information from the other Scottish Police Forces? - Yes.

What was the purpose of that? - Really just to obtain an over-view in terms of a national picture in terms of how Central Scotland compared, in terms of refusals or revocations.

And what did you find? - Basically from the provisional statistics for firearm certification from all Scottish Forces encompassing the years l99l to l995, and they have been collated by the ACPO Working Party.

Does that mean you gave the information to a representative of the Association of Chief Police Officers of Scotland? - No, we received it from the ACPO.

You got it from them? - Yes, and we compared it, for comparison, for analysis, which revealed over this five-year period, for example, Central Scotland Police had refused 0.50 of all grant applications, whereas the national average stood at 0.90. In terms of refusal of renewal applications the figure related to Central Scotland Police was ascertained to be 0.06 per cent, whereas the national figure calculated as being 0.05. As regards/

regards revocation of certificates over the period, Central Scotland Police had revoked 0.58 per cent of firearms certificates, while the national figure reflected a 0.48 revocation rate.

Are all these certificates relative to firearms certificates, and exclusive of shotgun certificates? - Yes.

BY LORD CULLEN: Just one point I would like to clarify before we go on. A bit earlier you were shown on tables to do with ammunition. I don't know if you have these in front of you? - No.

It doesn't perhaps matter very much, but the heading of a typical page gives the number of rounds which Mr. Hamilton in each case wanted to purchase or wanted to possess, and then underneath I think you listed the actual purchase -- take page l as a typical one. I think it is the first of your 12 pages? - Page No. l? C/3/L1?

Yes. Just taking that as a typical example, am I right in thinking in each case where he applied for authority to purchase or possess a certain number of rounds he was, in each case, given that authority? - Yes.

So wherever we see "wants to purchase" he got it, so to speak? - Yes.

And wherever it says he applied for it, he got it? - Yes.

So these headings really apply to the authority he had obtained in each case? - These tables relate to the purchases at the retail outlets, at the gun shops, as opposed to being authorised by the police.

Yes, but I am only concerned with the heading "Wants to purchase", "Wants to possess" -- do you see on page l? - Oh, right.

That is what I am concerned with? - Yes.

And what I wanted to clear up -- I think it was my understanding that in each case he had been/

been given what he asked for? - Yes.

CROSS-EXAMINED BY MR. CAMPBELL: Could I ask you to look again at the very first document that you were asked about, the Thematic Inspection Report? - Yes.

Which is the first document in L7? - Yes.

The second letter, dated 8th February l996, from Mr. Boyd to the Chief Constable, refers to the enclosure of a draft report? - Yes.

The document which follows, is that the draft report or is that a final report? - I believe that is the draft report.

Is there a final report? - Yes, I believe there is.

It may not be something you can help us on, but is the final report different? - No, I don't believe so.

There were no changes made? - Not as far as I am aware.

That is presumably something that could be checked? - Yes.

LORD CULLEN: It may be I may be wrong, but it is my understanding it hasn't been finalised until we have a published report -- I think it is still in draft stage. I am not sure if Mr. Bonomy can throw any light on that, but that is my understanding.

MR. BONOMY: Sir, that is my understanding, but I haven't asked Mr. Robertson before today. I will double-check it now.

THE WITNESS: I am not l00 per cent certain. I thought it had been published.

MR. TAYLOR: My understanding from a conversation with the Chief Constable at lunch time is it is not yet finalised, but it is at the point where it is going to the printers -- I should say not finalised in the sense it is not yet published/

published.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Your understanding is that if we look at the draft report we are not going very far wrong? - They have not made any major changes at all.

3.30 p.m.

I appreciate that you have no responsibility for this document but I wonder if you could just help me with one or two passages in it, turning firstly to paragraph 4.8 dealing with background checks. "Before a firearm or shotgun certificate is granted Chief Constables must satisfy themselves that the applicant is not prohibited under the Firearms Act from possessing firearms. The police must also be satisfied that the safety of the public will not be endangered by an applicant's possession of weapons and ammunition". Can you confirm that is an incomplete rehearsal of the statutory provisions? - It sounds like it, yes.

And in particular there is no reference to the need to consider matters such as intemperate habits, unsound mind or any reason to believe that the person is unfitted to be entrusted with a firearm? - Yes, it goes on to speak about that at 4.9 but there is nothing on that paragraph.

Now, if we look at 4.9, you are quite right there is a reference there to "The police may refuse or revoke a certificate if they have good reason to believe that the applicant is of unsound mind or intemperate habits"? - Yes.

But that again misses out the requirement to consider whether there is any reason to believe that the person is unfitted to be entrusted with a firearm? - No, it doesn't refer to that.

BY LORD CULLEN: Is it a question of "may" or is it "shall"? You see the word "may" is used but is it "may"? - "May", yes.

Well, is it in fact "shall"? In other words, if it is then they must, is that right? - Yes.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: So if one was reading HM Inspectorate's consideration here or description of the background checks which are necessary, they have either got it wrong in the sense of missing out the reference to unfitness to be entrusted with a firearm or they don't think that has much practical application? - Well, they talk about character and I suppose you could infer from that that they are concerned about the character of the person but they don't refer to the term you are using. Not in these two paragraphs anyway.

It is not a matter of putting emphasis upon unfitness to be entrusted with a firearm. There is simply no mention of it at all? - I don't know.

That is not something you can help us with because you are not responsible for this document? - No.

I understand that but if there was any impression to be gained from other material that when it comes to granting or refusing a firearms certificate the police tend to concentrate on hard fact as opposed to matters of subjective judgement, this paragraph in this document would tend to confirm that impression? - Yes, I think it goes without saying that you need some form of evidence on which to base an opinion.

When one looks at 4.9, "The police may refuse or revoke a certificate if they have good reason to believe that the applicant is of unsound mind or intemperate habits", I think I am right in saying that everything, at least almost certainly everything which follows in that passage refers to criminal conduct and in particular criminal convictions or pending criminal convictions? - Yes, or associations.

So the emphasis is very much upon looking for evidence that the person has been involved in criminal conduct? - Certainly here, yes.

In 4.8 we are told in the fourth line "Forces therefore carry out full background enquiries on all applicants in order to establish their character"? - Yes.

So we do have a reference there to character but not a description as to how Forces either do or are expected to carry out these background enquiries, is that right? - That is right.

And again what immediately follows after that/

that reference to background enquiries to establish character seems to be a reference in the main to checking on criminal convictions and the like? - Yes.

Turning on in the document if I may to 4.25 dealing with counter-signatories. We see in the middle of that paragraph the sentence "The majority of Forces consider that the counter-signatory procedure has outlived its usefulness and such enquiries are usually carried out by telephone". Can you help us with why the majority of Forces consider that the procedure had outlived its usefulness? - No, personally I wouldn't have thought that it would have because it is not an opinion I would hold personally and it is not an opinion I know that is held widely in my Force.

And there is some sympathy for applicants who were being charged by professionals for this? - That is certainly a thing I have never heard of previously.

But are we to understand that the final report when it is published, according to your understanding, will suggest the discontinuance of the counter-signatory requirement? - To the best of my knowledge it is going to make the same recommendation as you see there.

Some may find that astonishing in the light of what happened on the 13th of March? - Yes.

Would you agree? - Yes.

It is astonishing? - Yes.

We turn on to Section 5 on "Licensing procedures-certificate renewal" dealing with pistol renewals. "Both ACPO and the Home Office have encouraged Forces to carry out the thorough investigation of all initial applications so that a postal renewal system, supplemented by home visits only where strictly necessary, could be introduced thereby reducing the time, workload and cost of the renewal process". Would you agree with me that it would be more satisfactory if ACPO and the Home Office required Forces to carry out a thorough investigation of all initial applications, come what may? - I am sure that is what they mean when they say/

say "encourage" but they are not expressing it in the terms that you have just quoted. When ACPO or the Home Office encourage Forces to do something, they generally do it.

Now, so far as the postal renewal system recommendations are concerned, the benefit of this would appear to reduce the time, workload and cost of the renewal process? - Yes.

And we see that it means that it can then be done much more quickly? - Yes.

And in 5.3, lest it be thought that this is revealing an attitude of complacency, we are told that some 10 to 15 per cent of renewals will be monitored in some shape or form? - Yes.

And then in the middle of 5.3 we see "The enquiries made in relation to the initial grant of a certificate also assume greater significance with the advent of postal renewal. It is essential that such enquiries are exceptionally thorough and can withstand the test of time". Would you agree with me that this reveals a basic misunderstanding of the legislation which requires renewals to be treated in exactly the same way as initial applications? - Yes.

Does it also, in its reference to carrying out thorough initial investigations which can then withstand the test of time, indicate the only material change of circumstance which the authors of this document have in mind for the future which might cause some doubt on an applicants suitability would be changes which are brought to the attention of the Police Force in some shape or form? - Well, I don't know if it necessarily means that, does it?

It wasn't a very good question. Let me put it another way; the basic procedure which is being recommended here is that you carry out a thorough check on day one? - Yes.

And then as long as you have done that check thoroughly then that will withstand the test of time? - I don't think that is very good advice anyway.

Why/

Why is it not good advice? - Because circumstances change.

Exactly but what it does reveal is that the whole ethos and culture is that as long as nothing has been positively brought to the Police Force's attention, for example a criminal conviction, then all is well? - Well, I don't know if it means that exactly but I don't agree with the fact that enquiries made at the initial stage should then be relied upon at later stages without at least some sort of regular check by way of renewal.

This kind of approach in paragraph 5.3 would only be understandable at all if the basic thinking was that only relevant matters should be brought to the attention of the Police Force anyway without any subsequent thorough investigation? - Well, it seems to infer that the police will learn of any change.

Yes, I'm obliged. You put it much better than I did. Turning the page, if we may, to paragraph 5.5. Again, on the subject of postal renewals and I think there is reference there to one Force which had introduced postal renewal procedure. Which Police Force was that? - I believe it was Lothian and Borders.

And we also see "The Force considers that postal renewal is both appropriate and safe provided that thorough enquiries and checks are carried out at the initial grant stage supported by an efficient system quickly flagging any certificate holders who adversely come to the notice of the police". So again, that would appear to display a misunderstanding of the legislation, am I right? - Well, I think they are talking about circumstances again which the police will learn of and not allowing for any other circumstances perhaps.

In paragraph 5.6 we are told "It is perhaps surprising that some of the critics of firearm postal renewals are the civilian firearm enquiry officers themselves". Do you find that surprising? - No.

This paragraph raises a point that I would like to explore to you but only briefly, if I may. The document reads "Arguments for maintaining the/

the status quo include stricter controls in place for firearms, territorial conditions, security arrangements and the good reason requirement. However, firearms and shotguns are both lethal barrelled weapons and overall more shotguns are stolen in any year and more are used during the commission of serious crimes such as robbery" and there are some detailed statistics relating to these matters. Would you agree that firearms and shotguns are both lethal weapons? - Yes.

Is there in your view any good reason why shotgun licensing should be treated in any different way from firearms licensing? - Well, I'm not an expert in the field but, no, I would not have thought there would be any difference.

But I think we know that in fact there are considerable differences between the two types of firearms or weapons? - Yes.

Is it in your experience true to say that shotguns are the most used and easily acquired firearm by criminals? - Yes.

Turning on, if we may, to Section 9. It is headed "Quality of service" and it begins at 9.1 "Members of the shooting community pay for the service provided by the police in relation to firearms licensing. It is therefore essential that they receive a quality service and value for money" and then we can read the rest of that paragraph for ourselves. Paragraph 9.2, "In providing a quality firearms licensing service the police must balance the needs of the shooting community with those of the non-shooting public. The safety of the public must be of paramount importance where firearms are concerned. The licensing service must therefore be exceptionally thorough. However, in order to provide a quality delivery of service to the shooting fraternity the system must also be efficient and fast". Now, do you agree that speed is a must so far as firearms licensing procedures are concerned? - No.

Now, would you agree with me that to require speed is somewhat contradictory to any philosophy that thoroughness and the safety of the public are paramount? - I think no timescale should be placed on firearms.

Because/

3.50 p.m.

Because the safety of the public should be paramount? - Yes.

In paragraph 9.3 the document says: "Forces in Scotland appear to have a good relationship with the members of the shooting community that they serve. This was confirmed by the BSSC". And then we are told about four or five lines down: "One way in which to enhance the relationship and understanding between shooters and the police is by the establishment of good liaison arrangements", and so on. Do you see any potential danger in police forces establishing too close a relationship with the shooting community? - Well, I think any renewal process should be fair and be seen to be fair. Are you trying to infer that in some sort of close relationship matters might be overlooked, or conditions might be relaxed? I don't know. I think with a professional approach we would always avoid that by the police, so I don't really think that would come into it.

You don't see any potential conflict between, on the one hand, being told to establish good and close relationships with members of the shooting community, and then on the other hand being entrusted as the guardians of public safety in terms of revocation? - (Answer inaudible).

BY LORD CULLEN: I am sorry, we are not hearing you clearly? - I think we are encouraged to be on good terms with all sections of the community -- and we are, I think.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: So why is it necessary, do you think, for such emphasis to be placed on having such a good relationship with members of the shooting community? - I don't know.

You see, this passage and other passages in this document has the tone almost of a Marks & Spencers or British Airways promotional, wanting to foster good relationships with their customers. Do you agree? - Yes.

Whereas some may think that there may be value in the Police Force maintaining a degree of distance/

distance or detachment from those they are having to scrutinise -- you are nodding your head? - Yes, I agree with that.

Turning on to paragraph 10.5 in Section 10, these are miscellaneous issues, "Warning letters". "Holders of firearm or shotgun certificates must satisfy the police that their continued possession of the weapons will not endanger the safety of the public or the peace". Now, again I am very conscious that you have no responsibility for this document, but do you have any explanation as to why there is again this mention of the one test "Endangering the safety of the public or of the peace", which does of course appear in the legislation, but no reference to other important matters, such as fitness to be entrusted with a weapon and so on? - No.

LORD CULLEN: Mr. Campbell, is that not covered in the next sentence, or at least partly covered?

MR. CAMPBELL: I beg my lord's pardon, yes. My lord is quite right. It is. I should read on. "If the police have reason to believe that a holder is no longer a fit and proper person to possess firearms, for example, by virtue of his intemperate habits then they can revoke the certificate immediately and seize the weapons concerned", yes.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: So far as satisfaction is concerned, do you agree with the general philosophy set out at least in this paragraph that the onus should be upon the holder of the certificate, and perhaps by parity of reasoning, any applicant for a firearms certificate -- that the onus should be upon him to satisfy the police of certain matters, rather than the police requiring to investigate for themselves? - Well, the applicant must show good reason, but the police at the end of the day have to be satisfied.

Just perhaps lifting our eyes from the detail of this document, and thinking about things more generally, would you see any value in a system which made it clear that the onus was upon the applicant to provide sufficient information to the responsible/

responsible authority, rather than putting an onus upon the responsible authority to consider whether there is or is not any reason to refuse.....

LORD CULLEN: I think possibly you may want to clarify with the witness what actually you are talking about -- onus in regard to what? Do you mean onus in regard to both matters mentioned in this sentence? Is that what you mean?

MR. CAMPBELL: I think perhaps I will take the question out.

LORD CULLEN: You might want to rephrase it.

MR. CAMPBELL: I will try to rephrase it.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: What really I have in mind is really a very general matter, but perhaps we can try and particularise it just to avoid any misunderstanding. Section 27 of the Act, for example, states that a firearms certificate shall not be granted to a person whom the Chief Officer of Police has reason to believe, for example, to be for any reason unfitted to be entrusted with such a firearm? - Yes.

Now, at the moment as I understand the general approach, the intention is that the Force will carry out some form of enquiry into an application, and if that enquiry reveals any reason why a person may not be fit, then the application should be refused? - Yes.

What I have in mind is whether you would see any value in a system which requires the applicant to make out a case, if you like, to the police authority that he was a fit and proper person, rather than just relying on any enquiries carried out by the authority? - I would think that in the future that could well be something to be considered.

Can you elaborate on any thoughts you have on it? - Well, I personally would agree with the principle that someone should not only show good reason, but should prove good reason.

Don't/

Don't misunderstand me, I am not suggesting there shouldn't be some enquiry by the police authority as well, but do you see perhaps almost a philosophic distinction that can be drawn between on the one hand a presumption that a person is entitled to weapons in the absence of any reason to the contrary, and on the other hand an approach where nobody is entitled to a weapon unless they can make out a good case to the contrary? - I personally agree with your second comment.

As far as warning letters are concerned, again we can read this paragraph largely for ourselves, but there is again reference to incidents involving certificate holders that may come to the notice of the police, for example criminal convictions, and it is indicated that some offences are more important than others in this context, and then in the middle of the paragraph, or just below it we read: "Each case is judged on its own merits and usually a letter is sent to the holder warning him/her that the incident has been recorded and that similar conduct in the future will seriously call into question their fitness to possess weapons". Now, that is in the context of, I grant you, of a general discussion about different types of offences, but would you agree that there is a danger in this approach of sending out a warning that another incident will call into question a person's fitness, because that next incident may be a very serious one, possibly involving firearms? - Well, I am sure that approach has been taken for good reason, and not having the background in Firearms Licensing, I am not aware of why that was invoked, but I am sure that is based on sound reasoning. But I agree with you that any offences or any conviction of a certificate holder would worry me.

Would you agree with me that when it comes to deciding whether or not a person should be entrusted with weapons, if there is any doubt on the matter then no certificate should be granted, or a certificate should be revoked? - If there is any doubt at all, the whole case, the circumstances should be thoroughly examined and a decision reached on that basis.

But if at the end of all your investigations you are still in a situation where the matter is problematic, or there is some doubt on the/

the matter? - Yes.

Who gets the benefit of that doubt? - Well, I would think the public do.

By? - By erring on the right side, on the safe side.

Namely? - Namely if you have any doubt and it is within the law to revoke or refuse, you do that.

And if we turn to the final section of this document, the conclusion? - Yes.

Would you agree with me that there is precious little, if anything, in the conclusion -- indeed in the document as a whole -- about how to improve the protection afforded to the public? - Are you talking about the recommendation and the conclusion?

Well, I am looking -- let's try to keep this within bounds -- the conclusion, for a moment? - No, there is no specific reference to that.

There are lots of references about improving the quality of the service to the shooting community? - Yes.

Perhaps we can just leave the rest of the document to our own reading. Can I ask you now to turn to the Guidance document, which is D1L? - Yes.

If you forgive me just a moment -- I want to ask you to look at Section 6, please, at page 65? - Yes.

Looking at the guidance in paragraph 6.1: "Firearms legislation, and indeed the subject of firearms generally is complex and often highly specialised. Providing comprehensive training for every police officer on the administration of the Firearms Act is not practicable. It is therefore essential that copies of this Guidance are available to all police officers involved in the licensing procedures. Where difficult points arise, advice should be sought from the Firearms Department at the appropriate Police Force Headquarters". Would you see any value in a system for guidance which ensured that/

that every police officer who was actually involved in the administration of the Firearms Act received comprehensive training in the matter? - Yes.

Is it in your view satisfactory that the matter is left -- the guidance is left simply on the basis that copies of this guidance are available? - I don't think that is the best position, no.

In paragraph 6.2: "Before issuing or renewing a firearms certificate, the Chief Officer must satisfy himself that the applicant can be permitted to have the firearm/ammunition in his possession without danger to the public safety or to the peace. This may necessitate an interview and consideration of his security arrangements". Can you conceive of any situation where the chief officer could satisfy himself on this matter without an interview and consideration of security arrangements? - No.

We read on: "Where a visit to the applicant's home is considered necessary, this should, wherever possible, be made by prior appointment". Now, if you take it from me that we are told more than once that visits should be made, whenever possible, by prior appointment, do you agree with that approach? - No.

What would your preference be? - I would prefer to arrive and see the person as they are, not when expecting the police.

For the obvious reason, I suppose, that if normally someone had empty gin bottles around the house, then if he knew the police were coming he might hide them away? - Yes.

And no doubt one could multiply examples of that kind of thing? - Yes.

Looking at the Guidance relating to the application, on page 66 in paragraph 6.5 -- again dealing with the question of counter-signatories, if I may, just for a moment? - Yes.

4.10 p.m.

We read halfway down the page "Discretion must be used in deciding whether a particular countersignatory meets the legal requirement in respect of a person 'of similar standing' but it should be recognised that the category may have to be extended fairly widely where an applicant has few contacts in the Community". Does that surprise you, because it may be thought that if an applicant has few contacts in the Community then that would be a good reason for being very careful about the identify of the countersignatory? - I think it is making the point that perhaps if that was the case you may need to take information from more than one person.

That is your interpretation of what it says? - Yes.

Others may interpret it as meaning that you don't have to be quite so punctillious about the standing of the countersignatory? - No, I would take it to be the reverse, that if someone was not well known you should take more than one view. The very reason they are not well known, you might want to gather more than one opinion on them.

Well, I won't debate the interpretation with you. Are we agreed in general terms that if it transpires that an applicant has few contacts in the Community then that might be an indicator that particular care should be taken? - Yes.

If we read on, why is it thought helpful if the countersignatory is somone whose name can be found in public books of reference? - I don't know.

Easier to check? - I suppose so. Perhaps it is getting back to a person with a recognised standard. I don't know.

I won't go through the detail of this but if we go right to the end of Section 6.5, the document sets out what the countersignatory is required to do. Then we read "The application form provides guidance on the criteria which the countersignatory should bear in mind when considering an applicant's fitness to possess firearms"./

firearms". Would you see a value in a system which ensured not only that the countersignatory read this Guidance but thoroughly understood what it was he or she was being required to do? - Well, I think on the application form that Guidance is given to the countersignatory and he is required to read it. On the application for the firearm certificate. He is reminded of the Chief Constable's obligations in granting the certificate and that is contained on the application form.

You see, we had the gentleman who countersigned Mr. Hamilton's certificate? - Yes.

And he explained the circumstances in which that happened. An unwelcome visit when the family was at home and what have you? - Right.

Do you foresee these circumstances in which countersignatories might simply be shown the relevant section of the document, perhaps on renewal or what have you and will simply sign it without taking time to read the Guidance? - Confirmation from the countersignatory that he is vouching for the applicant, when the police officer goes round to see that person or contact them I would anticipate that the way it has worked in the past when I have been involved is that he would be asked if he read the certificate, if he read the conditions on the back, having to bear in mind that he would have to confirm that he had and that is what I would check by confirming the countersignatory's vouching for the applicant.

Would you, if you were doing the exercise yourself, I take it from that answer, go and see the countersignatory? - Yes, personally.

Every time? - Unless he was someone who I knew very well but generally, yes, I would.

Amongst other things would you want to be satisfied that the countersignatory knew the applicant well? - Yes. I mean, I don't think it is the case that the countersignatory should necessarily be friendly with the applicant but he would need to know of him well and have adequate knowledge of him.

Yes, that is what I mean? - Yes.

Is/

Is it fair to say that the system to date has placed considerable reliance upon the countersignatory requirement? - I think it is considered a very important part, yes.

Now, we then come to "Grant or Refusal" and in Paragraph 6 this is described as the most important duty imposed by the act on the police, namely deciding whether or not a firearms certificate should be granted and we have a reference then to three categories which require to be considered? - Yes.

Which we have discussed to date. Would I be right in suggesting that in practical reality police forces tend to give very careful consideration and examination to Item (a) but find it more difficult to deal with the more subjective criteria in (b) and (c)? - Yes, I think (a) is black and white, isn't it? So, yes.

Is it thought that there is considerable benefit in dealing, if I can put it in that general way, with irrefutable hard facts like previous convictions? - I think the person or the officer requires to be satisfied on firm evidence of what he is looking at.

And if we look at Paragraph 6.9, "In deciding whether a person can be permitted to have a firearm or ammunition without danger to public safety or to the peace, the main consideration is his character"? - Yes.

Would that hold true in your view to the other requirement, namely whether there is any reason why the person is unfitted to be entrusted with a firearm? - Yes.

So the essence of the investigation here is into the character of the applicant? - Yes.

Why is that? - Well, it may show some traits or some behaviour that would cause a danger to public, public safety, public peace.

Would you agree that it is a dangerous thing to the public if an unfit person is entrusted with a weapon? - Yes.

And/

And what this boils down to is that the legislation enjoins the Chief Officer to investigate whether the character of the applicant is such that he can be trusted with the responsibilities involved in having lawful possession of a weapon? - Yes.

And thus the character in this context goes well beyond criminal convictions? - That is correct.

So if you investigated an applicant and discovered him to be a deceitful liar, would you be content to grant him a firearms certificate? - I think you would have to be satisfied that the person posed a risk or a danger to the public through ownership of weapons. Now, if the circumstances that you are relating or that you have brought up fitted that, yes, but I would have to say that unsuitability or lack of fitness would have to relate to again danger and that is my interpretation of a person unfitted or unsuited and that is where character comes into it, that you have got to be able to infer some sort of danger or behaviour, some anticipation of violent behaviour on his part with his weapon. That is the way I view it.

Well, if you were asked to countersign an application by somebody that you knew to be a deceitful and lying person, would you be happy to recommend to the police that he could be trusted with a weapon? - No, I would not.

Why not? - Because if he is untruthful about that sort of thing he could be untruthful about other things.

And if a firearms certificate holder is untruthful with the police about matters relevant to his having a firearm, that is a very serious matter indeed? - Obviously it has to be taken into consideration very seriously.

Can we turn on please to "Renewals" which is Page 79?

LORD CULLEN: Mr. Campbell, would you indicate when you are at a convenient point. I see it is just after 4.20.

MR./

MR. CAMPBELL: This would be a convenient point, my lord.

LORD CULLEN: Very well, we will break now and resume on Monday at 10.00 a.m.

Adjourned until Monday,
17th June, 1996.

FOURTEENTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

MONDAY, 17th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
ALEXANDER ROBERTSON, Recalled,	
Cross-examination continued by Mr. Campbell.....	4
Cross-examined by Mr. Gibb.....	11
Cross-examined by Mr. Taylor.....	13
Re-examined by Mr. Bonomy.....	15
JOHN PERRY,	
Examined by Mr. Lake.....	16
Cross-examined by Mr. Gibb.....	33
DAVID WILKIE SOMERVILLE,	
Examined by Mr. Lake.....	36
Cross-examined by Mr. Gibb.....	61
IAN STEVEN BOAL,	
Examined by Mr. Bonomy.....	62
IAN COLLIE,	
Examined by Mr. Bonomy.....	85
Cross-examined by Mr. Jones.....	110
Re-examined by Mr. Bonomy.....	113
ROBERT PEARSON,	
Examined by Mr. Bonomy.....	115
JOHN ANDERSON,	
Examined by Mr. Bonomy.....	122

MONDAY, 17th JUNE, 1996.

FOURTEENTH DAY.

ALEXANDER ROBERTSON, (Recalled),

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: I think at the end of the evidence on Friday you were looking at the guidance to the police from the Force Laws which is D1L. Do you still have that before you. Can you turn to Section 6 which is on page 79. This is the section dealing with renewals and I think there is only one specific point that I want to put to you. If we look at the bottom of the page at 6.29 we read, "Applications for renewals give an opportunity for reviewing the circumstances of each case and the extent to which the provisions of the Act have been complied with by the holder of the certificate and by the person supplying them with firearms or ammunition. If the applicant's circumstances have changed materially since the original grant special care will need to be taken to ensure that the applicant still satisfies the criteria regarding public safety or the peace and has a good reason for having the firearm"? - Yes.

In that context what is the procedure in Central Scotland Police for finding out whether or not an applicant's circumstances have changed materially since the original grant? - Well, I don't think the individual enquiry officer can really judge. He is treating his enquiry as a one off and.....

MR. TAYLOR: Sir, before the witness carries on answering this question it may be helpful to know if he can tell us just what his experience is in the form of administration of certificates within Central Scotland so that we can ascertain whether or not he is speaking from knowledge of this or speaking from some supposition on his part.

LORD CULLEN: Are you objecting to the question?

MR. TAYLOR: No, I can't object to the question. I think that itself is unobjectionable. It/

It would seem helpful if we knew what the basis was for this.

LORD CULLEN: I think we will let the answer proceed. Mr. Campbell I am sure has taken the point.

THE WITNESS: I did indicate on Friday I had very little practical firearms licensing experience and my observations are based on my reading and the results of my enquiry. My interpretation of your question would be that the enquiry officers themselves only look at the particular renewal or variation they are carrying out and it does not appear that they take an over-view of the firearms file and can see back to what a person's circumstances were for any given period in the past.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: I am not quite sure I follow the last part of that answer. Could you elaborate? - In as much as any review or checking that circumstances have changed materially would have to be done within the Firearms Department; that is my understanding.

So that an enquiry officer sent out to interview a person who is making a renewal application according to your understanding at least -- imperfect as it may -- would not be specifically charged with the responsibility of an investigation as to whether or not the circumstances have materially changed? - They would of course have the current certificate and the information which the applicant has endorsed on his application. My understanding would be that all that information, the previous application or a number of previous applications, to see whether circumstances have changed, that is done by the Firearms Department; that is my understanding.

Since it may be causing my friend Mr. Taylor some problem if we could just perhaps move away from Central Scotland Police procedures and just think about this whole matter a little more generally, because plainly the guidance is addressed to all Police Forces. Let me give an example: presumably an applicant or a Firearm's Certificate holder's domestic circumstances may change materially during the period between the original grant/

grant and the renewal application? - Yes.

For example, his wife may have left him, problems with children, loss of employment, deteriorating health, what have you, a whole variety of circumstances. Would you agree that it would be a good idea if some procedure was instigated which had some prospect of detecting that kind of thing? - Yes.

Why? - It may affect suitability if circumstances have changed. The suitability was originally agreed upon or seen to be suitable at an early stage, and if these circumstances have changed it may have to be reassessed.

So inevitably any such system would require, if I can use the term, to be pro-active rather than reacting to events; it would require to be some positive conduct by the investigating officer to see what the circumstances were? - Yes.

Can I ask you if you can assist me just in a fairly general way, moving away from the guidance now, to consider the information available to Police Forces in Scotland in general -- please tell us about Central Scotland Police if that is of some assistance to you -- from national records and the like. Perhaps starting first of all with the Scottish Criminal Records Office. Please tell me if I am taking you outwith your knowledge and experience at any time. Let's assume that a person is convicted of a criminal offence. Would I be right in thinking that the Court Officer in the particular Sheriff Court or whatever would be the person who would have the responsibility for advising Force records of this matter? - Well, I think the Court Officer and disposal from the Procurator-Fiscal ultimately as well, so a double check, if you like.

Is there a requirement to inform or is the matter left to the discretion of those two organisations? - No, there is a requirement.

And then the information goes to the Records Department of the relevant Police Force? - Yes.

So that if somebody was convicted in Stirling/

Stirling the matter would be reported to the Records Office of Central Scotland Police? - Yes.

Would that individual have a discretion as to what to do with that information or is there a mandatory requirement? - No, the information would have to be forwarded to the Firearms Department because the system operates, as I understand it, that all Firearms and Shotgun Certificate holders are placed on SCRO and markers are created in this which means if notification is received of court proceedings or pending court proceedings a print-out is automatically generated and that has to be forwarded by the Department.

Any criminal convictions relation to firearms? - A Firearms Certificate holder or a Shotgun Certificate holder automatically generates a print-out regarding that matter.

So just to get some idea, how does this work. The information comes in from the local Court Officer? - Yes.

To the Records Office of the police? - Yes.
Is there some computer system which automatically transfers that to the Firearms Department? - A print-out is automatically generated by the Records Department and I understand it is then forwarded manually to the Firearms Department.

Thinking more generally, what about advising the Scottish Criminal Records Office on a national basis. Is there a system for doing that? - Well, each Firearms Department will notify their own records bureau who will insert details of the holder on to the SCRO database. So each Force is responsible for their own holders and they appear on the SCRO as a Firearms Certificate or Shotgun Certificate holder.

Again if we are not necessarily thinking specifically about firearms at the moment, although I appreciate the relevance of what you are saying, just as a matter of procedure the criminal conviction is notified to the Force Records Department who are under an obligation then to inform the SCRO? - Yes.

In/

In every case? - Yes.

No matter how minor the conviction may be? - Some road traffic offences wouldn't be forwarded. They go to the DVLA I understand. Again I am not entirely 100 per cent on that.

Then it comes the other way round, how does the Force retrieve the information from the SCRO about an individual? - Well, if anyone requires information you merely punch in the name and the date of birth and you then get the necessary information. You may not get details and you have then got to punch in some more information if you are not satisfied it is the right person. Maybe you will see the person's record if he has one or if there is no trace of the person on the system.

Is this done by a specified individual in the Central Scotland Police Force? - Yes. There are a number of personnel who are authorised as SCRO operatives, so if you are qualified and hold a card which gives you access to the system you can check. Obviously there are a number of personnel at various stations who are authorised outwith the SCRO Bureau itself.

This whole procedure we have been through is in terms of a person being convicted and then intimation to the Police Force and so on and then nationally. Is there a time delay for all of that happening in general terms? - Very short I would think. In practice weeks I would think at the most, although again I am speaking really just from best estimate.

And will the SCRO records have the conviction intimated to them? - Well, I would imagine so.

This is not something you specifically know? - No.

MR. BONOMY: Sir, I wonder if it would assist at all for Mr. Campbell to know that I intend leading evidence about how these records, including the Police National Computer and the Driver and Vehicle Licensing Authority, operates so far as Firearm's Certificate holders are concerned.

LORD/

LORD CULLEN: I am sure that would be helpful.

MR. CAMPBELL: That would be helpful.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Can we turn to the Standing Orders of the Central Scotland Police which I think are to be found in D6L.

LORD CULLEN: I thought the last time it was D10?

MR. CAMPBELL: Sorry, it is D10.

BY LORD CULLEN: What is the distinction between 9 and 10? - 9 is a copy of Standing Orders in 1977 which was thought to be relevant and D10 is the existing document.

Of course, as we see, 10 is the 1990 version? - Yes.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: I only want to ask you about one chapter in this document at page 12, Section 6, dealing with refusals and revocations. Paragraph 6.7 is the provision dealing with the duty of all officers to bring to the attention of the Chief Officer any information relating to a Firearm or Shotgun Certificate holder which may warrant revocation of that person's certificate? - Yes.

Is any specific procedure laid down as to how this is to be done? - I think we covered some of this on Friday as well, but form RL3e relates to any information that an officer discovers which can affect suitability of a Firearm's Certificate holder and is a report on his conduct. Alternatively, an officer can submit an internal memorandum with the same information.

So far as the type of information which triggers off this duty, is there any guidance given as to that? - Apart from the paragraph there, no, not to my knowledge.

You told us last week about your conversation with Inspector Ralph? - Yes.

If/

If I followed it correctly Hamilton had been complaining about the conduct of two officers of the Force in dealing with an incident when he was alleged to have discharged an airgun? - Yes.

In a public place? - Yes

I/

I gather that an investigation revealed no record of this incident? - No, that is right.

What did Inspector Ralph do when he was told by Hamilton that this had occurred? - I am not aware of him taking any action.

Should he have? - Well, it could be argued that it was relevant.

I take it it is not suggested that the lack of a record of a prior notification of this by the two police officers concerned who spoke to Hamilton means that in Inspector Ralph is not to be believed about the incident? - No, I don't believe so.

So what it means is that if we assume the two officers did speak to Hamilton about this incident that they failed to report the incident? - It is difficult. You are relying on information Hamilton put before Inspector Ralph, and he may have exaggerated, told lies or told the truth. It is very difficult to know what happened and what circumstances prevailed.

It is not easy to envisage why Hamilton would complain about this if it did not happen? - Well, I would say the opposite. He was quite a habitual complainer, wasn't he?

And a liar? - Well, some people thought so.

CROSS-EXAMINED BY MR. GIBB: You may be aware that the Scottish Office have made a submission to this Inquiry, and among other things, at paragraph 61 they made reference to the fact that the Inquiry Officer on new applications should assess the personal suitability of any applicant; and in paragraph 73 it refers to the fact that renewal should not be treated in any different way. Was there anything in the RALC form prepared by Central Scotland Police which required the Inquiry Officer to deal with the question of personal suitability? - I think it is a yes or a no, is the person suitable to hold a firearm certificate.

We have heard evidence from the final Inquiry Officer, Constable Ann Anderson, that she had/

had concerns about Hamilton after her visits, and she mentioned this to a senior colleague: but there is nothing other than a yes or a no? - Yes.

From your experience, the only person who does any enquiry at all is the Inquiry Officer? - I don't know if I could blandly say that. With regard to the report the Inquiry Officer is completing, he or she is the only person who has personal contact with the applicant. I am not sure if the Firearms Department make any other contact.

But the Inquiry Officer does not have a file, and perhaps should have the file? - Yes.

If you could turn to the thematic report, which is in the front of Volume L7, if you could look at paragraph 4.6 -- have you got that? - Yes.

If you could turn to the second sentence, it says "Many of the forms are multi-functional" -- that is the style of Inquiry Report
-- and some require officers to ask a number of questions which are not required by law and seem to be at variance with the guidelines, for example, a good reason for possessing shotguns? - Yes.

If I read that evidence correctly, it is suggesting it is not necessary to apply one's mind to the good reason for applying for a shotgun, and that question does not require to be answered by law? - My understanding of the law is that for a shotgun the applicant does not have to show he has a good reason; the Chief Constable has to satisfy himself that he has no good reason.

What about in relation to a firearm certificate? - In relation to a firearm certificate the applicant has to show he has good reason.

And in your view should some investigation be made of the good reason? - Yes.

I think we have heard evidence that the only good reason as a matter of fact is to be a member of a gun club? - Yes.

In your view is that adequate? - I think/

think the guidance stipulates that the person should have legitimate and regular opportunity to partake. That may well require to be tightened up.

CROSS-EXAMINED BY MR. TAYLOR: I think you are presently in the CID Department; is that correct? - Yes.

How long have you been in the CID Department? - Currently a year.

What were you doing immediately prior to being in the CID Department? - I was doing Complaints and Discipline.

How long were you in Complaints and Discipline? - About a year and a half.

Prior to that what were you doing? - I was a uniformed inspector for about a year and a half.

And prior to being a uniformed inspector? - I was a detective sergeant for five years, a uniformed sergeant for a year and a half, a detective constable for five years and a uniformed constable for four or five years.

In that time what experience did you have in the administration of the firearms legislation? - Very little.

You gave a view on Friday as to the desirability of visiting a counter signatory when somebody made application for renewal of a licence? - Yes.

And the view you expressed was that someone ought to append and visit the counter signatory? - Yes.

Was that a personal view you were expressing? - Yes, it was something I would do myself.

Do you know for example what view the Scottish Office hold as to whether that would be considered a proper use of police time? - No.

Would I be right in thinking that the various/

various police forces throughout Scotland obtain guidance on how people should go about their duties from the Scottish Office? - Yes.

And another source from which they will obtain some guidance as to how they will go about their duties would be from the Inspectorate? - Yes.

Is it fair to say that the Inspectorate set out what might be determined good practice? - Yes.

You were asked questions on Friday in relation to whether you would countersign an application for somebody who was deceitful and a liar, I think was the way it was put. Now, when a counter signatory is asked if he would be prepared to endorse somebody's application he will be at liberty to decline, for whatever reason; is that correct? - Yes.

He could act on a whim, for example? - The view I would take personally is that if somebody lied I would not endorse an application.

But he is in a position whereby he could act on a whim in refusing? - Yes.

Which is not a position which the Deputy Chief Constable is able to take? - No.

He has to be able to justify his actions to a Sheriff if called upon to do so? - Yes.

And he must therefore operate within the framework of the legislation? - Yes.

Would it be fair to say that one would need to look into the facts of what went to make up the deceit and what went to make up the lie before coming to a view? - Yes.

One would not just be able to take the label and apply it in every case across the board? - No. The circumstances of each case would have to be examined on their own merits.

If one had a fisherman, for example, who reported to you that he had just lost a 5 pounder when/

when he knew it was really just a 2 pounder that got away, he would be telling you a lie at that point, wouldn't he? - Yes.

In fact he would be seeking to deceive you as well in believing he really caught a 5 pounder when it was a 2 pounder? - Yes.

That conduct however would not be such as to warrant you declining to countersign his application, would it? - In my interpretation, the way the question was put, somebody who was deceitful and a liar, would not encompass the description you have just given, no.

So one does need to go back to the facts in each case? - Yes.

You were asked some questions this morning about the Scottish Criminal Record Office. There was one point I would like to explore with you on that. In what circumstances does an officer normally make a search of the Scottish Criminal Record Office? - Whenever you have to submit a police report to the Procurator Fiscal you would check to see whether there were previous convictions, and if you were checking a person for the submission of criminal intelligence or for some reason during an enquiry, you would check whether there was anything known about them in the system.

Does that invariably happen, that if you are making a report to the Procurator Fiscal you will do a search of SCRO first? - Yes.

If one looks at SCRO one finds there is a record of someone holding a firearm certificate? - Yes.

So for example when then Detective Sergeant Hughes would have made his report to the Procurator Fiscal arising out of the Milarrochy incident in 1991 would he have checked the SCRO report at that point? - I am sure he would have, yes.

And when the system was operating properly it would be disclosed that Mr. Hamilton was a firearms certificate holder? - Yes.

RE-EXAMINED/

RE-EXAMINED BY MR. BONOMY: I have just one question. You have expressed in answer to Mr. Campbell's questions a number of views about the guidance and about the thematic inspection. In the exercise of considering what is to be learned from this whole business have you been asked to express your views to the Chief Constable of Central Scotland Police? - Not yet.

MR. BONOMY: The question witness, sir, is John Perry. He will be examined by Mr. Lake.

JOHN PERRY (54), Sworn:

EXAMINED BY MR. LAKE: I understand you live in Longniddry? - I do.

And it is correct you have now retired? - Yes.

What was your occupation prior to your retiring? - I was Assistant Director of Education for Lothian Regional Council.

For how long had you been Assistant Director of Education? - Since 1978.

I understand that within Lothian Region as it was then you had dealings in relation to Thomas Hamilton in relation to the letting of educational establishments? - Yes.

Were you made aware during that time of several complaints against Thomas Hamilton? - Yes.

Rather than go through these in detail it may be useful if I could summarise them for you and you could confirm whether or not you were aware of them; is that acceptable? - Yes.

The first was a complaint in May, 1988 relating to Linlithgow Academy where a mother expressed concern about her son being required to remove the clothing on the upper half of his body and then cancelled a cheque, causing a disagreement with Mr. Hamilton. Were you aware of that? - No.

Were/

Were you aware of a complaint round about May, 1988 from the same parent, in which she said her son was uncomfortable in the presence of Hamilton in the showers? - No, I was not aware of that particular complaint.

Were you aware of a verbal complaint that was made early in 1989, but was not followed up with anything in writing? - Yes.

And subsequent to that was a complaint made through Councillor Gray, again in May of 1989, making certain complaints? - Yes.

Before dealing with the response of the Regional Council to the various complaints I would like first to look at the means by which the let was taken. If you could have in front of you please document DLRC/CE/6, which is D1 within folder J(iii), do you see here in front of you what should be two different application forms? - Yes.

Can you explain what these two forms are for? - The first form, the application for registration as a youth group, was to allow a youth group to qualify for reduced rates for the let of educational premises.

And the second one? - The second one was an application to actually use premises.

Dealing with the first one, the registration of the youth group, what criteria must be satisfied in order for registration to take place? - The criteria were that the group ought to be run for the benefit of youth, and they ought to submit details of the members of the group or organisation behind the group. There was no other criterion that I recall.

If such a form as this were submitted to the Regional Council what would they do in response to it? - I think they would consider the application, and in normal circumstances would grant it. They would normally require Community Education staff to check out the group and give a view on the appropriateness of the group.

How/

How would the Community Education carry out the check? - They would normally carry it out through a member of the Community Education staff, possibly the youth officer.

Who would they speak to? - I'm not sure in detail; I think they would normally contact the leader and speak to him.

So an interview with the applicant? - Yes.

Would there be any check with the external agencies, whether the police or other Councils? - I am not sure at that time that there would be.

On what basis might an application for the registration of the youth group be refused? - I think it would be refused if the arrangements were not as stated and if the activities were clearly unsuitable or inappropriate.

Were applications or are applications ever refused? - They are -- I don't recall any particular instances but they are.

Can you give me any indication of how many out of every hundred might be refused? - I can't, sorry.

What is the significance of the refusal of registering as a youth group in relation to obtaining lets of premises? - It would simply mean that that group would not qualify in a reduced letting rate.

They would, nonetheless, still be able to obtain a let of the premises? - Yes.

I think we heard previously due to an oversight in this case there was no check made to the response to this application for a youth group? - Yes.

Was there therefore a follow-up after the application had been granted? - Yes.

Could/

Could I ask you to look at the application for the use of educational premises now; what would be the response of the Regional Council in response to that application? - I think they would normally have accepted that.

That would be the normal procedure? - Yes.

Are any checks carried out on applications in this context? - Not that I recall unless there was evidence that the application was unsatisfactory.

When you say "Evidence that the application was unsatisfactory" what sort of evidence would that be? - That might have been from the Community Education staff.

But that would have to arise if any formal checks were made, it would just be if someone happened to register a particular alarm? - Yes.

Although you said that you don't recall a complaint being made in May, 1988 Mr. Jeffrey has referred to such a complaint and said he went to carry out certain investigations at Hamilton's club with a view to verifying the details; were you aware of Mr. Jeffrey going to make visits to the club? - No, not at that time.

When did you first become aware that there was some concerns with Hamilton's club? - That was in the early part of 1989 when concern was voiced by the parent you referred to earlier.

Could I ask you please to look at the document which is D2 within folder J3 and has the other reference DLRC CE3; you will see that this is a letter addressed to Mr. Jeffrey from Hamilton and it has attached to it various letters including two from the Commissioner of the local administration in Scotland; at the time that the complaint arose in relation to Hamilton in 1989 were you aware that Hamilton had made previous complaints to the Ombudsman? - In 1989 I was aware of that, yes.

Were you aware what the nature of that complaint had been? - Yes.

Were/

Were you aware what the outcome had been? - Yes.

What was the outcome? - The outcome was that the Ombudsman had found in favour of Mr. Hamilton on the grounds of mal administration.

Were you aware of the basis of that finding? - That there had been mal administration in the decision not to grant a let.

Were you aware of why the Commissioner was of the view that the decision not to grant a let amounted to mal administration? - Yes.

What was the basis of that view? - The basis was that the procedures for granting the let and for consulting with the person having the let had not been properly carried through.

Again this may relate to the time prior to your involvement; could you look at document DLRC CE7 which is D5 in the folder; you will see that this is a handwritten letter or a memo from Mr. Sinclair to Mr. Williamson and it is dated on the final page the 3rd of June, 1988; may I take it from what you have already said you were unaware of this memo and the concern it contained? - That is correct.

Turning now to the complaints that were made in 1989 and, in particular, in May 1989 what was the nature of the complaint that was made to you? - The first complaint was that there had been inappropriate activities I think at the camp in Inchmoan Island.

How did you get to hear about that? - I heard about that I think first from Mrs. Haggar, a parent phoned up.

Was any action taken in response to the complaint by Mrs. Haggar immediately? - The action I took was to ask her to confirm in writing this complaint; I also consulted within the office about the situation; beyond that we didn't have written grounds for proceeding.

Were you aware of an incident which occurred on a night in May 1989 in which Mrs. Haggar poured/

poured various noxious substances over Hamilton? - Yes.

Were you taking any steps in relation to Hamilton at that time? - I am not sure of the timescale but we also, through a local member to whom I have referred, Malcolm Gray, we were looking at the situation to see whether there were any grounds for terminating the let.

Were you aware of Press coverage following the incident in which Mrs. Haggar poured the stuff.....? - Yes.

And reference within these newspapers to police investigations? - Yes.

Were you aware of police investigations prior to that date? - No.

On becoming aware of the Press cuttings and the reference to the police investigations what action was taken by the Region? - We, within the Education Department, consulted our Legal representatives because there was concern that this let was going on in these circumstances when there was an investigation or there appeared to be an investigation to see whether we could take any action that was justified.

What was the advice received from your Legal Department? - The advice was that the Region had, in terms of its duty to ensure the safety of those using its premises, a course of action that it could take during the course of possible inquiries to protect the the children in its charge.

How was that desire to protect the children to be carried out? - It was to be carried out by terminating the let of Linlithgow Academy pending the decision as to whether or not to prosecute.

Did you have a chance to consult with the police carrying out the investigations prior to the decision to terminate the let? - Yes.

Was this carried out over a period of time or was it as soon as you became aware of the information regarding the police investigations? - As/

As soon as we became aware of it and had discussed our course of action with the legal advisers we contacted the police and contacted them regularly after that to find out whether anything was likely to happen.

Could I ask you to look at two documents, one is DLRC CE9 and the other is DLRC RSH and they are D6 and D7 within folder J3; the first of these is a memorandum from the Community Education service, do you have that? - Yes.

And that is dated the 18th of May 1989 and refers to an incident at Linlithgow Academy on the 16th of May, 1989? - Yes.

Attached to that there are various newspaper articles? - Yes.

The second of these two documents is a letter addressed to Hamilton from the Scottish Education Officer and copied to yourself, do you have that? - Yes, that is correct.

That is dated the 17th of May, 1989? - Yes.

That is actually the day before the memo from the Community Education Service? - That is correct.

I think you indicated you are terminating Hamilton's let of the premises? - Yes.

Did you discuss with your Legal Department whether it was necessary to consult Hamilton prior to terminating the let? - We discussed that, yes, as I recall.

And I take it from the fact that you didn't consider it necessary to speak to Hamilton? - No.

Whose decision ultimately was it to terminate the let at Linlithgow Academy? - The decision was mine in consultation with my Depute Director of Education at the time whose initials are on this memo.

His name was? - Mr. Angus K. McKay.

Was/

Was it only yourself in consultation with Mr. McKay that could terminate the let in these circumstances? - We had the power to terminate under the Director of Education.

Well, following that Hamilton made a large number of representations and complaints to you which I don't think we need to go into but I understand that subsequent to that he made an application for further lets of Linlithgow property? - That is correct.

If I could refer you to document DLRC RS15 and RS15 which are also D14 and 15 within the folder; the first of these is a memorandum from yourself to the Regional Solicitor? - Yes.

You say that you note you have additional application for the letting of the premises? - Yes.

And then you request information whether or not criminal proceedings are to be taken against Hamilton? - Yes.

The response to that is document D15 from the Regional Solicitor who says he is in no better position to get information about these actings? - Yes, that is correct.

Did you do anything subsequent to these letters? - Yes, we contact the police and the Procurator-Fiscal, I think, in Dumbarton.

Was there a response to these letters? - Yes, they couldn't confirm that the proceedings would go ahead, I think they were still in the course of considering them.

Can I refer you again to two documents, DLRC RS3/2 which is D8 and the other is DLRC RS5/9 which is D24 in the folder although you will have the correct document which is D18 and not D8; looking first to document RS3/2 that is a letter from Strathclyde Police? - Yes.

And what did they say to you in response to your query? - That they couldn't help, that the report was with the Procurator-Fiscal.

Looking at the other letter do you see that/

that is a response from the Procurator-Fiscal? - Sorry, is this RS5?

RS5/9, it may be the ninth page? - Yes.

Is that a letter which you received from the Procurator-Fiscal? - Yes.

That is dated the 20th of March, 1990? - Yes.

What is the reply to your query? - That no criminal action was going to be taken.

What action did you take in response to the information that there was to be no criminal inquiry? - The action taken was to, as I recall, write to Mr. Hamilton to say in the circumstances we would receive an application from him and give it due consideration.

But was it not the position that you were determined there would not, in fact, be any let to Hamilton? - I think that we would have preferred for there not to be a let that we would have acted.....we would have acted properly in the sense if there hadn't been grounds for refusing we would have to accept.

Was there any attempt by the Region to ensure that any lets sought by Mr. Hamilton were taken up by the Community Education so were not available for him? - Yes, that was the line we took.

Why was that line taken? - Because there was the concern that in view of the public concern, in view of the possible proceedings, that we could have been leaving people in jeopardy.

By what sort of proceedings and what sort of jeopardy? - There was the feeling that the organisation was not suitable but we couldn't prove it.

Why did you simply not just tell him he wasn't going to get a let, full stop? - If we hadn't been able to fill the let place then Mr. Hamilton would have got a let.

Could/

Could you not just have refused him out of hand? - No.

Why not? - Because that would have been improper and we couldn't have done that.

Ultimately Hamilton did make representation to the Commissioner with the local administration in Scotland in respect of the action by Lothian Region in terminating his let? - Yes.

The Region made a response to the Commissioner regarding that? - Yes.

Could I ask you to look at that response which is document DLRC RS4/5 and D22 in J3, do you recognise this document? - Yes.

Were you involved in the preparation of it? - Sorry, is it the document from the Commissioner of Local Administration?

The one I am referring to is dated the 25th of January, 1990 and is a response by the Region to an invitation from the Commissioner? - I don't have that in this document.

On/

On the backing of that there is reference DLRC/RS4. The alternative reference is RS2/4? - I have a memorandum that I wrote on the 14th of March in front of me.

Can I ask you first of all to have document RS2/4. Is that a document dated 25th January, 1990 which is the response to the Commissioner? - Yes.

Did you prepare that? - Yes.

The first page of that narrates some of the general legal policy of the Region and the second page refers to certain of the complaints that were made regarding Hamilton? - Yes.

On the third page you set out in paragraph 4(ii) the position of the Region. Could you read that paragraph please? - "In suspending the letting the authority did not judge whether Mr. Hamilton was guilty or not. The allegations against Mr. Hamilton were subject to police investigation. It was not for the authority to prove or disprove the allegations. The authority's prime and only concern was to ensure the care and wellbeing of the children using these premises. The judgment was that in order that the authority be confident in discharging responsibility the let to Mr. Hamilton should be suspended. In the circumstances it was not considered appropriate to invite Mr. Hamilton to discuss the allegations. The point at issue was the fact of the police investigation."

At the foot of that page, "Mr. Hamilton made no application for a further let and if he had it would have received consideration"? - Yes.

What was the response of the Commissioner to that reply by the Region? - The response was to uphold the Region's action.

BY LORD CULLEN: Is it correct that the let was technically suspended only and not terminated? - Yes.

I noticed in some of the other correspondence it does give the impression it was actually terminated? - No, it wasn't, it was suspended.

EXAMINATION CONTINUED BY MR. LAKE: To be clear on that point, the period of the let, can you recall what that was? - I think it was from September, perhaps late August through to April or May.

So that it would require to be renewed annually? - Yes, that was the general procedure.

When you suspended the let in May, 1989 it effectively had the effect of terminating it for the rest of that year? - For the rest of that school session, yes, and then any reapplication for a new session would have been considered. But, of course, there was no change in the circumstances so we didn't grant.

Was there ever a refusal to Hamilton in respect of further applications to the Region? - No.

Did you ever receive any further correspondence requesting a let of the premises? - My recollection is no. After the Ombudsman upheld the Region's decision as I recall we wrote to Mr. Hamilton and said that we would consider a let if it came up.

I would like to turn now to general issues of the letting of local authority premises. What is the purpose of the Region behind letting its school premises to parties? - Well, first of all to make the premises as widely available as possible for use outwith school hours and to have them used for the benefit of the community.

Generally what sort of parties or what sort of groups apply for lets of school premises? - A wide variety of youth groups, some uniform, some not, some informal. Football training groups are quite frequent. We have other groups that are under the aegis of the Community Education and they have priority.

Are lets that are granted for the period of the school session or are one-off lets also considered? - Oh, yes, one-off lets are considered.

How frequent are they by comparison to the long-/

long-term or longer term lets? - Difficult to say. They are fairly frequent. Usually what we do is if there is no space we would liaise with the group that would be affected and try to fit the let in. They are fairly frequent.

Are you in a position to say how many applications for lets were received in the former Lothian Region each year? - I can't recall. It was a large number. It was a substantial operation.

To whom would an application for a let be sent in the first instance? - It would normally be sent to the Director of Education. In practice it went to the Principal Officer (Administration) to process them who would refer any lets that required further consideration to the Directorate members most immediately concerned; that was me and the Deputy Director Mr. McKay.

So that they would be referred to you only if there was an element of concern in relation to the let? - Yes.

What factors may give rise to that concern? - Well, there may be concerns about conflicting priorities.

What do you mean by "conflicting priorities"? - If there were several lets that fell into different categories, for example old folk, young folk, community education, then we would have to come to a decision as to who had priority.

Sorry, I interrupted you. What factors gave rise to the matter being referred to you? - I think those were the main ones. The other issues of concern were where a let may be politically sensitive in the sense of falling within two categories such as Blood Sports or the National Front.

Did the Region have a policy in respect of lets to such bodies? - Yes. It would not allow lets to the National Front or organisations representing Blood Sports.

When you referred to the decision whether or not lets should be taken, am I correct in understanding one person takes all the decisions for the/

the entire Region, as it then was? - Yes.

Are decisions to let ever taken at local level at the particular centre or school involved?
- I think in practice, yes, in the sense there would be programming from the local centre but they would have to go through the central letting system for formal acceptance.

If it had been accepted at local level would it ever be the case it case it was overturned at Regional level? - I don't recall any cases. It is possible.

Are you aware whether any applications were rejected at local level? - I am not aware of that.

When the School Board was set up what say did they have in the decision to let? - They say they had was they were responsible for the programming of the facilities and for commenting on the pattern of the lets and the priorities, and they had to operate within the Regional policy which was framed naturally.

When you say they would comment on lets, that would be a comment to yourself or the Director of Education within the Region? - Yes.

Did they have some personal contact with the person seeking the let? - Yes, they would.

Would they interview that person? - I am not sure they would, no. I think they would simply receive the lets and be taken through them by the head teacher or Community Education Officer.

Would they take any decision, real decision taking power in relation to which lets they preferred? - Yes, they would.

Are they able to reject lets on any basis they see fit or do they have to give a reason which conforms with the Region's policy? - They would have to give a reason which conforms.

Is the Region's policy contained within a written document? - It is.

Can/

Can I ask you to look please at a document which isn't contained within Folder J(iii), it is within J(iii) other documents (D/LRC/RS7). I have got a document here headed "Regulations for Letting of Educational Premises"? - That is right.

Is that the Region's policy you referred to? - Yes, that in association with letting charges would also indicate priorities.

Is that a list of what the various groups would be charged even for a one-off let of the premises? - It broadly indicates the charges and it also indicates the categories of priority by allocating within these categories.

I think it is actually attached to the back of the document within the Production D/LRC/RS7 setting out the order of the various priorities? - Yes.

Can I just refer you to the second paragraph within these regulations. Could you read that out please? - "A responsible person must be present throughout the duration of each meeting. In the case of sports lets the activity must be carried out supervised in accordance with the appropriate rules and recommendations of the governing body of the sport concerned."

The fourth paragraph refers if any ball game is to be played it has to be done within the recognised rules for the appropriate game? - Yes.

Is this the whole of the Region's policy as it stood at that time in relation to lets of school premises? - As I recall.

If a School Board or Region wished to refuse it it would have to be taken somewhere within this framework? - Yes.

If they were concerned regarding what may be said to be a person's general suitability to have custody of children how would that be handled within these regulations? - I think at the time we would have had an investigation by the appropriate Community Education staff and we might ask an adviser in physical education to check on anybody if they were sporting, for instance.

To/

To whom would that person report? - That person would report -- the Community Education person would report to the Community Education Officer at the time who would refer to the Letting Section. The physical education adviser would report directly to the letting person.

That may deal with the point referred to in paragraph 2 there whether or not the responsible person was a person dealing with supervision. Would that also cover someone's suitability as a person to have custody of children? - If there was anything known that could be founded on, yes, it would.

Is there any record of register kept by the local authority of persons who might not be suitable to have custody of children? - I am not sure. I think there is. I don't know.

Are the activities that go on within the various let premises supervised on a regular basis? - Do you mean by somebody external to the groups concerned?

Yes? - There is normally a head of evening school who would be there who would keep general supervision. I don't think there would be any regular inspection of what was going on.

Is the person, the external supervisor, a member of the school staff? - Maybe a member of the school staff or could be a member of the Community Education Service hired specifically for that purpose.

Is there one person in each school or other premises? - In the larger premises there would be one and in others -- actually in certain schools there wouldn't be necessarily an evening school head, classes would be under the formal supervision of the head teacher concerned and the Community Education Officer and the school janitor would be the person who would let people in and out but wouldn't have any responsibility for supervising the suitability of the let.

So/

11.20 a.m.

So there might be no person who actually had a day to day eye on what was actually going on? - That is conceivable.

The circumstances in which the Region terminated Hamilton's lets after these complaints which arose in 1989: in response to that it was only the lets of the Region's premises that were terminated; is that correct? - Yes.

Did the Region have any power at all to prevent Hamilton running clubs within privately-owned and leased premises? - No.

Would the Region be able to undertake such a task of supervising persons with the custody of children in private premises? - I think it would be difficult but not impossible, given the existing powers. It would be possible if the Region were given that task.

If there was concern expressed regarding a let in private premises would the Region have powers to intervene through the Social Work Department? - I am not sure. That might be possible.

If you are not aware, please say so. Would the Region be able to refer the matter to the Reporter to the Children's Panel for him to investigate? - I am not sure. I think that would be possible.

But neither of those two courses were adopted in this particular case? - No.

In the file of correspondence which has been recovered it is clear Hamilton was a frequent complainer to the Region? - Yes.

Are you able to give any indication of how common or otherwise it is to be faced with that barrage of correspondence from a resident within the Region? - It is fairly common to have a barrage of correspondence with particular clubs which are having difficulty meeting their charges, and there ae some difficulties there. Sometimes there are difficulties over accommodation and over the general conditions/

conditions that apply in an area where a let is taking place; but the kind of complaints that we had from Mr. Hamilton I think were fairly unique.

So he did stand out from all the other complainers? - Yes.

CROSS-EXAMINED BY MR. GIBB: Am I right in thinking you would not have access to the Scottish Criminal Records Office for those who were other than intended employees of a local authority? - That is correct, yes.

Am I right in thinking that the new unitary authorities have themselves access to the SCRO for that purpose? - Yes.

So it would be possible to extend that facility to enable them to do a Scottish Criminal Records Office check on anybody involved in youth groups? - Yes, it would.

You have indicated it would not be impossible to have a vetting procedure for those involved in youth groups in local authority premises? - Yes.

How would you have seen that operating? - I think we would have had a policy on child protection that would have been known to all staff and in which all staff have been trained.

But would you interview every applicant? Is that possible when you have got single lets? - I think it is impossible. I think we would look at particular cases. It is possible in the sense that you do have a body of individuals and organisations, and it would be possible to pick up individual organisations and investigate.

For instance, if a boys' club was a member of the Scottish Association of Boys' Clubs I suppose you might not have the same concern about that than you would have in relation to a boys' club that did not have that affiliation? - That is correct.

I suppose there would be no problem with the mainstream organisations, such as the Scouts, the Guides and the like? - No.

Do/

Do you appreciate, however, that parents might think there was an imprimateur of approval on an organisation which was carrying on in a school? - Yes.

And they might assume certain checks had been carried out? - Yes, they might assume that there was some validation given to that organisation by its presence there.

And therefore if a local authority are to continue to grant lets it is all the more important that vetting should take place? - I think so. I think authorities should be empowered to refuse lets more readily than we were able to do in the circumstances.

Mr. Lake suggested that they were your premises, and you could refuse a let without reason? - We certainly felt we could not do that at the time, and the legal advice that we had bore out that view. What might be possible of course is to include in the authorities' guidelines an indication that the authority reserved the right not to grant a let; in other words, giving the authority a wider scope than it had in relation to the specific organisations that were banned from lets.

One of the concerns about Hamilton's groups was that there was no management group of parents. I suppose that could be seen as an essential pre-requisite before there were any lets? - That is in hindsight a pre-requisite. I also think that the constitution and the management arrangements for the groups could be vetted as well; in other words, the officebearers and the conduct of the group.

You were asked by Mr. Lake about other premises. I suppose, subject to resources being available, local authorities could be responsible for vetting of those involved with children under a certain age in any premises where organisations were being set up? - Subject to the law on entering these premises I would have thought it would be possible.

Certainly it is fair to say that would involve a significant increase in the resources available to local authorities? - Absolutely.

BY/

BY LORD CULLEN: What kind of system do you envisage, given the powers and funds? - I think the system would have to be one that allowed authorities the right to enter premises and require organisations to secure validation from the authority and to require an organisation to indicate, as I said earlier, their constitution, their arrangements for management and their arrangements for involving members of the public, parent body, for example, and the general supervision of the organisation. I also think it would be necessary to have a policy on the inspection and monitoring of organisations. That could be on two levels: one could be by the Community Education staff of the authority, the officers of the authority; the other would be by having a system of monitoring organisations, that entailed regular inspection of activities and the registration of the details of these inspections: in other words, there would have to be a recorded system for the officers who were dealing with this that it would be available to the authority.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: Yes? - There is another significant aspect in this, and I think it arises partly from the devolvement to schools, that it is necessary for authorities to keep an overview on lets and of the people who are taking lets. In the situation where letting is devolved to schools I am not sure the authorities will have the overview that we would have had in this situation, and I am also not sure that the individual organisations would have the access to the body of experience and to the advice that the Education Authority itself would have. So that is something I think that has to be looked at very carefully, the effects of devolving letting to the individual establishment, with the possible fragmentation of control and the loss of oversight that could entail.

Really you could find a headmaster who was keen to let out as much as possible to increase his income out of school lets? - Very much so.

That he wouldn't need to come anywhere near the new unitary authorities? - That is correct.

How many one-man shows have you come across/

across such as the Hamilton type? Were they common or uncommon? - I think there was a few. I mentioned football organisations. They were not one man, but they were just a few individuals. The actual one man type of organisation was fairly rare on the local authority. There are organisations like that that have a small number of individuals but who do not belong to a uniformed organisation or organisations like boys clubs and so on. I think there could be concern there.

No further cross-examination.

No re-examination.

MR. LAKE: The next witness is David Somerville.

DAVID WILKIE SOMERVILLE (51), Sworn:

EXAMINED BY MR. LAKE: I understand you live in Kirkcaldy? - I do indeed.

What is your present occupation? - Head of Community Services, Fife Council.

For how long have you been Head of Community Services? - Since the 1st April of this year.

What was your position prior to that? - Immediately prior to that I was Assistant Director of Education for Fife Regional Council.

Do your responsibilities in these two posts cover the letting or an overview of the letting of educational establishments within the Council's jurisdiction? - No, they entailed me in the community use of schools, which is slightly different.

Do both community use of schools and a direct school letting system exist within the Region? - Yes.

What/

What is the difference between these, community use and direct school letting? - Community schools have a much greater staff resource. Where a school lets it has a letting system whereby groups are able to let the premises. Community schools have a higher staffing establishment, which allows a whole range of classes, rather like a leisure centre, and a whole range of individuals can book into that.

Within the community use the actual operation of the centre is still controlled to an extent by the Council, whereas in a letting of the school it is turning over the premises to a private group? - Yes.

Which category did the lets to Hamilton fall into? - Both categories. Woodmill High School, which I had responsibility for to a large extent, was a community youth school, and Queen Anne High School was a school let.

So your involvement in relation to Hamilton was more in relation to Woodmill High School than to Queen Anne High School, the let there? - It was indeed.

Were you aware nonetheless of the details concerning the Queen Anne let? - I was aware of the Queen Anne details at a later date.

We have already heard evidence of some of the concerns and complaints which were made against Hamilton. Rather than go through these in detail, I propose to summarise them, and can you indicate whether or not you were aware of these complaints having been made to the Region? - Yes.

The first was a lady in 1985, from a parent, in relation to a summer camp of Hamilton's, in which she complained her son had been ill treated. It was a complaint received through the Rights Office? - I was aware of that.

Were you aware of complaints arising out of the 1988 camp run by Hamilton on Inchmurrin Island? - No, I was not aware of that.

Are you aware whether any persons within the/

the Region would have been aware of the problems arising out of the 1988 camp? - I understand -- well, I am aware that the Director of Education in 1989 received an anonymous telephone call suggesting there had been concerns not specifically about that camp, but about Hamilton.

Can I ask you to have in front of you document D/FRC/14, which is D8 within folder J(ii): have you got that? - Yes.

Do you see this is a letter addressed to the Depute Reporter at Glenrothes in Fife? - Yes.

And attached to it there is a report from Strathclyde Police, dated 21st July, 1988? - I see that.

Although ths was sent to the Reporter are you aware whether that was ever notified to the Region, or would you have expected it to have been notified to the Region? - I certainly note that there was a group of boys from Dunfermline, so I would hope it would have been relayed to the Region. I certainly have not seen it.

Dealing with the next complaint, which arose in 1990, and this was by a parent who was concerned that his son had been excluded on grounds of his build, his size? - Yes, I was aware of that.

And also in 1990 a mother complained that her child had sustained a serious chest infection while at camp? - I was unaware of that till much later.

In 1992 there was a complaint made regarding boys who lived within the Fife Region running away from the summer camp which had been held at Dunblane High School? - I was aware of that.

I/

11.40 a.m.

I would like to look now at the means by which Hamilton placed lets and sought lets from the Region and the control that may have been available to the Region in relation to them; I would like you to have in front of you documents DFRC26 an 27, these are documents 20 and 21 in the folder J2; these are two application forms for school lets, have you seen these particular forms before? - Yes, I saw them.

These both relate to lets sought at the Queen Anne High School; these would have been lets, not community use lets, just bare school lets? - That is correct.

You wouldn't have been involved with these? - No, I wasn't involved with them.

To whom would an application be made for these lets? - Application is normally made to the Area Office of the Local Authority and a decision would take place with the head teacher and, if necessary, that would be referred to a colleague in the Education Department or the Assistant Director of Education.

You say "if necessary"? - If there was concern, if it as not a repeated let and if there was any concern particularly with sporting activities, the qualification of staff and the advice of the physical education director would be sought to see whether these people had the correct qualifications.

Is that the only concern that could arise? - There would be other concerns such as the nature of the activities and it might be that the application wasn't filled in properly, the correct information wasn't given; there was also a policy with school lets which the Authority had written down and had put into a policy guideline.

What was the purpose of the policy guideline? - The policy guideline was to make sure that the lets that were allowed were conducive to what the Education Authority was trying to do to support the local community.

Did/

Did the policy guidelines contain details of what might and might not be carried out within the school premises? - Yes, it did.

Did it relate to matters such as supervision? - I suggest, and I am not 100 per cent au fait with documenting school lets but I understand that technical aspects had to be taken up; that there were a number of structures relating to the group, that the skill of the instructors equated to the nature of the activity undertaken.

What inquiry would be made to ascertain the qualifications of persons conducting the group? - I don't know, I wasn't involved in that.

Are you not aware of what the routine in respect of such.....? - No.

What inquiries were to be made in respect of a Community Education service let? - Each application as it came in, I have to make sure the application is made to the Head of Community or one of his staff and the qualifications would be checked at that time to see that they were appropriate to the activity.

How would that be checked? - If there was any doubt this would be checked with the governing body of that particular sport.

Was any check made as to suitability of let within schools? - That is more difficult to make a judgement about but if there was evidence to show that person was not capable or wasn't suitable then that would be taken into account.

Where might that evidence come from? - It might come from a variety of sources -- previously known difficulties with young people that had been proven or, in fact, local information that had showed that there was a difficulty.

Is any record or storage system kept for such information? - There is no storage system that I am aware of.

When a let is made at premises for community use or school let how long does that generally last for? - The let itself?

The/

The period of the let? - The let can vary, usually the school term at a maximum but it could be a year and reviewed in a year but mostly the school term.

Might you have a school let for a one-off event, a one night event? - Yes, there are.

How frequently are they? - Reasonably frequent -- I wouldn't like to put a percentage on it but reasonably frequent; most of the lets are a longer time than that.

Are the Region or were the Region or the Council able to meet the applicant or interview them in any way prior to granting a let? - At this moment in time in terms of Community use the applicant is met, it is not a formal interview but it is an informal meeting; in terms of the school let system my belief is that applicants are not necessarily met.

Who deals with the applicants for school lets? - In terms of?

During the period that Hamilton had his let, say this let at Queen Anne High School, who would have dealt with that? - It would be the Assistant Director of Education.

And when the let has been taken up for Community use what level of supervision would there be by the Council for the activities carried out? - In addition to the Head of Community use there are people, what we call deputes -- there would always be supervisional members of staff on it and one of their roles was to ensure that monitoring takes place of activities.

And so within the Woodmill Centre how many rooms or halls would be available for let? - There would be many rooms available for let but most of the lets, because of their very nature, take place in the sporting facilities, the physical education activities so I suggest about five or six in terms of physical education facilities; there are obviously many more classrooms.

There would be at least five or six different groups carrying out activities within the school/

school on any given evening? - I would think there would normally be many more because in addition to lets there would be individuals using the premises; in addition to that there would be classes run directly by the Local Authority.

You said supervisory persons from the Council have a duty to supervise these activities throughout the building? - It wouldn't be a question of supervising them all the time but during the evening there would, at least, be several calls in just to see that everything was in order.

What sort of things would they be looking for as a problem? - As a problem -- there are many types of problems; I think the quality of all the activities and the instruction, the lack of supervision but in addition to that the main purpose for looking in wouldn't just be a straight monitoring because of a problem, there would be in many ways a point of view to make sure that the group were part of the overall organisation.

If a person in the Centre had considered that there was a problem with the activity being carried out what would they do about that? - They would deal with it as they saw on the spot, if it was something that needed to be done on the spot, if it was something that didn't need to be done on the spot they would report back to the Head of Community use and depending on the nature of concern it would be taken elsewhere.

What may the Head of Community use do in taking the matter forward? - Again if he felt that it could be dealt with within his level of response he would deal with it; if they felt that it wasn't something they could deal with they would refer it probably to myself.

What sort of matters might they not be able to deal with themselves? - It might be a situation whereby there had been an altercation with somebody who was organising a group and they personally refused to take instructions or requests from the Head of Community use.

If a decision was to be taken to terminate a let at what level would that decision be taken? - It could have been taken by the Head of Community/

Community use but on the basis that there was likely to be repercussions it would be normal it would be discussed with myself and if I felt it necessary I would discuss it with the Director of Education and other colleagues, again to make sure that the grounds for terminating the let were sound.

Talking about the grounds for terminating a let, if an application was made to you for a let and you simply didn't want to grant it would you consider it necessary to have grounds to say you refused the application for the let? - Yes, I think we would have to substantiate why we refused that let.

Why couldn't you just simply refuse to grant any person or body a let? - On the basis that person would have the rights for grounds for appeal and in this particular instance I was aware of the fact that there had been a similar situation with Central Region.

When you talk about an appeal is that to the Parliamentary Commission? - An appeal can take several different ways -- it might be made to the Local Authority and the Local Authority could take a stance on that position and it could also be an appeal to the Ombudsman.

What sort of reasons might you give for refusing a let in the first place? - If there was evidence that the technical qualification of the people involved were not suitable, if there was evidence that the person involved with the group is not a suitable person and there had been proof against that and grounds such as that.

Could you indicate what proportion of applications for Community use lets are, in fact, rejected? - It would be very few.

Something less than one per cent? - Yes, I would suggest something of that order.

Can I turn now to the various responses of the Region to the concerns that were expressed in relation to Hamilton and I refer you firstly to document DFRC8 which is D5 in the Production; do you recall this memorandum? - Yes, I do.

Does/

Does that show who it is to and who it is from; are you the sender or the recipient of this? - I am the sender.

Do you see in the second paragraph there is mention of the complaint that was made or referred to at the outset, do you see that? - Yes.

And then in the second paragraph there are four matters which are said need actioned? - Yes.

These are that the club can't use the Centre as its official address, but although the camp hadn't of itself concerned the Region the Region had to ensure the club is being run properly, there was reference to payments of cash and difficulty with the structure of the club? - Yes.

Would these be matters which you would apply to all clubs within the Regional premises? - I think particularly in the case where concern was raised or an issue was raised that made us look closer at a club, yes.

Particularly in relation to the section in which it is observed that a complaint has been received concerning the activities within the Centre; if the Region was concerned that it would come back to them, if you like, did you have any direct control over the activities carried out by groups within your premises? - Sorry?

Control or regulations of activities carried out in your premises? - We have control to the extent that we would, whilst they were in the premises, we would ensure that they carried out their activities in keeping with what we expected to be normal; it was difficult and is difficult for organisations to be involved in activities that may happen somewhere else within our own premises.

If someone was carrying out activities within other premises within the Council areas would the Council have any power to intervene in respect of these activities? - Yes.

Would that be in respect of certain age groups only? - No, it would be in respect of all age groups.

How/

How would the Council intervene if it had concern about the way an activity was being carried out? - We would fully investigate.

Which part of the Council would carry out that investigation? - In the context of being in Education premises then the Director of Education would have normally the responsibility.

And if there was a let of premises owned by some private body which part of the Council would have the authority to investigate? - I think that would be more difficult and I think the administration legal section of the Council may have to investigate that but I would expect that if the main interest of the Council or the Regional interest of the Council was within the Education Department premises I would expect the Educational Department to be involved somewhere.

If it was any other premises would it be a matter for the Social Work Department of the Council to investigate? - If it involved young children I would have to suggest that the Social Work Department would have a major role to play in the investigation, yes.

Do you consider that the Reporter to the Children's Panel would have any input into that situation? - Yes, I would.

Are you aware of any such investigations concerning non-Council premises having been carried out by the Council? - I am unaware of it.

I think we see on the second page of that memorandum that you have just referred to you expressed your view at that time of what has to be done in relation to Hamilton; can you just read that paragraph please? - "At this stage I can see no reason to alter our involvement or my meeting with Mr. Hamilton but obviously it raises the profile of the matter. You may wish to discuss this before Monday".

So if nothing was done directly in relation to Hamilton at that time what action, if any, did the Region take? - I met with Hamilton at that stage and I spoke with him about the operation of his club; at that time I was aware also, I can't give/

give you the exact time, of Press cuttings before Central Regional Council at which the Ombudsman had found against Central Regional Council because they hadn't.....it appeared that they hadn't worked on the facts but had worked on rumour; I met with Hamilton and my view at that stage was that we didn't have grounds to terminate his use of the premises because we didn't have any substantive evidence against him but I asked that our colleagues at Woodmill High School undertake supervision of his sessions at a higher level than they would normally do with other groups.

Did you want to terminate the let of the premises at that time in 1985? - I would have preferred to terminate it; on the basis of my experience I had a feeling that at whatever level the concern or whatever level of difficulty we would experience I thought that we would have ongoing difficulties with Mr. Hamilton.

What did you consider you required by way of evidence to support the decision to terminate the let? - Something that could withstand the rigor of anything up to and including the Local Authority Ombudsman, we would have to ensure we had the correct information to go forward.

So was there concern in relation to proceedings before the Ombudsman which related to Central Regional Council? - My concern was that there had been rumours and suggestions that Mr. Hamilton hadn't carried out his activities in an acceptable manner and that Central Regional Council had reacted to the suggestions but subsequently they couldn't be proven and the situation was the let had re-started again and my concern was we would require factual information and evidence that would back that situation.

Did your interview with Mr. Hamilton give you any basis for concern or any basis for terminating the let? - He gave me no evidence whatsoever during that interview as to why we should terminate the lets and my line at that stage was to try and ensure to the best of our ability that we monitor the situation and review it almost ..... well, on a week-to-week basis.

You/

You said earlier on in your evidence when it came to the renewal of applications that when one expired if there were any problems you might regard them as a reason for not granting renewal? - Correct.

Did you consider the concerns you had might be sufficient to justify non-renewal even if they didn't justify termination? - The concerns I had were based on nothing that I could substantiate. We were unable to provide any hard evidence at that time that could terminate the let.

You said you carried out supervision or monitoring on a week-to-week basis. What form did that take? - That took the form of Mr. Baxter's staff, particularly one who was a physical education teacher and who was aware of physical activity for boys, in ensuring on a regular basis that group was looked at within the centre, and I also tried to ensure that there was a parental involvement at some stage in some form in this club.

How did you do that? - I tried to encourage Mr. Hamilton to form a parents' committee. Whilst this wasn't formalised for the length of the let Mr. Baxter did inform me that parents were in the gym when activities were going on.

I think you said the first subject of difficulty you referred to was regarding the exclusion of one boy on the grounds of his build, concern about another parent about a chest infection, and the Council did not seriously consider taking action against Hamilton until they had details of the summer camp at Dunblane in 1992? - That is correct.

How did you get to hear about the incident at Dunblane High School in 1992? - The then Director of Education called me to his office and said he had a phone call from the Chief Superintendent of Police in Dunfermline raising concerns about the camp.

What were his concerns? - The concerns were that three boys had been found at a telephone box outside the school at Dunblane High School, and subsequently/

subsequently after discussion with the Director of Education I agreed to meet as quickly as possible with the Chief Superintendent and at the Chief Superintendent's suggestion with the Reporter to the Children's Panel.

What was the outcome of those discussions? - The outcome of those discussions was that the information that was available at that time, which was effectively that three boys had left the camp and had been found by the Central Police at a telephone box in Dunblane. I asked if the Reporter to the Children's Panel would be willing to put is concerns in writing which he readily agreed to do. I then discussed it with the Director of Education and it was agreed that we should not at that stage take any further bookings from Hamilton or lets from Hamilton or actions from Hamilton. This was during the school holiday period in July/August so both Woodmill and Queen Anne would be unavailable for use until the end of August.

Was that decision taken on the basis of what had happened at Dunblane or was there a further enquiry into activities within the Region's premises? - It was largely related directly to the activity in Dunblane.

Can I ask you to have two documents in front of you, DFRC/53 and also DFRC/102 (D46 and D58 within J(ii) respectively). I think the first is a memorandum to Mr. Welsh from yourself dated 27th August, 1992? - Yes.

The first paragraph refers to a meeting with Mr. Kelly, Reporter to the Children's Panel, and Chief Superintendent Elder to whom you referred? - Yes.

In the second paragraph you indicate you wrote to all heads of centres setting out your view given the serious concerns of the Reporter to the Children's Panel about the welfare of children which could be directly related to a lack of supervision, the authority could possibly be in a difficult position knowing this if there was an accident related or unrelated during one of our lets in Fife Regional Council premises. The severity of the complaint was such that the activities of the club on camp and during a let in Fife could in my opinion not/

not be separated. Is it fair to say on the basis of that your concern was related to carelessness in relation to children? - The answer is yes, I think carelessness.

There wasn't at that time any concern as to abuse or activities which were causing the police concern? - At that stage I was unaware of anything other than lack of care in a classic way for the children. In addition to that, given the situation that related to the difficulty for Central Regional Council in the early 80s I decided the way we would be looking at this was really related to, if you like, care of the children you would expect from other evidence at that stage.

And that was the approach to be taken by the Regional Council? - My view, my personal view was until we had some hard evidence of abuse we had to work on the evidence that was there which we could substantiate, and it was fact rather than rumour, and at that time of this particular incident I had no other information really other than the fact three children under ten years of age had wandered out of school.

Had you heard any rumours of abuse at that time? - In Dunblane?

About abuse? - No.

Referring to that second document, I have a memorandum again from you to Mr. Welsh dated 29th September. This is a large file? - It is a large file.

Unfortunately I think this starts at page 51 of that file. They may be numbered in the top right-hand corner? - Yes.

Is that the memorandum dated 29th September? - It is.

In the second paragraph, "Whilst it could be considered that the normal lets at Woodmill and Queen Anne High Schools were separate from the annual camps the nature of the allegations are such that the future safety and welfare of children require to be assured before activities could be recommenced. Mr. G. Baxter, Head of Centre, Woodmill/

Woodmill Centre, confirmed that parents assumed that there was some kind of direct provision or endorsement of the club because it met on educational premises. The complaints related to alleged lack of supervision and sufficient care for the welfare of children and therefore any subsequent accident either at camp or on Fife Regional Council premises could result in the Regional Council being negligent on the basis of having concerns but taking no immediate action pending a full investigation. It was essential that the safety of the children was of the highest priority irrespective of the level of risk"? - Yes.

Was your concern in some sense the Region may be vicariously liable for what was being carried out by Hamilton in the premises? - Yes, because there was some evidence to suggest at that stage Hamilton or his group did not supervise these children properly at the camp, and therefore that was something, it was a fact we could deal with, and subsequently in fact there had been lack of proper staff/pupil ratio in the camp forming a minor incident at Woodmill High School and then we would have thought Fife Council would have had to take steps to ensure these things were done.

Did you consider that by letting the premises to Hamilton the Region might be viewed by parents to be supporting his groups in some way? - I think, yes.

In the fourth paragraph of that letter which is on the second page there is a list of various, a list under various sub-headings of various complaints that have been received against Hamilton; you see these? - Yes.

We have heard these from other witnesses so I don't propose to consider these in detail. But in the paragraph headed No. 6, "Assessment" on page 4, you set out your views of what had been discovered? - Yes.

Page 5 is headed "Supervision", relating to the fact Mr. Hamilton was in sole charge of 18 boys at Dunblane High School? - Yes.

Then at 6.11 you set out the police of the Regional Council on the supervision of groups relating/

relating to children; is that correct? - That is correct.

I wonder if you could read for me the policy in paragraph 6.1.1? - "This is the major responsibility which the leader undertakes. This responsibility is both constant and total. There are no occasions during an excursion when a leader may abdicate this responsibility. The leader is also responsible for ensuring that there is at all times an adequate level of supervision. In terms of establishing levels of supervision, it is important that a commonsense approach is adopted. The leader must take into consideration the personal capabilities of all the parties, the demands of the excursion and the conditions and circumstances which are likely to be met. It is more important that these criteria are met than for the authority to established fixed ratios since similar circumstances will require different ratios according to the personal capability and maturity of each group."

You say in the paragraph just before that it is intended for internal excursions run directly by the youth clubs? - Yes.

Is that information given to people taking lets of Council premises? - It wouldn't normally be. It would be given to them as advice. If we were aware that they wished support in terms of running an activity, at a camp, somewhere else -- for example, football teams could quite easily make use of booking football pitches for some football team but some teams may take the youngesters away for residential experience and in these circumstances it would be likely the two situations would be recognised.

Is this an answer to someone who may ask for support rather than have it directed in these terms? - Indeed.

In paragraph 6.1.2 you set out the standards for supervision required of the Scouts Association. Was that because you were liaising with the Scout Association at that time? - No. At that stage I decided to liaise with as many people as possible and get dedicated backing information.

As/

As part of that liaising you talk about in 6.1.3 you have set out the specific ratio regulations for the Boys' Brigade? - Agreed.

Paragraph 7, there is a paragraph in which you give some fixed guidelines and which gives your concluded view regarding the level of supervision at Hamilton's camps? - Yes.

Could you just read that one out? - "There is no doubt that the circumstances in Dunblane fell well before the accepted norm. Responsibility for ensuring adequate cover was for the sports club group committee as an independent organisation".

Similarly in paragraph 6.3 headed "Emergency Procedures". Again could we go to paragraph 6.3.3, the position of the Council on this matter. Could you read that out please? - "There is a need to (a) supply adequate information to parents including details of insurance cover; (b) ensure particularly in residential situations effective links involving party leaders or centre/ club based contact and parents", and I have added "This includes emergency telephone contact numbers".

Is that a matter which you would communicate to an organisation if they sought the support of the Council? - If they sought it, yes.

Without going into detail of the subsequent paragraphs you set out the requirements of that kind of both the Scout Organisation and the Boys' Brigade? - I do.

After that you note that the arrangements made by Hamilton were unsatisfactory? - Yes.

In paragraph 6.4 you indicated that it is not possible to substantiate any complaints of inapproprite language? - Correct.

6.5, telephone access which has already been dealt with. 6.6 is the question of whether or not the children were misled as to the activities to be undertaken? - Yes.

6.7, you return to the activities in more detail in terms of the suitability of the people who were/

were involved, and I think there you refer to a report from a Mr. Liddell regarding concern about activities of children? - I do.

Could you read out the text there which is an extract from Mr. Liddell's report? - "The fitness activities were totally inappropriate and better suited to an adult group. The 'ring' work, especially the dip and press work would have been demanding for a mature gymnast, for children of the age group concerned I believe it might be damaging and shows a total lack of anatomical and physiological knowledge on the part of the leader. The other fitness activities would, again, not have been used by a responsible coach. The trampoline work was dangerous. On occasion no 'spotters' were present and on the one occasion when they did appear they were young boys themselves. An apparent high standard of 'traditional' gymnastics was achieved by some of the boys but only one one occasion was a supporter present. How there was not a serious accident I will never know. On the occasion when support was provided I questioned the method used. Like the trampolining and gymnastics, the athletics activities gave cause for concern. The 400 metres was run in the wrong direction but more importantly was putting far too much strain on the hearts of the young boys participating and could have caused the youngsters great distress. The high jump could only be described as dangerous. The landing area was inadequate for the activity and it was evident that no constructive coaching had taken place. Accidents should have occurred. Lucky leaders!".

It is noted there was a video prepared in July of 1992 and that report would be dated 1st September, 1992? - Correct.

Would/

12.20 p.m.

Would you have expected these matters to show up in the supervision of activities within the school premises? - The answer is not necessarily. I was assured by Mr. Baxter and his staff, one of which included a principal teacher of physical education, that the activities which took place in the school were commensurate with the abilities of the youngsters, and he thought it was perfectly suitable. Obviously the activities which took place in the camp were of an entirely different nature. In terms of the school activities, in view of the qualification Hamilton had, he would not have been allowed to use any of the equipment outlined in that paragraph.

In the next paragraph you deal with the issue of Hamilton's qualifications, and you note that he had a British Amateur Gymnastic Club Coach, Grade 5 certificate? - Yes.

I think at the end of that section you note that there is no evidence that he had any other qualifications, and if that was the case those qualifications were not sufficient? - It would not have been sufficient for him undertaking the activities he was doing at camp.

You said at the outset that Mr. Hamilton's qualifications would have been checked when he took the let? - They were.

Would it therefore be the position that the Region were aware that the only qualification held by Hamilton was the Grade 5 British Amateur Gymnastic Club Coach? - Yes. The staff were satisfied that the level of activity, which was not gymnastics, which was happening at Woodmill High School was appropriate for Hamilton's qualifications.

In paragraph 6.9 you set out your concerns regarding Mr. Hamilton's attitude, and you summarise them in the underlined text at the top of page 11. Can you read out the summary of your view? - "I am concerned that Mr. Hamilton's attitude to this situation is indicative of his overall attitude to the supervision and welfare of children and as such would give concern for future arrangements"./

arrangements".

In the heading 6.12 you refer to the constitution of the organisation carrying out the activities, and you refer to elements which require to be clarified by Hamilton, and that is the names, ages and qualifications of the Committee members, the number and ages of the members, the names, ages and qualifications of Committee members, the constitution and the instructions or guidance to its leaders? - Yes.

Why were the Council concerned in relation to these five matters? - My concern at that time was that Hamilton was writing at that stage on a headed notepaper which if I remember correctly was the "Boys' Sports Club Group Committee". That would have indicated to parents that if there was such a Committee you would expect that Committee to have members and to have a constitution, and at that stage I was anxious to ensure we had all the information that related to the organisation of that Committee.

Does it make any difference if a club has a Committee and a constitution? - In normal circumstances clubs would not necessarily have to have a constitution. Many would, however; many would have a constitution, which would be a standard constitution; for example a youth football club, they would adopt the standard constitution of the Scottish Football Association. Many clubs and many groups operating at local authority level do not have a constitution, because of the nature in terms of development within the community.

Yes? - My concern particularly with Hamilton and particularly in relation to Dunblane was that he was beginning to write under a title that said "Committee" and I was concerned that parents and others would believe there was a Committee, and I was asking Hamilton to outline what the Committee was.

If there had been no reference to a Committee on the notepaper you would not have been concerned about the way this had been set up? - At that stage of the investigation, no.

Looking at the summary sheet contained in/

in paragraph 7, it is stated that Fife Regional Council must have concern for the safety and welfare of children either directly in its care or in the care of others with which it is associated? - Yes.

When you refer to others with which it is associated is that purely in the context of lets of school premises? - Not necessarily. In terms of any tangible link there would be between the authority and the particular organisation it is very difficult to separate educational premises from other premises that a local authority would use in terms of leisure facilities, public parks, etc.

The second point of the summary is that logistics make it impossible to monitor all groups associated with the Regional Council. Is it your view that it is absolutely impossible to carry out that monitoring, or whether it is mainly a question of making resources available to enable you to do so? - I think with the resources available it could be monitored, with major resources. I think the difficulty we have is the fact that -- the best example I can repeat is that this has to be seen in the context of a football club, youth or otherwise, with the hire of public parks. There would have to be a situation where situations like that could be monitored, and the leisure facilities should be monitored. I think it is possible, but I think logistically it would be difficult and would take a large level of resourcing.

Could you suggest how such monitoring might be carried out? - I think there would have to be staff appointed who had the technical knowledge and background and experience in what they were looking at to be able to visit organisations as a spot check when they were operating. I think many of the activities could be categorised. Young people is one category that might narrow the group down, that is seen as the priority.

Yes? - The difficulty I perceive with the suggestions that were made earlier is that these could only be sporadic checks; they could not be monitored on every occasion they met. The difficulty that would have to be overcome is that staff change, and in this context, in the context of the people taking the group, that is important. There/

There are many, many people, but the principle is something that would have to be reviewed.

Would it be possible for a person wishing to run a youth group to have some scheme whereby he could indicate he had approval or had been vetted by the local authority? - I think that would be extremely helpful. The difficulty to be overcome again I think is to find some vetting process able to show attitudes, concerns and the abilities of people to look after young people, which is very difficult to do, even in a face to face situation, over 20 minute interviews.

Do you have any suggestions to make as to how such a vetting process might be carried out? - I think vetting would have to go hand in hand with monitoring. I think monitoring is a crucial situation, and in the situation for example of Woodmill High School there was able to be a much higher level of control, because there were people on duty to look at situations which were of concern, as opposed to a school let system.

Yes? - Vetting is an extremely difficult one, which has to be looked at very carefully, as to what criteria were to be used and how they were to be used.

Turning to the events concerning Hamilton, you have said that following your investigation it was decided not to grant a further let to Hamilton, there being none current at that time? - Correct.

Did you receive correspondence from Hamilton regarding that decision? - Yes, I did.

What was the nature of that correspondence? - It blamed the authority, me in particular, for over-reacting to the situation, and clearly reminded me of the situation that had happened in Central Region in the early 1980s, that being a reference to the Ombudsman's report.

Did you take any action in respect of that correspondence? - Yes, it was discussed internally both with the Director of Education, the Chief Executive and others, because at that stage Hamilton had written to elected members of Fife Regional/

Regional Council complaining about the way in which he was treated, and I subsequently wrote back to Hamilton, who wanted the nature of our complaints put in writing, which we subsequently did.

What was the attitude of the elected members of the Council? - The elected members were supportive of the position I had taken.

How would you describe the tone of the correspondence you received from Hamilton? - It was not a pleasant tone. It was accusing me of not dealing with the matter properly. It was not defending his position; it was blaming Fife Regional Council and blaming the children themselves.

In the context of dealing with community use of premises did you receive similar complaints from other persons? - It is slightly unusual, but they are occasional complaints, yes.

Did Hamilton's complaint stand out from the other complaints? - Yes, it stood out on the basis that he defended his decision very strongly, and he wrote to every elected member and to the Chief Executive and to everybody he could complain to about my action, which was unusual.

You said Hamilton asked you to put it in writing for him what the basis of the termination of the let was? - Yes.

How did you put it to him? - I put it to him in the light of the memo that you have just gone through, on the basis of that I indicated to him that there were concerns by the Reporter to the Children's Panel, the Chief Superintendent of Police and myself, and I wrote out very clearly the difficulties which we had, which was that there was an apparent lack of supervision, a lack of access to an emergency telephone number and a variety of other issues we have just gone through.

So lack of care was the nature of it? - Yes, a lack of care and support for the operation of a camp and the care of young children in his control at that time.

Did you indicate these concerns to any other/

other local authorities or youth groups? - I relayed it to the local District Councils who had premises which were available in Fife, which he may have gone to to secure premises. I discussed it with the Director of Education, and suggested that he discuss it with his counterparts, particularly in Central Region.

Is there any established system or formal system for sharing such information between local authorities? - No. I think that was the difficulty throughout the whole exercise, trying to get information related to incidents that had allegedly happened in other parts of the country. He was difficult, and I was concerned at the time that we had suspended his let, that while we informally could let people know what the situation was, the concerns that both the Chief Superintendent of Police and I had was that while we could suspend his activities in Fife that he might go elsewhere and start again. There was no mechanism which would allow information in relation to the suspension of the let in Fife to be held centrally.

Is there any such system in place now? - There is not a formal system. All that operates at this time are informal links, at the time of dealing with Hamilton in the early 1990s. The next thing to a formal link we had, which was very welcome at the time, was with Fife Constabulary and the Reporter to the Children's Panel, who both shared information, that was helpful.

And presumably the dissemination of information is more difficult now that there is a greater number of unitary authorities within the old Region? - I think that could complicate it even more. It could bring it under one local authority control, not only the educational use of premises but also for leisure or recreational activities, which are obviously now separate local authorities.

Yes? - However, the difficulty is that most local authorities are moving towards decentralisation, therefore the question of sharing of information and links will be even more crucial than before.

Following your refusal to grant any further lets to Hamilton he made a complaint to the Parliamentary/

Parliamentary Commissioner for Local Administration in Scotland? - He did.

What was the outcome of that complaint? - The outcome was that the Commissioner upheld the decision we had taken on the basis that Hamilton had consistently refused to meet with us to discuss the complaints which he had.

I think there was a complaint regarding a camp organised by Hamilton for children in Milarrochy Island on Loch Lomond: were you aware of that at the time? - No.

And you were not aware of the 1988 camp either? - No.

Would either or both of these have made a difference to your decision to discontinue the let in 1992? - I think it would have depended on the basis of the information we were able to secure. As far as the Dunblane situation was concerned, I was able with the support of others to give us a sound basis to establish that. I wouldn't know if there was sound information came out of either of these two camps.

Within the Councils within which you have been employed or are employed what is the role of the School Board in relation to the letting of educational premises? - School Boards who have a statutory obligation in terms of lets. These lets have to be carried out and access has to be carried out within the direction of the local authority. The role of School Boards vary from authority to authority. I understand some School Boards effectively administer the lets of schools and access to schools, whereas in other local authorities there is an involvement of the School Boards, but the administration is carried out centrally, through the local authority mechanism.

What is the position of Fife Council? - The position of Fife Council is that they are carried out administratively by the authority and that School Boards have an element of involvement in the decision as to whether there is access or not.

You/

12.40 p.m.

You say they had an element of involvement; what is their input into the decision? - It would be if the let wasn't in front of them and they would give consideration to whether that let fitted the criteria of the Local Authority.

Is that the only basis on which they could make their decision as to whether or not they want the let to go ahead? - Yes, as I understand it they haven't been involved directly; as I understand it they would have to reply heavily on the conditions as laid down by the Local Authority; if they refused the let there would have to be sound grounds to substantiate why that let wasn't given.

Is it the practice within Fife Council to send somebody to meet the applicant for a let? - I would think that would be unlikely in most cases, if not all cases.

CROSS-EXAMINED BY MR. GIBB: Just one point, I am not aware that there was any requirement for a public liability insurance certificate to be made available by any organisation running clubs in schools -- is there? - The Local Authority themselves would have its own insurance in terms of the groups that would be let; normally a group using the premises would have public liability insurance of their own, some form of insurance.

That is what I am coming to; I wonder if an element of control would be, in fact, to require the exhibition of a public liability insurance certificate that would amount to the insurer having suitable level of supervision and organisation? - I think that is a valid point; as I understand it some time during this, as I recall it, I am sure that Hamilton's group certainly at some stage had insurance.

I take your point about the question of vetting and monitoring; it must be extremely difficult but I am wondering whether a simple solution would be to make it a requirement for a certificate of public liability insurance to be made available before the Local Authority allows the letting of premises? - I think that may help; I think the difficulty is that an insurance company would/

would be like most Local Authorities, it is relatively easy to weigh up what I would call the technical qualifications in terms of support that the person has the right coaching qualifications and it is very difficult in terms of insurance for anyone else to ensure that the people taking these groups were of the correct quality.

That is a way possible? - Yes, it is a way.

Relatively easy? - Yes.

IAN STEVEN BOAL (22) Sworn

EXAMINED BY MR. BONOMY: You live in Dumbarton? - Yes.

You are an under-graduate student in the subject of sport in the community? - Yes.

Now, I think that you knew Thomas Hamilton; can you tell me when you first met him? - It was actually through an advert on the university noticeboard for a job applying for sports coaches for one of the summer camps; that was in May, 1994.

That is when you saw the notice? - Yes.

Where was the camp to be? - At Dunblane High School, the first two weeks in July.

Did you contact Hamilton? - Yes, I noticed it was, like, a letter with headed notepaper and it said if you wished to apply phone Mr. Hamilton at the number.

Did it give any indication on the notice what his work was? - Yes, at the bottom it was actually.....it was like a graphic to do with photography, a professional photographer.

Was there any pay specified? - I can't really remember the exact amount but I think it was £250 for two weeks.

Did it look official or cheapskate to you? - It did look very official, it was headed notepaper/

notepaper and said the Boys Sports Club and also it stated that Thomas Hamilton was actually the President or some official capacity.

How did you get in touch with him? - Through a phone call, I phoned him one afternoon it was.

Is that you phoned him? - Yes.

That was to the number on the notice? - Yes.

Did he ask you to provide information to him about your background? - Yes, I was to send by CV to him.

Did you do that? - Yes.

Was there a follow-up to that? - The follow-up was that.....during the telephone conversation he said I was to send my CV to him and he would get back to me regarding a possible interview.

Did he interview you? - Yes.

Where was that? - At his house, 7 Kent Road.

How long did the interview last? - I think it involved an interview at his house and then there was a practical session at one of the sports camps.

So he was checking you out in some details? - Yes, he wanted to see how I was coaching kids at one of his camps.

So he interviewed you first of all? - Yes.

And then he watched you carry out a coaching session with his children? - Yes.

Before you found out whether or not you had got the job? - Yes.

So far as the interview was concerned at his house what sort of information did he go into? - Well,/

Well, he just asked me most to do with my coaching experience as a sports coach, the types of sports I was actually qualified to coach.

How long did it last? - I think it was about half an hour.

Did you learn in the course of the interview whether he did any other activities with the boys other than camps? - Yes, there was just like he had clubs throughout the Central Region area and like various nights throughout the week.

Did he mention any schools? - Only one, I think it was Alloa, I can't remember the exact name of the school -- Alloa High School.

Did you get the impression he was conducting a number of these in the course of any given week? - Yes, the way he was talking it was as if maybe a Monday, Tuesday, Thursday, Friday.

Did you find out from him what he was interested in apart from taking the boys clubs? - No.

Did he discuss photography with you? - He said that he was a professional photographer.

Did he say anything about photographing children? - No.

Was there any discussion of photographs and what may be provided to parents and so on? - No, not at that stage.

At any stage? - Eventually like once I had actually been accepted for the job he said that he would sometimes take pictures of the kids and sell them on to the parents.

Did he say anything about a video at that stage? - He said he had.....I don't think it was actually at that particular interview, maybe it was subsequent, that there was a promotional video of one of the camps or something.

After the coaching session at which he watched you coach how long was it before you learned whether or not you had got the job? - He actually told/

told me that night.

Did you get the job? - Yes.

Where was it you went for the session? - Alloa High School.

Had you actually on the night of your interview been to a different high school with him or was it the same night you had.....? - It was the same night.

It wasn't Dunblane High School you went to? - No, it wasn't Dunblane.

That particular night, the first night when you were being checked out by him, how many children were present? - Between 20, 25.

What were they doing? - There was actually two sessions and the first hour was younger kids and the second hour was older kids and it was playing football they were actually doing.

So the total number over two hours was 25? - It was about 40 kids.

Was it over all different ranges? - Between, I can't remember the actual age, between maybe eight and 12.

Over the whole piece? - Yes.

Was there anything structured about these sessions? - Looking back on it it was like as if they were just playing football and that was it, there wasn't much of a coaching element to it which I was quite disappointed with.

Anything odd about the set up? - One thing I would say is that generally when I take the kids there were bibs to distinguish between the two teams, one would wear bibs and the other would have on their tops but what he would do would be one team would have their tops on and one team would have their tops off, that was the only difference I would have said.

Have you been at any football session he was running where both teams had their tops off? - I/

I don't think so.

Thinking back to the first session you were aware he was checking out what you did, can you remember whether or not both sets of teams had their tops off on that occasion? - I can't say either way but I don't think so.

The statement I think you originally gave to the police indicates that was the position? - Probably it was actually half the boys would have their tops off.

Now, when did the camp take place? - The 1st or 2nd of July to maybe the 14th, it was a two week period.

Were some kids there for the whole fortnight? - No, some kids were there for the first week and some kids actually stayed for two weeks.

Between your interview and the camp did you go to any of the clubs? - Yes, I worked sometimes at, I think it may have been the Wednesday night, at Alloa High School.

Anywhere else? - I think I was at Dunblane once.

Did you get paid for these visits? - Yes.

Were you at Falkirk at all? - No, not at that time.....yes, I probably would have been.

Which premises was it at Falkirk? - Grahams High School.

Were you at Bannockburn at all in that period? - Yes.

How much did you get paid when you took the club for him? - Generally it was £7 an hour and then it went up to £10 an hour.

Was he there at the same time? - Yes.

So talking now about the period between your interview and the camp was there any difference in the activities at these club nights from the original/

original night when you were interviewed? - I don't think so, no.

Any gymnastics? - I believe at the times when he actually had his photography equipment with him that would be the only difference and also gymnastics as well, as you said.

He did gymnastics? - Yes.

He conducted that, did he? - Yes, generally he conducted that.

Did he take photographs of that? - Not of the gymnastics, it would be group pictures.

Is that a group having played football or groups having done gymnastics? - Generally it would be like at the end of the night the kids had been playing football or had been doing gymnastics and obviously the groups were there and he took a group picture of them.

Did he have much elaborate equipment for that? - Yes, I would say so.

Do you know anything about photographic equipment? - No.

Did he simply take snaps like you might do on a holiday or was it more elaborate than that? - It was like he was structuring them, the composition, he would have kids kneeling at the front and kids standing at the back.

Did he have a tripod to put the camera on? - Yes.

Was there a video camera on these occasions? - No.

On any of these occasions did he tell you why he was taking the photographs? - He said he would sometimes actually sell the pictures to the kids' parents.

Now, at the Dunblane camp how many supervisors were there? - There was actually only myself and Mr. Hamilton.

How/

How many children? - About between 16 and 20.

Were they all staying? - Yes -- I tell a lie, actually there was one kid who came on a daily basis.

Did you expect more than that? - I actually did, yes.

But not everyone that might have come turned up? - Well, I wasn't involved in the bookings of the kids; from the way he was talking it was as if there would be quite a lot of kids.

Now, you stayed throughout the period? - I had two days off.

What were the sleeping arrangements? - It was quite surprising because I thought there would be accommodation, separate accommodation for most of the staff and the kids and maybe a room for the kids but it was actually a commonroom area; the kids would be sleeping on sofa seats and some kids were on the floor in sleeping bags which I found quite strange.

What about you and Hamilton? - We would be in the same room on soft seats.

What were the activities of the camp, was there some routine to them? - The routine, he had a particular routine where, like, the kids would get up maybe eight, half past eight in the morning for breakfast and then go straight into the gym, do gymnastics, football, a variety of sports and then maybe between 12 and one have lunch and then after lunch they would do sports again; the work was quite taxing for the kids, it wasn't particularly fair to them because they were being exercised to excess and it was too much I thought and I aired my views, I told him I didn't think it was right that the kids should be constantly working in the gym doing sports, they should have some time off to watch television and towards the end of the camp it became a bit more relaxed, he let the kids have a long lie until about 9 o'clock, watch TV for half an hour so it eventually was a bit more relaxed.

You have told us about the morning and afternoon;/

afternoon; what about the evening? - It was sometimes varied, they would consist of sports as well so the kids were doing between probably six and eight hours sports a day which is too much.

What age were these children? - Between eight and 12.

Can you tell me anything about Hamilton's general teaching methods? - I would say that his methods were out-dated and it was very disciplined, he used his authority to tell the kids what to do, sometimes shouted at them; also he was into, like, maybe taking the kids for circuit training which I thought was a bit extreme; he asked me to take the kids circuit training and I said no because kids of that age shouldn't be doing that at all.

Did the children enjoy these camps? - I think it was actually mixed, it was some kids did and some didn't.

Was there anything odd about the clothing arrangements? - Yes, when the kids were doing their gymnastics they would be in black shorts, swimming trunks, which I thought was a bit strange; when I asked him with him taking pictures of them doing gymnastics, something to do with a physical education magazine was interested in pictures of this; I thought it was a bit strange.

You are doing a course that involves, I take it, studying how to undertake activities of this nature? - Yes.

Did you see any place in the type of gymnastic activities with these youngsters that Hamilton was undertaking for them dressing in short black swimming trunks? - He would say that it was the purpose of catching them when they were vaulting; I would say that a kid is more liable to get injured when they don't have their clothes on; if the kids don't have their clothes on and they hit the floor they may hurt themselves.

Have you seen in your studies any examples of people running gymnastic classes with youngsters of this age where the children are required to wear swimming trunks? - No, I haven't.

After/

1.50 p.m.

After an adjournment for lunch.

I was asking you some questions about dress at the camps. Can you tell me how frequently in the course of the fortnight you were there the children were expected just to wear black swimming trunks? - Generally every day, maybe every -- if they were doing gymnastics, say an hour at a time.

If the children weren't wearing these trunks would they normally be wearing a shirt of some kind? - Yes, normally wear their sports stuff, either shorts and a top or a tracksuit bottom and top.

Did they normally have a top on when they weren't doing gymnastics? - Depends. Sometimes they would be outside, it was quite warm, and sometimes some kinds will take their tops off.

Was there anything about Hamilton's behaviour when coaching or helping children with any of the work they were doing that you were concerned about? - He was quite -- he was like -- he pushed them quite hard. Some of the exercises he was trying to get them to do were in my opinion too strenuous. Just simple things like maybe even simple press-ups. He had them doing gymnastics and they were doing like inverted crosses, and that's quite a tough thing to do. I am pretty sure Mr. Hamilton himself couldn't have done it; why should he expect the kids to do it.

Did you intercede on the part of the children at all? - Yes. Sometimes I would say when the kids were training, I would say to Mr. Hamilton, "Look, give them a break" or "Don't do this". I knew what it was going to be like and so I would say, "I think that this is a bit over-strenous for them".

Was there anything about his approach to them physically that caused you any concern? - No.

What was his attitude to children who couldn't perhaps touch their toes? - He liked kids/

kids being quite physical. If they weren't particularly good he would tell them, he said, he would tell them to work harder.

Did he touch them very much? - Depends. If it was gymnastics, if you were going to coach or catch there is a certain degree of contact, but none over the top or anything like that.

Did he take many photographs in the fornight? - Yes. This -- I was very surprised at the amount of pictures he took, particularly it seemed to be always at gymnastics.

All with the still photographs? - Some of them were action pictures.

But not videos? - No.

Were these largely when the children were wearing swimming trunks? - Yes, generally, yes.

What about the catering arrangements. Were you well fed? - We were well fed, yes, I would have to say. It was very basic food but the kids seemed to sort of like it.

Did you ever ask Mr. Hamilton about how he financed all his activities? - He said that -- do you mean particularly this camp itself?

And the clubs? - What he said was he actually got free lets from Central Region so therefore it didn't cost him for the schools and that.

Did he mention anything about getting assistance from anyone to get these lets? - Councillor Ball.

What did he say about Councillor Ball? - He said he was a friend of him, he generally did assist him getting lets for any school he wished.

After this camp was over did you continue to assist Mr. Hamilton? - Well, once the camp was over obviously it was during the school holidays so therefore the schools and stuff were closed. I never heard from him until maybe August/September of that year, and he would phone me up and ask would I maybe/

maybe perhaps like to come up and do some coaching, and that was quite -- maybe about a month later it would be.

During that period in late 1974 were you aware of any clubs folding? - I never actually knew anything about how many clubs he was running therefore I couldn't really be definite and say i.e. clubs did fold.

Were there any clubs that didn't seem to take place in late 1994? - Yes, the Alloa Club, and I once went to a club in Alva, and that was a Sunday morning. He told me that club was quite busy the first couple of weeks and he was needing some help so I went up. There was actually only about eight kids which was quite surprising to see that, so therefore I was never out at that one.

Did that club come to an end? - Yes.

When eventually? - I don't actually know obviously because I wasn't involved in the running of it but I assume yes.

Did the Alloa one come to an end? - Alloa one, I think he only had the let up until when the schools closed. I don't know if he renewed the let, I don't think he did, therefore the club wasn't on after the camp.

So between September when the schools are back and December did you assist him? - I occasionally worked for him.

Where? - He had a club in Grahams High School, Falkirk, and sometimes in Dunblane on a Thursday night.

Did you get properly paid for the fortnight's camp you did? - Well, I had actually to check my bank records on the camp and I checked actually, and the cheque I was actually paid actually bounced. I put it into the bank because I am actually a student myself, so when the cheque bounced itself, so I was straight on the phone again because I had been charged with my bank and I said, "Look, the cheque has bounced". He said, "Look, I am very sorry about it". I actually went to the bank twice and it bounced twice.

Was/

Was it eventually paid? - Eventually, yes.

How much was it for? - £280. Originally it was supposed to be £250.

In September and December were you being paid for temporarily assisting him? - Yes, depending on the nights of the week.

In December I think you brought your relationship to an end? - Yes, because like, the only reason I had -- you might think it strange because I was at Dumbarton and I was travelling away up to Stirling, but the only reason I came to Stirling was my girlfriend at the time was at Stirling University so therefore I had a contact within Stirling, so it was quite convenient for me to work in Stirling.

What was your reason for bringing it to an end? - Well, sometimes he would maybe have me pick him up outside his house and he would have his camera stuff, equipment with him, and I felt that I was getting like a taxi service rather than a sports coach.

It wasn't concern over what he was doing at the clubs that made this end? - No.

When did you next hear from him? - It must have been -- well, after I said I wasn't coming to work for him he kept on phoning to say are you coming up and I said "No." It would be maybe May time.

What was the purpose of him contacting you then? - That was because he was looking for somebody for a sports camp in summer 1995, and he was actually asking myself whether I would be willing to work with him for two weeks.

Did you agree to that? - No, I just felt like it was only two weeks work, and I was unemployed and obviously the school period is over six weeks, so I was hoping to gain further employment.

Was it knowing about the previous year's camp that was influencing your view? - Well, to a certain/

certain extent. I never particularly liked the fact the kids had to do so much strenuous work. The sleeping arrangements weren't particularly good as I previously mentioned.

Did he do anything to try to persuade you? - He increased the amount of money that I was going to work for.

To what? - I think it was £300.

In fact, you didn't take that job? - That's right.

You had another job? - That's right.

What was that? - It was actually by Mr. Hamilton I actually gained that employment. It was at the International School teaching Spanish kids sports.

Where was that? - Queen Victoria School.

Was that a longer period than two weeks? - It was for four weeks. I gained that employment because Mr. Hamilton had gave my number on to somebody else.

Well, you were at that training....? - It was a school.

While you were there did you go to Dunblane High School Club at all? - Yes. He phoned me up a couple of times saying "Why don't you come down and see" -- some of the boys who had been at the previous camp were actually there in 1995 and he said "Why don't you come down and see how they are getting on".

Did you go? - I went down three times.

Did Mr. Hamilton have any assistance at the camp? - Yes, he had one qualified teacher and two other students.

Did you see them there? - Yes.

Did they know what they were doing, or appear to know what they were doing? - Yes. It was just virtually similar to exactly why I was there,/

there, i.e., while the kids were doing gymnastics, and they were in their trunks once again.

How many kids were there? - I estimate 25/28.

So it was bigger than the year before? - Yes.

On one of the visits you were there did you come across a child who was upset? - Yes. There was a kid in a corner crying. I asked him -- no, I never asked the kid directly -- I asked what was wrong with the kid and they said that he was homesick and he was upset. It was just he was homesick and therefore he was in a corner crying. I thought it was a bit harsh and when talking to him.....

Did he say whether he had run away? - Yes, I think he did. He said maybe two boys had run away the previous night and he said they came back and their parents had been notified. The parents seemed quite happy to have the kids continue.

Were the children wearing black swimming trunks again? - On the occasions I was there I was doing gymnastics, yes, and they were in their swimming trunks.

Generally speaking at that camp did the children appear to you to be happy or unhappy? - I don't think they enjoyed the gymnastics; I think they found that quite hard work. On the whole they seemed -- no, I never really had that much contact at the time. They seemed okay, yes.

What about the people who were working with them this time? Was he getting on with them? - He said he had a couple of problems with them because, in particular the school teacher, because I didn't think they were particularly impressed by his teaching methods, i.e. kids being in trunks, the same as I thought myself, a bit strange.

Were there any photographs taken on any of your visits? - He did take several when I went, yes. There was a picture taken, a group picture outside.

How/

How were the kids dressed for that? - They were wearing swimming trunks. The staff were in the same picture with him.

I think you next became directly involved with him in September, 1995? - Yes, that is right.

He contacted you again? - He contacted me just asking me obviously -- he was saying he was actually thinking about expanding his clubs as an organisation up to the Edinburgh area and round about the Glasgow area.

Whereabouts in Glasgow is that to be? - It was -- he looked at a couple of places like Milngavie and Bishopbriggs and eventually Bishopbriggs.

Were you willing to help on this occasion? - Well, when I was at the camp he said I would be running the club myself. The way I would see it, I had to organise it myself and he wouldn't be there. Subsequently he was there every week.

Did he interfere with your organisation? - I was annoyed with the fact he was there "No, you run this club the way you see fit".

Were you not allowed to run it in your own way? - Obviously his teaching methods are different from mine. You know, as I say, he had the kids with their tops off where I like to have kids wearing bibs like sports bibs.

Is that on top of a tee shirt? - Yes.

Was he insisting you follow his code rather than yours? - It was quite convenient because we actually had two gyms eventually. I was working in one gym myself so I could do coaching the way I seen fit, and he would have a group in the gym.

What did he do? - It was generally football. I did a lot of football and basketball coachng but he seemed to just let them play football.

Were you aware he was distributing leaflets/

leaflets advertising his club? - Yes, that is right. I never actually knew until he actually
-- the first night in the actual club I never knew that my name had been distributed. There were leaflets there, I was the club coach of the boys' club. I was a bit annoyed because it had my phone number and stuff.

Did you see any of these leaflets? - He eventually posted me one.

Could you look at S BOAL/6 which is also D8 in Volume J(iv)? - Yes, that is it.

Has that got your name in it? - Yes.

What does it say about you? - It says here "Club coach, Mr. Ian Boal". It says, "CV available on request", and also my address.

Would you also look at DSRC/ES3 which is D4 in J(iv). Look at the top of the page. You will see this is an application form for the let of James Muir High School. Does that have your name on it? - Yes. I never actually knew about that until the police said that.

It is relating to a period when you were actually coaching at James Muir High School in Bishopbriggs? - Yes.

You actually knew nothing about your name being on the document? - Yes.

It gave you a position, did it not? - Yes, if I can remember, Secretary of the club or something like that.

Do/

Do you remember the document also had a list of Committee members on it? - Yes. Well, he told me there was a Committee for his clubs.

Did you ever meet the Committee? - Never.

Did you ever meet any of the people whose names are on that form? - No.

I don't know if you have got the form yet or not. Do you see your name there as the secretary? - Yes.

Does it also list the names of the Committee members? - That is right, yes.

Could you read them out please? - Mr. D. McDonald, Mr. and Mrs. Andrew, Mr. and Mrs. Hoggan, Mrs. Munro, Mr. K. Barker, Mr. and Mrs. Hall, Mr. I. Boal, Mr. T.W. Hamilton and Mrs. A. Watt.

He told you there was a Committee and you didn't realise you were on it? - Yes.

Now, when this club in Thomas Muir High School started up was it well attended? - The first couple of weeks we had I think it was 68 kids.

Were you able to cope with that? - We actually only had one sports hall.

Do you remember a waiting list at any time? - Yes, I remember the stuff, there was going to be a waiting list, so I think he was actually writing to the kids or their parents.

Did that club run right up until the incident at Dunblane? - That's right, yes.

Were you involved in that right up until the end? - That is right.

Were you also involved in running any other club during 1995 into 1996? - Occasionally Bishopbriggs would go up to Dunblane High School on a Thursday night. He had got a minibus or something from Central Region, and he would go up, pick up the kids from Bishopbriggs Club,/

Club, and sometimes when they were up there I would go up obviously as I was a coach.

Was it on a Bishopbriggs night? - No, that was a Thursday night.

This is an extra night? - Yes.

Were you also coach of any other sports clubs he had? - Occasionally I would go up to the Dunblane Club when I think it was Bannockburn were the kids that were there.

What about Graham's High School, was it still going on? - No.

Were there any other clubs where the boys were moved from one area to another to make up the numbers at another club? - I think -- I wasn't involved in shifting kids from place to place, but I think actually he did take kids from maybe Callander, maybe that area, up to Stirling.

Were any photographs taken at Bishopbriggs? - No.

So at the time the Bishopbriggs Club starts up his camera equipment disappeared? - Yes. It was quite strange like because he used always to talk about cameras, what he made out of it like, taking pictures of families, various events, the assignments he had, and he seemed to be quite happily involved in cameras and stuff, how he used to buy and sell cameras and just equipment in general.

What took over as the subject of conversation with him? - His guns.

When did the guns first come into the conversation? - The earliest recollection I have of his involvement in guns -- he said at the summer camp that he did have guns but he hadn't been using them, it was just an old hobby or something and the new hobby was photography. So he actually never spoke much about guns, so the earliest was maybe round about just before Christmastime he started talking about how he was heavily involved in using guns and stuff.

From/

From then until March was that the type of conversation? - Yes. He used to annoy me in a sense because I was busy coaching and when I wa coaching usually he would stand at my shoulder, next to my shoulder, talking about his guns hobby, various things which, being honest, I didn't have any interest in guns, so it was pretty boring.

Now, when was the last time you met him? - The last time I met him was the Monday previous to the incident.

Was that at Thomas Muir High School in Bishopbriggs? - Yes.

How did he seem that night? - He was talking about guns as per usual. He also -- I can remember his last words, and he just -- I took him down to train station and he just said, "Thanks very much, Ian, see you next Monday". Again, it was just like a normal Monday.

Was there any discussion about bullets in the course of that evening? - It was quite strange because like maybe three or four weeks before he kept talking about guns, bullets, like where he had been shooting. I think he had been shooting on the Wednesday before, the week prior to the shooting he had been shooting, out at actually at the club or something shooting, and how he got a new gun, and also about bullets, what certain bullets could do.

Do you remember any detail about that? - It was something of hindsight, I mean, but it was something that was quite strange because like he used to talk about the spray of a bullet. I don't know anything about ballistics at all but he would be talking about what bullets could do, sprays like, it hit someone and disintegrates in a sense rather than exiting right through, and how he was testing out bullets to see which were the best, to prevent jamming of his cartridge guns.

Did he say what size of gun he preferred and what size of ammunition? - Was it 9 millimetres or something.

In your statement to the police you told them he also used 9 millimetre bullets because they did/

did not have a tendency to jam as frequently? - Yes.

Do you remember that being said to you? - Yes.

Did he say anything about the tip or head of the bullets at all? - He says depending on the type of head -- well, it would depend what bullets you actually had, with the spray and stuff. He also said he had been testing bullets to see which were best. When I say tested -- I found this quite strange he actually did this, he would go to the target range in the club and shoot at books and he would see the spray of the bullet going through the thickness. Say the book was maybe this thick, he could actually see where the bullets went through and what it did to the book. Obviously if it sprayed it would go out wide, and he was doing -- he also said he experimented with alcohol and the effects of alcohol upon his shooting, although he said he never actually drank.

Do you know from your own experience he didn't drink? - Yes. He told me he never drank.

Did you ever see him drink alcohol? - No.

What did he say he was experimenting with it for? - He said he would -- he only did it once -- again this annoyed me because you are obviously working with kids and he was telling me this and, being honest, I wasn't really listening to him. He said he did take a couple of drinks and then go up to the range to see how accurate his shooting had been from this. I said to him "How accurate was it?" and he said "It wasn't particularly very accurate", it wasn't particularly good for him.

Did he say anything about how well the bullets penetrated? - Yes. He talked about bullets and actually -- was this 30 centimetres or 30 inches or something and it would go, the words were, through someone.

How many kids were there on the Monday night? - On the Monday before, about 20 I think.

When/

When you drove Hamilton to the station that evening was there any conversation about film? - Yes. He offered me -- which was quite strange -- a copy of Aliens video, which I thought quite strange. I said No. He said to me "I have just got it today" or something, and he said, "I have got it in my pocket". I thought that a bit strange.

Did he mention any other video? - The Terminators.

Did he say why he liked the two videos? - He liked them because of the guns.

Was that a reference to one or both videos? - Both of them.

Did he ever involve any of the children in converations about guns or bullets? - I never found this out until I was actually speaking to the kids and I said to them, "What was Mr. Hamilton talking to you about" and they said -- the kids had said he had been talking about looking at the largest thing he had shot. This was a sort of joke, his type of joke, and it was he had shot a moose, and the kids thought it was a mouse, so he thought it was funny. I thought it was a bit strange, talking to kids about guns.

Did he ever show the children anything? - I don't think he actually showed the children but he actually -- I think he did because he actually had like a flier -- not a flier, a catalogue of bullets -- I never knew there was such things -- and it was a catalogue for types of bullets. There was a picture of a moose on the front of it and he was saying this is what I shot, this is what a moose looks like, not a mouse. I said to him like, "I do not think -- you shouldn't really be talking to kids about guns. You don't want like to influence the kids".

Did you get any reaction to that? - He went like "Ach, it's okay, kids play soldiers all the time".

Did he ever write to you? - Yes.

How/

How often? - Generally it would happen if I was working for him, he would send me a cheque, and the last letters I received were on headed notepaper up until round about Christmas time and I noticed most of the correspondence never had headed notepaper. Also they never had anything to do with photography. They weren't personal letters but they were more of you contacted to work for eight weeks. In January I received a letter from him because one of the nights at the camp -- not the camp, the club -- one of the boys had been, they were not to kick the ball above head height, so this boy had hit the ball into the roof and just missed the lights. I shouted at him -- his name was David -- "David, watch what you are doing". At the time Mr. Hamilton sort of looked at me but never said anything. During the week -- I think it was the Thursday -- I received a letter saying how my teaching method was completely wrong, my attitude was terrible, and I had -- I don't mean that it was threatening or such, it was what are you doing wrong.

He had been there when this happened? - Yes.

He didn't speak to you about it? - No, he didn't speak to me about it.

Did you intend to carry on working with him? - Well, I was quite annoyed at this letter, so what happened was I waited until the Monday night after I received the letter and told him on the Monday night I was going to see out my contract which was up until just before Easter because I wasn't going to put up with hassle he was giving me through writing a letter like that to me.

When were you going to work to? - It would have been Easter time, the Monday before Easter, when the schools finished.

Had you got paid up to then? - I was paid up to then.

At any time in any conversation with him did Mr. Hamilton ever mention Dunblane Primary School? - No.

When you last saw him did he seem any different from the way he had been on the nights, the/

the Monday or two beforehand? - No, just like talking about his guns again, therefore for the four week period leading up to it he was more so talking about guns, where he had been shooting and stuff which to me, it looked as though it was just a hobby he had.

Any change in his personality you could detect even looking at him? - He was very -- his personality was very dry. He wasn't the most interesting person to have a conversation with.

Did that change? - It never changed.

In the time immediately before this incident at Dunblane? - No.

Effectively did you notice any significant change in him as a person apart from conversations dealing with guns? - No.

No cross-examination.

IAN/

2.30 p.m.

IAN COLLIE (62), Sworn:

EXAMINED BY MR. BONOMY: I was the Director of Education for Central Region.

Do you in fact live in Dunblane? - I do.

Have you now retired? - Yes.

When did you retire from the position as Director of Education in Central Region? - In April, 1994.

When did you take up that post? - I was appointed in 1974, and took up post following when the Region came into being in May, 1975.

What were the responsibilities you had as Director of Education? - I was responsible to the Education Committee of the Regional Council for the administration of the educational services within the responsibility of Education Authority.

Now, I am going to ask you questions about a certain phase of your work during which you were assisted in the areas I am going to ask you about by a man called William Ross. What position did he hold? - Mr. Ross was initially Assistant Direction of Education, subsequently became Junior Depute Director of Education. He was third in seniority within the Education Department Directorship.

I think he is now deceased? - Yes.

I think the starting point for the issues I wish to raise with you is in a folder of productions which we have, which is the first folder in the J(i) productions, and I will be dealing with a number of these. The first document I want you to look at is DCRC/AL/B2, which is D1/J(i). Do you see that document? - I do.

You will see that is a memo to you from one of your staff in the Regional Youth & Community Department? - Yes.

And/

And this is confirming to you that Mr. Hamilton, that is T.W. Hamilton, Principal Leader of the Dunblane Rovers Group, has an official let of Dunblane High School gymnasium? - Yes.

Now, can you confirm for me the date of that? - 27th October, 1981.

Prior to this had you heard of Mr. Hamilton? - No.

Why were you being notified? - I had received an enquiry from the local councillor about Mr. Hamilton. As I recall, she had received concerns from constituents and wished me to investigate.

That would be Councillor Davidson? - Yes.

Now, it may be best to set the scene by asking you if you would read out the second paragraph onwards, which is relating to information from a person called Jim Gardiner. Who was he? - He was an officer in the Youth & Community Service, based in Dunblane.

Can you read out from the second paragraph? - "The information from Mr. Gardiner is that the group consists of approximately 20 boys who apparently attend with the consent and knowledge of the parents, as Mr. Hamilton makes a point of visiting the homes. They undertake 'Scout type' activities, including camping, and wear a uniform.
"We would certainly not employ Mr. Hamilton, as Mr. Gardiner is not entirely happy with his approach to youth work and has an unconfirmed suspicion that his motives are questionable, although it must be said that no direct evidence of abnormal behaviour on Mr. Hamilton's part has come to the notice of Gardiner.
"I checked with the Scouts District Commissioner, Mr. Tom Mack, and he has confirmed that the group is not affiliated in any way to the Scout Movement. Mr. Hamilton it appears is the subject of a confidential report at national level which shows him to be totally undesirable in relation to working for the Scout Movement. The report is based on his homosexual tendencies, and he was, for obvious reasons, discreetly removed from the Scout Movement. "I trust the above is helpful with your enquiry from Councillor/

Councillor Mrs. Davidson".

In the first paragraph it is explained that this information about an official let of Dunblane High School gymnasium has been processed through normal channels, and the "normal channels" referred to include the source of your information, Mr. Gardiner. Is that just coincidence? - Yes.

So purely because of his coincidental involvement, evidence of a sensitive nature has come into the possession of the authority, and is directed to you? - Yes. Coincidental in the sense that he was the Youth & Community officer in Dunblane and had been involved the let.

Do you know whether at that time there was any formal procedure involved before a let was agreed to, in the sense of either interviewing someone before they complete the form? - They would have had to complete a form. I can't recall whether it was a necessity to conduct any interviews; that would be doubtful.

At that stage did the School Council have any responsibility for agreeing to the let of the gymnasium? - They had responsibilities for the school accommodation, and that would include the gymnasium. The position is slightly complicated, in that it was also a community centre, and that is where Mr. Gardiner was involved. But in terms of a gymnasium, the School Council had a formal responsibility.

How was the School Council constituted? - The School Council was made up by representatives of the secondary schools and the associated primary schools, and one of its functions was the letting of accommodation.

Did this change with the re-organisation of local government? - It changed in that School Boards were set up, and they assumed responsibility for the letting of accommodation.

Did School Boards have any direct responsibilities in relation to lettings, or were the responsibilities they had -- were they largely acted upon by staff employed by the Regional Authority? - The School Boards carried the formal/

formal responsibility, but in terms of the routine, that routine would be carried out by staff.

So we will see the signatures of permanent staff approving lets on behalf of the School Board? - I would expect so.

If that happened, would it be the School Board who makes the decision or would it be a member of staff who had delegated powers who would do it? - It would be the member of staff, but there would be a requirement to report to the School Board, in cases of doubt, presumably in consultation with the Chairman, and if necessary in such circumstances ask for a decision from the School Board.

Can we look at D2? That is your letter to the Director of Administration and Legal Services of the authority; is that right? - Yes, that is correct.

And you are explaining the information you have puts you in some difficulty in knowing what to do about this kind of case. You then say "It would I suppose be possible to cancel the let or to refuse any further let, but the Education Authority might be in difficulties in specifying reasons"; is that right? - Yes.

Then D3 is a letter from the Dunblane Rover Group, signed by Hamilton, dated 2nd November, 1981? - Yes.

I take it that is in response to your enquiry to him to provide information about the group? - Yes.

Did you make that enquiry following the concern that was expressed in these earlier letters? - Yes.

I think if we look at D4 we have you in the light of that writing to the Director of Administration again, saying there was nothing on the surface which may be legitimately queried by the Education Authority; is that correct? - Yes.

In D5 we have a letter to Mr. Hamilton from the Regional Youth & Community Organiser, dealing with the queries he has raised in that earlier/

earlier letter about registration -- in fact it must have been in another letter, but he has raised a query about registration, and if you go to the second paragraph you see what that query was? - Yes.

Now, so far as your authority is concerned, what did registration mean, when a youth group was registered? - We didn't have a scheme of registration of groups, as that letter says. My assumption is that Mr. Hamilton had enquired whether he might receive such registration, which would allow him accordingly I assume to state to parents that he had the approval of the Region for his activities.

But in fact what you did do was recognise groups by providing financial assistance in terms of free letting, and the like? - Yes.

But there is no other formal register of approved groups? - No.

I think that letter is two years after the earlier correspondence, the 26th April, 1983; is that right? - Yes.

Could I now ask you to look at a handwritten Minute of one of your Committees, the Further Education & General Purposes Committee -- this is document D7 -- of 15th August, 1983? - Yes.

Did you attend that meeting? - Yes.

What was the subject of part of the meeting that we see minuted? - Mr. Ross, who was named in the Minute, the then Junior Depute Director of Education, had come to me very concerned about complaints and allegations he had received about the Dunblane Rover Group and specifically about Mr. Hamilton. We were considering the action to take. I decided it would be appropriate to report this matter to the Further Education Sub-Committee.

Yes? - I think Mr. Ross sets out in the earlier part of this confidential part of the Minute what the complaints were, and he mentions complaints from parents and head teachers who were confused over the title and thought he was acting on behalf/

behalf of the Scout Movement.

And several parents had complained about lack of administration, and there was an example of an outing to Loch Lomond in which a child had got an axe in his leg, and another child had been sent on a boat to Luss to take him to hospital? - Yes.

We have already heard evidence at the Inquiry about this. There is then a discussion among the various councillors about some of their own personal knowledge of him and their views as to what might be done. What was the upshot of that meeting? - The upshot of the meeting was that the Committee decided to cancel the let to Mr. Hamilton and therefore to the Dunblane Rover Group.

In the third page of the Minute we note that in one group he had tried to set up in Bannockburn 300 children turned up on the first night? - Yes.

Then Mr. Ross said that head teachers had all now withdrawn support? - Yes.

So the decision is to terminate the let? - Yes.

Can you tell us the reasons which are quoted at the end of the Minute? - "Councillor Anderson. First of all complaints from parents misled into thinking that this was a Scout group, the teachers also gave support on that basis, and this is now withdrawn. Secondly, the man claims the support of the Education Authority, which he does not have. For these two reasons" -- I am sorry, the next bit is missing.

I think we can take it it says "the let was terminated"; is that right? - Yes.

I think if we look at the printed Minute, which follows, which is D8, that is the actual recommendation of your Sub-Committee, it says "The Sub-Committed noted the terms of the Report and recommended that the organisation be not granted any lets of educational premises in the future"; is that right? - Yes.

So that was the decision at that stage? - Yes./

- Yes.

Now, could I ask you to look at D13, which we see is a letter of the 7th October, 1983 from the Assistant Director of Education telling Hamilton that his let at Dunblane High School was to be terminated forthwith? - Yes.

If we then look at D15, do we see that this is a complaint by Mr. Hamilton to the Ombudsman? - Yes.

What was the complaint? - He says "Possible mal-administration. Briefly in that the Council may have acted upon malicious gossip and unfounded allegations without investigation".

I think he goes on in the next paragraph.....? - "I may have been slandered by officials to councillors, resulting in the loss of let of Dunblane High School to boys' club".

And the date of that complaint? - Monday, 10th October, 1983.

I think if we then go to D16, we see that is a letter from the Dunblane Rover Group to you? - Yes.

Is that challenging the decision of the Committee? - Yes.

Can you read out the last two paragraphs of that, please? - "If after nine years of Rovers we are not formerly recognised, please inform me what we have to do to become recognised. If there is any aspect of our activities that the Authority is not happy about please inform me so that steps can be taken to satisfy you.
"We have 70 boys in our group who are all very enthusiastic and anxious to continue with their training and activities at Dunblane High School subject to your approval. On behalf of the boys, parents, Committee and leaders I respectfully request that the immediate reinstatement of our let".

I think in the earlier paragraph he had said he had not been consulted about any complaints, and he wanted to know the names of the complainers, because/

because he had not been given an opportunity to answer or to challenge them? - That is correct.

Is that correct, that he was never told who was complaining about him? - Yes. We had nothing in writing, no piece of hard evidence against him.

I think these are exactly your words in D18, a letter of 19th October, 1983, again to the Director of Administration, and in the second paragraph you say "You will recall that in reporting to the Further Education Sub-Committee about the matter, Mr. W. Ross, Junior Depute Director of Education, indicated that there had been complaints made but there was no formal complaint in writing and not one single hard piece of evidence which could be quoted as the reason for discontinuing the let. Nevertheless, the Committee decided that the let should be cancelled at the first opportunity"? - Yes.

If we now go on to the next item in correspondence, D19, do we see that is a letter dated 25th October, 1983, from one of your councillors? - Yes.

Councillor Ball was the councillor in question. Was he at that time a Regional Councillor? - Yes.

Was he on any Education Committee? - As far as I can recall he would have been on the Committee. My recollection is that all councillors were on the Education Committee at that point. I don't think he was on the Further Education Sub-Committee.

Do you know in what capacity he wrote to you? - He was Mr. Hamilton's local councillor.

I think he was concerned that the decision which Hamilton was questioning had been a breach of natural justice, in that no formal complaints were brought against the running of the group? - Yes.

And Mr. Hamilton was not given an opportunity of replying to such complaints? - Yes.

I/

I think he said "It would seem to me the company could be accused of acting unreasonably in cancelling the let that an organisation has held for five years without giving any reasons"? - Yes.

I think he also says in the second paragraph that Mr. Hamilton does not seem to run this organisation alone, but has a number of other workers, one of whom is in fact a physical education teacher employed by Central Region? - Yes.

Do you know if that was established to be true? - Not to my recollection. I don't really know from memory.

Now/

2.50 p.m.

Now, can I ask you to go ahead a little to D21 and do you have there a whole series of letters, 22 in total, all dated around the end of October, the beginning of November 1983? - Yes.

Do you remember these letters? - I remember their receipt, yes.

Now, can you tell us in general terms the substance of them? - The substance of the letters were that they supported Mr. Hamilton and his efforts to have the let reinstated.

Now, I know there is the odd one which is typewritten and simply has the handwritten signature but can you confirm that the majority are actually fully handwritten? - Yes.

And they all look as if they are in different handwriting? - Yes.

I take it that the Council treated these as genuine letters? - Yes.

Can you also confirm to me that there was a petition with 70 signatures also supporting Hamilton? - Yes, there was a petition.

That was dated the 2nd of November, 1983; perhaps you could have DCRC ALB1F4, is that the petition addressed to the Director of Administration and Legal Services dated the 2nd of November, 1983? - Yes.

And the last words in the petition are "We are all proud to have Mr. Hamilton in charge of our boys; he has a most activated, excellent quality of leadership and integrity and absolutely devoted to his lads; above all he cares, yours faithfully, the parents"? - Yes.

And the whole list of 70 signatures? - Yes.

Did this prompt any further consideration of his let by the Regional Council? - Yes, a further Education Sub-Committee considered an appeal from Mr. Hamilton supported by this document to which/

which you have referred, the appeal against the decision to terminate the let.

That gave rise to a very long debate on the 7th of November, 1983, if you look at D23? - Yes.

Were you present at that meeting? - Yes.

There was this time not unanimity? - That is correct, as I recall there were some opinions that in the absence of hard evidence the decision, the original decision, might be reconsidered.

But there was still a majority view that the Council was right to sup with a long spoon with Mr. Hamilton? - Yes.

If you look at D24 do we see there the actual decision that was made? - Yes.

Now, what was the decision? - The decision was that the original decision should be reaffirmed.

There was an amendment to that which was out-voted by 10 votes to six? - Yes.

What was the amendment? - The amendment was that consideration of the matter be continued in order that members could meet with office bearers of the organisation to discuss the matter.

That was 10 votes to six? - Yes.

I see also that there were actually over 30 years actually received by the Council although we have only 22 of them here? - Yes.

Now, after that happened did Mr. Hamilton proceed with his complaints to the Ombudsman? - Yes, as I recall it.

Could you look at D36 now? - Yes.

Is that a letter from the Ombudsman's secretary to the Chief Executive of Central Region dated the 3rd of February, 1984? - Yes.

It/

It refers to the Commission having received a complaint from Hamilton which was referred to by Councillor, Dr. Ball? - Yes, that's right.

It is already asking the question what are the reasons for the decision which the Council has taken? - Yes.

Is that the approach that was made? - That was the approach, yes.

I think by this time the Council was already considering further whether they should discuss matters with Hamilton again, is that right? - Yes.

What gave rise to that? - In January I think it was a fresh application for a let was received from Mr. Hamilton this time in respect of a new club, the Dunblane Boys Club.

So the name had gone? - Yes, the name had gone.

That was part of the problem with the previous group? - Yes.

Now, would you look at D42? - Yes.

Which is the report to members I think for part of the meeting or one of the meetings of the Committee dated March, 1984? - Yes.

And is that reflecting just what you have told us, that further information was coming in about the new boys club? - Yes.

Is No. 43 the decision that was taken at the meeting on the 12th of March? - Yes.

What was that decision? - The decision was that consideration of the matter, that is to say the matter you have just referred to "Be deferred pending a discussion by the Commissioner for Local Authorities in Scotland in relation to a complaint which had been alleged alleging injustice caused by mal administration on the part of the Regional Council".

There/

There was an amendment against that application being granted but that was defeated by 15 votes to three? - Yes.

So the Council decided to await the outcome of the Ombudsman's investigations? - Yes.

Now, if we go to D52, do we have there the Ombudsman's report? - Yes.

And this is the official version of the report after the Council had had an opportunity I think to comment on the draft? - Yes.

Now, I think the Council was found to have acted wrongly and that the charge of mal administration advanced by Hamilton was upheld? - That is correct.

If you go to the last paragraph, No. 34, can you read the decision? - "I take the view that these criticisms of the Council's actions justify the complainant's charge of mal administration and that injustice has been caused to the group as a result. The Council have decided to defer a decision on offering a let to the re-constituted group pending the outcome of this investigation and they should now resume consideration of the matter. On the evidence available I see no reason why the Council should not now grant a let, but in any case I shall be unable to record that their future action is a satisfactory response to this finding of mal administration until I am convinced that they have made a decision on the basis of a proper examination of the relevant factors and only those".

Who was the Ombudsman? - A Mr. Eric Gillett.

The date of that report? - The 15th of November, 1984.

What was the Council's reaction to that? - The Council was most unhappy about the finding, it took the view that the Ombudsman had acted outwith his proper jurisdiction and made representation to that effect; they took the view that they did have authority to cancel the let if they so wished and if the matter had been properly debated within the procedures.

Eventually/

Eventually Hamilton got lets of Dunblane High School and other premises again but this is some time after this report, isn't it? - Yes, the Council also took the view that when the representations were not successful that they were obliged to grant the let but they were anxious, as I was, to build in safeguards in terms of the new application at Dunblane's Boys Club and in particular that there should be a constitution that there should be named adults forming a committee and I was anxious that Councillors should themselves meet face-to-face with these representatives of the club who could be therefore expected to take responsibility face-to-face with the Councillors for the activities of the club; that meeting did eventually take place in September 1985; Mr. Hamilton had, prior to receipt of this, had involved lawyers but eventually the meeting did take place.

If Mr. Hamilton had been true to form the meeting would have been on the 16th of November, 1984; can you tell me what difficulties you encountered in trying to arrange such a meeting? - The main difficulty was his reluctance and his insistence certainly at one point that he would be represented by his solicitor.

He wanted more than a solicitor at one time, didn't he; do you not remember him wanting Counsel and a shorthand writer as well? - Yes, I have to say I think that was the scene.

I think the Council agreed to someone attending the meeting with him? - They were not totally unhappy but they were insistent that he should.....the meeting should have the parents to whom I have referred, that was the principal anxiety.

Now, I know that you have told us the meat of this but I am afraid we can't leave this report without looking at it in a bit more detail; could you go back to the beginning of the Ombudsman's report and the beginning, I think paragraph one, reflects the complaints that the let was terminated without proper warning or explanation, the decision was taken on the basis of unsubstantiated allegations to which he was given no opportunity to reply, is that right? - Yes.

So/

So the Council's view that the Ombudsman had no jurisdiction is reflected in paragraph two? - Yes.

But that view of your Council was based on the Ombudsman being excluded from looking into the management of schools, was it? - Yes, I think at the end of the day that was the view and that was the effect of the matter in terms of his jurisdiction.

He decided he had jurisdiction and that was that? - Yes.

Does this reflect in paragraph four that at some award ceremony in October, 1981 there had been communication between an official of the Scouting Association and a Councillor and the subject of the communication between the Rover Group or lack of communication between the Rover Group and the Scout movement came up? - Yes.

And the Scout official expressed displeasure about that? - That is correct.

And it emerged that after inquiries information had come from the Scouts to the Council that Mr. Hamilton had been required to give up his activities some years before? - Yes.

Now, I think if you go to paragraph six we see that that was the end of the 1981 business and the group continued to use the facilities until 1983; you have said about correspondence also in 1983. Can I then ask you to go forward to paragraph 12 and I think the rest reflects what happened at the Council meetings and if you look a paragraph 12 can you read the beginning of that? - The "Y and C officer was asked to deal with the cancellation of the group's lets and he enquired of the Director of Administration and Legal Services what reasons he should give. He was informed that these would be the reasons reported to the sub-committee; but also that as the use of educational premises is a matter for the discretion of the authority there was no obligation other than a moral obligation to do so. On 7th of October the complainant was informed in writing that the let of education premises was given at the discretion of the Education Committee, and that the Committee had decided to terminate the group's/

group's let of premises forthwith. No reasons were given".

Now, that reflects I think that if you are the owner of a property you have a right to refuse to allow someone to use it because you don't fancy them being there; you were not able to get away with that as a Regional Council; why is that? - Because the Ombudsman ruled against the Council.

Why, what tests was the Ombudsman applying to rule against the Council? - He took the view that there should have been substantive grounds of complaint upon which the Council were to act and, as you know, there had been no specific and certainly no written complaints against Mr. Hamilton.

If you look at paragraph 15 there the words about no single hard piece of evidence came back to haunt you? - Yes.

You see that on the fourth line? - Yes.

That was, I think, the view you had expressed and, of course, that is an important element in the Ombudsman's consideration of this case? - Yes, it was the truth.

There is then reference to intervention of the supporting parents and the letters and the petition and then if you go to paragraph 22, at the foot of page eight, could you read that? - "In the course of the investigation my officer asked the Y and C officer whether there had been any concern about lack of organisation on the part of the group over the years when they had had a let of school premises or whether there had been any trouble over the use of school premises or equipment. The Y and C officer said that there had never been any indication or cause for concern either from parents or school janitors".

In think the enquiry also went into the incident where a boy was cut on the foot with an axe? - Yes.

And this is dealt with in the next paragraph? - Yes.

And/

And then at No. 26 we have the reflection of the argument, your Council's argument; can you tell us what that was by reading paragraph 26? - "The Authority have argued, however, that they did have material reasons for determining to discontinue the arrangement for use of the premises, examples being as follows -- (a) general concern by head teachers regarding the administrative arrangements of the group. (b) the quality of leadership of the group exemplified in paragraphs 8 and 23 of the draft report. (c) management difficulties caused in an educational establishment by the opening night at area B. (d) alleged improper circulation of notices to parents through primary schools".

These matters, the quality of leadership in paragraphs 8 and 23, part of that is also to do with the difficulty caused at area B at Bannockburn, which I mentioned.

Did/

Did the Council at the time they were considering the draft report adhere to the view that they did have a proper basis for refusing to continue with the let? - Yes, that is my recollection.

The last item mentioned there is the alleged improper circulation of notices to parents through primary schools. Was there any particular policy at that time about allowing circulation and advertising material through schools? - I don't recall that there was a policy document as such, but there was a long-standing practice, established well before the Region came into effect, that schools were not to be used as Post Boxes for organisations about whom the Council might have reservations. For example, schools were not to b used for the distribution of commercial or political material and the like, and that position was well understood by the head teachers.

Did head teachers have a discretion about allowing circulation of material he or she was happy with? - Yes, at a local level head teachers could be entrusted to take decisions.

We then have the Ombudsman's conclusions. Could you read the second sentence in paragraph 28? - Yes. "On the one hand they have a discretion whether to let the school premises, and a consequent duty to ensure that they are not let to unsuitable users; on the other hand they have a responsibility to deal fairly with all their constituents. I have borne both these factors in mind".

Did the Council accept that approach? - No, the Council felt they did have full discretion to let school premises.

Do we have here a subject which is a continuing sore point of Councils, in other words the extent of their discretion, or has this issue been resolved since 1984? - Yes, to my recollection it had not been resolved in 1994. Had the same position arisen prior to my retirement the same position would have prevailed. We would have borne the Ombudsman's ruling very much in mind.

I think the Ombudsman then goes on deal with the reasons adduced for terminating the
let?/

let? - Yes.

And deals with the Council's position on this, which we have looked at? - Yes.

Then at paragraph 32 he says "On no occasion was the complainant given an opportunity to put his side of the case before the decision was taken, and even in regard to a decision which was at the discretion of the Council I consider this to be unfair, particularly as the termination of the let without reasons was bound to reflect on the group and the complainant"? - Yes.

Now, I suppose that is right, that he was never given an opportunity to put his side of the case? - Yes.

Did the Council accept however that it was unfair to proceed in that way in the particular circumstances of this case? - No. The Council as I said felt that they had discretion. They knew very well that the substance of the complaints against Mr. Hamilton were from rumours, that there was no specific, no hard evidence, apart perhaps from head teachers saying that the initial meetings they had knowledge of were somewhat disorganised: so the Council did not feel that they had acted unfairly or improperly.

Now, could you look at D60, which is a letter from Mr. Hamilton to the Director of Administration dated 14th December, 1984. Does he say in the second paragraph "Despite the secrecy of the Regional Council in their acting to terminate the lets of the Rover Groups being a decision taken by the Further Education and General Purposes Committee on the 15th August, 1983, I have been informed by a sympathetic Councillor of the exact nature and extent of the allegations made about me in my absence"? - Yes.

Did it appear to you he was able to get information that he ought not to have had? - Yes, I formed that understanding.

Did you ever discover how he got the information he should not have had? - No.

Then if we go to D78, do we have there a Minute/

Minute of a meeting of 23rd September, 1985, at which Mr. Hamilton and a delegation attended to meet the Council? - Yes.

Was one of the delegation a solicitor? - I believe so, from memory.

D78 should be the Minute; and if you go to the third page of that you will see the list of people? - Oh, yes.

I think we see the name of his solicitor there? - Yes.

I think if we go back to the front page we have the decision of the Committee that the Dunblane Boys' Club be granted the let of educational premises under the normal conditions applying in terms of the Council's scheme? - Yes.

And it was also decided that you should look into the possibility of producing an information booklet? - Yes.

Why was that? - I suppose it was intended to help the Council should there be any other groups arising of the type that were having locational difficulties, but that was unprecedented.

Did any such booklet ever get produced? - I don't recall its production.

If we look at the third page of that Minute, where we have the list of people attending, you will see there is a person called Mrs. McFarlane and there is a Mr. and Mrs. Anderson attended and a Mr. Williams along with Hamilton; is that right? - Yes.

There were a number of matters discussed and replied to in a way which must have satisfied the Committee; is that right? - Yes.

And point 5 of these answers included a statement that the club had been affiliated to the British Amateur Gymnastics Association, but they would give consideration to affiliation with the National Association of Boys' Clubs. Do you see that? - Yes.

Did/

Did that ever happen, to your knowledge? - Not to my knowledge.

And they undertook in the next paragraph that all the activities would be adequately supervised, and the Chairman himself would be assisting with gymnastics; is that right? - Yes.

Now, what was it that had changed apart from the Ombudsman and his intervention to persuade the Committee that it was now appropriate to allow Hamilton's group back on to Council premises? - Well, the Ombudsman's decision was crucial. The Council felt they had no option. It was equally anxious that there should be accountability with activities within the club, and the only way that might be suitably arranged was to require the Constitution of this club and the representatives that had been named, that they should appear before a sub-committee, which was a very high level sub-committee, containing the Convener of the Council, the Vice-Convener, the leader of the majority group, the Chairman of the Education Committee and members of the major political parties.

Can you remind me why it took the time it took to arrange that meeting? - Because of resistance from Mr. Hamilton.

Was that resistance to your proposal that he should meet the Committee and so on? - Yes.

As a result of all that did Mr. Hamilton's lets resume? - Yes.

And did in fact his involvement with local authority premises extend into other areas? - Yes.

Could you look please at D84? - Yes.

I think we there see Hamilton writing to the Youth and Community Officer, Mr. Watson, in a letter dated 21st May, 1987, talking about obtaining the use of Falkirk High School gymnasium and Graeme High School gymnasium and games hall? - Yes.

If we look at 85a, do we there have a letter dated 20th June, 1988, from a parent concerned about the supervision at the Graeme High School Club? - Yes.

Were/

Were you aware of that complaint at that time? - I did not deal with it personally, but I think Mr. Currie, the then Assistant Director of Education, told me he was dealing with it.

It was concern over the welfare of a child because of the information a parent had received about a holiday camp to be run on an uninhabited island in Loch Lomond? - Yes.

In paragraph 3, "He is asking parents to leave their children at Balmaha with an unknown boatman 'Captain George' who is apparently to ferry the children over to Inchmoan with no other supervision present"; is that right? - Yes.

And there is reference to no names available for the other supervisors for the camp? - That is correct.

So prior to this camp taking place we have a very considerable list of items of concern, including detailed feeding arrangements and so on, being raised by a parent? - Yes.

Now, do you know what was done about that complaint? - My recollection is that Mr. Currie would have advised the parent that as the camp was not being held on Regional premises and not in fact being held within the area of the Region that it was outwith the jurisdiction of the Central Regional Council, and I assume he would also have added that the fundamental responsibility on the parent is to decide whether or not they would allow their children to attend such a camp.

Was there any system in place in those days for communicating concern like this to the authority in the area where the camp was to take place? - There was no formal system. It was not uncommon for informal contact to take place, but I couldn't say whether it did take place. If I may add, I believe Mr. Currie did ascertain that there was a possibility at least of police enquiries being made, but I don't recall the exact sequence chronologically of events.

Now, I think it was shortly after that that the let of Graeme High School came to an end? - Yes.

Do/

Do you remember the circumstances in which that happened? - Yes. Mr. Hamilton complained to me -- at least his complaint came to me -- that this let had been terminated abruptly: he had held the let previously, and he felt that the Council had acted unfairly.

Why was it terminated? - It was Council policy to accord priority to its own provision, whether youth and community service or sports development, and as I recall it, such a let was accorded priority.

So he lost out because of increased demand for the premises? - Yes.

And that would be from one of your own bodies, or would it be by the school itself? - No, it was made clear that the Council's own provision would take priority. I don't think it was the school itself. I think it was Regional provision.

If you look at D90, you see there a letter dated 18th January, 1989 from Hamilton to a man called Campbell? - Yes.

Do you know who he is? - It was Mr. Ken Campbell, who was a lawyer within the Region's Department of Administration and Legal Services.

I think Hamilton in this matter is harking back to 1985, at the foot of the page, saying he had an informal agreement that they would have the use of school facilities in the Region for their work for the youth of the community and that they would be left in peace to enjoy their use free from any future aribtrary problems from the Education Department; is that right? - Yes.

Did you have any agreement with him, or do you know of any agreement? - No.

Now, I think he managed to get letters from the Council again. If you look please at D92, do we see there that the matter was to be placed before the Education Sub-Committee? - Yes.

And that was his query about the availability of Regional Council premises for his organisation? - Yes.

Now,/

Now, did he get the let of Graeme High School restored? - I don't think they went to that extent. I think he wrote in to say that because of the passage of time he had decided to go elsewhere.

I think if you look at D95, which we see is a letter of 14th March, 1989, that he applied for Alva Academy for Monday evenings instead? - Yes.

Can I take it from that letter that he got the let of Alva Academy? - As far as I recall.

He refers in the last paragraph to the only remaining club within Central Region met at Dunblane High School on Thursday evenings? - Yes.

And if you look at D100, do we see in October, 1990 he was complaining about losing out part of his let at Dunblane High School? - Yes.

But the explanation was that he was not using the full time allocated to him? - Yes.

Now, there are just certain ancillary matters I want to cover with you.

Could/

3.30 p.m.

Could you look at D111; it wasn't an education responsibility that led to complaints to Central Region about a social worker called Keilloh and his involvement in investigating complaints in 1991 and that is the subject of this letter of January, 1992 but can you tell me whether you were aware of problems Hamilton had with camps at Loch Lomond in 1991 and 1988? - Well, I had been told about the camp of 1988 to which you referred previously; personally I am not aware of anything subsequent to it.

So when did you learn of that, apart from the letter we are looking at? - The letter to Mr. Currie.

That was the only one you knew about? - Yes.

Until you retired were you unaware of this problem with the camps in 1988 and 1991? - Unaware.

Were you also unaware of other complaints coming in about Hamilton's conduct at some of the camps under the Region? - I was not made aware of such complaints.

So, you got no complaints about his handling of his club activities from the time that the lets are reinstated in 1985? - That is correct with the sole exception of the letter to Mr. Currie.

Now, we will see evidence of the involvement of the Education Department in communicating principally with the Administration and Legal Department about problems that arise in relation to the activities of the clubs but can I take it that was something that wasn't getting up to your level for attention? - It was not.

So when you heard about the Dunblane tragedy did the name Thomas Hamilton mean something to you? - Oh yes.

And what we have heard from you so far, is that a fair reflection on your overall knowledge of that? - Yes.

And/

And really in the latter days he just didn't feature in your conduct of your work? - That is correct.

CROSS-EXAMINED BY MR. JONES: Could you go back to D5 in the folder; this was a letter dated the 26th of April, 1983 from Mr. Gardiner to Mr. Hamilton which you looked at a little while ago; could I just ask you to look at the first paragraph of the text; you will see that in the second sentence there is reference there to insurance and the text reads in this way "The insurance outlined in your letter appears to be mor than adequate", do you see that? - Yes.

And Mr. Gardiner goes on "Additional to this you now have with your own gymnastics qualifications acquired the standard requirement in respect of use of gymnastic equipment and this would appear to solve the problem which arose"? - Yes.

So that from this time in 1983 there was a record in the Council files of qualifications and also insurance arrangements being in place, is that the position? - That would appear to be the case.

Could you go on to D23? - Yes.

This is a handwritten Minute of a Sub-Committee that you looked at earlier dated the 7th of November, 1983 and if you turn to page four? - Yes.

Do you remember you were asked by my learned friend whether you were able to satisfy yourself that the claim that a teacher was helping at the boys club had ever been verified; do you see just over halfway down page four there is a record of you having made the observation that there wasn't a scrap of hard evidence, do you see that? - Yes.

And do you see that the Councillor says "I see a Mr. McIntosh, a degree in physical education and a teacher at Dunblane Primary School, is a leader"? - Yes.

And Mr. Ross who I think is a junior deputy of education says "Peripatetic on a visiting basis"? - Yes.

Does/

Does that remind you that there was some inquiry as to who this teacher was and it turned out to be this gentleman referred to here? - Whether there was actually an inquiry I am not sure but one assumes Mr. Ross was correct.

Now, I think the Sub-Committee you told us again met in March; could you look at, if it is available to you, the other document file, it may be possible to find it as DCRC AL B1 F1/14 and if you turn to the beginning of that bundle I hope you will find a document which has "Confidential" stamped on it and to the right of it there are the words "This paper relates to item 1B on the agenda", have you got it? - Which page are we on?

It is the first page in that bundle? - The 24th of February, 1984?

Yes, you will see it says on the right-hand side "This paper relates to item 1B on the agenda"? - Yes.

A letter or copy letter dated the 24th of February, 1984 addressed to Mr. Buchanan? - Yes.

Director of Administration and Legal Services, do you see that? - Yes.

It is signed, if you go to the end of the second page on the reverse, by Thomas Hamilton and Catherine Anderson? - Yes.

Does this letter set out for the Council the conditions and composition of Dunblane Boys Club Committee, do you see that? - Yes.

And there is reference on that first page to a leader and club coach Norman McIntosh, degree of physical education? - Yes.

There is a list of assistant leaders and a list of helpers? - Yes.

And over the page there there are details of parental involvement and insurance and so on? - Yes.

Was this one of the papers that was available to the Sub-Committee that had met in March?/

March? - I think almost certainly it would have been, it would have been material to the application for the let in respect of Dunblane Boys Club.

Could I ask you to turn to D52? - The original?

The file which is below that one? - Yes, did you say D52?

D52, the Ombudsman's report? - Yes.

Could you turn to page nine at paragraph 25? - Yes.

Do you see that the Ombudsman says and this is about the Regional Council's position -- "The Regional Council have commented that in the circumstances of this case any assertions which were narrated as regarding the complainant's character were clearly qualified by the statement that there was no evidence to support them. They took the view that nonetheless such assertions may properly be of concern to an Education Authority since they related to the welfare and safety of children present in educational establishments".

So that is a justification that the Council were putting forward and which they felt was a good justification in the circumstances, is that right? - That is correct.

And the Ombudsman goes on to record "In an entirely discretionary area the Council was under no obligation, nor had it the power to make thorough investigation of such matters although the implications were intimated quite properly to the Sub-Committee in its deliberations. They acknowledge that these implications were so vague as to found no material reason in themselves to occasion termination of the use of the premises". So again this is a further record of the Regional Council's reasons for the termination of the let? - yes.

Now,/

Now, I think that you touched on another cause which the Regional Council did have concern over which was the distribution of leaflets through schools and if you turn to page 11, do you see that the Ombudsman deals with that paragraph at paragraph 31? - Yes.

Would you read that out for us? - "The final reason given by the Council is the complainant's circulation of notices to parents through primary schools. The head teachers were of course free to refuse to circulate the notices, but the complainant was as free as any other citizen to approach the schools, and it is extraordinary that he should be criticised for having done so".

Just to save some time one of the documents which isn't set out in the folder which you have got indicates that the let of Dunblane High School recommenced on the 24th October, 1985; would that be consistent with your recollection? - That would be since the meeting with Mr. Hamilton and his Committee was in August or September, 1985.

Can I take you on to D88; now, you have I think told us about Mr. Campbell to whom this letter is addressed; this is a letter dated 4th January, 1989 from Mr. Hamilton, is that right? - Yes.

To Mr. Campbell in the Legal & Admin. Department and it says in the first paragraph that this is a letter which deals with the termination of the use of Graham High School? - Yes.

Do you see in the third paragraph that Mr. Hamilton makes the threat that unless the let is now restored he will instruct his legal advisers to proceed with litigation against the Regional Council in respect of the damage caused to him as a result of their action in 1983, do you see that? - Yes.

Was this part of a pattern which had developed, that when there was a problem with Mr. Hamilton he threatened either the Ombudsman or litigation or both? - Yes, I would say it was part of a pattern.

RE-EXAMINED BY MR. BONOMY: Mr. Collie, you said that from an early stage you had official confirmation/

confirmation of insurance; does the Council have a system for checking annually insurance for organisations such as Hamilton's?
- Not to my recollection, it would have to be checked.

Would an insurance policy normally simply be for a year? - I would imagine so.

MR. BONOMY: Sir, on Friday I gave an indication that a witness who had communicated information to the Press would be invited to come here to give evidence. That information was repeated to his solicitor on Friday. I understood early today that his solicitor might not have been able to communicate with him so I arranged for police officers to ensure that he knew the invitation had been extended again. The witness indicated then that he would attend, he had not attended so I propose to follow the course of action I indicated on Friday I would follow if he didn't attend today and that is to present in the form of his statement the evidence which has been gathered from him; to do that I now propose to call my next witness, the police officer who took the statement, and that is Robert Pearson.

ROBERT/

3.50 p.m.

ROBERT PEARSON, Sworn:

EXAMINED BY MR. BONOMY: I am a Constable in the Central Scotland Police.

Are you based at Police Headquarters in Stirling? - No, I am based in the Community Safety Department based at Grangemouth.

I think that you got instructions last week to trace and endeavour to take a statement from a person called James Ronald Shaw? - That is correct, yes.

Were you able to locate him? - Yes.

Where was that? - We started making various enquiries and eventually got a call from Mr. Shaw and arranged to meet him at his home address.

Where was that? - 8 Claycroft Place, Stirling.

And when was that? - Approximately 5 p.m. on Thursday, 13th.

Did you explain why you wanted to see him? - Yes. It was suspected that a person had given information to the Daily Record newspaper, which was relevant to evidence that had been led by Detective Constable Douglas Hamilton earlier that week.

Did he indicate whether he was that person? - Yes, sir, he did.

Did you then ask if he was prepared to give you information? - Yes, I did.

Was he? - Yes, he was.

Did you take a statement from him? - Yes.

Were you accompanied at that time? - I was accompanied at that time by Detective Sergeant Allan Moffat.

Was/

Was he present throughout the time the statement was taken? - Not all the time, but the majority of the time he was present.

Why was he not there throughout the time? - We had some other enquiries we were carrying out, and Detective Sergeant Moffat had to leave the interview to make various phone calls.

How did you note the statement? - I noted it on A4 sized paper and had Mr. Shaw sign at the foot of each of the pages and at the end of it I asked him to read it over.

Do you still have these sheets? - Yes.

Subsequently were these typewritten? - The statement was typed up. I have a typed copy in front of me.

There is a typed copy available. It records the time of the statement being taken as
6.15 p.m.? - Yes.

Why is that? - We had arrested Mr. Shaw and taken him to the police office in Stirling. There were a number of warrants in respect of Mr. Shaw. The statement was taken at the police office in Stirling at 6.15 p.m.

Now, can I ask you to tell me some of what he said? I don't want you to tell me anything in the statement about his own particular personal circumstances, but bearing in mind what we have got is typewritten copies. Can you confirm whether or not you have checked the typewritten copy against the handwritten copy? - I have checked it in so far as it appears to be an accurate reflection of the handwritten statement.

If I could ask you to go to the bottom of the first page, to the last paragraph in the typewritten copy, can you read from there, please? - "I am a native of Stirling, and since aged five I was brought up and lived at the family home at 33 Crumb Crescent, St. Ninian's, Stirling with my parents and two sisters.
"I was educated at Borestone Primary School, where I then progressed to Stirling High School to complete my secondary education.
"I/

"I think I left school in the summer of 1974. However, in 1973 I joined the Venture Scouts, which operated in the Scout Hall, the First Stirlingshire Scout Hall, Queen Street, Stirling.
"Through the Venture Scouts I met Douglas Hamilton, who I learned lived in McLaren Terrace, St. Ninian's, Stirling. He was still a Scout at that time, not a Venture Scout, as he is a few years younger than me.
"The Venture Scouts helped with Scouts, and thereafter I had contact with Douglas Hamilton on a weekly basis over a period of about four years, between 1973 to 1977 approximately.
"When I joined the Venture Scouts in 1973, we used to frequent the hall on a Friday night, Saturdays and Sundays. Friday nights were the official Scout night, with Sunday night being the Venture Scout night. However, I went to the hall on a regular basis on Fridays, Saturdays and Sundays, as there was always a lot of activities ongoing that I was involved in.
"I first became aware of Tommy Hamilton as he used to come to the Scout meetings on a Friday. I learned that he was a Scout Leader in the Forth Sixth Troop, who met in their own premises in Stirling. He sometimes came in uniform and on other occasions he was in civvies.
"I formed the impression that Tommy Hamilton had nothing better to do with his time, and his attendance was actively discouraged by the Scout leaders, who did not particularly enjoy or like Hamilton attending our meetings, but nobody had the brass neck to tell him to go away in the strongest possible terms.
"Hamilton was the owner of a red coloured Opel Manta car. He also owned a red coloured Ford transit van which he used in connection with the business that he ran called 'Woodcraft' in Cowane Street in Stirling.
"Hamilton got into the habit of encouraging some of the younger Scouts to go with him in his car on a run called 'The Bunnyhunt'. My understanding was that he took three or four young Scouts in his car up to Sheriffmuir, where they caught rabbits in the glare or glaze of the car headlights and ran them over. As far as I am aware they didn't collect the dead carcasses of the rabbits, they just did it for the fun of it.
"I did not go on any of the 'Bunnyhunt' excursions, and I think that Douglas Hamilton may have went on one/

one or two occasions, but I'm not sure.
"I think that Tommy Hamilton on one occasion lost control of his car in Sheriffmuir at a corner and ended up crashing the car, causing considerable damage, and as far as I am aware, nobody was injured.
"It was openly discussed that Tommy Hamilton may have been homosexual and that his interest in some of the younger Scouts was open to speculation. The younger Scouts were actively discouraged from associating with Tommy Hamilton. However, Tommy lavished money, food, Chinese meals and the like on the younger boys, who seemed to find his generosity hard to resist.
"I became less active in the Venture Scouts in 1977/78, and maintained contact until 1980, although I occasionally had contact with the Venture Scouts after that date.
"I am aware that during this period Tommy Hamilton organised camping weekends at Loch Lomond, where he had a boat. He took some of the younger Scouts from our organisation. However, I am unaware whether Douglas Hamilton ever went on any of the weekend camping trips.
"Between 1980 and March, 1996 I had very limited contact with Tommy Hamilton. I occasionally saw him in Stirling Town Centre, but I never stopped to speak with him as I didn't like the man. I was of the opinion that he was a homosexual, and was a sly, cunning individual who I just didn't like. I never knew Tommy Hamilton to have guns, and it was never discussed by him his apparent love of or interest in firearms.
"On 13th March, 1996 I learned of the tragedy at Dunblane Primary School and linked the Thomas Hamilton as the man I had known a number of years ago.

"On/

"On the 10 p.m. news coverage on Scottish Television on Monday, 10th June, 1996 I saw television coverage of Douglas Hamilton leaving the Cullen Inquiry at the Albert Hall, Stirling. The news report stated that Detective Constable Douglas Hamilton had been called to the Inquiry to give evidence to the effect of having been asked to carry out a computer check on Tommy Hamilton to see if there had been any adverse reports about Hamilton.

"Douglas Hamilton had apparently stated that at the time he had carried out the checks there was no Intelligence reports on Hamilton, although there were one or two reports which had come to light at a later date.

"I recognised Douglas Hamilton from the television coverage.

"I was incensed to see and hear this television report, as I was aware that Douglas Hamilton would be well aware of Tommy Hamilton's background, and should have made his feelings and his knowledge of Hamilton known to whoever was collating the information for the Firearms Renewal/Variation Application.

"I telephone the Operator Services and got the telephone number of the Daily Record at Glasgow.

I telephoned the Daily Record at Glasgow and got
to speak to a female reporter called Claire,
whom I understood to be a member of the editorial staff.

"I asked if the Daily Record would be interested in running an anti-firearms feature in view of the Cullen Inquiry which was ongoing at Stirling. I told her that I had information that the current system for administering the firearms administration for the licensing of firearms was not effective.

"Claire told me that she would have to consult with the Editor, and that I should telephone back the following morning and ask for her by name. At this stage I hadn't mentioned Douglas Hamilton or any specifics.

"At 10 a.m. on Tuesday, 11th June, 1996 I again contacted the Daily Record by telephone. I used the coin telephone boxes from outside the Allanpark Cinema at Stirling.

"I got to speak with a reporter called Anna, who described herself as Claire's boss.

"I did not divulge any of my personal details and used the name of David whilst I spoke with Anna. She asked me for my name and address, and I only told her my name was David.

"She,/

"She, Anna, was very inquisitive about the information that I had, and asked to meet me. She told me that she couldn't print anything unless she had my name and address or if she had met me in person. I refused to give her my details, but arranged to meet with her at Granada Service Station at 12 midday.
"About midday that day I decided not to keep the appointment, and I again telephoned the Daily Record from my work at Robertsons of Denny.
"I learned that Anna had left to keep our appointment. However, I spoke with a male person who gave me his name, which I cannot recollect. He was an Assistant Editor, and I told him my name was David and that I wasn't going to keep my appointment at 12 midday with Anna.
"I felt comfortable speaking with this man, and I reiterated my thoughts about an anti-firearms feature that they could run.
"I told this man about the situation with Douglas Hamilton, and that even without computer assistance he would have been in a position to provide personal knowledge and background information about Thomas Hamilton.
"I told this man about the 'bunny hunt' scenario, the camping and boating excursions, the car accident and the well known thoughts and opinions of Tommy Hamilton, which were openly discussed at the Scouts and Venture Scout meetings during the 1970s.
"I was of the opinion that Douglas Hamilton would have imparted his knowledge of Hamilton even although there had apparently been no record of Hamilton on computer records.
"The man at the Daily Record asked me if I thought that Douglas Hamilton had been involved in a cover-up over this situation. I told him that I could see no reason why he would want to cover up anything.
"I was left with the impression from this man that they would not run the story unless they met me personally or had my full details, which I consistently refused to give him.
"This man then asked me to telephone Anna on her mobile telephone number and tell her that I would not be keeping my appointment with her. He gave me the mobile number 0836 597056 which I wrote on a piece of paper. I telephoned her and spoke with Anna. She asked me to think it over and telephone her at 6 p.m. that night.
"I didn't telephone her back and just left it at that./

that. She, that is Anna, had previously offered me money for a story, but I had refused and stated that if any money was involved they could donate it to the Dunblane Fund. I got the impression from speaking with Anna that she wanted to sensationalise the issue of Tommy Hamilton's sexuality, but that hadn't been my reason for contacting the paper in the first place.
"I have subsequently handed over a piece of paper with the telephone number 0836 597056 which was written by me to Police Constable Pearson.
"I have not received any money from the Daily Record in connection with my dealings with them. I have never met face-to-face with a reporter from the paper, nor have I at any time given my correct details. All the contact has been done on the telephone, and I used the name David Banks, or possiby just David.
"I saw the Daily Record of today (13/6/96) and I chose only to read the front page. I felt sickened in the way that my information had been reported.
"I have been asked to clarify the point on page 4, paragraph 2 of my statement with regard to the fact that I think that Douglas Hamilton may have gone on one or two of the 'bunny hunts' in Hamilton's car. I never saw Douglas Hamilton to with Hamilton, and I have no direct evidence that Douglas Hamilton did go on any of the 'bunny hunts' in the company of Tommy Hamilton.
"In my dealings with the Daily Record I always used the name David. I did not say that this was an assumed name, but I did say that I did not wish to be named. The only contact with me was using the name David, and at one stage I gave them my work telephone number at Robertsons of Denny, 22 Winchester Avenue, Denny, telephone number 01324 824555, which was a direct dial into where I was sitting within the Telecall Room within the office premises at Robertsons of Denny."

And is that an accurate record of the statement he gave you? - It is, sir, yes.

No cross-examination.

MR. BONOMY: Now, sir, the day this article was published Mr. Douglas Hamilton was due to leave on holiday. I took the view that it was not necessary to try to rearrange his holidays, but I did have a statement taken from him to try to clarify/

clarify his position. He will return from holiday, and of course if this statement is not satisfactory in any way he can be recalled to give evidence, because I suspect this Inquiry will still be ongoing in some form at this stage. However, it may be we could simply deal with the matter through his statement.

I would propose again inviting the officer who took the statement to tell us about it. It is Chief Inspector Anderson.

LORD CULLEN: Are parties quite content to deal with the matter in this way?

There was no response.

JOHN ANDERSON, (42), Sworn,

EXAMINED BY MR. BONOMY: I am a Detective Chief Inspector with Central Scotland Police, based in the Crime Managing Unit at Police Headquarters, Stirling. I have 21 years' police service.

I think on Thursday, 13th June of this year you were asked to take a statement from Douglas Hamilton, one of the Force's constables? - That is correct, sir.

Where did you go to take the statement? - I had the officer attend at my office at Police Headquarters, Stirling.

What time was this at? - 9.45 a.m.

Did you take a statement from him? - Yes.

Were you on your own when you did that? - I was.

How did you note it? - I discussed the article that was in the newspaper, I asked him to read it, I thereafter asked him his views on the matter, if it was accurate or inaccurate, and thereafter asked him to go through his story again and noted a verbatim account from him. Once I noted that I asked him to read it and thereafter asked him to sign it. It was about ten pages of A4 paper.

Was/

Was the statement then typed up? - Yes.

Have you checked the typewritten version against the handwritten version? - Yes.

Does the typewritten version accurately reflect what was in the handwritten version? - Yes.

Where is the handwritten version? - I submitted it to the Incident Room in Dunblane.

You should have in front of you now the typewritten statement: have you got that? - Yes.

For the record, this is a statement from Douglas Hamilton, from whom the Inquiry has already heard. Can you please read this statement to the Inquiry? - "Statement of Douglas Hamilton. I am a Detective Constable of Central Scotland Police, and at this time am attached to the crime Management Unit, Stirling.
"I have previously provided a statement in relation to the Dunblane Incident and have given evidence at the Cullen Inquiry.
"On Thursday, 13th June, 1996 I learned of an article which appeared on page 1 of the Daily Record newspaper and which made reference to myself and Thomas Hamilton.
"About 9.45 a.m., same date -- that is 13th June, 1996 -- I was seen by Detective Chief Inspector Anderson, who obtained this statement from me.
"Between the age of seven years and 20 years I was a member of the First Stirlingshire Boy Scouts whose hall was, and still is, situated in Queen Street, Stirling.
"During the 13 years that I was a member of this Association I was a regular attender and progressed through the Cubs, Scouts and Venture Scouts. It would be fair to say that I spent a great deal of my time with the Scouts, and this included week days and sometimes weekends.

"During/

4.10 p.m.

"During the 13 years that I was a member of this Association I was a regular attender and progressed through the Cubs, Scouts and Venture Scouts. It would be fair to say that I spent a great deal of my time with the Scouts and this included weekdays and sometimes weekends. When I was about 13 years of age (1972) I was in the Scouts and I remember Thomas Hamilton appearing at Scout meetings. I remembered that Hamilton wore a uniform, but I am not sure if it was a Scout uniform or a leader's uniform. I recall that Hamilton's role appeared to me to be that of an assistant to the leaders I knew in the Association. I think that my Scout leaders at that time were Scott Park and David Davidson. Hamilton became a regular attender at Queen Street but his role continued to be that of Assistant and I do not think he was an actual Scout or possessed the knowledge to teach Scouting practices. As I progressed in the Scout Movement I became aware that, like other groups, the Scouts were keen to enrol the support of volunteers to assist in the running of events, etc. Hamilton, in my view, was one such volunteer. I am not certain but I believe that Hamilton associated with the First Stirlingshire Scouts for about two years when I was aged 13/15 years (1972-1974). I remember that Hamilton had a yellow Transit van with the word "Woodcraft" on the side. He also had a red coloured Opel Manta motor car, both of which he used to transport Scouts and equipment to various activities. As these activities were recognised Scouting activities it was not uncommon for me to travel with Hamilton in either the Transit or the Opel Manta. Similarly, at the conclusion of Scout meetings, Hamilton would occasionally drop some of the Scouts off at Cowie as the bus service was not regular. As I lived in St. Ninian's, which was en route to Cowie, I too sometimes got a lift with Hamilton to St. Ninian's Toll from where I walked home. During this period (1972-1974) I learned that Hamilton had a Do-It-Yourself type shop in Cowane Street, Stirling called Woodcraft. This shop was approximately 400 yards from the Scout Hall in Queen Street and I have been in that shop with Hamilton on about six to eight occasions. The reasons for my being in the shop were as follows. It was regular for me on a Saturday morning to attend the Scout Hall with other Scouts to carry out maintenance work on/

on the hall or plan Scouting activities such as camps or canoeing. The incentive for this, for me, was that I knew that those Scouts attending on the Saturday mornings would have the opportunity of going canoeing on Saturday afternoons. Whilst it does not relate to Hamilton, I should add that for a very short period of time the father of one of my fellow Scouts organised air rifle shooting at the Scout Hall. This entailed the firing of air pellets at paper targets. This activity ceased due to insurance problems in relation to the use of the hall. Hamilton had nothing to do with this activity. In relation to my visits to Hamilton's shop, it was common practice for those Scouts working on a Saturday morning to walk down to the baker's shop in Cowane Street which was situated near to Hamilton's shop to purchase food for their lunch. Quite often the Scouts would call into Hamilton's shop and eat their lunch in the back shop whilst talking to Hamilton. I remember that I attended at Hamilton's shop with other Scouts in situations as I have just described. I would estimate that my visits to his shop were restricted to six to eight visits in all. It has been suggested that I have worked for Hamilton in the past and was paid by him. This is not true and I have never worked for Hamilton nor have I ever received monies from him. I also remember that one of my fellow Scouts did work for Hamilton on a Saturday and we sometimes called in to see Keiron. I think the Keiron still lives in the Stirling area but has shop premises in Edinburgh. About 1974, when I was 15 years of age and still in the Scouts Hamilton appeared to disappear from the Scout scene. I have no idea why this was the case. My Scout leader at that time as David Reid and myself and several of my fellow Scouts did not see eye-to-eye with David and we wanted a new leader. Keiron McKenzie who was still in the Scouts and still worked for Hamilton on a Saturday, was of the same mind and he suggested that we get Hamilton as our new leader. I remember myself, Keiron McKenzie, Colin Campbell, Scott Jefferson and Hamilton meeting in Hamilton's shop to discuss the possibility of Hamilton becoming out leader. Hamilton with hindsight was obviously manipulating Keiron to assist him in becoming a leader. Over the following two weeks Hamilton drove myself and McKenzie, Jefferson and Campbell to the homes of other Scout members where we sought the Scouts' and parents' views on Hamilton becoming our leader. The consensus/

consensus at that time was that Hamilton should be our leader, however when this suggestion was put forward to the appropriate Scout Committee it was rejected. I had no idea why this was the case. About this time Keiron McKenzie left the Scout Association. Scott Jefferson either left the Scouts or went to the Venture Scouts. Myself and Colin Campbell continued in the Scouts with David Reid as our leader. Some months later I left the Scouts and joined the Venture Scouts. I do not recall having any involvement with Hamilton after his failed attempt at becoming our leader. It has been suggested in the newspaper article that I was an old friend of Hamilton's and that I took part in activities with him, including (a) cruising and water ski-ing on Hamilton's boat on Loch Earn, (b) joined in 'bunny hunts' where rabbits were startled by the lights of Hamilton's car and then killed, (c) was paid by Hamilton for working in his shop. There were several other alleged incidents described in this article which, although not directed at me, could suggest to the reader that they were. I would not describe myself as being a 'pal' or 'friend' of Hamilton. As I have stated my knowledge of Hamilton was purely through my interest in the Scout Movement. I am aware that Hamilton owned a boat and kept it on Loch Lomond. This was common knowledge throughout the Scout Movement. I have never been on Hamilton's boat, nor was I ever asked to go on the boat. I have water skied in the past on Loch Earn with Duncan King from Auchterarder but this had nothing whatsoever to do with Hamilton. Once Hamilton ceased his association with the Scout Movement I remember hearing of Hamilton taking boys in his car up to Sheriffmuir where they startled rabbits with the headlights of the car and chased them in an attempt to run them over. I have never been involved in any such activity with Hamilton or anyone else, nor am I am able to identify any of the boys who were. I stated earlier in my statement that I did frequent Hamilton's shop on a few occasions with other Scouts. I was never employed by Hamilton in any capacity, nor did I receive any payment for work done. I recall when the stories of the boat trips and 'bunny hunts' were circulating, that I wanted to be part of these activities as they seemed exciting, however not only was I not invited but I know that my parents would never have allowed me to participate. I have no knowledge of Hamilton shining torches on courting couples and I certainly never/

never took part in such behaviour. In relation to Hamilton's car going out of control and off the road, this too was common knowledge that such an incident had occurred. I think it occurred during one of the 'bunny hunts' but I'm not sure. My last involvement with Hamilton was when I was about 15 years of age when he was hoping to become our Scout leader. During the time I knew Hamilton he never mentioned firearms to me, nor did I see him with any firearms. To my knowledge there was no talk of Hamilton in relation to firearms. No time did Hamilton use inappropriate behaviour or language towards me, nor am I aware of him doing to so any other Scout. I have been shown a photocopy of newspaper article (Daily Record dated 13/6/96) which is the article referred to by me in this statement. I have signed the rear of this photocopy. I have been asked by Detective Chief Inspector Anderson if I have any suspicions as to the source of the information carried in the article. I suspect that a former Scout, Ronnie Shaw, may be responsible, however it is merely suspicion on my part and based on several comments in the article which draws me to this conclusion".

Is that an accurate record of his statement to you? - Yes, it is.

No cross-examination.

MR. BONOMY: Bearing in mind the issues in this Inquiry I consider that the information available to you and the Inquiry have not been impeded by any conduct on the part of Douglas Hamilton. However, if any further information is known by anyone that is relevant to the issue in the Inquiry and sheds any different light on this statement then I invite that person to communicate with the Procurator-Fiscal. I hope that that evidence that we have just heard may be sufficient to deal with the matter but obviously if I am advised of any further relevant material then I will take the appropriate action on it.

LORD CULLEN: Thank you, Mr. Bonomy, I trust what you have said will be noted.

Adjourned until tomorrow.

.....

FIFTEENTH DAY.
TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

TUESDAY, 18th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
GEORGE ISLAY McNEILL ROBERTSON,	
Examined by Mr. Bonomy.....	3
Cross-examined by Mr. Gibb.....	22
MICHAEL BRUCE FORSYTH,	
Examined by Mr. Bonomy.....	27
DAVID WILLIAM COBB,	
Examined by Mr. Bonomy.....	48
Cross-examined by Mr. Jones.....	77
Re-examined by Mr. Bonomy.....	80
JANICE HELEN RENTON,	
Examined by Mr. Lake.....	81
Cross-examined by Mr. Campbell.....	96
Cross-examined by Mr. Gibb.....	107
Re-examined by Mr. Lake.....	109

.....

TUESDAY, 18th JUNE, 1996.

FIFTEENTH DAY.

LORD CULLEN: Good morning. Can we have your first witness, Mr. Bonomy?

MR. BONOMY: My first witness, sir, is George Robertson.

GEORGE ISLAY McNEILL ROBERTSON, Sworn:

EXAMINED BY MR. BONOMY: I think you are the Member of Parliament for the Hamilton Constituency? - I am.

I think you also hold a Shadow Cabinet post. What is that post? - I am the Shadow Secretary of State for Scotland, Principal Opposition spokesman for Scotland.

I think you live in Dunblane, in fact? - I do.

How long have you lived in Dunblane? - 20 years, I think; probably more than 20 years.

So you brought your family up in Dunblane? - Yes, all three of my family.

I think you have two sons and a daughter? - Yes.

Can you tell me the ages of your family? - My older son is 23, my second son is 21 and my daughter is 15.

We are at a phase in the Inquiry now where they are looking at the past dealings Hamilton had with boys' clubs, and boys' clubs in particular on school premises. I believe, like so many other local people, you had dealings with him in that connection, and it is about that I want to ask you. When did you first encounter Thomas Hamilton? - There is some confusion about dates. This is going back quite some time. At some time in 1983 it was my older son and his friends got wind of the news that there was a club being formed at the High School/

School gymnasium called the Dunblane Rovers Group.
It was offering five-a-side football, gymnastics, the sort of things young boys are interested in.

Was there any literature connected with it? - We are not sure whether at that stage there was precise literature. I think it was mainly word of mouth at that time, although there was literature later on produced by Hamilton, which was quite professional produced.

Yes? - At that time I think they simply got wind of the idea that this was going on, it was called the Dunblane Rovers Group, and there were these different activities.

I know you will tell us your son Malcolm only went or was involved for a short time, but during that short period did you encounter that literature? - The sad fact is that we threw out the file on Thomas Hamilton maybe last year or the year before because we had really got sick of the whole issue.

Yes? - We have no precise recollection of literature at the specific time he was involved in the club, although he did write on the first occasion when Malcolm failed to go one night to the club.

Did your son say he wanted to go to the club? - Yes.

When your son said that did you have any reservations about sending him? - No. We saw it was at the High School, it was in the gymnasium at the High School and it seemed to be something that was popular and he and his friends were enthusiastic about going to it. The name "Dunblane Rovers Group" added that little bit of respectability to it, and I think that was quite deliberate.

How long did Malcolm go to the club? - I think three or four times he attended on a Thursday night, before he missed a session.

What happened then? - A letter arrived in a buff envelope from Mr. Hamilton. We always knew him as Mr. Hamilton, because the boys always/

always called him Mr. Hamilton. I think that is interesting, that that was the level to which he took it. The letter says he had noticed Malcolm had not been at the group on Thursday night, saying did he realise how important regular attendance was, and that he wanted to have an explanation as to why he was not there.

Who was the letter sent to? - To Malcolm himself.

On headed notepaper? - I don't think I can answer that question precisely.

Now, Hamilton wanted to do something as a result of his absence? - He wanted an explanation for the absence, and appeared to be reprimanding the boy himself, so my wife phoned him when she opened the letter. My son was 10 at that time.

What was the outcome of her conversation with him? - She basically stated "How dare you write to my son. He is in the Cubs, he goes to school, he goes to a swimming club. If he is absent from there they don't write to him, they write to me as the parent". He was very calm. Our recollection of Thomas Hamilton was of a man, even from other anecdotage, who even when confronted could remain calm. My wife however was angry. He said he wanted to come to the house to interview Malcolm.

Hamilton wanted an explanation from Malcolm, not from you? - Yes.

Did you do anything that time, or was it before he came to see you that you had direct experience of the activities at the club? - No. That was the stimulus to us finding out a little more about this club. My wife said there was no question of him coming to the house until I was home. As an MP, I am away nearly all the way, and it was going to be at the end of the week when I would be home. I came up early on a Thursday and went to the gymnasium with a friend of mine, Stewart Hart, who lived in Braemar Avenue, whose son was also attending the club. We went to the club to see what it looked like.

What/

What was it like? - We went to the glass doors of the gymnasium, and we were both struck very quickly by the bizarre nature of what was going on.

What was going on? - There were a large number of small boys in shorts stripped to the waist being bossed around by two or three middle-aged men, swaggering around in a very military-type way. I think I have described it as looking like the Hitler Youth. It was a military-type of feeling we had.

Yes? - Our twoselves -- we were two very different parents -- had both a gut feeling that there was something very bizarre, that it was not right, and we decided on the spot that our sons were not going to stay in the club.

Were there any recognisable physical activities going on? - There was gymnasium equipment lying about, and it was quite clear they had been using it. We were watching them, however, for 15 minutes without any recognition by Hamilton that we were there, although he clearly saw we were there.

Yes? - They were at that time marching around the gymnasium, and had been engaged in recreational activities of some kind of another.

Did you interrupt? - No. We stood for 10 to 15 minutes, but there was no indication from inside the gymnasium that they wanted to see us.

So you waited till your son came home when it was finished? - I don't think he was there. I think we kept him away. We had gone up to see it because we were frankly irritated and slightly discomfited by the fact he wanted to interview a boy of 10 as to why he was not at a youth club.

Did you make any decision about whether your son should go back? - Yes, the two fathers, myself and Mr. Hart, decided on the spot that we thought the guys that we looked at were in many ways slightly sinister in the way they were conducting the.....it was a gut feeling that we had,/

had, that we decided on the spot we were not going to send our sons back. We both thought it was very odd, what was going on in Dunblane High School gymnasium.

Can you remember what your own son's reaction to the club was? - Initially they were very happy. Young boys like activity. Dunblane was not known for having a lot of things for young boys to do. I think the fact they have five-a-side football and a gymnasium, gymnastics, was initially attractive, but they ran out of enthusiasm very quickly, and were not very keen on going on a weekly basis.

Yes? - I have to say that other parents and other children were not of that view. Some stayed on long after we had expressed our concerns.

Yes? - Certainly within our immediate group there was a very uncomfortable feeling that was left behind.

Did you see any more of Hamilton? - He came to the house the following night, I think it was, as a result of the phone conversation with my wife. I was there.

Yes? - He appeared at the door and came in. He was almost always dressed -- I think this is from the time we first saw him until a few weeks before the incident, when he was seen around Dunblane, wearing the same outfit, a Parka, usually with the hood up, disguising him very effectively.

Yes? - He came into the house and stood at the entrance to our living room and asked if he could speak to Malcolm. I said no, and that Malcolm would not be going back to the Rovers Club. He said why and I said "I don't have to give you reasons why a 10 year old boy is not coming back". He then asked if Malcolm agreed, and could he speak to Malcolm to hear his view.

Yes? - I got pretty angry, and said quite frankly that was not his business, that I was the parent, and I was making the decision, and it was absolutely irrelevant what Malcolm thought in the circumstances.

Yes?/

Yes? - At that stage I think he was beginning to recognise who I was, and looked slightly more uncomfortable. He had not been asked to sit down, and he was standing there in the living room.

Yes? - He said, "What are you implying about my club?" and I said I was not implying anything at all, I just did not feel it was the kind of club I wanted our son to go to, and I was not willing to argue with him any further, and that basically terminated the discussion; he chose not to say any more.

How aggressive was he? - He was calm and ordered, but pretty determined as well.

Yes? - The implication he wanted to speak to the boy spoke volumes, that he was likely to get more of a response from the boy than from the parents. There was a fairly restrained hostility about him. He was more confident with children than with adults.

That was the end of it as far as your son was concerned. Was that the end of it as far as you were concerned? - Definitely not.

What happened after that? - Mr. Hart and I and some of the other parents who were bothered felt there was something not right about a situation where a man that we had this gut feeling about appeared able to run a boys' club with large numbers of boys in the respectable surroundings of a school gymnasium -- he didn't need to have any -- he had no checkable background, and there was no way we could check on his background other than that he ran a kitchen fitting shop in Stirling, he had no credentials to be in charge of an army of small boys at all. This left a feeling of unease as to what would be happening.

Yes? - We decided there should be more done about it, and that we should spread the view that this man was not a proper person to be looking after small children.

How did you go about that? - Apart from talking to people involved at that time I am not certain we were able to do very much more. We were/

were concerned that other people knew about our unease and our worries and concerns, and a number of parents took their sons away from it, either from their own choice or from what they heard.

Yes? - We then heard that Central Regional Council had cancelled the let of the school following a complaint from Councillor Davidson, and that was welcome news to us. There was a feeling that that drew a line under the activities of Thomas Hamilton at that time.

Had you spoken to Councillor Davidson before the let was withdrawn? - No.

Do you know if any other parents were expressing their concerns through that councillor or any other councillor to the Regional authority? - Yes, Councillor Davidson had picked up a lot of vibrations from Dunblane as to what was going on.

Yes? - There is locally a political divide. I wouldn't normally be in communication with Councillor Davidson, who was the Conservative councillor for the area: but it was quite clear that other people had got the message over to him at that point, and the let was cancelled.

Now, you subsequently I think had a visit from a lady called Anderson. Was she a lady you knew? - Mrs. Anderson was a recognisable lady. She lives at the bottom of the hill where we live.

Did she have any young family at that time? - Not to my knowledge, no.

What was her reason for coming to see you? - She had come to the door with a petition asking us to sign a petition for Thomas Hamilton to get the let of the High School back. It appears there was a committee of some parents and individuals set up, who were aggrieved at the fact the club had been closed down and the let taken away, and this petition was being organised.

Yes? - We refused to sign the petition, and expressed the strong view that we agreed with the cancellation of the hall let.

Were/

Were you aware of any connection between her and Hamilton at that time? - The only connection we knew was -- because the Anderson's house is at the bottom of the hill where we live, and where you have to drive to and from the main road -- you could see the van Hamilton had for his business regularly parked there, and they seemed to be organising the petition to get him the let of the school back.

Were you aware there was a fair measure of support for that petition? - There was some support. There was a polarisation of opinion between some residents, between some parents who felt he had been badly treated, because there was no evidence he had done anything wrong, and parents who were pleased that their children were engaged in what looked on the surface to be pretty wholesome activities, and others like myself.

We have heard there were 70 signatures on the petition and 30 individual letters submitted to the Council, but they didn't change their mind; the Council stood firm at that stage and awaited the Ombudsman's decision. Did you make any approaches to any other people you felt should do something about Hamilton? - Mr. Forsyth had been elected in 1983. Now, because I have a sense of propriety about my own constituency, how you handle constituency affairs, I felt it was not proper for me to get engaged in a public campaign in someone else's constituency, so I made arrangements to have a word with Mr. Forsyth as the local MP, and we met informally at Westminster.

Can you date that in relation to what the state of affairs was at that stage in respect of Hamilton? You referred to the Regional Council? - It is my recollection that this was certainly before the Ombudsman's ruling came out, and was in the wake of our decision to take away my son from the club, and the worries we had about it.

Yes? - It must clearly have been between the time that the let was cancelled, because I was praying in aid Councillor Davidson to the local MP as being somebody who supported the view I had, or my personal view was strongly similar to the one Councillor Davidson had taken up.

Can/

Can you remember when the General Election was in 1983? - Well now, I could tell you the result; no, I can't without having looked through the diaries.

No doubt somebody will tell us before you finish? - I think Mr. Forsyth will probably remember more graphically than I can.

It was after the General Election when he could be found at Westminster? - Yes.

Can you remember what you then told him about Hamilton? - I told him about my unease about this individual, I said to him that I had been to the school, I used that experience very strongly to emphasise the gut feeling that I had that this guy was not fit to be running some youth club, that Freena Davidson had come to the same point of view; she lived in Dunblane at that time and had backed up exactly my viewpoint. I have to say when confronted by Mr. Forsyth's questions to me about what precisely I was talking about, what precise evidence I had, what it was exactly I was complaining about, I found myself in the same difficulties that so many other people had, that it was difficult to put your finger on what people felt was wrong with Thomas Hamilton and therefore in terms of the exchange and I am not aware how weak it sounded but I had hoped by the personal views expressed to the Member of Parliament I would get over myself to him to take some action at that time or at least being cautious about the individual but I wasn't surprised by his reaction to it and I don't blame him for his reaction to it at that early stage; you know, the experience of a constituency MP being pestered and bombarded by people who have some obsession doesn't make it easy for people to distinguish.....in Scotland we don't have the large staff that other representatives had. I understood how plausible Hamilton must have been to him and how difficult it would be for him at that stage to accept somebody against whom nobody had any evidence that he was as untrustworthy as people were making out.

Can you say, did you form any impression of whether Mr. Forsyth had heard of Hamilton before your conversation with him? - He had certainly heard/

heard of him, he had seen him and met with him and discussed him with me; he told me at that time very strongly about Mr. Hamilton's sense of grievance that he was being judged by innuendo without any evidence ever being put forward. He had told Mr. Forsyth in the initial stages which must have sounded plausible especially to a new Member of Parliament that he was a dedicated individual who had an interest in the welfare of young children and who was operating in a town where there was an absence of facilities for young people and he was being hounded by a blanket of rumour without anyone being satisfied about what he was doing wrong.

Did the fact that school premises were being used arise in the conversation? - Yes, I expressed a view that people were given a misleading impression about Hamilton's respectability and legitimacy by the fact he could advertise and that he was using the gymnasium at Dunblane High School.

Was he leafleting people by then? - I am not certain whether he was; he was a pretty consistent leafleter, he was certainly very active around Dunblane a lot at that time, he didn't let the grass grow under his feet, he believed in campaigning zealously all the time.

Was there anything else you felt in relation to Hamilton's activities? - Again I was very conscious in my position as not being the representative for the area, I was also very conscious about the fact of legal action, where there was nothing precise to accuse Thomas Hamilton of and at that time it was quite possible that litigation would follow anything so I raised it informally with Councillors in the area, Labour Councillors, who I expressed unease to and was again confronted with the question which again was expressing the opinion where you haven't got solid evidence to back it up.

Yes? - One of the local policemen, Sergeant Moir, at that time who again had boys of that age set up another youth club in order to compete with Hamilton's one and there was a lot of concern and activity going on there and I certainly made it clear to a lot of people around that we were anxious about him but I have to say that most parents who were worried had the gut instinct simply to/

to take their sons away and drew the line under the affair.

Did Moir's youth club run for long? - Yes, indeed -- Bob Moir has been engaged in youth activities even up to this time and has made a huge contribution to looking after young people in Dunblane.

Was Councillor Ball one of the Councillors you spoke to? - I knew Bob Ball was involved because he was Hamilton's local Councillor and I understood at that time that was why he was taking up the position on his behalf or to Mr. Forsyth, the relationship between the elective representative and the Councillor. I don't think I spoke directly to Bob Ball but I spoke to other Regional Councillors on the matter.

You would learn of the outcome of the battle that followed his success with the Ombudsman; after that happened did you directly involve yourself in any further communication with people about Hamilton? - Well, a lot of what I have just been describing to you took place after the Ombudsman's report came out. I must say in our house we were absolutely in despair at the fact that the let had been returned and in many ways the Ombudsman had given him a boost. The club didn't run very much longer than the restoration of the let, the damage had been done to his reputation so although he got the let of the gymnasium back it didn't save the club from inevitable doom.

Although is it fair to say he still had the club at Dunblane High School even in 1996? - I think our recollection is that he went away but then came back at some point but it was a much more limited form. The one in the early 80s was well attended, there were a large number of boys going to it but the unease and concern especially about the camps.....our son didn't go to camp but other parents that we spoke to were very perturbed and some of the stories which came to light were running around in informal rumours at that time.

Did he write to you as he wrote to so many people? - No, he never wrote personally a letter to me but we have received leaflets through the door.

You/

You returned some of these or at least some have been located; could you look at a Production which will be given to you, R41, and you will see that is a number of documents together. Now, are these your documents? - Yes, these were the documents that we held in our home.

Can you tell me if these are the only ones you have received or are these remnants of what you received? - These are the remnants -- I can't answer the question sadly but the disgust of Hamilton and what he was doing and also the inability to do anything about the matter, these were the remnants of what we had.

Could you look at R40, is that yours? - That is another of the leaflets that we had.

Whose handwriting is on it? - That is my wife's handwriting.

Has that anything to do with the notice or is the handwriting something entirely different? - I can't read.....

I am struggling too? - I would need to consult my wife on what the handwriting says.

There is a date on it which is the 2nd of March 1994? - Yes.

It doesn't follow that you got the leaflet prior to that date which may help you pin it down. Can you remember when this leaflet came through the door? - No, I am not certain whether it did come through the door; the letter came through the door but I think the leaflet was one that may have been given by another parent.

The other Production has a leaflet attached to it as well? - Yes.

Both of these leaflets have a part in it that has to be signed by a parent? - Yes.

Could you read out the part that the parent has to sign? - "I wish to enrol my son.....to join the Dunblane Boys' Sports Club meeting at Dunblane High School. I understand that during the period of the meeting and activities my son/

son will be in your charge and under your instruction and I agree to adhere to and abide by all your rules, conditions and discretion etc".

It starts off "Dear Mr. Hamilton"? - Yes.

I take it that this is the sort of thing in 1995 which would be put through the doors or distributed somehow in the Dunblane area? - Yes.

We see that one refers to the re-opening of a club after the summer holidays on Thursday, the 7th of September, 1995? - Yes.

Do you remember if a similar form was around in 1983? - I think certainly not.

You didn't sign anything committing your son to his care, as it were, during the period of the club? - I have no recollection of doing so; I would had been profoundly disturbed if it had been presented before me. The form, this particular form, my wife took up with other parents. We had a conversation with Hamilton and Hamilton's response to why is that down in the form was I took it from the standard conditions laid down by the Boy Scouts; he had a fascination with the Scouts most of the time. He was asked about "etc." which seemed to cover pretty well anything that might happen and he said again this was something that had been in Scout literature. It was enough to provoke at least one parent to phone him up.

That leaflet is attached to a letter dated the 18th of August 1995 addressed to "Dear Parents"? - Yes.

And you obviously got a copy of that as well? - Yes.

Do you remember whether that came through the door or someone has handed it to you? - I think that one came through the door.

You have typed something on it? - My wife typed on it "Copy sent to MF", that is Michael Forsyth.

On the 28th of August? - Yes.

There/

There are parts of this letter that gives you some anxiety, no doubt? - Indeed.

And do you remember in particular the reference to his success with the Ombudsman? - Absolutely, it is the thing that to us jumped out straight away, he was now using the Ombudsman's judgement as a legitimisation of his own activities.

Did you then send this to Michael Forsyth for his opinion? - Indeed.

I think you got a reply? - We got an acknowledgement, yes; on a number of occasions informally I had spoken to Michael Forsyth who changed his view about Hamilton fairly quickly after the Ombudsman's report.

What was the view he had then? - I think he began to recognise that this was somebody who was not what he originally made out to be, was not as straightforward as he originally made out to be and was perhaps becoming uneasy about him as the rest of us had been and when he spoke with me his opinion changed.

Yes? - I want to repeat because I think it is very important, I don't blame Michael Forsyth as the local MP from taking up the initial position he did; my wife and I were angry at the time with his approach to it, but I can see now only too well in the initial stages that there was very little evidence to put forward, it was very difficult for him to come to any other conclusion than the man was being judged on the basis of unsubstantiated rumours but certainly his view, again maybe by instinct, Mr. Forsyth changed his view and we kept him briefed because we were local and it was not necessary because he was going to be getting all that literature.

About the same time as you were getting this additional literature did you get any literature about photographic services provided by Hamilton? - Yes, he produced a leaflet again that came through the doors advertising his business as a photographer. One side of the leaflet had details of his photography and the kind of services that he offered; the other side of the leaflet which is what struck us as being most disturbing were four pictures/

pictures of young boys, only young boys on the back of that leaflet, and at least two of them were recognisable to members of my family.

Now, did you pass that material to someone else to try to see if another route might be used to get firm evidence about Hamilton's activities? - I simply sent that letter to Michael Forsyth as the local MP. I think it is really not for the individual who happens to be the Member of Parliament living in another are to be taking a lot of unilateral action so my reaction was to keep him informed of what was happening and the information that came to me as the local resident that he might not be aware of.

Following that were you aware of Press interest trying to find out more substantial information about Hamilton? - Yes, sorry, I see what you are driving at. We were getting agitated and certainly concerned that he was still around, still organising. I contacted Angus McLeod who is the political editor of the Sunday Mail and said that there was perhaps a story involved here. Angus McLeod is one of the most distinguished and most reliable Scottish journalists and I know him personally.

What was the trigger for you doing that? - I think, I can't pin it down but one of the leaflets that came through, whether it was a photographic leaflet or the August 1995 leaflet, I am not sure but there was a resumption of recruitment activity for Hamilton in the area that suggested to me that perhaps the Press might be able to flush this man out where we had all failed and I privately spoke to Angus McLeod.

Do you know if he tried to do something about it? - Yes, indeed he did. The matter is now in the public documentation because the article was published after the incident itself. He came out, he interviewed Hamilton, he spoke to me afterwards and said he had come to exactly the same conclusion that I had and that this was.....his gut instinct was that this was an unreliable, unstable and slightly bizarre individual and he phoned me up the following Sunday when the article was to appear; we were astonished to see anything appearing but he apologised and said effectively it hadn't been legal,/

legal, the lawyers wouldn't allow the publication of the article because there was nothing actually against Hamilton that could be printed and it would have invited legal action if it had been printed in that form.

Now, I take it that that really completes the picture as far as your direct involvement in trying to have something done about Hamilton is concerned? - I feel that is so. I think at that stage we came to the conclusion that there was not much more we could do about it. We were certainly going to keep Michael Forsyth informed that anything that was going to happen and anything that was likely to happen. We kept an interest. It wasn't the same very keen interest that we had had in the early stages where a lot of talking and discussing went on about Hamilton. I think there comes a stage in time when you don't think you can do very much more. I have to say looking back that there was nothing in his demeanour or the way in which he reacted to us that suggested that he was likely to be violent.

Yes? - Our worries were all about the over-affection for young children rather than for any huge hostility to them and even when one of the parents who, apparently having had a discussion with us, phoned him up in a very very aggressive way to cross-examine him both about the August '95 letter and about the leaflets and this unconditional release, despite great hostility to him and provocative questioning to him he at no point reacted strongly to the cross-examination so I had no indication that this was a man who was bottling up any ferocious, murderous instinct, that was not something which crossed our minds.

If we can look more widely at some of the things you said in your evidence earlier, you mentioned the lack of qualifications in an individual with responsibilities for children. He, in fact, had produced qualifications from the British Amateur Gymnastics Association, qualifications which wasn't very high qualifications but it made him a coach -- were you aware of that? - Yes.

And the Regional Council did have information produced to them and they checked up on that/

that on a number of occasions, were you aware of that? - Yes.

You also used an expression "credentials"; this person has no credentials but I suppose if you are with the Scouts or the Boys' Brigade or some national boys club information one would expect as a member of the public that you have passed some sort of check. Did you see any way in which a private individual with an interest with children at heart who wants to do something on his own voluntarily might receive what I think you meant by credentials? - I hoped that would be the case, I hoped we could find some way in which that might be possible; I think children are very vulnerable, the age group which was recruited by him is perhaps the most vulnerable of all. I think parents do look for some form of reassurance whether it is the Scouts or the Boys' Brigade where appeals can be made or checks can be carried out -- some form of reassurance, and I think they require any reassurance.

I/

I think it is important here to discriminate between the generality -- the parent who takes up to 10 or 15 youngsters with his own child on some boating trip, or maybe some informal club in their own home, and an organised boys' group or children's group run from public premises. There is no doubt at all that Hamilton's respectability was gained from the fact he used school premises. I think if he had been holding them somewhere else suspicion would have been aroused and there would have been less chance of people being attracted into the net. Where I think we can make a start at finding a method to discriminate between those who have just got a passing interest in children and those who have got an obsessional interest.

You have, of course, to come at it from two angles: you can have a situation where you have got a club going and you try to stop it first of all and find that extremely difficult. The other way of doing it is to protect yourself in some way before you even started. It is only I think in the latter context you can actually have any control of the situation; would that not be right? - I think that is right. However, I think there must be mechanisms for stopping as well. I think what we have to look for are systems where there are at least some hurdles that have to be passed before anybody can come into the business of running this kind of activity. Again I think there must be some reference point for making sure investigations take place, and this can be translated into firm action.

A person like yourself who has a gut feeling which turns out to be an absolutely right gut feeling about him -- how do you then translate that into some sort of material that would justify a local authority deciding that he can no longer use their premises? - Well, the gut feeling of one person is frankly not enough, but the fact I got a gut feeling about the man, it was shared by a lot of others. What is worrying here, the reason I was interested in giving evidence is that if somebody like me, ostensibly in a position of authority and influence, finds himself up against brick walls all round about, whether they be civil liberty brick walls or brick walls created by officialdom, it says a lot for what the ordinary individual would have to be facing if they had worries and concerns about it as well. We have to create some situation to protect/

protect children especially whereby there must be some form of investigation so that one's qualifications or one's credentials at the beginning can translate into running such clubs or such organisations basically afterwards.

The problem about the weight of opinion and gut feeling is it is sometimes quite difficult to turn into material that you can then justify a decision being taken against an individual? - Well, I think there has to be a balance struck between the interests of children and the interests of civil liberty. I think we have sorted it out in a whole series of other areas and I think it is not unreasonable for people who are involved in that sort of activity and who have that sort of interest to be able to pass through those tests.

CROSS-EXAMINED BY MR. GIBB: I represent the teachers at Dunblane Primary School and the Mayor family, and it was really on the aspect of vetting I wanted to take you a bit further. In the firearms field we have rights and we also refer to privileges. I suppose the same could be said about looking after children, it would be a privilege to look after them as opposed to a civil right. One of the things I wanted to canvas is the possibility if one is holding youth groups you should have insurance, public liability insurance, before they can set up a club, which would involve at least vetting by the insurer. Is that something perhaps you see as a possibility? - I think so, because, as I say, one of the things that puzzled me most was how somebody could simply set up a group and take over a school and gymnasium and use all the sporting equipment in the gymnasium apparently without any prior vetting. It may well be -- Mr. Bonomy said he had some minor qualifications in gymnastics or as a coach -- but it did seem the more we looked into it, it did seem extraordinary he could use equipment that teachers used during the day under the most controlled situation and with the highest qualifications, use it with young boys of nine apparently without anything produced in advance. I think the idea of insurance would be, however, at least one of the hurdles which should be put in the way of those who want to look after children.

But one possibility of regulation would be there are so many children per adult: in other words,/

words, there has to be so many adults, if there is 18 children, rather like the Guides and the Cubs and the Scouts. Is that another possibility? - That is one other possibility. As I say, there is a myth drawn up that Thomas Hamilton ran all these clubs on his own as if he was the only individual involved in this. He wasn't. There were other people who helped him. To my mind there were at least two other adults present the night I and Mr. Hart went to the school gymnasium. Now, these people, a lot of these people have just disappeared like snow off a dyke, and you can perhaps see why; it is not something that anybody is likely to want to put in their C.V. in the future. I don't think you can simply say the numbers of people who were there, unless these people themselves have passed through some level of qualification but, as you know, he clearly had a mesmerising influence on the youngsters and it may well be he had the same effect on those who were round about him as well.

We heard yesterday about school lets and community schools. I suppose the same applies to community schools, that they have an aura of respectability so that if someone was using a community school parents might feel this is some sort of imprimatur? - I think that is right.
I think that is why we need to have some regulations about this, something to make sure they don't get an artificial entry into respectability simply because they are using school premises. Schools in Scotland especially have got a special aura about them and activities that go on in a school have got a distinctly greater degree of respectability than things that go on in church halls or in community centres or the like. I think therefore we have got to be much more careful about who is allowed to use school premises.

It may be a bit easier I suppose to regulate the question of school premises but it is difficult to regulate Inchmoan Island on Loch Lomond or other halls where clubs are held? - Yes, I think that is right. You have to try and have a variety of hurdles. I can't think of any blanket way of preventing anybody running youth clubs. You can certainly lay down a variety of regulations that will prevent people from getting engaged in it who much not be, but anybody who -- I don't believe many parents would have allowed their children to go to Inchmoan/

Inchmoan Island or to any of the camps he organised had they not believed that because he was running the thing in the school it was sort of almost quasi official what he was doing.

Lord Cullen has the widest remit obviously since that dreadful day on 13th March and you must have given a lot of thought to the ways the Hamiltons of this world can be prevented. Is there anything else in your own mind as opposed to a parent who was involved that could be likely to have not prevented totally but minimised? - Well, as a human being, and as somebody who was close to the event, of course it is very difficult not to keep thinking about it. As a politician who might, depending on the vagaries of the electorate, might actually be in the position of changing the laws and making alterations to the law I think about it a lot. My strongest feeling is this is an individual who started off perhaps with good intentions to set out on a mission to look after or to give entertainment to small boys and became obsessed by it. He then became obsessed by the fact and that presumably in the inner recesses of his mind was quite legitimate and public spirited. Had he not been allowed to get past the first base, had he not been given school premises, the respectability that went with that, then perhaps he wouldn't have gained the same level of frustrated obsession that he apparently ended up with. So we have to try and have methods by which we stop people getting that respectability unless they have earned it.

No re-examination.

BY LORD CULLEN: Just a couple of questions I would like to ask. In the course of your evidence you described Hamilton in a number of ways and I think you used the adjective "unstable". Could you enlarge on what you mean by "unstable" in that connection? - I think just uneasiness about the character who doesn't seem to fit into the normal pattern. His demeanour outside -- the parka with the hood, the very long hood with the fur round about it that largely disguised his features. I think when the photographs were published after the incident people were slightly taken aback because he was a figure -- even though people who had met him, had seen him, were able to recognise him indistinctly./

indistinctly. The way he carried himself that night at the youth club -- the swaggering way in which he seemed to be bossing around these young boys, the way the letters were written, the phone calls. We were not the only parents who were phoned up or asked why our son was not attending the club, not the only ones to be visited by him demanding to speak to the boy himself. That adds up I think to an impression of somebody who was not particularly stable and certainly somebody who seemed to be driven in some way.

The other matter is this: you expressed some views about the vetting of people who became involved in youth clubs. Do you have any views as to how far, so to speak, across the board vetting should go. I mean, adults become involved with young persons in a whole variety of ways, and I think one example mentioned earlier in this Inquiry was the giving of piano lessons or whatever it may be. Is there a need to consider in your view vetting across a much wider spectrum that just youth clubs, things to do with sports or gymnastics or something of that sort? - I think a number of these activities should be covered anyway by qualifications. That is why in a way I am concerned about trying to at this stage anyway restrict the view to the use of school premises, because if we take that particular incident it seems to me Hamilton has got off the ground, become a big operator in this field, because of the respectability that came by using the school, and he was able to build on that. I would more than recognise the huge difficulties that would involved if you were to demand, you know, bureaucracy that was going to check every individual. If I child's birthday party is being held in a church hall and.....

Yes, things can be arranged very informally and take place in private places and so on. One is looking here for something that is workable? - I think that is the thing I was focusing on this time, the wider context of promoting boys' clubs, and he gains substantial respectability from the fact it was held in the gymnasium of the High School. There was an implicit feeling this was something that was semi-official. Even to somebody like me, who knows a little bit about the system, if it is being operated in/

in the High School gymnasium that must be reasonably okay, and it is only once you suspect in your mind and think why, then it becomes very obvious to me it was very simply being in the school gymnasium, and I must say that astonished me that that may be the case.

LORD CULLEN: Thank you very much, Mr. Robertson, I am much obliged for your assistance.

MR. BONOMY: Sir, the next witness is Michael Forsyth.

MICHAEL/

11 a.m.

MICHAEL BRUCE FORSYTH (42), Sworn:

EXAMINED BY MR. BONOMY: I think you are the Member of Parliament for the Stirling constituency; is that right? - Yes.

You are also a Cabinet Minister. Which post do you hold? - I am the Secretary of State for Scotland.

I think you have been in Government positions since 1987? - That is correct, although I was Parliamentary Private Secretary to Geoffrey Howe in 1986.

You were first elected I think in 1983? - Yes, to the new Stirling constituency.

You can perhaps answer a quetion that you will be disappointed to know Mr. Robertson couldn't give us the answer to, which was the date of the General Election in 1983? - I think it was on the 9th April.

Are you a married man? - Yes.

Do you have a family? - I have three children.

Ages? - Oh, I didn't realise I was going to be asked such questions! 17, 14 and 9.

Now, you will appreciate we have reached the stage in the Inquiry when we are looking at Thomas Hamilton's dealings with youth and with the authorities who let premises to him for his youth club activities, and it is in that connection I want to ask you a number of questions. First of all, can you tell the Inquiry how you first either heard from him or met him? - It is quite difficult for me to recollect the detail. It was shortly after I was elected. He came to my surgery and gave me a tale that is broadly set out in the Ombudsman's Report. The gist of it was that he had been a Scout leader, and he had run an organisation I think called the Dunblane Rovers for youngsters, that he had had a disagreement with the Scouting Movement, as a result of which there was some rivalry between him and the Scouts in relation to the boys' club, Dunblane/

Dunblane Rovers, which was extremely popular, but that the Scouts or some people in the Scouts resented that, and that they had made complaints to the local authority that he was presenting himself as part of the Scouts, and that the name caused some confusion, and that as a result of these complaints the let of Dunblane High School had been withdrawn without reason being given by the Education Authority.

Can you date this meeting? - I cannot.

Was it long after you were elected? - I don't know, but it must have been during 1983, certainly.

And he then comes along to your surgery and tells you about this, does he? - Yes, as people do. People either write to me or come to my surgeries. I can't remember at that time if I operated an appointment system -- probably not, I was not very organised at that time -- I had just been elected.

I think you kept a fairly full record of correspondence, but you got rid of that at some stage? - When we moved house we had to destroy quite a lot of correspondence, and all my correspondence from my first Parliament and quite a sift through my second Parliament was destroyed, although we have been able to recover quite a lot of correspondence.

I think we have a lot of the correspondence from 1988 onwards? - Yes, I have produced this to the police.

And the police have had access to these.....? - Yes. I am happy for it to be made available to the Inquiry.

Yes? - There is some of the correspondence relates to one particular piece, a letter from a parent in the 1990s, where obviously I think disclosure should be with the consent of the parent.

On that particular one you are concerned about, that has already been disclosed to the Inquiry,/

Inquiry, anonymously as far as the parent is concerned, and is therefore already in the Inquiry's domain. As a result of Hamilton consulting you at the surgery was there any particular action that you took? - I haven't got any record of what I did, but I would almost certainly have written to Central Regional Council. The complaint was that the let had been withdrawn without reason, and I would almost certainly have written to the Regional Council asking what the position was in respect of this.

Yes? - I know by virtue of looking back over the correspondence a complaint had been made to the Ombudsman by his councillor, but I don't recall whether when he came to see me he told me whether that was the position or not.

Were you aware of a petition with 70 signatures also supporting him? - I do remember receiving correspondence from parents supporting him at the time, and I think there was a petition. There was a reference in the volume of correspondence to the Ombudsman's report, which was sent to me in 1984.

Do you have any recollection of persons approaching you about his activities to complain about them rather than to support them? - Yes, Councillor Davidson expressed concern to me about Hamilton, and George Robertson, who of course lives in Dunblane and has just given evidence, also spoke to me in the House of Commons about Hamilton, and indicating that he had -- his son had been involved in Hamilton's club, that he had gone with some friends to watch one of the evening sessions for young people that Hamilton organised, that he was worried because he thought it was rather militaristic, and he was aware of rumours circulating in Dunblane about Thomas Hamilton, and he expressed his concern.

Yes? - I asked him if he had any evidence of any wrongdoing or anything like that, and he said he did not. I think he acknowledged that there were a number of parents who were very enthusiastic about this boys' club.

Yes? - I think also at that time the Ombudsman's report would have been underway, and I think/

think I would have indicated to him that we should await the result of the Ombudsman's investigation.

So by that time your recollection is that you were aware of Councillor Ball's submitting Hamilton's complaint to the Ombudsman? - He was aware that a complaint had been made to the Ombudsman. Of course, at that time the complaint was about withdrawal of the let of Dunblane High School, so Hamilton's clubs were not operating, and the issue was whether they should be reinstated.

Yes? - Now, I can't remember now what I knew then and what I know now, but when I received the Ombudsman's report it set out in detail all the grounds, and I read that report.

It was Hamilton who sent the Ombudsman's report to you, was it not? - He sent it to me. I don't recall having any constituency case before for the Ombudsman had found so convincingly in favour of a constituent.

Yes? - At that time I think Members of Parliament could not refer cases directly to the Ombudsman, that had to be done by a councillor. He sent the report to me, and I wrote to him congratulating him on his success, because the Ombudsman's report indicated the Council had been wrong to withdraw the let, that the reasons for withdrawing the let were not supported by any evidence, that there had been no formal complaints made about Hamilton, that his clubs were well run, that the Council had been motivated by little more than -- I think the Ombudsman used the phrase "gossip".

Yes? - He also indicated the Education Authority were willing to reinstate the let if Hamilton changed the name of his group and if he made it clear he did not have the endorsement of the Regional Council.

Yes? - That was a fairly convincing conclusion by the Ombudsman, and had to be seen in the context of his original complaint to me, which was that malicious rumours had been circulating about him and that the withdrawal of the let at short notice, without reason, had done enormous damage to him in the community and reinforced the whispering/

whispering campaign he said which was being conducted against him by the Scout Movement.

Can you remember if when the let was reinstated there were any continuing concerns or anxieties being expressed to you either by the Regional Council or by parents again such as Mr. Robertson? - I don't recall any continuing concern. I do recall there was reported pretty prominently at that time. It was a front page story in the Scotsman; I remember that because I happened to have the cutting still in the file.

Yes? - It indicated a number of councillors felt they had been badly treated, and that the whole thing had been badly handled. I think that drew a line under that.

Yes? - My recollection of when I next met or heard of Hamilton was when he wrote to me about the way the police had carried out particular investigations following on complaints.

That would mean it was probably 1988 before you heard from him again? - Yes.

Just to complete the picture in relation to the Ombudsman, could you look at one letter?

MR. BONOMY: Sir, the reference of this letter is DCF/21.

EXAMINATION CONTINUED BY MR. BONOMY: This is a letter, I think, dated 23rd November, 1984, which is you writing to Mr. Hamilton thanking him for sending you the Commissioner's report and congratulating him on his success, and hoping that he will take steps to ensure that it was given proper publicity? - Yes.

It was given publicity, I think? - Yes. I think this has to be seen in the context of his claim that he had been maligned, and that it had damaged his reputation, and that there was no justification for the withdrawal of the let, or that the withdrawal of the let was associated with rumours in relation to boys in his club.

The first document that has been recovered from the Inquiry is a letter from Mr. Hamilton,/

Hamilton, DCF/18, addressed to you, dated 9th November, 1988? - Yes.

That is a letter you got I think in reply to one you had sent him on the 4th November, 1988; is that right? - Yes, it certainly appears that way.

And that is in the context of the complaint you have just mentioned? - About the police?

Yes? - It certainly indicates he has had an unsatisfactory reply.

And that is consistent with your own personal recollection you have just given evidence of? - Yes.

Now, it follows I think there has been a fallow period between 1984 and 1988 when little or nothing, perhaps nothing at all, was communicated between Hamilton and you. Is it fair to say that from 1988 onwards you did have fairly regular correspondence with him? - Yes, I would say we had a great deal of correspondence. I was just going to make the point that I seem to recall there may have been some delay between the publication of the Ombudsman's report and the decision by the local authority to reinstate the let, and it is possible there may have been correspondence at that time. But that is based on my own recollection, and I don't have a record of that, and the police and other sources that have brought together correspondence have identified the correspondence, and of course the Regional Council I think have copies of the correspondence. I would be surprised if there had not been some correspondence about the response to the Ombudsman's report, because he was pretty persistent.

Yes? - Certainly my own file from 1988 onwards, there were numerous letters from Hamilton. He had a capacity to focus in on detailed points and to pursue them with a terrier-like quality.

As far as 1988 is concerned, I take it in 1988 you did not meet him again, although we have some correspondence, and that your next meeting was the/

the following year? - Yes.

So we are dealing here with a complaint that he was making about the way in which the police were investigating some incident at Loch Lomond, and there is some correspondence about that? - Yes.

Can you tell us how you as a constituency MP normally handle correspondence from constituents complaining about some authority's activities or actions? - Quite a lot of correspondence is complaining about the Government or the local authority or other agencies. What I normally do is to forward the correspondence to the relevant authority. If it is a complaint about for example the railways or rail privatisation I would forward the correspondence to the relevant Minister and ask him to look into the points which have been made and let me have a response I can forward to the constituent. If it is a local authority I would write to the Chief Executive. If it was about Benefits I would write to the officers concerned with that.

Are there in your correspondence examples of your passing stuff from Hamilton to the local authority? - Yes.

Are there also frequent examples of you passing stuff from Hamilton to the police about whom he complained? - Yes.

In fact was some of that correspondence directly through the Scottish Office, to which Hamilton also directed some of his own correspondence? - There is a rule, which can be rather tiresome -- because it takes longer to get something done -- that if you are a Minister and a constituent writes to you on a matter which relates to your Ministerial responsibility you have to reply through the relevant Government department. The reason for this is so the Ministers are not committing the Government to policy decisions the Department does not know about.

Yes? - Hamilton did write to me I think in 1991 -- no, that can't be right; he wrote to me when I was in the Scottish Office, so it must have been prior to 1990. No, it may perhaps have been 1991. Anyway, he wrote to me in respect of the/

the actions of the Child Protection Unit of Central Scotland Police, and at that time I was the Minister who had responsibility for Social Work and child protection issues, and that is why the correspondence was dealt with through the Scottish Office. I sent a memo, which I have made available to the Inquiry, to my Private Secretary asking the Department to provide a suitable response to Mr. Hamilton.

Apart from passing on this correspondence as you would for any constituent, if a person such as Mr. Robertson, who is a constituent of yours, makes an oral complaint to you about an authority, what advice do you generally give to such a person about how to convey the complaint to the proper authority? - In the main I do not like oral complaints. If people say to me, ring me up or talk to me in the street, to any constituent I say "Would you send me a letter to the House of Commons?". Equally, unless there is particular urgency it is not my practice to follow up complaints over the telephone; I prefer to have things in writing so that everyone can see what has happened, and it is a matter of record.

Yes? - My practice has been that the system I operate is that when we write to local authorities we copy the reply to the constituent, and in that way we can make sure we have a clear understanding of where we have got to on any particular complaint. I don't know if your question was related to what I did when George Robertson spoke to me about this.

What did you do as far as his complaint was concerned? - His complaint was that he was concerned, but that he had no evidence of any wrongdoing; he was just anxious about him, and I basically noted that. He didn't write to me. At that time the let had already been withdrawn, and the issue was its reinstatement, which was of course a matter for the Education Authority, Central Regional Council.

Yes? - And being a new Member of Parliament -- and there was a difference of political party running the Region at that time -- George would have been able to perhaps have more influence within the Regional Council than I would have/

have had at that time.

In your evidence you said to us that Councillor Davidson also expressed concerns to you, and she was a Regional councillor at that time? - Yes.

When was that? Was that near the time Mr. Robertson spoke to you? - It was certainly in 1983, and she indicated to me she was anxious about him, that she had heard rumours about him. Interestingly enough, the last letter Hamilton sent me other than the copy of the letter he sent to Her Majesty the Queen, was in February, 1996, where he makes the same claim as he made in 1983, and where he says in that letter that Councillor Davidson had been approached by the Scout Movement.

Yes? - I am not aware I was aware of that at the time. She certainly expressed concerns to me, and to both Councillor Davidson and George Robertson I advised them that if in the future they had any evidence or any knowledge of any parents who had concerns that they should encourage them to report these to the appropriate authorities.

I will ask you about this letter now rather than later. DCF/113, which is a letter of 11th February, 1996, which came to you from Hamilton? - Yes.

I am going to go through that in a moment. Can you confirm to me it had various attachments to it? - Yes, it did.

One was an earlier letter he had written to you in March, 1993 about the horrific murder of the little James Bulger? - Yes.

And again writing at some length about his own activities in Dunfermline and also Dunblane? - Yes.

And complaining about police intervention in these activities; is that right? - Yes. He rambles on about what he describes as witch hunts by Central Scotland Police.

And he also attached to it a letter
that had been sent to all parents, dated 18th August, 1995. Did you actually receive a copy
of this from another source at one stage? -
Sorry,/

11.20 a.m.

Sorry, I haven't had a chance to look at this letter; this is the letter of the 18th of August?

Yes, the circular letter. Mr. Robertson has indicated that he forwarded stuff to you and that may have been one of the things? - I received a copy of a communication which he had circulated and he had the names of particular people as contacts which included my name and I wrote to him asking him to change that but it is not this document here. George Robertson approached me about a leaflet which was circulated in 1994, so that was prior to this.

We will come to that in a minute; this attachment is again a letter of the 18th of August 1995 and that was sent to all parents and he has written a bit on the bottom of it dated the 11th of February, the same date as the covering letter; what did he say there? - "Dear Mr. Forsyth, prior to October 1983 70 Dunblane boys attended the Dunblane Club weekly, now there are five of which only one attended the 1995 course/camp. Others are bussed in from other areas to attempt to make up the numbers".

He also encloses a copy of a letter which he sent in January 1996 to Dr. Robert Ball, is that right? - Yes.

A letter from a solicitor about being refused Legal Aid or about Legal Aid and a note at the bottom dated the 11th of February to you that Legal Aid was refused? - Yes.

A copy of another circular dated the 28th of June 1993, another dated the 24th of July, 1995 and all this came to you with a covering letter of the 11th of February, 1996? - Yes.

I think in that letter he was saying that over the years there had been serious problems "Of which the root cause is as a result of malicious gossip circulated by certain Scout officials mainly from Dunblane and a number of the names are Vass, Muirhead, Sharp, McFarlane and Dobie. You are aware that the problem with Central Regional Council in 1983 was as a result of Vass approaching Councillor Mrs./

Mrs. Davidson in confidence and the resulting speculation on her part. At that time senior officers of Central Scotland Police had made several discrete inquiries and their conclusion was that there had been an injustice and this was later confirmed by the Ombudsman", is that the first paragraph? - Yes.

Then he is complaining that police officers were not told that so things went wrong? - Yes.

Does he go on in the last paragraph to say "I understand that senior officers of Central Scotland Police were satisfied that everything is okay. However, I have been unable to recover from the very serious damage caused by Central Scotland Police which has compounded the very difficult situation which already existed. As you have already received my numerous detailed letters of complaint there is no need to repeat my comments other than to say that the long-term effect of such has been a deathblow to my already difficult work in providing sports and leisure activities to local children as well as my public standing in the community"? - Yes.

Now, what did you do with this letter? - I sent him a reply saying that I had received his letter and noted his comments. By this stage we had had a vast volume of correspondence from him and I had really got to the point where I felt there was nothing that could be added to the representations which he was making through me to Central Scotland Police and in April 1991, for example, he asked for a meeting with me and I refused the meeting. He also at some stage made an appointment to come to one of my surgeries and I wrote to him indicating we had cancelled the appointment and I saw no purpose in continuing to involve me in what I thought were his unreasonable continuing representations that the police had somehow acted unfairly towards him in carrying out their duties to respond to particular complaints.

Your letter of the 11th of February was an acknowledgement and just filed? - We sent him a reply which was to the effect "Thank you for your letter, the contents of which have been noted".

And/

And you would pass them on to anyone else? - I would pass them on to anyone else. Of course, with hindsight it is able to say that now, that it was quite a different character to any of the previous correspondence we had received. All the previous correspondence had been saying, if you have a look and if you have it from Central Scotland Police.....however, there is one particular point which we continued to argue and move the thing forward but this letter, having the benefit of hindsight and reading back through the correspondence, this letter is quite different because it appears to indicate he is giving up on the fight, it does seem to be a kind of indication that he is not departing from his view that he has been treated unfairly but that he is no longer going to continue the correspondence. There was a similar example but it is slightly different and that was he did write at some stage after the correspondence about his summer camp at Loch Lomond indicating, where he had been vehement in his criticism of the police and suddenly out of the blue he was saying he accepted the position and he was taking steps to ensure that things would be improved in the running of his camps but this letter of the 11th of February seemed to me to be saying that "I am not departing from my position and the grievance which I feel I have" but he was not pursuing the matter and the letter which he copied to me and to the Queen I think is similar in character.

He includes some of the enclosures which are that one you have just referred to and looking at these enclosures can you confirm to me that they are..... the circulars and letters, whether he is trying to justify himself? - I am not sure, I don't want to be awkward but I am not sure how many of these I have received previously and that can be checked by looking in the file.

That one there is what comes from your file? - The James Bulger one, I think that one struck a particular cord with me that he should single out the horrific murder of James Bulger in the light of what he did.

What you have there is what was said to you complete dated the 11th of February and you have a letter which you yourself have given us your description of is a change in the tone of correspondence?/

correspondence? - Yes.

You have these other letters attached? - Yes.

They are a selection of material over a period of time but they are letters of justification trying to defend himself? - I think that is generally correct but then all the correspondence that I had with him was in that kind of tone and what is striking because I don't get every year in the constituency but it would be more than several thousand; of course, letters come in and one reads the letters and you deal with them, you don't have an opportunity to read the run of correspondence which I have now done, of course, and which I did immediately after the events of the 13th of March but if you read the run of correspondence it strikes you he has moved to criticise the police because they were investigating his camp. In that correspondence he will explain how the police's anxiety was wrong and he will attack the motives of the parents and throughout the whole theme of the correspondence it is one of how he has been subjected to unjust treatment by various authorities.

I wonder if you could help me with this, you have described the letter itself, that is the one he has handwritten on the 11th of February, as a change in his tone? - Yes.

If you look at the little notes that have been written on the bottom of this they are protestation letters. At the bottom he writes about "Prior to October 1983 70 Dunblane boys attended the Dunblane Club weekly, now there are five of only which one attended the 1995 course/camp"? - Yes.

That is the same tone as the handwritten letter. If you go to the next one that is handwritten it is one from the solicitor about Legal Aid and he has written "Mr. Forsyth, Legal Aid was refused"? - Yes.

And the third one "Mr. Forsyth, only one Dunblane boy attended, the others were bussed in from other clubs"? - Yes.

Do you see in all of these notes the same resigned/

resigned tone as appeared in the outer letter you received? - Yes, indeed that was the view that I took of the correspondence and you will see from the correspondence that I have had with him that he wrote to great length and he copied me with quite a lot of material. It wasn't for me to get involved in arguments about police investigations or complaints about the conduct of policemen. I simply acted as a kind of postman to the relevant authorities and I have dealt with his complaints very fully. My reaction to the 11th of February, 1996 letter was one of relief because it seemed to indicate that perhaps he was going to give up writing to me.

In this same connection of relaying concerns and complaints could I ask you just I think almost finally but not quite to look at DCD221 which is a letter recovered from Central Scotland Discipline and Complaints file and is that a letter dated the 15th of March 1994 from you to the Chief Constable? - Yes, it is.

You have mentioned this already, can you read the letter to us? - "Dear Mr. Wilson, Mr. George Robertson MP has drawn the attached copy of leaflets to my attention in connection with Mr. T.W. Hamilton. I have also had a call from one concerned parent following a discussion with the police. I promised to keep you informed".

That is in addition to complaints you have had in writing from parents? - Yes.

Do we see there a leaflet which we have already seen one copy of from Mr. Robertson's evidence which is about the Dunblane Boys' Sports Club? - Yes.

And another leaflet which is passed to you but he didn't actually have a copy of but it is about the Dunblane Boys' Sports Club and also his photographs of children with it all of whom are recognisable, is that right? - When you say recognisable.....?

If you knew these boys you would be able to identify them on the photographs? - Yes.

They are close-ups of them? - They are portrait/

portrait photographs of the boys.

And this was what you were passing on to the Chief Constable at Mr. Robertson's request? - No, George Robertson had, I think.....he probably mentioned to me, I think he probably said that Hamilton seemed to be putting leaflets round Dunblane and he had sent me a copy of it; this is the 15th of March, 1994 and by that time I would have known that there would have been some police investigations. Indeed, I think I wrote a letter which again has been made available when I was in the Scottish Office to Hamilton indicating a report had been sent to the Procurator-Fiscal so I knew there was police interest in his activity and I simply sent a leaflet for that reason and also because of the complaints which I had had from a particular parent. I am not certain if the parent referred to in this letter.....you perhaps know the answer to this, whether the parent referred to in this letter is the same parent as had written to me about the other leaflet.

I think may not be but I don't actually know, I am relying on your recollection? - Yes.

There is no reason to think it is the same parent? - Well, I am not sure which.....I think it may be the same parent but I don't know that.

Was your decision to pass this on simply a decision you made yourself simply by getting your hands on the material? - Yes.

Is that something you would automatically do in situations where you knew the police had an interest in some person's activity? - Yes, I have to make sure I get the timing on this -- the previous representations that I had.....I had a letter from parents in 1993, at the end of 1993, and they had complained.....they had actually written to me saying they had received a leaflet which had my name down as a contact as well as the Chief Executive of the Regional Council and officials of the Youth Department in Stirling District Council and I was pretty angry about that.

Perhaps you could have in front of you, if it would refresh your memory, DCF106 which is the letter/

letter I think you are referring to? - Yes, right -- just to finish on the previous point, this parent asked me what I could tell them about Hamilton because they had received this leaflet with my name down as a contact. I wrote to Hamilton, I think it is the only letter I actually sent to him, saying that I understood that he had circulated a letter to parents giving my name as a contact and that I was more than a little surprised to learn he had done this and I asked him to remove my name from the list of contacts. Now, the parent who had written to me expressed anxiety about Hamilton and the reaction that their son had as a result of attending one of his camps which was the one in Dunblane and I wrote.....I was sufficiently concerned about this that I wrote to the Chief Executive of the Council suggesting that the Council may wish to interview the parent in order to get to the bottom of their concern. I received in reply a letter from the Chief Executive of the Council saying that it wouldn't be appropriate for them to interview the parents because a police investigation was underway so I knew there was a police investigation underway; I think it was the first serious written complaint from a parent and although there was nothing substantial in the complaint the response from the Regional Council indicated that there was a police investigation underway and so I sent a leaflet to the Chief Constable because I knew this was happening.

Now, you may have known at the time that you were not the only point of contact mentioned in the letters that Hamilton had circulated to parents, you would realise that a number of Police Forces and Local Authorities had been mentioned. Were you aware of any action that they took similar to your own or did you act independently of them? - As far as I recall I acted independently of them and I think that it was a kind of.....the interesting thing about Hamilton is that he wrote extremely careful, controlled, analytical letters. I was furious when he put my name as a contact for obvious reasons but if you look at the letter he says "The above are our main contacts and are not given as referees or guarantors". I think that was typical.

You are referring to a letter we don't have in front of us, can you give us the date of that one? - That was a letter to parents dated the 19th/

19th of April, 1993; this is the letter which I think you were referring to which gave my name as a contact.

You have a reply to that letter which is in front of you telling him that he shouldn't be using your name and that one is dated the 23rd of October? - Yes, I didn't reply to it, it was drawn to my attention to the parents who had complained about.....they were concerned about Hamilton and asked if I could give them any information about his clubs, they wrote me a letter which I think may be available.....they wrote to me on the 26th of September.

If you look at DCF107 which should be a letter of the 11th November? - Yes.

That is a letter of the 11th of November acknowledging the complaints which you had passed on I think? - Yes, we are getting in a muddle here. The letter from the parents to me expressed concern about their son's response to having been involved with Hamilton. Their story was that he had been involved with his club and at first he was very enthusiastic and he enjoyed the club and their son had then become somewhat withdrawn.

Now,/

Now, that letter made reference to, it stated in the letter I was a named main contact for the club. Now, this is what so far as I recall alerted me to the existence of.....

That is the letter dated September 26th, and included with it in the bundle you have got is one dated 19th May, 1993. This is the circular to parents about a Balfron Boys' Sports Club. In that you are named as one of those main contacts? - Yes.

At the House of Commons? - Yes.

And this is the letter to which the concerned parents were referring; is that the right one? - Correct.

You passed it on to the local authority who acknowledged its receipt on 20th October, 1993? - That is right. I was not aware of that letter dated 19th April, 1993 until it was drawn to my attention by those parents. I then wrote to Hamilton -- I think this is right -- I then wrote to Hamilton indicating that he should remove my name as a contact. I also wrote in response to the letter of 26th September from the parents to the Central Regional Council Chief Executive asking him if he would meet with the parents and discuss their concerns. He wrote to me saying he thought it was -- quite rightly -- saying it was inappropriate as there had been a number of complaints and that Central Scotland Police were currently investigating them. So that reassured me that the police and the Social Work authority were aware of these complaints and they were being investigated, and that's why -- I imagine -- that's why when I subsequently received a report from George Robertson to indicate another letter was being circulated in Dunblane that I would have sent it to the police so that they were aware of this material, which I am sure they would have had from other sources.

The only other letter I want to ask you about is one dated 31st August, 1991. The reference to that particular one is in a folder we already have, D103K. It is a long letter dated 31st August, 1991 from Hamilton. What you have there is an/

an unsigned copy of that letter. I only want to ask you about one aspect of it which will be of interest to the Inquiry and this is on page 5. If you go to page 5 and down to the second bottom paragraph just at the end is there a statement in that letter from Hamilton about photographs, "I personally do not keep any photographs either at home or elsewhere. All of this was fully explained to visiting officers on 23rd July, 1991". Now, you may not remember that being part of the terms of this letter but is that typical, is that letter itself typical of the correspondence you got from him? - Yes, pages and pages and, secondly, can you confirm I have accurately quoted from that paragraph on page 5? - Yes.

You can part with that. The factual matter in that sentence may be of some significance to the Inquiry? - Yes.

If there is anything else of significance in the letter tell us please? - It was just the point about -- I didn't pick this up -- when he says "I personally do not keep any photographs either at home or elsewhere". I can remember him sending me photographs which we returned of boys which shows an inconsistency here. In one of the letters which he sent he sent some photographs of boys at the camp to show how they were enjoying themselves, etc., and this is obviously an inconsistency -- unless he has photographs which he has somewhere else.

There are many other inconsistencies than that. The reason that I invited you, as I explained earlier, to give evidence, was to see what the factual position was where the subject, or your involvement in the subject of Hamilton and local authority premises for his boys' clubs. It doesn't appear on the face of the correspondence or from listening to what you have said this morning that you really had any direct involvement and relationship between Hamilton and the local authority and indeed the police other than to be a post box in your role as constitutency MP? - I'm afraid Members of Parliament are glorified post boxes in many respects. But I find if there is a letter from a Member of Parliament asking for a matter to be looked at this means that it is looked at and that results in the constituent obtaining satisfaction as to their grievance.

Is/

Is being the Secretary of State for Scotland an advantage or disadvantage in that regard? - Depends who you are writing to.

I suppose in some quarters it may be seen as a stronger measure of support? - What it does mean is if -- which is why I think the constituency member system works extremely well -- it does mean that people -- in Hamilton's case it certainly wasn't the case because he was articulate enough -- what it does mean is a constituent who does have a particular problem, that can be looked at by the top people in the organisation responsible, a response can come back and there is an opportunity for them to consider that response. Every Member of Parliament will have a stream of constituents who are regular correspondents whom there is no satisfying -- and I have several others in that category -- and it is our job to respond to constituents and try to deal with the complaints as well as we can. Inevitably in such a role, as happened in the 90s with Hamilton, where the ground has been gone over, it was simply trying to re-hash an argument and complaints which had been properly investigated.

I wanted to be clear, it wasn't being suggested that really was the role you were playing. The ordinary constituent MP's role is relaying correspondence to the authority that should be dealing with the complaint or concern of the constituent? - Yes, that is correct. Towards the end of this run of correspondence in the 90s there was a pattern of events and the police had been involved on a number of occasions and I was aware that a report had been sent to the Fiscal, and one was very much more anxious about Thomas Hamilton and, for example, in 1984 when the Ombudsman's report had given him such a clean bill of health.

How many times did you actually meet him? - I can think it was twice but it may have been on three occasions.

Once is the first one you have told us about. The second one was in connection with his complaint against the police? - Yes, that was September, 1989.

Apart from that do you have any recollection/

recollection of actually meeting him? - No. I just have a feeling in the back of my mind that he may have come to see me after the Ombudsman's report but I don't know that. So I am saying he came on two or three occasions.

You last met him in 1989? - Yes. Although he did ask to come and see me subsequent to that and he did make an appointment at the surgery as I have already indicated. He did write asking to meet me and I declined which is not something I would normally do with a constituent. In the case when he made an appointment to come to the surgery, it was cancelled and I wrote to him informing him why: it was basically because he was trying to draw me into the argument about the way in which the police had carried out an enquiry and I did not think it was appropriate for me to do that.

Is there anything in the impression you made of him by meeting him that would be of value to the Inquiry? - Well, when I first met him he was very plausible. He seemed to have a real grievance, and that comes through his whole correspondence. He believed or he purported to believe that he had been unfairly treated. There was nothing about him that would have led me to conclude that in any way he would have been capable of what he did.

No cross-examination.

LORD CULLEN: Thank you very much, I am much obliged for your assistance.

MR. BONOMY: Sir, I regret to have to say that my administrative machine, which normally works extremely efficiently, has broken down a little this morning, largely through my fault. As a result of which I am in some difficulty about proceeding straight away with the next witness. I wonder if in the circumstances, bearing in mind we have made fairly good progress since the Inquiry started, I might have a short adjournment. I have in mind something up to half an hour. I appreciate it is not terriby well timed but I would be extremely grateful if I could have about half an hour at this stage or say to 20 minutes past 12 if that isn't of inconvenience to the Inquiry.

LORD CULLEN: Certainly, I quite understand. That will be the case, 20 past 12.

After/

12.24 p.m.

After a short adjournment.

MR. BONOMY: I am sorry, sir, about the continued delay. The system is still creaking a little, but I do propose to proceed at least with the evidence of David William Cobb.

DAVID WILLIAM COBB, (38), Sworn,

EXAMINED BY MR. BONOMY: Now, you previously held a number of positions with Central Regional Council; is that correct? - That is correct.

When the authorities were joined up what was the position you held? - I was Depute Director of Administration and Legal Services, effectively the head of Legal Services.

When did your employment terminate? - I took voluntary severance on the 31st March. I am currently working as a consultant with Stirling Council, but it is my intention to begin training for the Bar in October.

It was this year you took voluntary severance? - Yes.

As a consultant with Stirling Council are you working on legal matters? - Yes, that is correct: primarily in relation to two developments in the commercial property field.

Are you a solicitor? - I am still until the end of October.

What are your professional qualifications? - LLB(Hons).

When did you first start with Central Region? - In July, 1983.

And throughout the period till 1986 were you in the Administration and Legal Services Department? - That is correct.

I know that your closer, direct involvement in the affairs of Thomas Hamilton was really/

really from about 1993/1994 onwards; is that right? - As far as I can recall, primarily after becoming the Depute Director in 1995; but as is clear from my statement, I was involved on one or two other occasions.

I want to go back a little further and try to paint a picture of the state of your knowledge when you do become more directly involved. It would probably be best if you have the folder in front of you. If we could start with D: do you have that? - Yes.

Now, you will see that is a letter dated 7th March, 1990 from the head teacher of a primary school in Stirling to the Director of Education? - Yes.

And that enclosed a sample of leaflets which had been posted to the primary school? - That is correct.

It goes on to say "It is my understanding that all correspondence addressed to pupils from outside agencies should be cleared by yourself. I would appreciate advice on whether this has been cleared and should this leaflet be distributed"? - Yes.

I give you that as an example of the type of problem a head teacher might have. When you became involved in dealing with Hamilton's affairs were you aware of teachers in primary schools being concerned about his leafleting activities? - I couldn't be precise as to the years.

Were you involved in the consideration of the policy of the Council on matters such as sending out leaflets through the schools? - Yes. In 1995 I think particularly, I and a number of officers from Education were trying to find some way of devising a consistent policy which would allow us to treat like cases alike. There were problems in trying to strike a proper balance.

Yes? - For example, if you simply said uniformed organisations are suitable for distribution, on what basis would you discriminate between these and locally run organisations?

Yes? - It was not something we were ever/

ever able to resolve satisfactorily, in terms of something that would save us having to distribute Tom Hamilton's leaflets.

Can I take it that up until the time in 1995 when you were considering the policy that the Council's policy was to give the head teacher a measure of discretion about voluntary organisations' documents being distributed? - I believe that is so.

Now, were you aware of the general nature of the complaints that officials of the Regional Council were receiving about Hamilton's activities? - Yes. I had seen correspondence for example relating to the defamation question which the Chief Constable had referred to us, and later on it became quite clear that Mr. Hamilton considered himself to be hard done to, shall we say, by certain sections of the Regional Council.

That is complaints being made by Hamilton? - Yes.

What was your knowledge of the complaints being made against him by parents of children, for example? - Before 1995 I can only speak to the summer camp in 1989, in which I had a brief involvement.

It is either 1988 or 1991? - I beg your pardon, 1988.

That was the very first one? - Yes.

What was your involvement in that complaint? - It really was a "Fire Brigade" call, shall we say. A problem had obviously arisen about the summer camp. Education wanted to call a meeting pretty quickly, and owing to holidays I was the most senior official around.

Yes? - I went over to a meeting, which lasted about two hours, in the offices of one of the Assistant Directors of Education, Bob Curry.

Yes? - Really we reviewed the information we had and left that to be investigated further, and I didn't have any further involvement in how that matter was dealt with.

Who/

Who did you understand was investigating it at the time? - At that point I understood we were meeting because the police were in contact, having been contacted by their colleagues in Strathclyde.

Was it your Education Department or your Social Work Department that had direct involvement at that stage? - I think it was Education.

And as far as you were concerned was the question of investigation a matter at that stage for the police? - Yes.

Would it be right to say that when problems began to crop up again, that is from 1985 onwards, particularly from 1989 onwards, that all of the problems were dealt with at official level and never got to the Councillor level, the member level? - Certainly nothing was put into any Committee paper.

And you of course were closely involved at the end of the whole business? - Yes.

Is it right also to say that a number of the individual Departments of the Regional Council were involved, in particular the Education Department, the Social Work Department and the Administration and Legal Services Department? - That is correct.

The question of the letting of school premises was a matter for Education? - Education had the statutory responsibility. Managerially quite a lot of this was dealt with within Administration and Legal Services, and latterly in some cases by School Boards.

Do you know much of the role played by School Boards in the letting of premises? - Not particularly, no, I'm afraid.

Were you involved at all in a complaint that Hamilton made about the way the Social Work Department combined with the police to investigate the camp in 1991? - In the sense that I had the involvement where the Chief Constable sought advice regarding the possibility of instituting a defamation action against Thomas Hamilton, one became/

became aware from reading the correspondence we felt various elements in the Regional Council and the police were conspiring against him.

I think you gave certain advice to the Chief Constable? - Yes.

What was the advice? - The advice was that as far as the research indicated there was a possibility that he had made defamatory statements against the Chief Constable and his officers, but the recent authority of FRASER v. MIZRA suggested that the award that could be made was not likely to be very high -- I think it was £2,000 in that case.

Yes? - We also wondered whether it was wise to sue Mr. Hamilton in view of the danger that we might be giving him a platform to air his conspiracy theory. Ultimately the feeling was "We are not experts in this area. Perhaps we should get the advice of Counsel".

So your advice was to seek Counsel's advice? - If the Chief Constable was so minded.

It sounds as though you were tending to suggest that the matter proceed no further? - In the sense that we felt there was unlikely to be an award made that would frighten, shall we say, Mr. Hamilton into silence.

You talked about conspiracy there. What sort of things was he alleging? - In broad terms, that officers of Central Scotland Police, officers of Central Regional Council and off the top of my head I think also the Scout Association, were all involved in some major conspiracy against Thomas Hamilton personally and his involvement with children.

I think the same attitude was displayed towards the authority as was displayed towards the police? - I believe so, yes.

Can you look at D115? - I have that.

Now, is that a letter to the Chief Executive of the Region from Hamilton, dated 26th February, 1992? - That is correct.

And/

And he is complaining about defamation in the last paragraph? - Yes.

He is accusing the Social Work Department of defaming him by telling parents certain things about him? - Yes. Even in 1996 Hamilton complained that rumours were circulating about him emanating from one or other of our schools.

In the third paragraph does it say "Given my full co-operation with the Child Protection Unit" -- that is the police -- "I am outraged that I have been defamed and damaged by the pervert hunt which followed on the basis that I take photographs of the children"? - Yes. That is I am sure what Thomas Hamilton believed, but it is not something I would have seen at that time.

I/

I think he did have a strongly felt grievance against the Social Work Department for the way in which they investigated his camps in 1991? - Indeed, and also the police because the correspondence relating to the alleged or the conduct of that investigation by Central Scotland Police eventually began the complaint about how the complaint was being run.

Did Mr. Sinclair, Chief Executive have to deal with a complaint against the Social Work Department and the social worker in particular who dealt with the investigation? - Yes, but that is not within my direct knowledge.

You were not directly involved? - No.

Were you aware when you began directly to be more involved of complaints by parents about the way in which they were being treated at the club -- for example, what they had to wear, where they were being photographed, where they were on their own with Hamilton, what their changing arrangements were and so on? - Yes, I think that was the gist of my first contact as head of Legal Services.

Were you aware that the police had received a number of complaints, perhaps as many as 10, of that sort of conduct and had encouraged parents to communicate with the Local Authority because it was not apparently possible to prosecute on the evidence available? - Yes, I can't be absolutely certainly that I knew what the.....

You did know that the parents had, for some reason or another, directed their complaints to the Local Authority? - Yes, I would expect that to happen not necessarily at the police's suggestion.

Including as we have here evidence that the police did encourage that course of action in the circumstances of the case then? - Yes, but all I can say is I am not aware of anything directly passed by that route.

Were you aware of an investigation into Hamilton's gymnastic agenda and the type of activity he did in his gymnastic classes carried out by a lady/

lady in the Education Department, called Chillas? - Yes, I became aware of that subsequent to the incident.

And were you aware that she had tried to establish what his qualifications amounted to and discovered that he did have gymnastic qualifications which entitled him to supervise.....on the face of it in accordance with the Regional Council's guidelines to supervise some gymnastics? - Yes, I think he annually produced an authorisation from the British Amateur Gymnastics Association, I think he was Grade 4 from memory, exactly what that entitled him to do I don't know.

It may be Grade 5? - Yes.

Can I ask you to look at the letting arrangements in the light of what you had said about the Legal Department's involvement and could you look at D107 and D171; 170 is a memo from Mr. Flett to Councillor Ball. Who was Mr. Flett? - Mr. Flett was the Assistant Director of Administration of our Legal Services.

Is that the same department as you? - Yes, I worked on the legal side, Iain Flett, although he is or was qualified as a solicitor, at that point was responsible for clerking the Education Committee.

I think he is dealing in 170 with a request which he hasn't had satisfactorily answered, a request of Mr. Hamilton to provide information? - Yes.

That was to establish the bona fides of his club in view of something raised by the School Board, is that right? - Yes, I don't know anything of the background to it. I believe though that confirmation that Hamilton was not a one man band may have been one of the assurances he had to give after the 1983 Ombudsman's investigations.

I think you can confirm to me that D171 is an actual letter from Mr. Flett addressed to Mr. Hamilton on the same subject, looking for information about his organisation? - Yes, that is correct, from memory the final Minute was eventually produced.

Do/

Do you know that certain of the letting applications he made were delayed by the Legal Department pending the receipt of information? - Not by the Legal Department to my knowledge.

You were not directly involved with that? - No, I would have expected that primarily to be a matter for simply an administration procedure.

BY LORD CULLEN: Do you know which school was involved at that stage; we see a reference to a School Board, which school was it? - I am afraid I don't know.

EXAMINATION CONTINUED BY MR. BONOMY: You were not involved with any dealings or correspondence with the Denny School Board? - I don't think so; it may be some of the work I did in 1995 emanated from Denny but not anything I can recall specifically.

Was it into 1995 before your involvement was really fairly intense? - That is correct.

Now, could you look at D201; do you see that is a letter from a gentleman called Young, Head of Resource Services to the rector of Dunblane High School; who was Dr. Young? - Dr. Young at that point was one of the heads of service in the Education Department; he subsequently became Acting Director of Education from the middle of 1995 until reorganisation.

You will see that the subject of this is certain difficulties in taking any action through the police and the Procurator-Fiscal; is this the difficulty that leads to your more direct involvement in the matter? - As I recall it there was another complaint which I think had reached Douglas Sinclair's desk, that is the Chief Executive, and also the first thing I was involved in as Deputy Director was a meeting between Douglas Sinclair, Graeme Young and myself regarding a complaint which, from memory, was primarily requesting the clothing, photography, etc.

Who was present at that meeting? - As far as I recall the Chief Executive, Graeme Young and myself.

Could/

Could you look please at D203. You will see that is a letter from Dr. Young to Thomas Hamilton dated the 10th of January, 1995? - That is correct.

There is some handwriting on that letter? - That is mine.

So this was the original draft letter which you added parts to? - That is correct.

This is the best copy I think we have of it and it does appear to have been sent out; that has followed the meeting that you attended? - That is correct.

What was the subject of the meeting? - It was the issue.....I can't recall where the complaint came from at the moment on the use of the black swimming trunks and I think also the failure to use changing rooms at the school in question.

So changing was done somewhere else? - In the hall being used, as far as I understand; actually looking at this I think that may have arisen separately; this was a question of the black swimming trunks and the photography.

It may actually be a composition of the two; first of all would you look at D197; you will see that is from Dr. Young to Detective Sergeant Moffat and there is reference there to two complaints and the letter is dated the 2nd of December, 1994? - Yes.

I don't want you to disclose the names -- do the names mean anything to you? - Specifically no.

If I tell you that the second of these where the name and telephone number are given was a complaint in relation to wearing black swimming trunks; is that consistent with what you are..... one of the subjects you were looking at? - With a fair degree of certainty I think so.

Could you look also at D199A; you will see that is a letter from a lady and if you look at the end you will see it has been sent to the Director of Education and Legal Administration at Central/

Central Regional Council? - That is correct.

You will see from that that the complaint is that the boys had to fully strip and change into black swimming trunks which he provided and this took place in the gymnasium with no attempt to provide privacy? - Yes.

That is a composite of the two points you mentioned and you will see the date is the 13th of December, 1994? - Yes.

Does that letter look like one of the complaints at least you were considering at that time? - I am fairly sure it is.

What action did the meeting decide to take? - Initially that Graeme Young should draft a letter to essentially ask Mr. Hamilton.....well, first of all to advise Mr. Hamilton that people were concerned and secondly, to ask him what his reasons were for conducting his clubs in this fashion.

Were you aware that that type of complaint had been made by a number of people and not just by the two I have shown you or the three I have shown you at this stage? - I think by then, yes -- whether it came up in the course of the meeting or whether I knew it previously the answer is yes.

This letter asks for answers from Hamilton to a number of questions? - That is correct.

What were the questions -- before I ask you to answer that is it right to say that the letter makes a statement that "The purpose of this activity, apparently, was to enable you to photograph the boys in these trunks"? - Yes.

Can you tell me what question was posed? - First of all, did he agree that that is what happened and then why did he do it, what use did he make of the photographs, what did they have to do with running the boys club, did he make it clear to parents that he would be undertaking photography and finally did he think it was appropriate to do that without obtaining parental consent.

That/

That is the 10th of January, 1995? - As advised I think it went out a day or two later.

I think there was a reply to that letter; would you look at 204? - Yes.

And that is quite a lengthy reply? - They generally were.

It also has enclosures with it? - Yes.

What is the enclosure? - It doesn't come out too well on the copy but I think Hamilton sent in photographs of a boy, it looks as if he is going over a vaulting horse so it is presumably a "for example" and to show he had nothing to hide.

He sent something else in addition to the picture of the boy; do you remember something else being sent? - No, I would need to be prompted on that, I didn't receive the original.

Was a pair of black swimming trunks not sent as well? - Yes, I remember that.

Do you remember that? - Yes.

And do you remember him explaining why he insisted on the boys wearing this clothing? - There is in the course of the letter some explanation for this; he would generally address these issues on the basis that the boys would turn up with the wrong kind of clothing or clothing that was dirty, etc., etc. -- far better from Tom Hamilton's point of view, he would argue that he provided them because he knows then they have the right equipment and it is clean.

Were there straight answers to the questions? - In a sense they were in as far as he would generally set out lengthy justifications and rationalisations in his terms to the questions which he was asked but when you looked at them you tended to find they didn't really answer the questions and primarily tended to be on the lines that "This is how I do it, I believe it is right, who are you to tell me I am wrong".

If you look at page two and just below the middle we can see there an example of how he deals/

deals with a question; if you read the paragraph that starts "In a club situation"? - "In a club situation photography is nationally accepted and for us is a very important training aid, a record of our work and is used for public relations. Indeed a head of physical education of a local high school has stated that the video camera has become an essential tool to his department and is used daily to film children performing various sports as a valuable training aid. Furthermore your own Department's Community Education Department has sent me four letters or leaflets over the years offering free classes specifically for leaders working with children in a club situation to learn to use video cameras to enable a full understanding of its technical handling. Therefore your Authority is fully encouraging leaders to use photography in a club situation".

So he is turning matters round to find support for his activity from your own Authority? - That is correct, I would say that was a fairly typical answer to that kind of question.

If you turn to the last paragraph on that page which deals with photography consent? - "Parents on enroling their sons give a written undertaking that they agree to abide by all rules, conditions and the leaders discretion and as such specific permission is not required for photography and I am surprised that you should seek to ask such a question when your own schools and clubs etc. do not themselves seek to gain such specific permission from parents. As I have said photography in a club situation is nationally accepted as being normal".

If you go to the first page of the letter at the foot do we see that the reason that he sent in a swimming costume was to prove that a very small water retention in the particular types of trunks he was using? - That is what he said.

And that it was black because there was no problem with colour matching and fading? - Yes.

After/

1.50 p.m.

After an adjournment for lunch:

LORD CULLEN: Very well. Shall we resume?

MR. BONOMY: Thank you, sir.

EXAMINATION CONTINUED BY MR. BONOMY: Could you now have before you D205. Is that a confidential memorandum that was sent to you? - That is correct.

Is that a memo from Dr. Young to you? - That is correct.

And that enclosed the letter we were just looking at? - Yes.

I think that included a number of other items as well? - Yes.

Publicity for the sports club? - Yes.

Including photographs of activities, all in support of the justification we look at in the letter just before lunchtime? - That is correct.

Were you aware at that time also of some support coming Mr. Hamilton's way from one of the local councillors? - In terms of overt support, no. I think you are referring to Councillor Ball.

Yes. He was in communication with the Education Section: did you know that? - At that time, January, 1995, no. I noticed that Hamilton had copied the letter we were discussing before lunch to Councillor Ball and Douglas Sinclair.

Could you look at D209? Do we have there a compliments slip covering other material, and that includes first of all a memorandum from you to Dr. Young? - Yes. I am sorry: it is from Dr. Young to me.

Yes, of course. At that stage is he alerting/

alerting you among other things to the correspondence with Councillor Ball? - Yes, he is.

And he asks a question of you in the third paragraph? - Yes.

What is that? - "I would value your comments as to whether or not there is any merit in pursuing this matter further".

What did you understand by the words "this matter"? - The most recent correspondence stemming from the meeting in January with Douglas Sinclair, Dr. Young and myself.

And he then suggests a further discussion with Mr. Sinclair, the Chief Executive? - Yes.

Could you confirm that amongst the stuff sent with that, being copies of the material Hamilton had sent to Dr. Young, there was an article in the newspaper about the Council changing the colour of the livery on their vehicles? - Yes. It should be recalled that Councillor Henry, who is quoted there, is one of the minority group on Stirling Council, and may have been pursuing a political point as much as anything at that time.

But Hamilton had latched on to an article about the changing of the colour scheme of the Council livery, really presumably in connection with the swimming trunks? - I suppose it was that point, but it didn't make very much impact.

There is also a letter to Mr. Sinclair, dated 13th February, protesting again about the Council's attitude and saying his interest is in the welfare and protection of children? - Yes.

And there is other correspondence that has been taking place with him; is that right? - Yes.

So you were asked to consider whether anything else was worth doing? - Yes.

Could you look at D210? Is that your reply, dated 17th February, 1995? - Yes.

Now,/

Now, you are setting out the position as you understand it to Dr. Young? - Yes.

And you are saying that the tenor of the reply from Mr. Hamilton runs fairly true to form, in so far as it does not address some of the questions which have been put twice to him? - Yes.

What do you mean "put twice"? - I am trying to recall whether there was a separate letter on this particular issue.

I think if you look at the first paragraph that must be right: there has been one on the 7th February? - As well as the one in January, yes.

You say in the fourth paragraph what your position is. Can you read that? - Yes. "I am disinclined to leave matters where they stand. It might be that we should respond to Mr. Hamilton in a fashion which makes clear that no one in the Regional Council is taking a stance on the conduct of the boys' clubs. As a responsible Education Authority, the Regional Council has to give consideration to complaints which are made regarding the conduct of any lets, and it simply will not do for Mr. Hamilton to dismiss these as the grumblings of a minority of disinterested parents", something he particularly did in the first few paragraphs of his reply to the correspondence in January.

Can you read the next part, please? - Yes. "It is perhaps also worth pointing out to Mr. Hamilton that whilst he is familiar with how he runs the clubs, it is not immediately apparent on reading the literature that the gymnastics element will involve the provision of sports clothing by him; that extensive photography (whether or not as a training aid) will take place. I suppose Mr. Hamilton at least has confirmed that such photographs are made available to parents if they wish".

In the last paragraph you deal with the question of whether the names of people who have complained should be made known to him? - Yes.

You say in the last sentence "Might one solution be to indicate to Mr. Hamilton that we will disclose/

disclose the identity of the complainants, provided that he is willing to have any comments which he makes relayed to the complainants directly?"? - It was a rather tentative suggestion, that: I did say that.

Would the Council normally make known the name of a complainer to the person complained of? - I think it would depend on the circumstances. One would worry that Mr. Hamilton, particularly given the fairly dismissive way he referred in his letter in January and in other correspondence to parents whom he regarded as either disgruntled troublemakers, disinterested parents -- it certainly became clear after the incident that Mr. Hamilton was not above going out and having it out with someone he considered was his enemy. In the circumstances I think we would be reluctant to dispose names of complainers.

Could you look at D212? - Yes.

This is a memo from one of the social workers to a Child Protection Officer about a complaint which has been made, again about his, Hamilton's, activity, and it refers to you getting a phone call about this? - Yes.

Do you remember being told about this? - Yes.

And the complaint was that two sons of the lady complaining had attended a club in Dunblane, and they were both refusing to go back due to the uncomfortable feelings about what happened, describing Mr. Hamilton as "weird" and allegedly being asked to remove T-shirts and pose for photographs in their shorts, while taking deep breaths? - Yes.

Now, this is another of the same, as it were, compared to other complaints that were by then familiar to you; is that right? - Yes, that is correct.

Can you say whether any action was taken on this? - This is the first time I have seen that particular memo. I would expect this is one where we would have expected Child Protection as the specialists to undertake any investigations.

But/

But you don't know what happened in regard to that? - I don't recall it going any further than the phone call I received.

I asked you earlier about the police encouraging complainers to come to the local authority. Would there rather have been a point reached where the authority would actually do something about letting property in view of the number of complaints that were coming in? - That is a difficult one. It is one I kept in mind throughout.

Yes? - If one was simply going to say that if complaints reached X level one terminates, the danger is that you are simply not addressing whether these complaints have any substance in them or not.

Yes? - The difficulty with the January correspondence and the complaints that were received in March was that it was likely to draw an answer in similar terms to those we had had from Mr. Hamilton in February.

Yes? - Now, the problem with that is that you either have to say there is something in there you can point to as fundamentally unsatisfactory and do something about it, or regard it as just about good enough to explain the way he was running the clubs. So whilst yes, in broad terms there were a number of complaints coming in, at this point we were not throwing anything up which took us beyond the January position. And bear in mind we had the experience in 1983 to bear in mind, which was to my mind a very clear indication that it was no use terminating Mr. Hamilton's lets unless there was something substantial. Complaints that Mr. Hamilton could answer up to a point did not seem to be sufficient in themselves.

On the other hand, we could probably see up to 10 different complaints like the one you have just looked at coming to the Council? - Yes.

Now, that is a rather different situation from 1983, where nobody substantiated any complaint in the sense of even identifying the complainer, except I think in relation to a boy cutting himself with an axe and not getting proper medical/

medical treatment when he was at one of the camps? - Yes.

And even that was of doubtful significance to Central Region, as the camp was held outwith the Region? - Precisely.

But we might have a different situation by 1995, in that there is this build up of complaints of a similar nature, where people see things happening, albeit they are not overtly indecent? - Yes.

Do/

Do we never approach the point where there is material and say "You shall not have Council premises legitimise your operation"? - If we go back to the "legitimise" point the answer is yes, you could, but the danger is that we were not going to be able to prove much more than a philosophical difference with Mr. Hamilton as to how he ran his clubs.

Yes? - You could say Mr. Hamilton was very old-fashioned and was not giving a good experience, but what was wrong with it?

Yes? - Some people found Mr. Hamilton's way of running things unsatisfactory. We did for example suggest to people that Mr. Hamilton's general disclaimer of abiding by the rules and his discretion should be questioned more searchingly, and we also told Mr. Hamilton to stop taking photographs without parental consent: but to go beyond that and say "There are people who disagree with the way in which you run your clubs, and on that basis alone we will terminate your let" seems to me to be suspect.

Was there anybody on the staff of the Regional Council who thought it was a good idea for Thomas Hamilton's clubs to be held in school premises? - I think probably not many.

Were there any, that you know of? - No. I don't know how many people think a number of other organisations are a good or a bad idea.

I appreciate that: but if you have got a number of complaints because people feel uneasy about the nature of the activity and the things done in the course of that activity you have an authority which would appear on the face of the correspondence and from what you are saying is concerned about the nature of the activities and the things done: so is there not another justification, which did not perhaps exist in 1983, for saying "That is enough for us to terminate the let"? - It was very difficult to point to anything concrete beyond the fact that a number of people were complaining. Mr. Hamilton would also have fairly vociferously protested that he was being damned by those against him, and that the Regional Council were simply articulating these views.

Yes?/

Yes? - It is also worth mentioning that in 1983 Mr. Hamilton did produce a petition with a number of signatures on it approving what he did. These were people who genuinely felt it was okay or even good.

Would it be fair to say from that answer that the support that Hamilton got in 1983 from members of the public plus the success he had with the Ombudsman casts a constant cloud over the freedom he might otherwise have felt to act and stop his continued use of Council premises? - It certainly had to be a factor in my consideration. Now, I think the 1983 Ombudsman threw a general line anyway, and had it been Thomas Hamilton or anyone else we would not have tried to terminate the let in the way we did in 1983.

Yes? - One concern we had -- I think it was a particularly strong reservation -- was not to get ourselves into a situation where we went before the Ombudsman again and lost.

Yes? - Now, that was done in total ignorance of lack of success with the termination of lets in Lothian and Fife; we didn't know of these.

Yes? - The biggest danger it seemed to me was of launching ourselves down the 1983 slipway again, particularly as Mr. Hamilton regarded any words of praise from an official source as a vindication of himself.

Yes? - To have gone to the Ombudsman and lost would have been a very serious difficulty for us to terminate Mr. Hamilton in the future. So yes, it was a very big part of my consideration.

Could you now look at D227? That is a letter from Mrs. Chillas to Dr. Young? - Yes.

In relation to the Dunblane summer camp, in which it is suggested that the daily training programme was in the opinion of one of the people working for Hamilton much too difficult for young boys? - Yes. I believe that was also the evidence of yesterday's witness.

Then in the third paragraph you see it says "As you know, a parent telephoned me to say she had/

had removed her child from the camp. He was very unhappy throughout"? - Yes.

Now, are you aware of complaints of this type from the camps as well as the clubs? - The camps at Dunblane -- I think they were a somewhat different kettle of fish from the camps in Loch Lomond, and may have been an example of showing sense, that he had realised that going to uninhabited islands for a summer camp was bad news.

So you saw the Dunblane summer camp as an improvement? - Yes, for two reasons: one, he was near facilities, running water, electricity, plumbing, etc.; secondly, there would be an opportunity for better supervision, because he was on our premises.

Could you look at D229? Is that a letter from a Peter Farquhar to you about a meeting in relation to Hamilton? - Yes.

Present were an Alan Steele, Mrs. Chillas, and Sergeant Moffat of the police, among others? - Yes.

What was the subject matter and the outcome of that meeting? - It primarily related specifically to a letter of 9th May that Hamilton had circulated literally door to door in the Dunblane area. It raised an inference that he had approval or support from the Regional Council. That was either a misconception or a distortion about what we had done. For example, he would tend to regard successful registration of the granting of a let as some form of approval. We were no more approving him than we were approving anyone else when we took these actions.

I think you made the decision that some effort should be made through head teachers to explain the Council's position? - Yes.

The memo states ".....there should be guidance to the head teachers that they should not distribute material except from organisations operating under a national body or community-based groups"? - Yes.

Did that happen? - No, there was a difficulty/

difficulty in trying to figure out a policy which could be drawn in such a way that it did not say "Don't distribute anything in connection with Thomas Hamilton's boys' club". Now, the difficulty with saying "a national body or community-based groups" was that you could perhaps differentiate the two and say you could distribute for the Scouts, the Guides, the Boys' Brigade. Community-based groups were rather more difficult. What was Thomas Hamilton's boys' club?

The next part of the Minute goes on to more general subjects. Can you read the outcome of the meeting? - "Overall, those present would like to see Hamilton tackled in relation to the conduct of his activities and lets withdrawn. However, it was acknowledged that members of the Council would need to support this course of action, and that experience with the Ombudsman required careful action. Mention was made of a code of practice being drawn up, containing recommendations for the new authorities on regulating letting activities. It was confirmed that the Procurator-Fiscal was not taking action on the reports sent to him because there was not a crime being committed. There was nothing in value in relation to Hamilton's criminal record".

Was a code of practice ever drawn up as a recommendation for the new authorities? - I am afraid I do not know that. I am afraid I had taken severance by then.

Are you aware whether Hamilton had initiated any other complaints to the Ombudsman after the one in 1983 involving Central Region? - No, not that I know of.

Were you aware of one that Mr. Sinclair had to deal with, by meeting him at one stage? - Well, maybe.

You are not aware of it? - No.

Following that meeting I think a letter was drafted which you were asked to consider; is that right? - Yes.

Could you look at D231? Do we see there a memo for the proposed letter? - That is correct.

And/

And that is about the distribution of material? - That is correct.

That was for the head teachers? - Yes.

Was that letter sent, as far as you are aware? - I think it was.

Could we look at D230? Is that another draft that was sent to you for your consideration? - Yes.

And that is one to Mr. Hamilton? - That is correct.

Do you know if that was sent? - I think it was sent after being revised by me.

What were the issues raised with Hamilton in that letter? - Do you want me to read them?

Just tell us what the five things were? - What qualifications did he have, under what auspices were staff checked in terms of the requirements oft he 1989 Children's Act, why were boys required to wear only swimming trunks, was it essential for them to do that in a games hall, and reference to the fact that a "Social Services Community Child Care Specialist" had inspected the "Qualifications of leaders in overseeing the boys' work in a wide range of coached activities, including the extensive use of apparatus", and asking for clarification on that point.

That/

That is a reference to a letter he had sent out in which he said a Social Services Community Child Care Specialist had inspected among other things the qualifications of people? - Yes.

That Child Care Specialist was someone who looked after the camp? - Yes. My recollection of the circumstances is that he felt that was not required under the legislation, because it did not have any under eights attending the camp. I believe it subsequently transpired that two boys of age 7 were attending the camp and their hours were restricted.

I think that letter did in fact elicit a reply from Hamilton? - Yes.

Could you look at D234? That is a letter to you from Mr. Steele, with the reply? - Yes.

It consists of a number of pages; is that right? - Yes, at least three pages.

Is it dated 2nd September? - Yes.

And the letter which dealt with it was dated 1st September. Is that when it would go out to Hamilton? - Yes. My recollection is that it went out as originally intended.

I think there was included with that also a circular letter to parents that Hamilton had sent out on the 18th August? - Yes, that is correct.

And copies of other correspondence, some of it of a similar nature to that; is that right? - Yes.

Now, you will see that Mr. Steele refers back to his memo of the 26th August? - Yes.

Where it was proposed that the group, presumably the people at the meeting, should re-convene once Hamilton's response was received? - Yes.

You then go on to say what? - "I am, however, of the opinion that the response, as you suspected,/

suspected, gives little in the way of any justification to move for termination of let".

Could you carry on? - Yes. "As a consequence, I have some doubts as to the benefit of holding another meeting at this stage. I would, however, appreciate your comments and opinion on this matter before taking any action".

Perhaps you could also look at D232. You will see that that is another memo that Mr. Steele sent to you, enclosing a letter received from a parent in Dunblane? - Yes.

I'm talking about the circular letter which Hamilton had sent round about the 18th August? - Yes.

And hoping that parents boycott his club: do you see that? - Yes.

And referring also to his carefully-constructed consent form; is that right? - Yes.

Now, can you read out the second last paragraph, please? - "I would like to ask Central Regional Council if Mr. Hamilton fulfils all the social and" -- I can't read the word -- --

I can't read it either. "Something criteria"? - Yes. ".....to run such a club in their premises? I for one will not be sending my son, and would strongly encourage other parents to question yourselves regarding Mr. Hamilton and his motives!".

So we have then more complaints coming along on similar lines to previous ones? - Yes.

You had had them before you got the earlier memo from Steele? - Yes.

But your view was that that did not advance matters at all with a view to terminating the let? - In the sense that Mr. Hamilton made people uneasy, that we all had our suspicions as to what precisely Mr. Hamilton's motives were. That merely added to what we already knew of the man. In terms of establishing what Mr. Hamilton was doing wrong beyond creating unease, it did not advance matters./

matters.

Could you look please at D239? That is a letter from the Department of Administration and Legal Services? - Yes.

Addressed to Mr. Hamilton, and about an application for the use of Dunblane High School for a summer camp in 1996? - That is correct.

Do you know if that application was granted? - I do not.

It says a meeting would be held on Thursday, 7th December, 1995? - Yes.

Can you think of any reason why the Council might have refused that application? Was there a basis for refusal, in your view? - In the sense that the 1995 summer camp had not given any particular problems, and certainly had not caused the alarms that the Loch Lomond camps had, I would not have thought there was any reason they would have tried to refuse it. Yes, one boy had asked to be withdrawn from the camp, being unhappy, but that I imagine is not unusual.

Could you look at D240? - Yes.

This is a letter from you dated 11th January to a lady called Thomson, a Service Manager in Social Work? - Yes.

Now, there is a memo attached to that. I think that was the memo to you, to which you are in fact replying? - Yes.

And that is raising concerns about the way in which Mr. Hamilton is publicising the thing? - That is correct.

Did that relate to the previous year's camp? - Yes, I think it probably did.

Was/

2.30 p.m.

Was the material sent to you? - Yes.

I think there is a copy back in the form? - Yes.

What was the concern about the material? - The concern, as we discussed already, that Mr. Hamilton misrepresented what the Council was actually doing when it was carrying out some of its statutory functions.

Using any intervention of the Council which didn't result in anything adverse happening as a means of supporting him? - In essence, yes.

I think you say in your memo that you can't see any way of terminating any of the lets? - On the basis of that matter, on the basis of the specific misrepresentations which have been made, no; Mr. Hamilton I think could have misrepresented the change in course and simply said he had misunderstood the situation and wouldn't repeat the mistake; in terms of what we had already on record, no, we couldn't at that point see any way of terminating his let.

So in the end was the Regional Council's position that the complaints in themselves were not enough in view of the whole history of this business and the Council would only act and certainly officials of the Council would only act if they got the complaints that they could verify as justified? - No, it wouldn't be true to say verified as justified; the simple fact of the matter is that they didn't necessarily mean that Mr. Hamilton was misconducting his club, he was conducting it in a way which didn't satisfy a lot of people; on the other hand, he conducted it in a way which a number seemed to find adequate or satisfactory; really the impression one got was that you were either very much for him or very much agin him.

Did you get support for him intimated to you? - No, but we felt despite the people who wrote to us complaining saying that they were withdrawing their children, that certainly up to the summer of 1995 he was getting a worthwhile attendance level.

So/

So what in these complaints, if you could have checked them out in some way or verify them in some way would have resulted in a different course of action? - I think if you had been looking at issues of physical abuse, severe mental abuse or anything that was overtly improperly sexually then, yes, that was clear enough; as the correspondence has shown we tended to have a fairly sterile debate with Mr. Hamilton about the clothing he made boys wear, where he made them change, etc. and although he had given justification how much do you jump from there and say "That is all very well, Mr. Hamilton, but what we think you are really doing is" and whatever the various things that existed regarding Mr. Hamilton's motivation -- how can you actually make that leap which was the problem.

Were you saying that there had to be something by way of criminal activity before you could stop the let or would something less than that suffice? - There could have been matters which were not necessarily the subject of prosecution themselves, matters which the police wouldn't have taken on board.

Could you give me an example of them? - Let's suppose he had shouted at his class on a reasonable basis, reduced them to tears, I don't think the police would have found that a means for prosecution; that may not have been subject to criminal prosecution but it may have been fair enough for us; the difficulty was we were confronted by something which made us uneasy, we wondered why he wanted to take hundreds of these photographs of boys in black swimming trunks; his argument was "I was meticulously taking photographs of the activities in the club and I challenge you to say I was doing it for another purpose".

If there had been no Ombudsman in 1983? - Yes.

And indeed if 1983 had never happened at all and you had Hamilton from, say, 1985 onwards without that history behind it --? - Yes.

Do you think your decision may have been different? - Can I perhaps answer that in the sense that had one known that Lothian and Fife had successfully terminated Hamilton's lets and not been challenged/

challenged by the Ombudsman I feel in retrospect now that we may have been looking for higher evidence than we actually required.

CROSS-EXAMINED BY MR. JONES: Again just a few questions -- could you just go back to D204; I think you looked at part of this letter, this is a letter dated the 14th January 1995 from Hamilton to Dr. Young? - Yes.

Can we just look at the opening paragraph of that letter, can you read it out? - "Dear Dr. Young, I refer to your letter of 12th January 1995 asking me to answer various allegations to determine the future course of action that the Council will take and as such in terms of the requirements of natural justice you have not notified me properly and that you do not name the complainants nor do you name the schools or give dates. I therefore cannot give the detailed information necessary to answer fully and as such my reply at this stage is of a very general nature. I am however very surprised to receive your letter at this time as my group has provided our boys with black trunks for swimming and gymnastics for almost 22 years and that such matters as raised in your letter have already been fully considered by your own Authority in recent years and I understand that the conclusion was the Region constantly photograph children at its schools and clubs etc. which have included boys wearing trunks and such photographs have been used in public displays so how can the Council criticise".

If I understand it correctly you told us that your understanding of the complaints that the Education Department had been receiving up to this point were that boys would have to change into black swimming trunks and were then photographed? - Yes.

Could you go on to D212? - Yes.

This is the Social Work Department memo that you were asked to look at dated the 24th of March, 1995? - Yes.

And you were asked what action was taken on the complaints that were made about the two boys who had felt uncomfortable and described Mr. Hamilton as weird, do you see that? - Yes.

You/

You said you didn't know what action was taken; could you go on to the last paragraph of that and could you read it? - "Ron Keilloh contacted DS Moffat, Family Unit, and joint investigation will take place next week. It is noted that there have been previous complaints about Mr. Thomas Hamilton". In my answer I was simply meaning that the Admin and Legal were not going to launch anything of this nature.

Particularly that if there was going to be a joint investigation involving the Social Work Department and the Child Protection Unit? - Absolutely.

Could you go on to D229? - Yes.

And could you have at the same time D238? - Yes.

Now, D229 is dated the 22nd of August 1995? - Yes.

And we have seen that halfway down the text we see there is a break which says this -- "Overall those present would like to see Hamilton tackled in relation to the conduct of his activities and lets withdrawn." This was the memo that we have heard from Peter Farquhar to you? - Yes.

I think what we don't yet know is who was present at the meeting; do you see just below the address block the heading was "T.W. Hamilton. Meeting 21/8/1995"? - Yes.

Present "Alan Steele, Tricia Chillas, Gerry Fitzpatrick, Alan Moffat and Ian McNeish"; can you help us by telling us who these people were? - Alan Steele had responsibility for the School Board Unit in Central Regional Council; his remit may have been changing at that time because people were beginning to leave and had been appointed by the new Council but essentially that is his background. Tricia Chillas was in charge of the Regional Council Sports Development Scheme. Gerry Fitzpatrick worked with Community Education, Alan Moffat and Ian McNeish I think are both police officers, Ian McNeish certainly is.

Do/

Do you know what was the purpose of forming this group, in bringing them together? - It was a reflection of the concern regarding Mr. Hamilton, the complaints which were being generated about and also concerns about what Mr. Hamilton was about; it wasn't a formal group but they tried to find grounds for terminating Mr. Hamilton's lets, it was at least a collection of people with the necessary expertise to look at the complaints.

If you look at D238 again, this is the memo from you to Alan Steele; do you see in the last paragraph you say "For the time being, I agree that there is probably not much point in reconvening the group examining Mr. Hamilton's activities"? - Yes.

That is referring back to the group you have looked at? - Yes.

In response to this complaint we had, first of all, as I think you know reports to the Procurator-Fiscal and they had resulted in no criminal proceedings being taken, is that right? - That is correct.

We then had the setting up of a group comprising these individuals that you have just told us about to investigate Mr. Hamilton's activities? - Yes, I can also add to that fact that my initial involvement in 1985 came by a request from the Chief Executive to myself, it was being handled at a higher level; could you look at D232? - Yes.

This is a letter dated the 28th of August 1995 and you were asked the question whether this wouldn't be sufficient just to tip the balance and indeed give you a reason to withdraw Mr. Hamilton's let; can you look a little more into what the writer of this letter really says; do you see that in the paragraph that you read she wants to ask the Regional Council if Mr. Hamilton fulfils all the social and sporting criteria to run such a club and she makes the point that she won't be sending her son "and would strongly urge other parents to question yourselves regarding Mr. Hamilton and his motives" and concludes by saying "I hope you will look into the running of this club from your premises", do you see that? - Yes.

That/

That is what you were doing at the time this letter was received? - Yes, in the aftermath of Dunblane people were concerned that alarm bells should have been ringing regarding Mr. Hamilton; alarm bells were definitely ringing but he was an extremely elusive character to actually find a thing that would tip the balance.

Were you aware of any breach by Mr. Hamilton of the conditions of any of these lets? - None that I can think of or none which in the case of other organisations might not have been dealt with short of termination; I can't recall any off-hand.

You have said that what you considered might be sufficient to terminate his lets would include physical or verbal abuse or some form of overt sexual act; did you have any evidence of any of these things during the time of your involvement in this? - None that was brought to our attention.

RE-EXAMINED BY MR. BONOMY: That parent of the two complaints you have looked at again, was the parent told what was going on? - Was there a reply sent to that complaint?

Yes? - I believe so.

Saying we have a group looking into these matters and we take note of your concern? - We may have said we take note of their concern, I doubt we would have advertised the existence of a group; it was a sensitive matter.

Really in relation to the Minute of the meeting on the 21st of August where overall this person would like to see Hamilton tackled in relation to conduct -- at any stage was a decision mooted to refer the matter to the Council or a Committee of the Council in view of the view that officials had? - It is fair to say that every time we looked at the complaints regarding Tom Hamilton's clubs that was the question we wound up asking ourselves so in that sense it was constantly being mooted but the conclusion at the end of the day was that we didn't have enough to take forward.

Did you think you would have difficulty specifying exactly what was the basis of the presentation/

presentation to the Council of the case against Hamilton? - It would be the same difficulty as we would have in presenting it to the Ombudsman or the Court -- general unease, concern, doubt about motivation -- how do you actually make that stand up in a Court of law.

JANICE HELEN RENTON (49) Sworn

EXAMINED BY MR. LAKE: Your current occupation is Depute Commissioner for Local Administration and you work in Edinburgh? - That is correct.

As a preliminary matter in your evidence I understand that there is some limit to the information which you are able to give to the Inquiry, is that correct? - It is -- my reading of the 1975 Act, the Local Government (Scotland) Act, which set up the Commission at Local Administration is that there is a Statutory duty of non-disclosure of information other than in very limited circumstances and there is also a provision that indicates that the Commissioner and his staff may not be called upon to give evidence in any proceedings; having said that the initial difficulty which was in relation to handing over the files of the Ombudsman was, to a large extent, overcome because most of the correspondence was able to be accumulated from other sources and I was then able to confirm that this was indeed the correspondence from my office.

So/

So in my view I was able not to breach the statutory duty and to achieve a satisfactory outcome. I may say that in relation to appearing here today I have not hesitated, I have tended to the view, rightly or wrongly, these are not proceedings for the purposes of the Act and therefore I am entirely happy to be here.

The reference in the Act is to information which is gathered by the Commissioner in the course of investigation rather than the procedures of the Commissioner? - That is correct, yes.

Is it correct to say the remit of the Commissioner within the Local Government (Scotland) Act, 1975 is to investigate complaints by members of the public who claim to have sustained injustice in consequence of maladministration in connection with actions taken by or on behalf of an authority? - That is correct.

Are you able to give a brief summary, a brief statement, of what you consider to be encompassed within "maladministration"? - I can try. Maladministration in my view relates to administrative practices and procedures of a local authority. The closest definition that has ever been given was by Richard Crossman who was the Leader of the House and suggested when the Bill was going through that in fact "maladministration" might encompass such things as delay, failure to follow laid down procedures, incompetence, negligence and generally matters related to the processes, but obviously not to the merits or substance of the decision.

Without looking any further at the general powers of the Commissioner, I would like to examine with you the dealings between Thomas Hamilton and the Commissioner over a period of years and his complaints about local authorities. The first of those related to a complaint made against Central Region regarding removal of lets in 1983. Were you employed in your present post in 1983? - No, I was not.

Are you aware of the circumstances surrounding the complaint made by Mr. Hamilton at that time? - Yes, I am.

We have heard some detail already what the nature of the complaint was and some of what the outcome was. Is it correct to say that after you had received the complaint from Hamilton via his Councillor the first thing you would do would be to obtain comments or submissions from the Regional Council? - In fact, on this occasion the first thing was that Mr. Hamilton was interviewed in person by a member of the Commissioner's staff with a view to establishing greater detail of his complaint than had been provided in the written submissions. So the first step was to go back to Mr. Hamilton. The second step was in fact then to refer the complaint in accordance with our normal practice to the local authority asking for their comments on Mr. Hamilton's allegations.

I think in response to that you received a submission by way of a letter from the Regional Council? - That is correct.

Can I ask you to look please, to have in front of you document D10 within folder J(v). Do you recognise that document? - I can confirm that this is the response which was placed on file from Central Regional Council on our initial enquiry.

So if you go to the first numbered paragraph do the Council set out their position they were entitled at any time without any reason to terminate the arrangement, that being the letting arrangement? - Yes.

In the second paragraph they reiterate in similar terms the authority was quite entitled and had sole discretion and brought the arrangement to an end and it is submitted that no injustice was done thereby? - Yes.

Is it correct that notwithstanding that response the Commissioner decided that it was appropriate to conduct an investigation into this event? - Ultimately that was the decision that was taken. But there were other events took place before that decision was reached. My recollection is that it appeared possible that the complaint might in fact have been resolved. As I recall, there was some possibility of the matter being reconsidered by the local authority but in the event the decision, as I remember, was taken to defer making/

making such a decision until the Commissioner concluded his investigation. I may have the sequence of events out of order. My memory is not sufficiently good to recall the order in which matters happened but I can confirm certainly that ultimately the Commissioner made the decision to initiate a formal investigation into the complaint.

Are you aware that the Council attempted to argue that the matter was not one which the Commissioner could consider as it related to the conduct and management of an educational establishment? - Yes. I am aware that was the argument which was presented by the Council, and I am also aware that the then Commissioner considered that argument and took the view that he was not precluded by Schedule 5 from conducting an investigation. Again the Act indicates that whether or not a complaint is properly made and can be investigated is a matter solely for the Commissioner to determine and he so determined and proceeded on that basis.

After the initial matters the Commissioner decided that an investigation would be carried out? - That is correct.

And following that investigation a report was prepared and sent out to parties in terms of the Act? - A draft report was prepared initially. Again that is in accordance with our normal practice where a draft report containing the facts is in fact prepared. This is then issued to the complainant and the local authority so that they may have an opportunity of drawing attention to any factual inaccuracies in the body of the report. The draft is then amended, if necessary, and is then finalised by appending to the factual content the Commissioner's conclusions as to whether or not there has been maladministration and if so whether injustice has ensued. Ultimately that process was gone through. The parties commented on a draft and it was ultimately issued in its final form with the Commissioner's findings attached.

We have also heard in the Inquiry a draft of this report was also sent to the Scouts' Association? - That is correct.

Was it common to send copies of a report to/

to other parties? - It was indeed. The view has always been taken -- I think quite properly -- that if someone or some body is referred to within the body of the report they ought to have an opportunity of commenting on whether that reference is factually accurate, so Yes, in this case a copy was in fact sent to the Scout Association.

I would like to refer you to the report in its final form. I believe there is a copy in that folder but it has not been copied correctly. So if I could refer you to the original copy of the Production which is DCRC B1/F2, a copy of that was made available to parties yesterday. It is No. 38 in that file of papers. You see in the first paragraph there is a brief summary of the complaint and the second sentence says, "The let of the premises was terminated without fair warning or explanation" and goes on to say that Mr. Hamilton complained, "That the action had been taken on the basis of unsubstantiated allegations of which he was given no opportunity to reply? - Yes.

It goes under the sub-heading "Investigation" to make a number of factual conclusions following on from the investigation; you see that? - Yes, I do.

In paragraph 3, "The Commissioner was of the view that Hamilton had left the Scouts and that he had set up boys' clubs which were run by a committee and that there were up to nine leaders or assistants". You see that? - I do.

Turning to the concerns of the local authority which are expressed in paragraph 26 at the foot of page 9, you see they summarise the concerns as being "(a) General concern felt by head teachers regarding the administrative arrangements of the group; (b) The quality of leadership; (c) Management difficulties; (d) Alleged improper circulation of notices"? - Yes.

Paragraph 28, there is a summary of the Commissioner's views on the duties and responsibility of the Council; do you see that? - I do.

Would you read that paragraph please? - "Before reviewing these, I think it necessary to state/

state what I would regard as the general duties and responsibilities of the Council in the matter. On the one hand they have a discretion whether to let school premises, and a consequent duty to ensure tha they are not let to unsuitable users; on the other hand they have a responsibility to deal fairly with all their constituents. I have borne both these factors in mind".

Paragraph 29, considering the reasons for the termination of the let, the Commissioner has noted the suggestion of confusion with the Scouts and he says, "Another reason for action being initiated was complaints from parents about the conduct of the group. These contained implications too vague to found upon and I were given more weight than evidence of support for the group. They should in my view have been heavily discounted as they were until November 1983". You see that? - Yes.

Paragraph 30, the Commissioner in the first sentence expresses his view of the Council's actions. Would you read the first sentence? - "I find nothing in the later reasons advanced by the Council to persuade me that the decision to discontinue the letting arrangements was taken without maladministration."

Could you continue to read the remainder of that paragraph? - "Proper use of a local authority's powers, even those which are entirely discretionary, involves among other things, giving proper attention to considerations which are relevant and ignoring or discounting considerations which are of little or no relevance, particularly if evidence is not adequately substantiated. Neither of these requirements was met by the sub-committee in their decision to discontinue the let. As I said, evidence that the group was well run and was supported by parents was ignored in favour of complaints which proved to be little better than gossip. The only evidence of general concern, which the Council maintain, is felt by head teachers rests on allegations of this kind. The criticism of leadership and management difficulties rests on one accident, of which the complainant would have been able to give satisfactory account had he been given the opportunity to do so, and on the allegation of difficulties on an opening night, on which occasion the complainant and his colleagues seemed in fact to have/

have coped rather well with an unexpectedly high response. It is notable that no previous history of problems with premises or equipment existed and I view the Council's actions on these grounds as aribtrary."

You see the first sentence in 33 there is a statement, reading short, "The Regional Council's decision was illfounded and unfair"? - I do, yes.

In the use of that sentence of the word "illfounded" and also the use of the words in paragraph 30 that the Commissioner considered that a satisfactory account of events was available, is it your view that the Commissioner is not really dealing with administration on this matter but is giving some views on the substance of the complaint against Hamilton? - I think I would have to refer back to the 1975 Act. I am sorry, I can't quote the section, but within the Act it says that the Commissioner for Local Administration may not question the merits of decisions taken without maladministration.

In/

In other words he may not simply question whether or not a decision was right, it sounds it is worded in such a way that he might not question a decision taken without mal-administration. What is taken from that is if there is mal-administration then indeed he may move closer to the rightness or wrongness of the decision itself.

Did you consider that the Commissioner was giving his view on the rightness or wrongness of the decision in paragraph 30 and 33? - I don't think I can answer that; the findings that are presented here were the findings of an individual and I really can't tell you what he was doing in terms of a conclusion.

But can you draw any impression from the use of the words like "satisfactory account" and "it is very ill-founded" that there was a comment being made on the merits? - In reading it I would form the view that he was commenting on the merits and if that was what he was indeed doing then in my view he was doing so on the basis that he considered that the decision had been reached that mal-administration as distinct from no mal-administration.

At the time these complaints were made and reported on what were the Local Authority obliged to do in response to the report? - The Act requires that when a report is published it must be laid before the Authority and they must consider the Ombudsman's findings and they require to then indicate to him what action they propose to take in response to that finding.

And it was open at that time for them to indicate that they would take no response to the.... take no action in response to the finding? - Had they done so then the Ombudsman couldn't have declared himself satisfied on their response; it is also required to be borne in mind that the Ombudsman has no satisfactory powers to enforce his decision and therefore what this means in our history is that the Authority, in fact, had declined to take action.

I understand now that there is certain powers have been added to the Act in 1989 to give such/

such a situation publicity? - You are quite right; it was also the case if the Authority didn't take action on the initial reports there was a power available to the Ombudsman to publish a second or further report; in other words, to give them a second opportunity to consider their position but in 1989 there was added to that that if they declined to take action following the publication of the further report the Commissioner could require the Authority to agree to the publication of a statement in local newspapers, the contents to be agreed with him narrating the circumstances of the complaint and what had, or more likely, had not happened, the cost of that to be borne by the Authority.

But it still remains the position that the Commissioner has not compulsory powers to force a Local Authority to change its mind? - That is correct.

Turning now to the next complaint which you see in relation to the letting out of Linlithgow Academy High School and was made against Lothian Region? - Yes.

Were you involved in that complaint? - Not directly but I had taken up employment in the office at that time and I was aware of the complaint and the manner in which it was dealt with.

Are you aware that the complaint was of a similar nature regarding what was seen as the arbitrary termination of the let of school premises? - Yes, I am aware of that.

Can I refer you to the document once again within the original folder you had and that is D14 in J5; I think this is actually probably stapled together with quite a few different items of correspondence; do you see this is a document headed at the top right-hand corner the 25th of January, 1990 and is your response to the Regional Council? - Yes, I do.

We have already had evidence from the Regional Council referring to that and it may suffice to say were you aware that the response of the Council was to say that it suspended it pending a police investigation regarding Hamilton in another jurisdiction? - I am aware of that.

What/

What was the outcome of that complaint? - The decision was not to initiate a formal investigation.

By not initiating a formal investigation is the Commissioner indicating there has been no mal-administration or merely there has to be no investigation? - It is merely that there has to be no investigation but on this occasion again, as I recall, the explanation was given to the complainant in intimating that there would be no formal investigation, that this Commissioner was satisfied that the duty on the Local Authority to protect the interests of young persons had been properly discharged in their decision to suspend the let of the premises.

That duty had been referred to, I think, in the summary of duties contained within the first report? - That is correct.

Is it a fair summary to say that the existence of parents' complaints was sufficient to tip the balance in this case? - That would be my view, that unlike the initial complaint there was no investigations and indeed no formal complaints lodged with the Authority in 1989, there had been, as I recall, a complaint and there was a police investigation.

You referred there to the fact that there had been a formal complaint, not one to the police but to the Local Authority; I think these are referred to in heading No. 3 on that response from the Regional Council? - Yes.

We have been avoiding referring to the names of any persons making complaints so it is perhaps sufficient to say that those paragraphs narrated complaints which had been received by the Region from parents or a parent of a child involved? - That is correct.

And this was something that the Commissioner took into account? - That is correct, yes.

Turning to the next series of complaints to the Commissioner are you aware of complaints that took place in 1992 regarding investigations into a camp/

camp run by Hamilton at Milarrochy Bay? - I am sorry, could you ask that question again.

Perhaps it would be easier if I referred you to document D17 within folder J5? - Yes.

Do you see that is a letter to Mr. Hamilton from yourself? - Yes, it is.

Dated the 2nd of March, 1992? - Yes.

And I think in the first paragraph there is a reference to complaints against Central Regional Council concerning the Social Work Department and Central Scotland Police? - Yes.

There is a reference to "You complain about harassment and disruption to the running of your sports club; and defamation of your character, which you claim has resulted in you being unemployed". Do you recall that complaint being made? - I do recall the complaint, yes.

What was the response of the Commissioner to that complaint? - Having considered the terms of the complaint which, as far as I could see, were two-fold in that it contained an allegation both against the Local Authority; the first part was readily dealt with in that the police do not come within the Ombudsman's jurisdiction and accordingly any complaints about any activities involving the police was a matter which was outside the jurisdiction and therefore that was readily dealt with on jurisdictional grounds. In relation to the second part of the complaint which was framed in fairly general terms and which was, in my view, a complaint alleging defamation, if the view was taken that the complaint of defamation is more properly a matter for the Courts than the Commissioner and again the Act stipulates that it would not be normal for the Commissioner to entertain a complaint where there is an alternative remedy including in particular, through Court action and Mr. Hamilton was therefore advised that the Commissioner did not regard a complaint of defamation as one which he could properly investigate and that the remedy lay rather through the Courts.

Can I refer you back to the second paragraph of your letter dated the 2nd of March and you/

you say there "Having examined carefully all the background papers you have supplied (and also reviewed our files on your previous complaints)"? - Yes.

You would by this time be aware that within a period of time amounting to some nine years Hamilton had made a number of complaints against different Regions? - Yes, indeed -- the system in my office ensures that on receipt of the claims there is a cross-check to establish whether an individual has, in fact, been a previous complainant to any file may be linked together.

What is the relevance of a previous complaint? - Well, there are many reasons why it would be important to establish whether an individual was a previous complainant; it could be, for example, that although a complaint appeared to be a new complaint that it actually is a complaint which has already been determined; that would be one reason and another reason is in relation to the allocation of complaints to an officer within the office; if it is an entirely different matter in my view it is normally preferable that it be dealt with by a different officer from the one who dealt with the previous complaint so that a perhaps more objective and impartial view could be taken of the complaint so there are various reasons for cross-referencing.

Is it of any relevance to the Commissioner that someone is persistently complaining against the Local Authority? - We have a number of people who are persistent claimants against Local Authorities but they would fall into various categories; we would not regard someone who complained frequently as necessarily being a veracious litigant. We have one complainant that I can think of that has complained during the office's existence some 15 times but on each occasion at least on the face of it has good reason for doing so.

But without being regarded in any way as indicating that someone is a veracious litigant is it a matter of taking into account any deliberation by the Council? - The fact that you would have complained before is no reason why the Commissioner would not be willing to undertake a formal investigation;/

investigation; each complaint must, in my view, and indeed has to be treated on its own individual merits.

I understand that but what I asked you is different matters that are taken into account? - In what context?

Deciding whether or not to have an investigation of a complaint does the Commissioner consider the history of a complaint on behalf of the individual? - There would be an awareness that the individual had made a number of complaints but I can't say that because he had made a number of complaints that the decision would necessarily be either to mount an investigation or not mount an investigation, that decision would be taken primarily on the basis of the complaint currently before the Commissioner.

Concerning now the next complaint which was made by Hamilton which was against Fife Regional Council and I refer you to document D25 within folder J5, do you see this is a letter again from the office of the Commissioner to Hamilton dated the 7th of September, 1992? - Yes.

And you see in the first paragraph there there is a brief summary of complaints and in the second sentence "You complain about the Regional Council's decision to suspend the letting of educational premises to your sports club which you claim is unfair"? - Yes.

And is it a fair summary of the second paragraph that at that stage the complaint was not to be progressed in view of the fact that the Council was offering to meet with Hamilton? - That would be a fair summary, yes.

Turning to the final complaint made by Hamilton in 1994, that was the one again against Central Region and can I refer you to document D31? - Yes.

You see the outcome of that was that the issues of the let had been resolved and there was to be no continued involvement of the Commissioner? - That is correct.

Are/

Are you aware of the basis on which that complaint was withdrawn? - Yes, I am.

What is it? - As I recall the complaint that was originally made related to what, I suppose, one might call the double booking of a facility; as I recall there was a period when Mr. Hamilton's club had the use of premises and it appeared that it had been let on certain dates to some other organisation. My understanding is that following his making a complaint to us and before we had made any inquiries into the complaint the double booking problem was resolved to the extent that he was informed in writing that there would be no disruption to the let of the premises for use by his group and he therefore wrote to our office indicating that the matter had been resolved entirely to his satisfaction and at that stage our file was closed.

You mentioned in regard to the Lothian Region complaint in 1989 that two relevant factors there was that there had been a complaint by parents and the police investigation? - Yes.

In a situation in which the Local Authority was concerned about the proprietary of Mr. Hamilton's club and wished to discontinue the let what sort of evidence would the Commissioner be looking for to enable the Local Authority to do that, that their decision was justified? - I think the best guidance we probably have on that would, in fact, be some of the criticisms that appeared in the original investigation; again I think what the Commissioner is primarily interested in is a process through which the Authority goes and that process would involve, in my view, an opportunity being given to the person whose let is terminated to be offered to put his side of the case and that in terminating some explanation for a decision would be provided.

I/

I don't think I can really give you any great deal of assistance on what weight of evidence the authority must have. I think the Commissioner's primary interest would be in the procedures which the authority adopts in reaching the decision to terminate or suspend a let.

You referred to procedures and giving the complainer an opportunity to be heard. Do you consider that is always required in order that you can have termination of lets on this basis? - Clearly I can't say that it is always required but I think in general where a decision is made it is good administrative practice to give the party involved an opportunity to be heard. I think it is extremely important to give, where there is an unfavourable decision, to give an explanation of reasons why the decision is unfavourable.

But in relation to complaints against Lothian Regional Council where there was no hearing granted to Hamilton, he was merely told it was on the basis of complaints and a police investigation, that is one where the Commissioner was able to reject the complaint? - The complaint was not rejected. What was said was that the Commissioner did not propose to mount a formal investigation. I think I must encourage you not to use the expression "reject" a complaint. Local authorities do on occasions interpret a decision by the Commissioner not to conduct a formal investigation as in some way upholding or vindicating what they have done. That is not necessarily always the case.

But the effect is they are not found to have acted in a manner which constitutes maladministration? - No, the only occasion on which a finding is made is after a formal investigation.

That's what I said. They are not found to have acted in a manner that is maladministration? - Nothing is found unless a complaint goes to formal investigation.

In a situation on which there have been or had been repeated complaints by parents of concerns/

concerns but the concern was not substantiated by hard evidence would the Commissioner be able to take these into account in justifying a decision to terminate lets? - I think you are presenting me with a hypothetical situation and it is very difficult to give you a Yes or No answer. It would be necessary to look at the whole of the situation before determining whether to undertake a formal investigation.

Without considering what the outcome might be, and what stage of inquiry it was, are unsubstantiated complaints from parents a matter which may be taken into account in reaching a decision? - I would expect that they are matters which would be taken into account in reaching a decision, yes.

CROSS-EXAMINED BY MR. CAMPBELL: Miss Renton, just to see if I understand the general procedures and the framework of the Commissioners consideration of complaints of maladministration. I think I followed correctly the basic principles -- subjects perhaps to one qualification which we will come to in a moment -- which is that the Commissioner's concern is with procedures rather than the merits of the Council's decision? - That is correct.

Do I correctly understand that the qualification is that if and when the Commissioner has decided that there is maladministration then the Commissioner may go on to express a view on the merits of the matter? - That would be my interpretation of the Act, but since the Act says he may not challenge a decision taken without maladministration, then if there has been maladministration then he may comment on the decision itself.

So far as the merits of the position are concerned, would I be correct in understanding, as you indicated a moment ago in answer to a question by my learned friend Mr. Lake, issues such as the weight to be attached to particular evidence is a matter for the Council rather than for the Commissioner in his consideration of procedures? - That would be my view. If I can draw perhaps an analogy with, for example, the processing of a planning application. The Commissioner's concern would/

would be if there were objections to the application that they were properly before the Committee at the time at which the Committee reached its decision. If they were not properly before the Committee he might view them as constituting maladministration, but if they are properly before the Committee then the weight which the Committee then attach to those objections in my view would be primarily a matter for the Committee.

Would you consider it a normal situation that the running of a boys club should create unease in the minds of a number of the boys parents? - I'm sorry, could you ask me that again?

Would you consider it a normal thing for the running of a boys club to create unease in the minds of a number of the parents of the boys who are attending the club? - I think not.

This is something which plainly would require to be given very careful consideration by anyone in a position of responsibility for the let of premises? - Yes, I would share that view.

And the weight to be attached to the fact that a number of parents are complaining and are in fact uneasy would be a matter for the Council's concern? - It would indeed.

Would you agree with me in a matter of this nature the welfare of the children concerned will always be a paramount consideration? - Of course.

Therefore any potential risk to children would be a very important factor for the Council to bear in mind? - I would agree with you.

If we turn to the Commissioner's decision on the first complaint which is D52 -- do you still have that in front of you. If I follow the Commissioner's conclusions they begin at page 10. If we look at paragraph 29 the Commissioner gives the reasons adduced for terminating the let of the premises? - Yes.

He follows that with some of those reasons. Towards the foot of the page he says, "Another reason for action being initiated was a complaint/

complaint by parents only one of which was made direct to the Council about the conduct of the group. This contained implications admitted to be too vague to found on and were given more weight than evidence of support for the group which should in my view have been heavily discounted as they were until November, 1983". Is this an example of the Commissioners consideration of questions of weight of evidence in deciding whether or not there is maladministration when according to your evidence he should have concentrated on procedures? - I think perhaps by way of explanation for that paragraph I should explain to you that in issuing a draft report the local authority were asked to provide something which they were unable to provide from the interview, and that was a statement of complaints from parents which they had received. The response to that was that they could not provide any such statement because the complaints had been of an informal nature and they could not therefore provide information on who the complaints were from or the substance of these complaints.

Does that mean these complaints were to be ignored? - Ignored by whom?

Well, we are talking about this in the context of an investigation into Mr. Hamilton's complaint against the Council. Are we to understand from your evidence that because the Regional Council fail to provide the written chapter and verse your view is that these complaints were in some way to be ignored or discounted? - It is very difficult to take into account complaints if the authority were unable to provide any information on either who they were from or what they consisted of. It is difficult to take account of something which is said to exist but no information can be given about the source or substance.

BY LORD CULLEN: In any event, it is a matter of the weight to be attached; is that right? - Indeed.

Because the Commissioner says "to be heavily discounted"? - Yes.

I am still not quite clear whereabouts in this paragraph we get identification of maladministration which is, as it were, the key that opened/

opened the door? - Yes. I would like to think that perhaps the conclusions are framed rather more precisely nowadays with a clear indication as to what constitutes maladministration and what constitutes an injustice.

I have an uncomfortable feeling that one is entering the subject back to front, so to speak, by a discussion of weight to be attached to evidence without being clear yet as to where the point of maladministration lies? - I think regrettably I am in no better position than you are to account for the conclusions and the manner of.....

Of course, you are not responsible at all but at least you have an inner knowledge as to the proper way in which these things should be approached? - Indeed.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Given that the Commissioner was not provided with written chapter and verse as to the nature of these complaints, how was he able to express a view that they should have been heavily discounted? - Again I think you will appreciate that it is difficult for me to explain why someone else is taken a particular view. My interpretation is that these were unsubstantiated allegations which I think he describes elsewhere as "little better than gossip". He took the view that perhaps greater weight should have been attached to the very clear and substantial support that had been lodged on Mr. Hamilton's behalf. My recollection is that there was a substantial petition and some 30 support letters had been submitted.

But, Miss Renton, there is no dispute that a number of parents were uneasy about conduct of those in the clubs. This is a matter of fact. There is no dispute about that -- correct? - No. I am sorry, I don't say it is correct because I am not aware of the complaints that were made to the Region because the Region were unable to provide my office with details of the complaints.

So one has to wait until something occurs which could be, as you put it, substantiated like a criminal conviction or something like that? - No, that is certainly not what I said.

If/

If we turn the page to paragraph 30 the Commissioner concludes "I find nothing in the later reasons advanced by the Council to persuade me that the decision to discontinue the letting arrangement was taken without maladministration. The proper use of a local authority's powers, even those which are entirely discretionary, involves, amongst other things, giving proper attention to considerations which are relevant and ignoring or discounting considerations which are of little or no relevance, particularly if evidence is not adequately substantiated"? - Yes.

Bearing/

Bearing that in mind and taking note of the Commissioner's decision below in paragraph 33 that the Regional Council's decision was illfounded, can you explain how the Commissioner was able to come to that decision or conclusion without a consideration of factors such as potential risk to children and the welfare of the children which I think you have told us earlier are both relevant matters? - Yes, I certainly confirm that in my view both of these are relevant matters and therefore I can't tell you how or why the Commissioner reached the conclusion that he did; I regret that I am simply am not able to explain the reasoning of someone else in reaching their individual findings.

I think the implication of your evidence is that it is your view that he ought to have considered these matters because they are both relevant to whether or not the Regional Council's decision was or was not illfounded? - You are perhaps asking me in a sense if I would have reached the same conclusion and clearly since I was not involved in the conducting of the investigation that really isn't something that I can indicate. I agree that the welfare of children is paramount but I think we must constantly remember that what the Commissioner was looking into, in fact was procedure and process of the local authority. It was drawn apparently into touching on the merits of the decision so his role was primarily to decide whether there was maladministration in the manner in which the authority dealt with this.

I probably didn't put the question very clearly; I am not asking you whether you would have come to the same decision, I am putting to you that the implication of your evidence is that you would agree that the Commissioner, before expressing a view on the mertis of the decision, ought to have referred to the matters of welfare of the children and potential risk to them? - No, I don't think I do agree with you, I am afraid. I think what the Commissioner requires to have regard to in the first instance is whether or not there has been maladministration. In the Commissioner's view it is not clear that he did believe that there had been maladministration in the manner in which the authority/

authority reached their decision.

I won't take up a lot more time on this but if we go back and look at the passage at the top of the page there? - Yes.

The Commissioner's own words are "The proper use of a local authority's powers, even those which are entirely discretionary, involved, among other things, giving proper attention to considerations which are relevant". Do you see that? - Yes, I do.

I think we are in agreement that the two issues of risk of children and welfare of children were the relevant consideration in the context of this decision by the Council -- correct so far? - Again my view is that the welfare of children is exceedingly important in reaching any decision and I personally agree with you, there is no dispute on that.

It follows as a matter of inevitable logic, does it not, that before the Commissioner saw fit to express a view on the merits of the Regional Council's decision acting in accordance with his own injunction at the top of the page he should have given proper attention to those relevant or, as you would put it, important considerations? - I think again I would have to take you back to his attempts to obtain further factual information about the complaints which have been received. He was not able to obtain such information from the authority and again it is difficult to say that he should have concluded that matters were relevant when, in fact, he was not in possession of any factual information relating to those matters.

Surely that would be an argument for coming to no decision because you have a lack of information? - I don't think you are allowed to come to no decision -- I am sorry. The requirement is to find if there has been maladministration or there is not and the one thing about which I am in no doubt is that the Commissioner at that time formed a view which was his view and his alone that the complaint of maladministration was well founded. He concluded that there had been maladministration in the way in which the authority dealt with this matter.

We/

We are maybe at cross-purposes here. I am asking you this question in the context of the Commissioner's view on the merits of the matter; I think you have indicated to us there is not a Statutory obligation upon him to express a view on the merits of the matter, is that correct? - Yes, there is a general prohibition, in fact, against challenging the merits of the decision in which that decision has been taken on maladministration.

It would be open to the Commissioner to say maladministration or no maladministration, he is under no obligation to go on and express a view on whether or not the decision was well founded or illfounded -- correct? - Absolutely correct, and I think perhaps you have touched on what is a very helpful point, that the role of the Commissioner is essential to determine whether or not there has been maladministration. Secondly, if there has been maladministration whether any injustice has ensued and it is traditional nowadays to indicate what action should be taken by the authority to remedy an injustice.

I will just come back to this one more time and this will perhaps be the last time I will take the point. In the context of not a maladministration but in the context of the Commissioner's conclusions in paragraph 33 that the Regional Councils decision was illfounded, given that we are agreed that the issue of welfare of children and potential risks to children are relevant and given the Commissioner's view that proper attention should be given to relevant considerations does it not follow as a matter of logic that before expressing a view on the merits of the Council's decision the Commissioner should have had regard to these two matters? - Again I don't think I can give you a yes or no answer. What the Commissioner had done from my interpretation of what his findings were, he had concluded that there had been maladministration; for reasons which I can't expand upon or explain he saw fit to move further into the merits of the decision and you are correct, it appears from reading this bit he expreses a view on the merits of the decision; that is not something that he was precluded from doing because he had found maladministration but on the other hand that is unusual to express a view on the merits of the decision because after all the decision itself was a matter for the local authority; the Commissioner's principal concern is that procedures that they use in coming to that decision are correct, proper and acceptable.

Well,/

Well, I won't question you any further for a yes or no answer to my question but, of course, the matter went just a little bit further and the conclusion at the foot of the page or rather at the conclusion on paragraph 33 because in the final paragraph over the page if you would have a look at that for a moment? - Yes, I am familiar with the paragraph.

The Commissioner went on to indicate that on the evidence available "I see no reason why the Council should not now grant a let"? - Yes, that is correct, that is what he said.

And one thing which you have emphasised on a number of occasions today is that the Commissioner had precious little in the way of direct evidence as to the reason for unease on the part of the parents? - Yes, correct.

Do you agree it may have been a good idea to find out a little bit more about that before expressing that view? - I think the expression of the view as to what the Council may now do probably goes further than one would have expected in relation to the concerns for proper procedures to be implemented; the Commissioner or the Ombudsman would normally look for a remedy which puts right the procedures that have gone wrong and the decision would normally be a matter for the Authority to take and indeed, of course, it remains open to the Authority to take whatever decision they saw fit.

Thank you for that. I just have one last matter and it relates to the passage at the top of page seven; to put this in context at the bottom of the page before I think the Commissioner here is recording certain evidence which appears to be before him; we see on the 18th of October "The complainant submitted a formal appeal on behalf of the group against the decision; Councillors and officials were invited to attend their meetings and judge for themselves the standards of supervision, organisation, safety etc."? - Yes.

"Also, because he had learned of the fact that allegations about his character may have been made, he sought to assure the Council of his good character and integrity"? - Yes.

He/

He also enclosed a copy of a letter dated April 1974 which showed that he had resigned his Scout leadership in April 974 because of his disapproval of certain actions of other Scout officials (the Scout Association have informed me that this was not received by them)"? - Yes.

Am I right in understanding that there is no further consideration of this particular matter by the Commissioner in his report? - Sorry, which particular issue?

I am sorry, I am talking specifically about the letter of April 1974 and the evidence from the Scout Association that this letter had not been received by them? - You are correct, that there is no further reference to that within the report.

Would you have expected, particularly in the context of the view on the merits of the decision, would you have expected the Commissioner to investigate with the Scout Association why Mr. Hamilton left the Scout leadership and why they dispute the receipt of this letter? - No, I wouldn't have expected the Commissioner to pursue that; the complaint that the Commissioner is investigating is a complaint against the Local Authority, he is not investigating the individual, he is investigating a complaint from an individual against the Local Authority and I wouldn't have expected him to pursue an.....in fact, it so happened that we did involve, as you know, the Scout Association because of the reference to that to give them an opportunity to comment.

They/

They haven't indicated that the letter referred to in the draft report was not received by them. It was proper in my view to record that and their decision but I don't think it was a matter for the Commissioner to pursue in detailing the circumstances of why Mr. Hamilton was leaving the Scout Association.

You might be unaware of this but we have heard evidence in this Inquiry which appears to indicate beyond any reasonable doubt that Hamilton didn't write such a letter in April, 1974 and that he lost his warrant, his warrant for the Scout Movement was withdrawn for a number of reasons reflecting adversely on his character and suitability to look after young children; might that indicate that one lesson, no doubt amongst others, that could be learned from this whole tragic business is that in the future the Commissioner might carry out a reasonably careful investigation before expressing a view as to the merits of a Council's decision? - I can't quarrel with your suggestion that we should carry out a detailed investigation, I would subscribe totally to that, but what I would say is that you require to bear in mind that the Commissioner is conducting a formal investigation of a local authority, he is not conducting a formal investigation of an individual complainant; the investigation relates to an alleged maladministration by the authority and, in my view, one requires to exercise some caution in the extent to which one investigates the circumstances of the individual who brings the complaint; the interest of the Ombudsman is largely not maladministration by a local authority and he is not, in my view, there to institute examination into the character or past of the complainant who brings a complaint to him.

So/

So the answer to my question is Yes, you agree with that? - I would agree that the Commissioner must always conduct a detailed investigation into the allegations of maladministration that have been made. The answer to that must certainly be Yes.

CROSS-EXAMINED BY MR. GIBB: Just a couple of points, Miss Renton. I wonder if you would look at page 11 of the report, paragraph 32. I know it is a bit out of order, the Commissioner has been dealing with the merits and Lord Cullen asked you about the key to the door of procedures? - Yes.

Do you think that is the key to the door, namely failure to investigate properly? - You are referring to paragraph 32?

He should be given the opportunity to put his side? - Yes.

Is that a defect in procedure? - Very much so. If you were asking me what the key to the door was, it appears to me -- as I say, I have read the report in the same way that all of you have read the report and it was my view that the finding of maladministration was based on the termination having been effected without notice, no explanation having been given for the termination, and Mr. Hamilton having been denied an opportunity of putting his side of the case. I see those as procedural flaws upon which the Ombudsman had reached a finding of maladministration.

One other point: Mr. Cobb earlier made reference about concerns to disclose the identity of any complainer as Mr. Hamilton later did. Did you form any view that it is necessary for a local authority to identify complainers or do you have any guidance as to whether it is necessary to identify complainers such as parents and third parties who make complaints. Is that something you have given any guidance to local authorities on? - To the best of my knowledge we have not given guidance and I think to a considerable extent authorities would require to exercise some discretion in revealing identities. The only analogy that I can draw to that/

that is the very difficult situation of anti-social tenants where I think there is occasionally some considerable difficulty in identifying who the complainants are, and I think in general authorities if they can avoid doing so do not identify who has made the complaint.

So in this case if Hamilton had made subsequent complaints about the Regional Council and the Regional Council had given you information and asked you to keep the identity of the complainers about Hamilton confidential to your office, this is something which you are perfectly used to dealing with? - Oh, indeed. There is no difficulty in fact in maintaining confidentiality. I take the view that the information that we obtain is for our benefit in order to determine whether to investigate or not. We are not a mail box in terms of simply passing information through or onwards and therefore information that was made available to us need not have gone any further.

No re-examination.

BY LORD CULLEN: Perhaps I can ask one point: this is to do with paragraph 32 of the report, assuming that is the key passage. When the Ombudsman used the word "fair" or "unfair" can you tell me what yardstick is generally understood by that. What test or standard is applied to determine whether something is fair or unfair? - Well, again I think that our primary interest is in what may best be described as good administrative practice. There are available guidance issued by many organisations of administrative practice in relation to various special fields of local government activity, and obviously there are some general principles that would apply. One of the general principles I think that would apply would be that unless there was some good reason to the contrary it is good administrative practice to give someone about whom the decision is to be taken an opportunity to have a say in answering the case. I am thinking, for example, again of planning applications. It would be unfair to invite the objectors to state their case before the Planning Committee without in my view also offering the applicant an opportunity.

Is there room for some distinction as to the/

the kind of decision to which that matter is applied. I can understand that in planning you have an application and you have to take a decision and so on. But here all we are talking about is a termination of a let which may be thought to some extent if not wholly to be within the discretion of the local authority? - Yes, I agree that that may, there may be an argument to say that it is discretionary and therefore they could do so, but can I go on to say that we are increasingly guided if not indeed bound by good practice principles, and at the present time I am serving on a Working Party relating to the subject of "Openness in Local Government". One of the fundamental principles that is emerging about that is the need when a decision is unfavourable to someone to give them an explanation for that. People deserve at least an explanation.

I understand that, of course, and the investigation the Ombudsman was concerned with was whether the decision process was flawed or not. Obviously it may create a position if people are not told until after the event what happened and perhaps aren't told why. So you say it is really rooted all the time in what is good administrative practice? - Yes, unless there is good reason why it should not be applied.

MR. LAKE: Sir, there is one matter I could usefully put to the witness to assist the Inquiry in re-examination.

RE-EXAMINED BY MR. LAKE: Could I ask you again to have in front of you D14 within folder J(v). You have already referred to the large bundle of documents which contains amongst other things the response from Lothian Regional Council to the request for information from them in the fourteenth item with D14. Could you look at that please. This is a letter from the Commissioner to Mr. Hamilton dated 12th April, 1990. You see that is the letter addressed to Mr. Hamilton from a different Commissioner, and it relates to the decision not to carry out an investigation into the complaint relating to the Lothian Region? - It does.

If you go to the second paragraph of that you see it says that I am in no doubt your disappointment/

disappointment relates to the fact the Commissioner does not propose to mount a formal investigation into your complaint? - That is right.

For reasons that are given in the next pararaph. Could you read that whole paragraph please? - The letter says "He takes the view that he cannot level any criticism against Lothian Regional Council for their actions in suspending your let of Linlithgow Academy when confronted with the allegations made in May, 1989. In making this decision he is conscious that a local authority has to demonstrate a high duty of care where children are involved".

On this occasion there is express reference to care of children that hadn't been found within the earlier report? - There is a reference in this decision.

BY LORD CULLEN: To be quite clear, obviously this came at an earlier stage before he has entered into an investigation. But what view is the Commissioner taking there as to a possible case for maladministration? - He is not in fact expressing a view on whether or not there is maladministration.

No. Isn't he required to consider whether there is at least a case for investigation on that ground? - The Act is very -- the discretion in the Act is very wide. It is left to the Commissioner to decide whether or not to initiate a formal investigation. This letter is a decision letter to the effect that he is not going to investigate formally and therefore he is not going to make a finding of maladministration or no maladministration. But the letter goes further in explaining in fact as the Act requires us to do the reasons for reaching the decision not to mount a formal investigation and on this occasion his reason given is that the Commissioner -- who I may say was a different Commissioner from the original complaint -- took the view that he was satisfied he could not level criticism against the authority for suspending the let. But, of course, I think it also goes on in the second line of the paragraph to indicate that the Council had informed him that any request for a let will be given positive consideration.

Does/

Does that part of the letter imply he had taken the view that there was no, if you like, stateable case for maladministration? - Yes, I think he actually -- the letter indicates that the decision of the Council to act as they did was in his view acceptable given that on this occasion this was when the authority had informed him that there was an ongoing police investigation.

I can see so far as the latter part of the letter is concerned he might take the view he wasn't going to take any further action pending something else happening. It really looks as if the earlier part is the controlling passage; is that right? - Yes.

MR. BONOMY: I think, sir, this may be an appropriate point on which to adjourn until tomorrow when I can't promise the same level of excitement as today.

LORD CULLEN: I am sure we will all be here.

Adjourned until tomorrow
at 10 a.m.

SIXTEENTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

WEDNESDAY, 19th JUNE, 1996.

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G HT.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
DAVID PAUL JONES,	
Examined by Mr. Bonomy.....	4
Cross-examined by Mr. Gibb.....	13
ROBERT BALL,	
Examined by Mr. Bonomy.....	14
Cross-examined by Mr. Jones.....	54
Re-examined by Mr. Bonomy.....	57
GEORGE VALENTINE,	
Examined by Mr. Bonomy.....	57
Cross-examined by Mr. Campbell.....	62
PATRICIA MARGARET ANNE CARTER,	
Examined by Mr. Bonomy.....	63
Cross-examined by Mr. Campbell.....	73
Cross-examined by Mr. Gibb.....	74
Re-examined by Mr. Bonomy.....	75
WILLIAM BURNS MacFARLANE,	
Examined by Mr. Bonomy.....	77
Cross-examined by Mr. Campbell.....	87
Cross-examined by Mr. Taylor.....	90
Re-examined by Mr. Bonomy.....	90
DUNCAN GRAHAM McGREGOR,	
Examined by Mr. Bonomy.....	91
WILLIAM McGREGOR THOMSON,	
Examined by Mr. Bonomy.....	99
Cross-examined by Mr. Campbell.....	104
DOUGALS RALPH,	
Examined by Mr. Bonomy.....	105
Cross-examined by Mr. Campbell.....	109
ALLAN MOFFAT, (Recalled)	
Examined by Mr. Bonomy.....	110
RONALD ISLES,	
Examined by Mr. Lake.....	113

PAUL RICHARD SMITH,
Examined by Mr. Bonomy..... 115
Cross-examined by Mr. Campbell..... 121
Cross-examined by Mr. Taylor..... 121
Re-examined by Mr. Bonomy..... 122

DEREK ROBERT PENMAN,
Examined by Mr. Lake..... 122

WEDNESDAY, 19th JUNE 1996.

SIXTEENTH DAY.

DAVID PAUL JONES (39) Sworn

EXAMINED BY MR. BONOMY: I think you are a Local Government Officer? - Yes.

And you live in Falkirk? - I do.

And you are a married man and you have three sons? - Three boys, yes.

And they are all fairly young, is that right? - Aged between 8 and 12.

April '95, did they show an interest in an extra curricular activity at the school? - I am not sure it was the school as such the actual notification of the particular boys club was from; my children brought letters home from the school which awakened their interest in participating in these activities.

Do you know which one of your kids brought the letter home? - If I am not mistaken I think it was possibly two of the boys.

Were they then at primary or secondary school? - All at primary school.

Which primary school was it? - St. Andrew's, Falkirk.

So the communication had been distributed at the school? - I don't know whether it was physically handed out by an actual member of staff.

But it was something that was brought home from the school, as far as you were concerned? - Yes.

What was it about? - Informing the parents that a boys club would commence at Craig High School and the session was between 6 and 8 o'clock on a Friday evening.

I put the date and year to you but what is your best recollection of the time that it happened? - It was somewhere between Easter and the/

the end of term in 1995.

Did the communication say the nature of the activities at the club? - Yes, I think it specified all manner of ball games, gymnastics and general keep fit exercises.

Did it mention a fee? - Yes, it was £1 per child.

Did it mention the possibility of children being photographed? - No.

What was your position about whether the children should go to this? - All three of my boys were enthusiastic and as a parent wishing them to participate in all manner of sports I was keen they should be involved.

Did you take them along yourself? - Yes, I did.

All three of them? - Yes.

Did you meet the person who was running it? - Yes, I did.

Who was that? - Thomas Hamilton.

Was that the first time you went along? - Yes, the first evening.

Did you have a chat with him? - Very briefly, five, ten minutes maybe.

What impression did you form at that stage? - He gave me the impression that the particular night's events would be very structured and I was taken aback by the number of children that had turned up.

How many were there? - My best guess would be about 60, it was very very popular.

At that stage were you at all concerned about Hamilton as a bad influence? - Absolutely not, I knew nothing of his background other than my brief five or ten minutes introduction.

After that first occasion did your kids go/

go back? - Yes, they were very keen to continue, they thoroughly enjoyed it.

Over what period of time? - It was on a weekly basis, I can't remember the exact date it started but for possibly six weeks, six sessions.

Did you ever go to the club yourself other than to deliver or collect them? - I always delivered my boys and I collected them.

On these occasions did you ever speak to Hamilton? - Briefly in passing.

Nothing happened in these conversations that caused you any concern about him? - Absolutely not, he complimented one of.....my youngest boy, he has quite an aptitude for ball games generally and he did point out that my youngest boy was particularly keen and was an excellent student.

Did he have any assistance with these classes? - Yes, there was at least one, possibly two assistants, and they all seemed to me to be students of physical education.

Once the enthusiasm of the first night subsided was there generally a regular attendance? - Yes, again from memory it was perpetually well attended, there seemed to be a substantial number of children.

As many as probably on the first night? - I would say possibly yes.

And remind us of that number roughly? - My first guess was 60, that was the order of children that I would see regularly over that six week period.

Did you hear that there would be a camp in the summer? - I did, Mr. Hamilton had explained.....in fact, I think he issued a hand-out to parents outlining the summer activities and it was meant to be arranged at Dunblane High School where the children would be invited to take over a two week period an intensive course of physical education and have instruction on various specialities and Mr. Hamilton had indicated that my youngest boy would be particularly well suited to such/

such a course.

Did any of the kids go to that? - It just happened to be we were away on leave, on holiday, that particular fortnight when it was arranged and I think it was the first two weeks of the school holiday, that would be the first two weeks in July and we were away on holiday so it was unavoidable that none of my children could have attended.

Was the information you got in writing about the summer camps quite lengthy? - Yes, I think it involved at least two pages of A4 written text, it was a handwritten text by Mr. Hamilton and the letters I have seen subsequently were very very detailed, very small prints and there was quite a lot of information on this paper.

Print rather than handwriting? - Sorry, it was handwriting.

So all the information you got was handwritten? - Yes.

Do you remember whether it disclosed or said anything about photography and the children? - That is not an aspect I can recall, I don't think it specified that.

On the face of it would it have bothered you? - At that time possibly not.

Do you know if any of your children ever were photographed by Hamilton? - I am not aware of it.

Did any of the children ever go to Dunblane High School? - Yes, two of my sons at least made possibly two or three visits and this was an extra night during the week, I think from memory it was a Thursday evening.

How did they get there? - They were collected at the normal pick-up point at Graham High Street by Mr. Hamilton in a minibus along with at least a dozen or so other children.

After the summer break was there a club established somewhere else? - When we returned from holiday/

holiday possibly approaching the end of July we got a letter and I just assumed it would go to the other parents who had expressed an interest in the summer school activities outlining the details of that particular course; it was a very detailed letter specifying the references of all the assistants Mr. Hamilton had, dealing with the qualifications of the people involved, the range of activities that took place and Mr. Hamilton specified the references to these assistants in relation to the work that they had done with the children over the two week period. It was a very very detailed letter insofar as it commented on I think it was an open day towards the end of that two week summer school were parents were invited to see the final displays of what the children had been learning over that two weeks.

Was this a typewritten letter? - No, handwritten.

This was again handwritten? - Yes.

Now, I was interested to know if somewhere else was to be set up for the new winter session? - After we received that letter I think we were communicated to by Mr. Hamilton, again a handwritten note informing us it was his intention to re-commence a boys club in Falkirk; the venue had changed, this would be Falkirk High School.

Did the boys go back? - They did indeed, all three.

And did you go? - I delivered and collected my boys.

Was that as well attended? - No, it was a much reduced number, it was possibly no more than a dozen.

Did you spend some time watching what was going on? - At that stage I was aware of some comments that had been made about Mr. Hamilton and I can't recall the source of these comments; I think it was passed to me in general conversation that there may be some difficulty in terms of running these particular boys clubs.

So what did you observe of the activities that were going on? - As all three of my children were/

were keen to continue I delivered the boys at the normal time, 6 o'clock on a Monday and I went to collect my boys almost 20 minutes, even half an hour before the end of the session; I usually stood outside the gym hall waiting for them to get ready and basically keep an eye on what was happening inside the actual gym hall itself; there seemed to be general games, football, five-a-side and my boys were particularly keen on some form of general chasey games, what you call pirates, swinging around using some of the gym furniture and all of the boys were very enthusiastic and they thoroughly enjoyed it.

Are your three boys quite lively? - Yes, they are normal healthy boys.

They always, as far as you could tell, participated in fairly active sporting activities such as swinging on ropes and so on? - Yes, no problem.

And did your observations of these leave you with any anxiety about the treatment of the children at these clubs? - I can say at first hand over the time I was witnessing these events my children were quite happy and were enthusiastic participants.

Was Mr. Hamilton assisted in the Falkirk High School club by anyone else? - No, at that stage it was simply Thomas Hamilton.

Was a suggestion made to you? - In what context?

About assisting? - I think Mr. Hamilton had witnessed that I was.....I had turned up regularly, sometimes before the end of the session, and he noticed that I was kind of peering in through the doorway and he invited me to take part in the five-a-side games basically; Mr. Hamilton would be in one team and I would provide the muscle for the other side and for 10 minutes before the end of the session I would happily do that.

Did you become more involved in the running of the club? - As time wore on and I am trying to put dates together now, I can't remember the exact start of the autumn session; it must have been/

been through the month of October Mr. Hamilton come to me and said he had experienced some difficulty in getting assistance to continue his Falkirk club and as a result he was trying to make alternative arrangements to bring someone who would take over from him; as I said, he was telling me he was about to start a new club and I think he mentioned Bishopbriggs at that time and would I be willing to take over from Mr. Hamilton; I was extremely reluctant to do so simply because of my work commitments and I am involved in another capacity at my son's secondary school at their youth club and I felt it was too much. Nevertheless, Mr. Hamilton telephoned me and he said "I am having great difficulty in securing further assistance and if that is the case then the club would have to close", could he rely on me as being a last resort. After perhaps two or possibly more telephone calls I was finally persuaded, not least because of the interest of my own children who felt they would be denied access to a very enjoyable means to recreation.

Did you get involved with running the club? - Yes, I did ultimately.

From what date roughly? - I think it was from the second week of November 1995.

Until when? - Early March 1996.

What brought it to an end in early March? - Basically my own work commitments; I was involved with the Local Government re-organisation at that stage and I was just finding the actual start time of 6 o'clock in the evening was becoming very difficult for me to make that appointment.

From the time that you took the club over did you see Hamilton again? - Not in person -- he rang me on the telephone possibly twice; I communicated with him by telephone and it was a fairly loose arrangement whereby he would pop in from time to time to see how things were going and how the club was performing and just basically to keep a check on the number of children who were attending.

Did he ever do that? - No -- sorry, he did visit me at my home one Monday evening, it must have been the third week of December, possibly the week/

week before the Christmas break; that was the Monday and for that reason I cancelled that particular night because I couldn't make it, I was elsewhere.

Could you detect in conversation with him any loss of interest? - Absolutely not, he was particularly keen to encourage me to bring in more children basically to keep the numbers up; at that stage the number of children were no more than at one time possibly 10, maybe 11, three of that number were my own children.

When do you recall your last conversation with him was? - It may have been January, possibly into February.

Did he do anything to notify people of the change, that you would be running the club? - Yes, Mr. Hamilton had produced a printed handbill with my name and address as the contact number and this would be distributed to the local network of schools.

Was there still a fee for going to the club? - Yes, each child was being charged £1 a head.

Did you collect that money? - Yes, I collected that money.

What was Hamilton's arrangements about that? - He would see me at some stage in the future to take the money from me.

Did he ever do that? - No.

At/

10.20 a.m.

At any visit that you paid to the club in either Graham High School when he was running it how were the children dressed? - The children, not just my own boys, turned up with tracksuits and gym kit, shorts, tee shirts, vests underneath, and they would peel off their top clothing and straight into the activities.

Was that bare chested or wearing some type of clothing? - From time to time the kids took their shirts off, yes.

And vests as well? - Well, vests and tee shirts perhaps.

When you were taking the class how were the children normally dressed for the activity? - Tee shirt, football shorts , very loose clothing.

Was that different from the arrangement he had with them? - No, it was just a continuation.

Were there any occasions when he had the kids with their upper clothing completely off that you remember? - Yes. My own children in particular were very keen to shed clothing when they were particularly hot and they peeled off all sorts of.....

Did your own children or others do that when you were running the club? - Yes.

Do you see anything yourself wrong with the way in which they were doing that? - No. Kids, when they are under pressure, when they are enjoying the gymnasium, they felt the best way to cool down was to take off their tops.

On any occasion did Hamilton produce any clothing for them, either shorts or swimming trunks? - That that I am aware.

Did you on any occasion see the children undertaking their activities dressed in swimming trunks? - No.

Did you ever see any photographic equipment set up by Mr. Hamilton? - No.

CROSS-EXAMINED BY MR. GIBB: Did the fact that/

that Hamilton was operating in a school have any bearing on your assessment of his suitability to run a club? - Possibly it did. I am aware that many organisations do use school facilities and premises out of normal school hours. It may have done but I didn't think of that as being particularly significant.

Can you remember who the mini-bus belonged to that he used? - I just remember the colour, the typical school type. It was yellow in colour. I just assumed that was part of the fleet of buses used by the Education Department.

If an accident had happened while you were in charge and a boy had been injured where do you think liability may have lain for that? - I did raise this point with Mr. Hamilton, given that I had no specific qualifications, and Mr. Hamilton said, well, obviously use commonsense, as long as the children did not use any specific equipment within the gym, furniture, but simple ball games, general exercises, that kind of activity would be quite normal.

But you never thought about the question of insurance? - Well, obviously the fact I had raised it with Mr. Hamilton as part of the whole discussions, I felt it was particularly appropriate, and from what Mr. Hamilton said I would be covered under the normal group activities.

So far as you are aware he had some sort of group activity insurance that would cover you in the event? - Yes.

No further cross-examination.
No re-examination.

BY LORD CULLEN: You have told us that the club moved on to Falkirk High School. Can you tell me what month operations began at Falkirk High School? - To the best of my recollection, sir, it would have been September.

ROBERT BALL, (50), Affirmed,

EXAMINED BY MR. BONOMY: Are you a University Lecturer? - Senior Lecturer at Stirling University./

University.

I think you are a Regional Councillor or at least were a Regional Councillor until the termination of the Central Region Authority? - That is correct. I was a Central Regional Councillor to 1st May, 1996 from 1978.

Are you still a Councillor with another authority? - Now I am a member of Stirling Council.

When were you first elected to Central Region? - I was first elected to Central Regional Council in the elections of May, 1978.

And from 1978 to 1996 did you represent more or less the same Ward area? - Yes, I represented the Wallace Division.

And did that incorporate the areas in which Thomas Hamilton lived between 1978 and 1996? - That is right. I believe that Mr. Hamilton first lived in the Riverside area, which was part of my Division, and then he moved into Braehead Division, and by the time he moved to Braehead the reorganisation of boundaries had put Braehead into my Division as well.

So Kent Road is in Braehead Division? - Kent Road is in Braehead area which became part of my Division after 1982.

As a Regional Councillor do you make yourself available in particular locations to meet constituents who want to make complaints or raise issues? - Yes. I run a regular programme of surgeries both in Riverside, Braehead and Cornton.

Was it at one of these surgeries you first met Thomas Hamilton? - Yes, it was at one of these surgeries, although it may have been actually in the Council that I first met Thomas Hamilton.

What do you mean by "in the Council"? - He may have made arrangements to meet. It was either a surgery or he had arranged to meet me in the Council. I can't remember at this date.

Was your meeting with him your first knowledge/

knowledge of him or did you know him before that?
- The first knowledge of him was when I met him I think on the 4th October, 1983.

In what context did you meet him? - Hamilton had complained he had got a letter sent by the Central Regional Council which informed him his let of school premises had been terminated. The letter was fairly brief and gave no explanation as to why that decision had been taken.

You as a Councillor were not aware of that because it was in a different Department or had been done by someone you had no connection with? - It had been done by a sub-committee of which I was not a member of.

What did you make of the basis on which he had been told he would not have the let of premises? - Well, I thought it was unsatisfactory in that he had had a let of premises for a number of years and I thought it was only reasonable that before the let should be terminated some reason or explanation should be given.

Did that letter in fact relate to you what let he had? - I think it was a let of Dunblane High School.

As a result of him contacting you what action did you take? - I tried to find out more about the background of this. I was concerned about the way action had been taken. I asked that Hamilton should have a chance at putting forward his point of view before the decision was confirmed.

Who did you contact? - I contacted the Clerk to the Committee about the various processes that had gone on and I also wrote a letter to Ian Collie asking him to take this point on board.

I wonder if you would have a look at a document for me. It is DCRC/AC/B2/F1 10A (D14 and J(i)).

MR. BONOMY: Sir, J(i) has nearly all the Productions that Councillor Ball will be shown. After we have dealt with this Production the other Productions can be dealt with in the book that the Bar Officer has. I assume the one in the book will be/

be just as illegible as the one I have got.

EXAMINATION CONTINUED BY MR. BONOMY: Is that a memo dated 14th October, 1983? - It seems to be.

You have got the original one? - Not very legible anyway. I can see it is dated 14th October.

Who is it from? - It is from Hugh Hamilton to Percy Buchanan.

Who is Hugh Hamilton? - Hugh Hamilton is the Clerk to the Committee.

Can you read it? - Not very well.

It is about Hamilton getting confidential information that perhaps shouldn't have been available to him and shouldn't have been available to people outwith the Committee which had been meeting in confidence. Were you aware of that concern being expressed at the time? - I was unaware of that concern being expressed. I wasn't really in possession of any confidential information since I wasn't a member of the Committee.

My question is exactly that one but slightly differently phrased. Did you have any source of confidential information which you passed on to Hamilton? - I didn't pass on confidential information to Hamilton. Obviously I had a copy of the Minute which was the basis of my discussion with Hamilton.

Were the Minutes confidential as well? - The Minutes were part of the public record. I obviously had to know what decisions had been taken.

Did you manage to get the sub-committee to reconsider the position? - The sub-committee did reconsider the position. I am not sure of whether that was as a result of my efforts or just -- I think the decision was reconsidered on November 7th but I don't know if that had anything to do with my efforts. I think it was partly because of the amount of correspondence received in the Council from users and parents of Hamilton's clubs.

Could/

Could you look at D19. You will see there a copy of a letter dated 25th October, 1983 from you to Mr. Collie the Director of Education in which you express certain views, and it seems, looking at the second sentence, "It seems to me that when this decision was taken there may have been a breach of natural justice in that no formal complaints were brought against the operation of the Dunblane Rover Group and that Mr. Hamilton was not given any opportunity to reply to such compaints"? - Yes. That was the decision which had been discussed around the Council.

I think in the second paragraph you mention other workers, one of whom was actually a physical education teacher employed by Central Region? - That is right.

Did you know who that person was? - No, I didn't.

Have you since learned that there actually was a physical education teacher there at that time? - No, I haven't but that was one point about taking the matter further, to actually investigate these things to see whether he was operating as an individual or whether he would have the support that he claimed.

You wanted to give Hamilton an opportunity to answer any criticisms; is that right? - I thought that would be the appropriate way of doing things. If there was criticisms at least Hamilton would have an opportunity to respond to them, then the Committee would perhaps take a decision based on all the evidence available.

How did you envisage him responding? - Well, very hard to -- since I wasn't all that clear what the exact details of the complaint against him were, I really didn't have any particular view on how he might respond. But I thought he should have an opportunity to do so.

Was this letter meant to be a response in a way of putting his side of the argument? - The letter was trying to resolve the situation, perhaps trying to create an opportunity for Hamilton to put forward his side of the argument so that all relevant factors could be considered.

Would/

Would you read the last paragraph please? - "I feel that if we do not agree to at least review the situation, then Mr. Hamilton might have a very strong case to appeal to the Ombudsman on the grounds of maladministration on the part of our Education officials".

That was the view you held at the time? - I felt natural justice hadn't been carried out in this particular case at that particular time.

Did you have a number of meetings with Hamilton at that time? - I think from time to time we were in contact, yes.

Was one of the things he wanted to do to institute a complaint to the Ombudsman? - I think after the whole question was reconsidered by the sub-committee there was a vote by the sub-committee and I believe there was an amendment laid in which it was suggested that consultation take place with Hamilton's club. That was the meeting of November the 7th. Following that I think Hamilton -- the sub-committee really reconfirmed their decision and I think Hamilton suggested taking the matter to the Ombudsman.

I think at that stage the Committee hadn't reconsidered -- they simply adhered to their previous decision? - Yes, they adhered to their previous decision, that's right.

Now,/

10.40 a.m.

Now, if you look at D15, do you see there the formal complaint to the Ombudsman? - Yes.

In fact it is dated 10th October, which is prior to that meeting? - "When did you first inform the Council about it?".

I am sorry. That is when he told you about it? - That is the first time he made his original complaint. That would be the very first meeting, where he told me about that particular complaint.

If we look at the second page do we have the date on the form of 24th November? - Yes.

And you sign it as his Regional councillor on the 1st December? - That would be following further consideration of the matter by the Further Education Sub-Committee of the Regional Council.

Could you look at D30a. That is a handwritten letter of yours to the Ombudsman? - Yes.

You say in that letter in the second paragraph "I would like to make two comments about his complaint"? - Yes.

Can you read what they are? - Firstly, it is normal practice when sending the Ombudsman this form to put in your own observations and also to make reference to the fact that you have tried to settle the thing locally.

Yes? - Firstly, "The FE Sub-Committee decided to withdraw the let of Mr. Hamilton's organisation purely on the basis of informal complaints and innuendo. Nothing has been substantiated, and the Education Department failed to investigate certain complaints that could have been investigated".

And secondly? - "Mr. Hamilton has at all times been willing to answer any complaint or make any reasonable changes in the way his organisation operates to try to meet the wishes of the/

the Council. So far he has been refused a hearing".

And your final paragraph? - "My view would be that there could be concern about the way this matter has been handled. Whether this would constitute maladministration is a matter for the Commissioner".

I think Hamilton's own form said it was "possible maladministration briefly in that the Council may have acted upon malicious gossip and unfounded allegations without investigation. I may have been slandered my officials to councillors, resulting in the loss of let of Dunblane High School to boys' club"? - Yes.

These were the comments he made himself? - Yes, there were his comments, not my comments.

What was your view of his treatment at that stage by the Council? - I still felt that the Council obviously did not know very much about the complaints. I was not a member of the Committee, but from what I could gather it seemed there had been little effort to substantiate them. Secondly, I still felt he ought to have had a hearing and have had an opportunity to respond to the complaints that had been made.

When that Minute has to be finally approved -- that is the Minute of this particular Sub-Committee for Further Education -- is that done at the Education Committee or is it done -- does it have to go to the full Council? - It would have to go both to the Education Committee and then to the full Council. At that time very little was delegated, and the Regional Council could change more or less anything they felt necessary.

Do you remember if you voted on this at the full Council? - I don't think there was a division on this issue at the full Council, no.

That means your vote would be recorded as agreeing with the full Council? - I think there would probably be a discussion in the Labour Group, and there would be a Group position on this.

Even in relation to things like letting of/

of premises to individuals about whom there are rumours and perhaps allegations of some substance, although you had not been able to identify them, the Labour Group would take a position, and all Labour councillors would adhere to that? - I can't remember the detail at this stage, but at that stage things were very tightly controlled. At the Education Committee there would be a Labour Group meeting, and a line would be taken on practically everything in the Labour Group Minutes. You would have to go back to the Labour Group Minutes to find out if there was a discussion.

Yes? - Certainly the matter was raised in the majority group at that time, because somebody -- not me -- had leaked the matter to the Press.

It would be no surprise to you if an issue like this would be regarded as a political issue on which the Group should stand firm? - That would not have been my view, but that was the view of the Group in 1983.

Now, while the Ombudsman was considering matters the Council did consider again whether they should vary their view. During that period did you have any meetings with Thomas Hamilton? - I don't think I did, but I know Mr. Hamilton had had meetings with Mr. Collie, and a further application for the Dunblane let went to the Sub-Committee.

At that time, the time you have referred to when there was a Press leak, this was just before you submitted the complaint to the Ombudsman? - Yes.

Did you have meetings at that time with Hamilton in connection with signing that form? - Yes, obviously I had to meet Hamilton to sign the form, and I agreed at that time I would send a letter to the Ombudsman separately giving my views on the circumstances, which would be normal practice for all Ombudsman referrals.

Were you aware of some members of the Labour Group on the Council receiving letters supporting Hamilton? - Yes, I think all councillors received letters and petitions supporting Hamilton at that time.

Did/

Did the Labour Group ultimately divide on the vote whether or not the Council should have a meeting with him? - I can't verify that absolutely without actually seeing -- it is a long time ago -- the Labour Group Minutes, but I think there was definitely a division on the Labour Group about how this should be handled. We would need to check the Minutes to be absolutely certain, but that is my recollection. I suspect that happened when the Minutes of the meeting of November 7th came back to the Education Committee and the Council.

I think in fact I may have misled you about the 7th November. The 7th November meeting is in fact the one fllowing the representations in writing, and there was a division? - Yes, there was a division at the Sub-Committee. The Sub-Committee Minute would come back to the Group for ratification one way or another.

The councillors voting in the minority were Councillors Sneddon and Saunders. Are these Labour councillors? - Charlie Sneddon was the Vice-Convener of the Council at that time, who was obviously a Labour councillor, but Councillor Saunders was -- he seconded the motion -- the leader of the Conservative Group.

So the Sub-Committee was not divided on party political lines? - No, I think various people had various views about the merits of Hamilton's case. It certainly was not a party political split in that sense.

Now, after the complaint to the Ombudsman was in did you hear any more from Hamilton until the result? - I can't remember hearing any more from Hamilton until the result.

Did he send you the result? - I think the Ombudsman sent me the result.

Did you meet Hamilton at that time at all? - I think I probably did meet Hamilton at the surgery to discuss the result.

But you don't remember him speaking to you on the phone and Hamilton telling you that he saw this as a vindication of his actions? - I think that he wouldn't necessarily have said it was a/

a vindication, but the impression I got from Hamilton was that he regarded it as a vindication: that was the impression he gave.

Can you remember whether you met him or spoke to him on the phone? - I think I met him.

Now, what action did the Council want to take as a result of that report? - I think the Council first of all wanted to consider the report, which it did. I think there was a division again in the Council about how it would be handled. I think some members wanted to take no action, and other members wanted to set up a Sub-Committee to meet Hamilton and his Committee and discuss the way forward.

Yes? - I think on a division the proposal to set up a Sub-Committee was successful.

Now, there was some difficulty experienced in organising a meeting between Hamilton and the Sub-Committee; is that right? - Yes, that is right.

He was unwilling to do certain things; is that correct? - I think Hamilton was still also toying with the idea of taking further legal action against the Council.

Could you perhaps look at D67? Have you got that? - Yes, that is right.

That is a letter from a solicitor acting for Hamilton to the Director of Administration? - Yes.

Saying he does not feel a meeting would be any good? - Yes, that is right, because Hamilton wanted to proceed with his legal complaint.

This is dated 25th February, 1985, three months after the Ombudsman's decision? - Yes.

His solicitor indicates he has already provided details of the club constitution and would be prepared to provide any further information the Council required, but that he did not think he needed to meet the Council? - Yes.

Now,/

Now, what did you make of that attitude? - I was disappointed with that attitude, because I thought the Ombudsman's decision was enough for the Council. I was disappointed to find that Hamilton was thinking of taking further legal action, and I contacted Hamilton by telephone and told him that I would give him absolutely no support in any further legal action he would take against the Council, and I said he should meet the Sub-Committee to discuss all the issues which arose from the original problem and also from the Ombudsman's report.

Was he eventually persuaded to do that? - Yes, I think so.

Did that take some time? - Yes.

If you look at D72, I think that is a memo you sent to the Chief Assistant Director of Administration? - That is right.

And in it you say you had spoken to Hamilton, and he has at last taken your advice and agreed to meet the specific Committee which was set up for the purpose? - That is right.

And that meeting did take place? - Yes.

Was a scheme worked out whereby the lets may be restored? - Yes, I think there was a meeting with Hamilton and his Committee, who all seemed quite reasonable people.

And you met with them as well? - I was a member of the Sub-Committee as the local member.

Were you happy with the appearances that were now presented to you? - Yes, I think Hamilton's Committee all looked like reasonable people, who seemed to be involved in the club, so that did away with the worries that there was no proper management structure. On the whole I thought it was a fairly constructive discussion.

What was the next episode that you became involved in? - In the discussion I think it was also agreed that Hamilton would drop the "Rovers" name, there would be a proper management structure and that the Youth & Community organisation/

organisation would monitor his organisation. The next thing involving Hamilton.....

Just before you move on, can you tell me how you envisaged the Youth & Community Department monitoring this organisation? - We did not go into details. We suggested at the meeting that we would keep a watching brief, and maybe visit his club and make sure everything was going on okay from time to time.

Do you know if anybody did that? - I don't think it was done to any great extent.

What was the next episode that you became involved in? - I did not really become involved. As far as I can remember I think the next thing was the Loch Lomond incident in 1988, which I did not get involved in, but I received large volumes of correspondence with regard to the various complaints that Hamilton raised with the police, so I was a post box during most of that process.

Were you in any practical way involved in the investigations which followed that camp? - No. I regarded this as a matter for the police complaints procedure and not really relevant for a local member. I did however get a very large volume of correspondence both from Hamilton about his case and the police.

Can we move on to October, 1990, when Mr. Hamilton raised I think more difficulties with Dunblane High School. Can you remember that? - Yes, I think so.

Can you look at D100? Do you see there a copy of a letter from one of the staff in the Department of Administration, Mr. Flett, to Mr. Hamilton dated 9th October, 1990? - Yes.

Is that indicating there is a problem there, trying to answer a complaint he has raised about losing part of his time for one of his evenings at Dunblane High School? - Yes. I don't think I have ever seen that letter before.

I think your involvement can be seen in D101, which is a letter you have sent to the Convener/

Convener of the Education Committee and the Director of Education, dated 10th October, 1990? - Yes.

Now, does this help to remind you of the situation? - Yes. I think the reason I raised this was not so much the Hamilton situation but the community let of halls. It seemed Hamilton had lost a let to our own Youth & Community service, and that raised the whole argument about whether our own services should be able to push existing users out when they decided to raise any event of their own.

You would see in the previous memo the explanation was that Hamilton was not using part of his time, and that was the bit being taken up by your own community development organisation? - I was never sent that memo. That would have given me a reasonable explanation of what was happening.

But you did have a view about taking lets off independent people and giving them to the Youth & Community service? - Yes.

And that is set out in the memo? - Yes. At this time the Council was very concerned about community use of educational premises, and the Council wanted to encourage community use of educational premises. It seemed to me if we removed lets from organisations which currently had them to take them over for our own services we would be discouraging community groups. I had no idea that Hamilton was not using that particular time, because neither Hamilton nor Mr. Flett sent me a copy of that explanation.

I think you were concerned that Hamilton had an established let of the premises and should not be losing them? - Yes. This letter was not so much about Hamilton but about the general policy question. That is why I wrote to Godfrey as well.

Were/

Were you aware that this was raised by the Ombudsman? - I was unaware that this was raised by the Ombudsman.

Were you aware that it was quite quickly resolved after your intervention? - This particular problem?

Yes? - I wasn't aware that it was resolved but since I didn't receive any more complaints I assumed it must have been.

Would you look at D104; you will see that is a letter to Hamilton telling him it is okay to resume 8 to 10 Thursday evening? - Yes.

If you look at D103? - It wasn't copied to me.

I appreciate that; you will see that is a letter from the Director of Administration to the Chief Executive explaining the position saying in the second paragraph "It is a condition of the Council's scheme of letting of premises that courses etc. run by the Regional Council take precedence over lets to third parties"? - Yes.

Then at the bottom second-last paragraph "I have to advise you that I am unaware of any deliberate policy of targeting Mr. Hamilton;s groups to be disrupted or terminated nor any abuse of the Council's policy on letting"? - I never alleged that there was any disruption intended.

I think the Chief Executive has written a note at the bottom of that memo saying "What about R. Ball's point"? - Yes, it would seem to be quite right if two organisations were applying for a let, for new lets, and one was the Regional Council organisation that the Regional Council should take preference; my worry was that it was seen to be unfair if an organisation had got a let and was operating fairly actively and then loses the let simply because the Regional Council wanted to put on some event of its own so I was arguing the matter in general about all lets rather than specifically the question of Hamilton.

Did/

Did you hear about Hamilton's 1991 camp at Milarrochy Bay? - Yes, I did.

How did you hear about it? - Hamilton sent me correspondence.

The same as in 1988? - The same as in 1988.

Did you get involved in any way? - No, I didn't get involved in any way because I thought it was purely a police matter, I didn't know anything about it, I was happy to sit on the sidelines and see what happened.

There may have been one practical way in which you were involved; there was a complaint made about a part played by one of your social workers? - Yes.

Were you involved in some way advising Hamilton about that? - Hamilton said "I want to complain against two social workers, who do I complain to?" and I said that this is a responsibility of the Chief Executive to handle that and that was my only involvement in that particular issue.

I think then in 1993 Hamilton communicated with you about various questions the Council was asking about him and his organisation? - Yes, that is correct.

How did that arise? - I seemed to be getting a series of memos where lots of questions seemed to be asked about gymnastics qualifications and AGM Minutes and to some extent some of the memos seemed to be going round in circles.

Perhaps if you have D157; is that a letter you sent to Mr. Flett, the administrative chap? - Yes, that's right, that was after we received various pieces of correspondence about this.

Is it dated the 21st of July, 1993? - Yes.

Could you read that please? - "I have had various correspondence recently from Mr. Hamilton./

Hamilton. I do not know whether you are aware of the background to this, but there was a problem with the Education Department a number of years ago which resulted in the Authority being censored by the Ombudsman. Since then Mr. Hamilton has felt that he is being victimised by the Council and I am somewhat concerned to see problems arising again. I hope we are on sound ground and that all the documentation that we seem to be asking from him is also being sought from other organisations". So my main concern was to see that Hamilton was being treated the same as everybody else.

That was as a result of the Council wanting to know about his gymnastics qualifications? - Yes, it wasn't just one letter about his gymnastics qualifications, it was a whole series of letters.

Well, we may see that but certainly that was one of the subjects he was concerned about? - I think gymnastic qualifications and the question of the AGM Minutes.

Did you have a feeling about what was happening at that stage? - I didn't feel that there was any effort to disrupt Hamilton's clubs, I just felt that the thing was getting bogged down in the bureaucratic system and perhaps matters were not being expedited in a reasonable period of time.

Did the Ombudsman spring to mind or did Hamilton introduce the Ombudsman into conversation with you? - I can't remember, I think the Ombudsman sprang to mind but I can't absolutely say one way or another; what I wanted, I wanted to avoid getting into a long exchange of correspondence going on for months and just get the matter resolved.

Now, could you look at D158 which I think is the reply from Mr. Flett, is that right? - Yes.

Could you read out that reply? - "Thank you for your letter of 21st of July 1993, the position is that I have received a number of letters of complaint from individual parents and a School Board about Mr. Hamilton. These complaints refer to Mr. Hamilton's teaching methods, his qualifications and the above committee".

What/

What is the above committee? - The Boys' Sports Clubs Group Committee, that would be Hamilton's committee.

Carry on? - "I have been in correspondence with Mr. Hamilton about these qualifications and am satisfied that these are in line with the Region's current requirements. As to his teaching methods I am still considering the position. So far as the Committee is concerned I have asked Mr. Hamilton for a copy of the Minutes of the last AGM so we can be satisfied that it is a bona fide club. I am aware of the background to Mr. Hamilton and can quite understand that he may feel he is being victimised but I think it is only correct that we address the specific issues raised by individuals and the School Board and advise them accordingly. I trust this information is of assistance but if there is anything further you wish to know do not hesitate to get in touch with me again".

Now, do you know which School Board it was? - No, I don't.

But he does refer there to a number of letters of complaints from individual parents and the School Board? - Yes, about his teaching methods.

Now, he then refers to look for the Minutes of the AGM? - Yes.

And I think eventually you saw correspondence which includes Minutes of an AGM? - Yes.

Is that right? - Yes.

Do you remember the date of these Minutes? - From memory I would say some time about the 8th of August, 1993, was it?

If you look at the date of the letter form Mr. Flett it is dated the 27th of July? - Yes.

And he is looking for a copy of the Minutes of the last AGM? - Right.

Which certainly wouldn't be the 8th of August./

August. Were you aware that subsequently Flett was concerned that what he ultimately got after asking a number of times was Minutes of a meeting which took place after the date he was asking for the Minutes? - No, I wasn't.

You can see they were the Minutes of the 8th of August, that must have been the position? - I suppose it must have been.

Over the piece of this correspondence did you form the impression that the Administration Department was putting obstacles in Hamilton's way? - No, I didn't think that; I think basically things had got perhaps into a bit of a bureaucratic hassle and problems were arising for that reason; nobody told me that there was any policy of obstructing Hamilton's lets or his activities.

Perhaps you could look at D167; you will see that is a memo issued by Mr. Flett dated the 30th of August? - Yes.

If you read that? - "I have had complaints from Tom Hamilton that his new lets have not been processed. Perhaps you could ensure that this matter is speeded up".

What caused you to write that? - I presume I had a complaint from Mr. Hamilton about that, I don't know whether there is any documentary complaint or a telephone complaint, I am not sure but it was normally the practice for the Regional Council to pass on complaints in this way.

And now if you look at D173 which is a letter dated the 21st of September 1993 from you to Mr. Flett? - Yes.

Can you read that one please? - "I have received further correspondence from Mr. Hamilton and it does seem to me that there has been a certain amount of nit-picking over the question of Minutes from the AGM. It seems to me that the Minutes of the meeting of the 8th of August seem to be perfectly satisfactory. I hope the matter of these lets is now resolved and we can try to avoid blowing this up into a long running issue. My experience is that this kind of issue usually ends up with the Regional Council having egg on its face".

We/

We cannot be too hard on Mr. Flett having concern about the Minutes that came in dated after the time he is asking for them? - I didn't realise it was the 1992 Minutes and not the 1993 Minutes he was after.

Well, he had looked for the Minutes of the last meeting back in July and then he gets Minutes which you seem to have seen dated August 1993; was your view at that stage that there was no obstacle to dealing with his lets and granting them? - I have no information that there was any obstacle or that we were putting obstacles in his way but I was just treating this as part of Regional Council business.

Can I take it that up until this time you had never had a complaint direct to you against Mr. Hamilton? - Yes, that is correct.

Did that change just shortly after these letters we have been looking at? - That's right.

Could you look at D176? - Yes.

Now, that is another letter; in fact, I may not have given you the right one? - This is a letter to Mr. Flett that I think I got the same letter myself.

In fact, if you have what I think is a separate document from the folders, DCRC RB10? - Yes.

There should be a memo dated the 11th of October, 1993 from Councillor Ball to Mr. Magee? - Yes, that's right, that's it.

Now, is that the memo you sent when you got the complaint? - That's right.

And can you read what you said to Mr. Magee? - "We need to discuss my response to the enclosed letter. It is possible that it has been sent to the people named in Central Region so therefore there may be a co-ordinated response. My view of this letter is that it is full of innuendo but little hard fact. The question of black shorts and photographic activity was exhaustively investigated by the police back in 1988. Perhaps we could/

could have a brief word about this after the Policy Committee meeting tomorrow".

So you had received a complaint from a family, we don't really need to go into the names? - That's right.

About the summer camp? - Yes.

At least the sports club at one of the peripheral areas where Hamilton was running these activities and about a boy feeling uneasy? - Yes.

Apparently after being with Hamilton, is that right? - That's right.

Indeed I think he had gone to the camp but after the second day he was upset when he was collected? - That's right, yes.

And the things that was concerning the parent was the insistence on the children being topless, having to change into black shorts and photographic activity? - Yes.

The reason you got the letter was because of something in it which was circulated dated the 19th of April, 1993 with a list of names as main contacts for the group? - Yes.

You were listed along with Michael Forsyth? - Yes, Douglas Sinclair I think.

Before we get to the Regional Council Central Scotland Police Inspector Mike Mill? - Yes.

And also your Regional Council Chief Executive and someone else in the Chief Executive's Department, a Regional Council organiser and a Youth and Community officer? - Yes.

Did you do anything about the fact that you were being listed as the main contact for the organisation? - Yes, I telephoned Hamilton and told him I didn't give him permission to do that.

What happened as a result of that? - I think he changed his material in the future.

And secondly, did you not think that this letter/

letter taken along with what you knew of the past because you also knew about 1991? - Yes.

And you knew about concerns in 1983? - Yes.

Did you not think that all that taken together deserved more than a description of innuendo? - Yes, maybe that was perhaps the wrong term but I did take the note very seriously because I had sent this to Bill Magee who is the Chief Legal Officer and organised a meeting with him.

What action was taken apart from telling Hamilton you were unhappy about your name being used because you didn't give permission? - I took this along to Bill Magee who was actually handling..... the Director of Legal Admin. at the time, he was handling all the correspondence with regard to Hamilton at the time and he fully investigated Hamilton's background and a number of people in the Council who had these particular complaints and he said he would deal with it on behalf of the Council as a whole; we also discussed Hamilton's situation in general and Bill said as the Chief Legal Officer that he was.....his policy was to ensure that all complaints were properly investigated but that action should only be taken if we had some firm case.

So you were getting an account by way of the Administrative and Legal Department of what was the situation at that stage? - Yes, from the Chief Legal Officer.

That was Magee? - Yes, that was Bill Magee who was the Director of Legal and Administrative Services.

He was telling you although there were a number of similar complaints to the ones you were handing over there wasn't sufficient substance? - No, these complaints were sent to a number of different people in the Region.

He didn't tell you there had been a number of similar complaints? - No, all he said was that he had sifted all the background with regard to Hamilton.

Do/

Do you know if any further investigations were carried out into the complaints by the Council? - I made sure that Mr. Magee carried out that; he did respond on behalf of the Council and when he said he would do something he would do it.

I think I wrongly suggested to you earlier in evidence that an incident relating or a change in the position in relation to a later let at Dunblane High School had been referred to the Ombudsman and that is the next item I want to ask you, about such an incident? - I have no recollection of anything in 1990.

Could you look at D191; it should be a letter from the Ombudsman to Mr. Hamilton dated the 6th of June 1994? - Yes, that's right.

Where reference is made to his complaint about the Authority's handling of the let at Dunblane High School for the summer camp.

Do/

Do you remember being involved in that at all? - My involvement was -- I wasn't involved in that at all -- my only involvement was to arrange a meeting between Hamilton and the Chief Executive to try and resolve the complaints before it went through the Ombudsman process.

Did you arrange such a meeting? - Yes, I managed to arrange a meeting.

Did that as far as we can tell from this letter resolve the matter? - I think there were other complaints outstanding apart from this one about the let of Dunblane. But, yes, it seemed following the meeting with Douglas Sinclair everything was resolved properly and suitably.

Did you learn of this particular complaint to the Ombudsman? - No, I didn't.

Was that not necessary? - It was not necessary to have the Regional Councillor's signature on it then. I didn't know at that time
-- neither did I know Hamilton had complained to the Ombudsman and this letter was the first time I learned it was going on.

When did the law change so that you didn't need to do it through a Councillor? - I honestly can't say.

The first one we looked at earlier was 1983. Was that the only one that you submitted on his behalf? - It is the only one I have counter-signed on his behalf.

Apart from the two matters of 1988 and 1991 did he send you a volume of correspondence for other matters? - The main correspondence he had was of police complaints. I got masses of correspondence with regard to that, and that seemed to go on more or less interminably. I think I was talking to the Chief Constable once and he reckoned the volume of correspondence with regard to the 1991 complaint had filled three Lever Arch files. I think from time to time we got a number of other correspondence regarding Hamilton's complaints but these were just generalities I think and he didn't ask/

ask me to do anything.

Was that a series of correspondence about the problems he saw in the letting arrangements in Dunblane High School in which he also referred to the involvement of one of the serving police officers who happened to be a Committee member? - That is right. I got a series of letters about that, and it seemed to me he wanted to pursue the policeman because he had some connection with the 1988 incident, so I really kept well clear of that one. I think I just destroyed the correspondence. Once you get dragged into the complaint.....

Could you have in front of you D207. Is that a memo from you to the Director of Education dated 2nd February, 1995? - I don't seem to have anything between 206 and 208.

Missing, is it? Is it possible to get the original one? It is DCRC/AC/F1/69. That is a memo of 2nd February. It is a memo from you to Dr. Young? - That is right.

Was he the Depute or the Director of Education at that stage? - No, he was they Depute -- well, he wasn't a Depute, he was Head of Resources at that time. I think at that stage I had become Convenor of the Education Department.

When did you become Convenor? - I became Convenor in May, 1994.

What gave rise to this memo? - Well, there were complaints re-surfacing about Hamilton, and it was agreed Graeme Young should investigate all complaints. I was saying I would like to be kept informed about it, particularly to be consulted before action was taken, and in fact I realised if action was taken I would have to defend the Council's position in public.

I think you talk in the first line about a long and litigious history of this case? - That is right.

And you talk in the second paragraph about after the Ombudsman episode it was agreed that the Youth and Community Service should keep a close eye on this group and this never seems to have happened? - Yes.

You/

You were obviously particularly conscious of Hamilton resorting to, on other occasions threatening to resort to legal steps? - Yes.

And also you were particularly conscious it would appear of the fact that the Ombudsman had found in his favour some years before? - No, it wasn't so much the Ombudsman episode, I was just concerned since we were getting complaints about Hamilton, it would be nice if there had been closer contact between them and our Youth and Community Services in that we would have more information about what was going on.

I take that point from you, but I see also that on earlier occasions when we looked at the correspondence we saw him referring to the Ombudsman as if he was somehow or other the answer to the way to conducting this business? - That was from the previous case, but not in this case. This was my reference to the way in which this agreement was undertaken.

If you go back a little in the folder to D206, is that a letter from Hamilton to you dated 21st January, 1995, a handwritten letter from Hamilton? - I don't seem to have it.

A moment ago you told us you went from 206 to 208? - I don't have that one.

Well, it is DDH/336. That is a letter dated 21st January? - That is right, yes.

He calls you Rob; is that your first name? - Yes.

Was he on first name terms with you? - Well, after 13 years of correspondence.....

That's how it was? - I don't think there is anything sinister in that. Many constituents call me by my first name.

Were your letters addressed "Dear Tom"? - I don't remember. I very rarely wrote to him.

The Council never got to that length. But you don't remember how you addressed him? - No.

You/

You will see here that he is sending you a copy of a letter, refers to having sent a copy of a letter from Dr. Young of the Education Department and says he is appalled at how events get taken out of context and there is no sinister implication in our important work? - That is right.

He is talking here of rumour and largely false information about his activity? - That is right.

The next paragraph down at the bottom he talks about the general effect where parents hear such rumours an otherwise satisfied parent begins to read sinister implications into every day events? - Yes.

"Which I believe is the case today"? - Yes.

He goes on to say, he talks about the Bannockburn High School in 1983 on a night eight boys reported, items of clothing missing, and he goes on about changing, changing in a certain part of the school in the gymn rather than the changing room? - Yes.

He then justifies his photography; is that right? - Yes.

He says "It is the case that the use of photography has been successful and became a great training aid as well as a record of our work"? - Yes, that is right.

And he says that for the purpose of certain types of gymnasium activity the boys require to wear clothes which will allow maximum stretching and flexibility; is that right? - That is correct.

He sends you or there should be attached I think a picture of a particularly flexible person? - Yes. I don't seem to have that in the file.

You will remember having been sent a picture of someone stretching to illustrate the point he was making; is that right? - That is right, yes.

Now,/

Now, it is in the light of this that you appear to be taking the position with your own permanent staff that you should be consulted whenever anything arises about Hamilton; is that right? - No, no, not when anything arises, but when any course of action is decided upon, particularly if events occurred, I just wanted to be kept up to date with what was going on.

Is it right that Hamilton at that stage was expressing his own concern he hadn't been informed of the details of complaints against him? - He was.

Did you have a view on whether he should be told what people were complaining about? - My view was the complaints should be investigated before Hamilton was informed because otherwise Hamilton may appear on the doorstep to complain about their complaints.

Did you think that was in his nature? - Well, I think it can be fairly said he tended to defend himself fairly vigorously.

Did the Council have a policy about revealing the identity of people who made complaints? - I am not sure of the Council policy in the whole area. I think Dr. Young perhaps allowed Hamilton to see complaints as long as the response was through him.

Sorry, I didn't follow that? - I think he allowed Hamilton to see complaints but the response had to be through Dr. Young, not directly to the complainant.

Do you know if the identities of the complainers were ever given to him? - I don't know.

If you look at D209 which I hope you have, there should be a compliment slip at the beginning of that number of items of correspondence? - Yes.

And you will see the first of these, there is reference to further letters written by Hamilton both to Dr. Young and to you? - Yes.

If you look at 1F we have a letter dated 12th February. It is this time from Hamilton to you?/

you? - Yes. There were a whole series of letters round this time.

You will see he refers to returning a phone call and discussing the matter with you on the first line? - Yes.

And he goes on to say, "No parent has ever complained to me nor has there ever been any complaint so far as I am aware from a parent who was ever sent or received photographs"? - Yes, I see that.

Were you aware of any complaints apart from that one at the use of photography? - I think I was generally aware there were a number of complaints about the amount -- not obviously the use of photography -- the amount of photography that was involved in Hamilton's clubs.

In that letter he asked for notification of any complaints to him? - Yes.

You obviously saw the difficulty of Hamilton being told of identities? - Yes, because I felt that would hinder the process of investigating the complaints so I ignored that particular request.

Were you concerned at all about the issue of photography at that time? - I was concerned about the amount of complaints it was generating about the quantity of photography. Hamilton would argue he needed photography to allow his club to be run well, he wanted it as a teaching aid, and the impression I got was perhaps the amount of photography going on was excessive, and I think Dr. Young felt the same way.

Around this time had the Legal Department before involved again through the offices of Mr. Cobb? - That is right.

Whose decision was that? - I'm not sure whose decision it was. I welcomed it because it seemed to me the addition of a legal expert would be valuable in this particular situation.

Was Mr. Magee still in post then? - In 1975, no, I think he had left by 1974. He left well/

well before that.

You mean 1994? - He left well before local government reorganisation.

After that was it more administrative rather than a legal matter? - Could you repeat that?

Was that Department dealing with it more through the administrative side than the legal side? - I am not really sure. I didn't become Convener of Education until 1994.

Could you now look at D213. You will see that is a letter dated 3rd May from Dr. Young to Hamilton? - Yes.

Headed "Boys' Clubs (Various Organisations) - Parental Complaints"? - Yes.

He was referring back to the letter of February, 1995? - Yes.

Were you aware that during that period there was ongoing concern among the staff of the Social Work, Education and Legal Departments about Hamilton and the complaints they were getting? - I wasn't aware of the Social Work and the Police.....

I said the Social Work, Education and Legal Departments? - The Legal Department -- I was certainly aware as Convener of Education. I was obviously aware of some concern in the Education Department, and I always made it clear to the officers there that every case should be fully investigated, and that job was given to Graeme Young, and that is why it appears in this correspondence.

So what we have here on 3rd May is an indication to Hamilton of what the Council's position is following their consideration of the complaints made? - That is right.

What does he say? - This is on 3rd May?

Yes? - "I refer to previous correspondence on the above topic and in particular to your letter of 10th February, 1995. I feel it is/

is necessary, firstly, to reaffirm to you that in seeking to investigate the complaints made by parents, the Regional Council was not taking a stance on the conduct of the boys' clubs as such. Rather as a responsible education authority the Regional Council has to give consideration to complaints which are made regarding the conduct of any lets within its premises. Secondly, I note that throughout the organisation of your boys' clubs, the use of photography is deemed to be an integral part. In light of the complaints which we have received I feel it is essential that this fact is made known to parents and is incorporated in any publicity material/flyers which you circulate in advance of recruitment of boys into such clubs. Such publicity should make it plain that parents enrolling their children in such a boys' club are likely to find the boys being photographed by the organisers in early course. It would be appropriate for such information to be incorporated in all publicity material forthwith."

Is that as far as the Council ever went in directing Hamilton of the standards he should apply in advising his boys' parents about the way in which his club operated? - On the issue of photography that may well be the case, but I did send another memo to Mr. Young saying we ought to get hold of Hamilton's publicity material and make sure it does actually implement this but I am not sure of any further action on that particular issue.

So/

11.40 a.m.

So far as the clothing issue was concerned, is it right to say the Council never took a firm position on that? - No. I think there were some worries about the Council, but I don't think there was any firm action taken on the matter. It was after all a hall let of primary schools.

Could you look at D220? That is a letter dated 11th June to Dr. Young from Hamilton, and he is referring to a recent meeting and pointing out that it was for Dr. Young to tell teachers at Bannockburn Primary that they should not make comments that they could not substantiate, and I think he asks Dr. Young to send a letter of apology to all parents of Bannockburn Primary pupils involved in this? - I did have a discussion about that with Dr. Young. We agreed we would not be sending any letter of apology, but make clear that if teachers were making these remarks they were doing it off their own bat and not on behalf of the Education Authority, and we left it to stick to the wall at that stage.

If you look at D222, Dr. Young wrote to Hamilton saying he did not think it appropriate for him to issue an apology, and he had written to the head teacher to see if she could advise him exactly what was said, and to whom? - That is right.

Would you look at D228, which is a circular letter dated 18th August, 1995? Have you got that? - Yes.

I think this one came from your own possession? - Yes, it did. I have them from 1993 onwards.

Was this delivered through the door? - Yes, it was. It was just part of his correspondence.

At the bottom of the first page there is a reference to 1985, or at least to the business between 1993 and 1995, and it says "At that time, a prominent Regional councillor made uncomplimentary remarks about the Scout official involved, and concluded 'we have previously viewed senior officials of the Scout Movement to be honourable, upright/

upright people who would be above this sort of malicious act, and this business has been a real eye-opener to all of us'"? - Yes.

Were you that Regional councillor? - I definitely was not the Regional councillor. At no time during this correspondence have I made any statement either for or against Hamilton's clubs, and I have certainly said nothing about the Scouts. I don't know whether any Regional councillor said that or whether he has just made it up, but it certainly was not me. I don't go out to cause gratuitous offence by making that sort of statement.

Would you look at D233? Is that a letter of 1st September from the Education Department to Mr. Hamilton? - That is correct.

I think indeed the Council is raising a question with him? - That is right.

What governing body qualifications are held by him; is that right? - Yes.

Under what auspices were his staff checked? - Yes.

Why do the boys wear only swimming trunks; is that right? - Yes.

Why are they not asked to provide their own? - Yes.

And who is the Social Services Community Child Care Specialist? - Yes.

Now, some of this is old grounds being gone over again? - Yes, some of the issues were covered in Dr. Young's letter.

Why was it necessary to ask Hamilton yet again these questions? - I'm not sure about that. Local Government re-organisation had taken place, and Dr. Young had become Director of the new Falkirk authority. He was also twin tracking as Acting Director of Central Regional Council.

Yes? - Mr. Steele I think was perhaps given that individual responsibility. I was never consulted nor informed as to why the letter was/

was sent. It would seem to me if Mr. Steele had worries about this it was fair enough for him to send the letter.

Is it possible because Hamilton never really gave straight answers to simple questions? - It is possible. You would have to ask Mr. Steele.

You will see if you look at what might be attached to that there is another letter immediately after that, dated 2nd September, from Hamilton to Steele? - Yes, there was a letter. There was a response from Hamilton to Steele on the 2nd.

It starts off by saying "You refer to continued parental concerns, but you do not give proper details of names or numbers, places or dates. Indeed it would be a requirement of natural justice to provide such information to enable me to provide a proper answer after proper evaluation of such complaints"? - Yes.

That is his starting point? - Yes.

Could I ask you to move on to a letter dated 26th January, 1996, which I think we will find as DDH361, which is also part of R30, one of the originals? - This is the January letter?

Yes? - I have got it.

Which D number is it? - D241.

Now, did you receive this letter just after the 26th January? - Yes, about that. It is marked "Private and Confidential", but I think a large number of people have received it.

Did it come to you on its own or was there anything else attached to it? - I think it came to me on its own.

Did you get another copy of it just before the incident at Dunblane Primary School? - No.

So you didn't get a copy of the letter sent to the Queen? - Yes, I got a copy of the letter sent to the Queen, but that came on its own.

After/

After you had read this letter did you have any instant reaction to it? - Well, I read the letter. There was first of all a sense of deja vu that we were now going right back to 1983 again. This was one feature of Hamilton, that he never seemed to be able to put the past behind him.

Yes? - Secondly, I was slightly worried, because it seemed to me his mental state in this letter was slightly deteriorating. Thirdly, I looked at it to see whether he was asking me to do anything, and he wasn't, so I interpreted it as a general complaint about life and took no action on the matter.

Is it right the first paragraph talks about the matter being touched on at Bannockburn? - Yes.

And also it deals with Dunblane Primary School? - Yes.

We have not looked in detail at this letter yet. Would you read to us please the first paragraph? - "Over six months ago I wrote to you to report that following a discussion among teachers in the staffroom in Bannockburn Primary School, teachers were informing pupils and parents that I am a pervert and as a result all of the 26 pupils who were members of my Bannockburn boys sports club left immediately, and local gossip followed. The response of the Education Department to me was that teachers may have been expressing their own personal views or opinions is unacceptable in that they were acting within school time and on school premises. For the Education Department to say to the school that teachers should not make any statements that they could not substantiate is, quite frankly too little too late and has done nothing to correct the situation. Indeed this situation is not confined to Bannockburn Primary School and is widespread in primary schools across the Region, where many head teachers and teachers have shown great vigour and enthusiasm to warn as many people as possible. At Dunblane Primary School where teachers have contaminated all of the older boys with this poison even former cleaners and dinner ladies have been told by teachers at school that I am a pervert. There have been reports at many schools of our boys being rounded up by staff and/

and even warnings given to entire schools by head teachers during assembly".

Yes? - "All of this has been extremely damaging over the years not only to my clubs but to my public standing and has resulted in a complete loss of my ability to earn a living".

Yes? - That was a theme of a number of his other letters, where he claimed the 1983 rumours caused his business to collapse. I had made the point to him and told him it was really market forces, and the arrival of B & Q and strong competition that had done this.

He also says "Any attempt to enlighten people is very time-consuming and expensive and has largely proved to be impossible"? - Yes.

"Where previously happy people are poisoned in this way they become hostile and unapproachable and will see in their own mind sinister slants to normal everyday events through now suspicious and tainted eyes"? - Yes.

"As this snowballs, there is a boomerang effect in that new parents who have heard vague gossip locally may seek to warn the school or Education Department without realising that they have been and are the main source and that such is seen by the school as being confirmation of their own mistaken belief"? - Yes.

What does it say in the next paragraph? - "I have no criminal record nor have I ever been accused of sexual child abuse by any child, and I am not a pervert. I have always run my clubs in a fair, proper and competent manner and ensured that no child or parent has any proper or legitimate complaint. Nevertheless, this defamation coming from the respected source of local primary school staff has caused untold problems everywhere within the Region and beyond".

He then says "The origin of this matter when schools became involved, dates back to 1983 when Mr. W. Ross, an official of the Education Department at that time, telephoned numerous schools to warn head teachers that I am a pervert, was currently interfering with the boys, had been put out/

out of the Scouts for this and had a long criminal record for this type of offence. This was prior to Mr. Ross further misleading councillors on Committee in August, 1983, which led to the termination of our lets at that time"? - Yes.

That is a reference to the original meeting at which the lets were terminated? - Yes.

He goes on "As you know, the matter was fully investigated, and Mr. Ross and his reported source, David Vass, being a member of a rival group, were fully discredited, and our use of schools was returned". Was that a recurring theme? - Yes. I think Hamilton always believed there was a conspiracy by local Scouts against him. To what extent that was true I never had any information.

And he believed at that time he had shown the case against him to have been discredited? - Yes.

In the next sentence he says "Your own comment at the time was that his ill health had affected his judgment and competence" -- that is in relation to Mr. Ross. Now, did you make that statement to Hamilton? - No, I don't think so. I did say that Mr. Ross was not in the best of health, but I don't recall making that particular statement.

Was there any basis for stating that Mr. Ross' work and his actions were in any way affected at that time by ill health? - No, I don't think there is any information for that.

So it would be wrong to accuse Mr. Ross, who is now deceased, I think -- is that right? - That is right, yes.

-- -- of acting in a way in which his judgment was affected and his competence adversely affected by ill health? - Yes.

Do you think you have perhaps said it and shouldn't have said it? - I don't remember saying that. I think we all knew Mr. Ross' state of health was not that great. I have simply no recollection of making that statement to Hamilton.

And/

And certainly if Mr. Ross' intervention, which was actually to advise the Committee to decide to withdraw lets, if you look at his intervention with the benefit of hindsight then it was proved tragically to be absolutely right; is that a fair comment? - That may be a fair comment, yes.

Does the letter go on "However, despite repeated requests from me over the years the information passed by Mr. Ross to head teachers has never been corrected and has over the years reached epidemic proportions"? - Yes.

"Such allegations spread in confidence have never been put to me directly or indirectly by the Scouts or any part of your Authority nor by any such children, and I have therefore never been afforded the proper opportunity to respond before any action was taken"; is that right? - Yes.

He then talks again about malicious work and David Vass, and says "Indeed during my time in the Scouts my own Scout Commissioner, Mr. R. Deuchars, 5 Kent Road, Stirling, claims to be at a complete loss to know what the Dunblane Scout official David Vass is talking about"? - Yes. This is the first time I have ever seen these names in Hamilton's corrspondence.

So although you had had correspondence before, these names never appeared? - In 13 years there was a vast amount of correspondence, but I can't recall these names ever appearing in correspondence before.

He says "All of this serious damage has resulted from the maladministration of your Authority in the first instance, and secondly in its failure to attempt to correct the false information given to head teachers at an early stage"? - Yes.

He sends a letter to you for your information only, and says there is not any criticism of you personally? - Yes. And he says he has sent copies to head teachers.

He says "Dear Bob". May I have misread it, but earlier I thought he said "Dear Rob"? - Yes. My name is "Rob", not "Bob". It could hardly be private and confidential if he had circulated/

circulated it to 128 head teachers.

I don't know in fact if that happened. When did you last meet Hamilton? - I think the last time I met Hamilton was during the summer of 1995. He was often in the university to carry out photocopying. I had a telephone call from Hamilton at that time -- I was moving divisions -- enquiring who the knew councillor was.

Did you notice any change in him? - No, on the face of it he sounded fine. This letter of the 26th January, however, was still a bit worrying.

What do you take from this letter that indicates a change or a difference in his mental state? - He seems to be reverting very much to the past, and he is dragging up things that happened a long time ago.

Was that not a recurring theme of his correspondence? - Yes. It was a bit more detailed and specific here. But I mean, there were possibly similar letters perhaps earlier on.

A remark he made to an earlier witness in the case could be said to give the impression that he viewed you as a person who could facilitate a continuation of his lets from the Regional Council. Did you see yourself in that role? - No, not at all. I saw myself in the role of his Regional councillor, his elected member. I don't really have the power to do that or I didn't, even if I had wanted to.

It is coincidental that you became rather more powerful on the Council as the Convener of the Education Committee? - Yes. Up to 1994 my only role was as local member. I wasn't more powerful in the Council; I was just perhaps more powerful regarding educational matters.

Coincidentally his MP became the Secretary of State for Scotland: so he seemed to be lucky in the selection of those with whom he tended to correspond, but he was corresponding with you and the Secretary of State because he was a constituent? - That is correct. He was perfectly within his rights to correspond.

Did/

Did you not get the impression, though, from the correspondence and from his dealings with other people that you heard about that he tended to drop your name in as someone whom he knew might be viewed because of that reference as a sort of supporter? -

I/

I wasn't, no.

You were not conscious of that? - No, I wasn't conscious of that; I tried to be fair -- neither a supporter nor an opponent in that sense.

I just want to know what your impression was of his use of his relationship with you as a constituent who came to know you on first name terms; did you not get the impression that he was bringing you into matters and writing to you and getting you to communicate with the Council that he was to some extent using you to achieve his own ends? - All constituents who complain are doing that to an extent, aren't they?

CROSS-EXAMINED BY MR. JONES: Could you look again at D72, this takes us back to 1985? - Yes.

Your memo to the Chief Assistant Direction of Administration and Legal Services dated the 12th of August, 1985? - Yes.

You do explain that at that stage it had been suggested that the committee, and we have heard a powerful committee, from the Council should meet Mr. Hamilton's sub-committee and see if the matter could be taken forward? - Yes.

You tried to persuade Mr. Hamilton's committee to participate in such a meeting? - Yes.

Can I ask you to go to the second sentence, do you say there, you've explained that the meeting has to be set up, "I think this is a useful development as it may" and the word there is provide but I think it is "avoid a litigation"? - Yes "avoid a litigation".

"Which even if successful, could have been embarrassing for the Council"? - Yes.

Did you have concern at that time that Mr. Hamilton would carry out his threat to go to litigation? - Yes, that was a reason a couple of meetings were postponed until Hamilton was taking consultation with his lawyers; I think we got a lawyer's/

lawyer's letter saying that a meeting wouldn't be useful at that time; I felt basically the Ombudsman's procedure was sufficient and I felt it was not right to continue this matter by going to further litigation; as I have said previously I had telephoned Hamilton to say there was absolutely no support from me if he took this matter to law.

Did you see this as a positive move by your Council around that time? - Yes, because the Council would require to consider the Ombudsman's report, they set up a sub-committee to meet and therefore the next thing to do was for the sub-committee to meet Hamilton's committee and try to take the matters forward.

Look at D101? - Yes.

That is your memo to the Chair of Education? - Yes, Godfrey McIvor.

Dated the 10th of October, 1990 and we have looked at the terms of it; what I would like to do is perhaps to put it in context. You were aware, I think, that the let at Dunblane High School was reinstated in October, 1985? - That is correct.

And we are now five years on, is that right? - That's right.

With the club having run for these five years were you aware of any suggestion of a complaint in these five years about the way that the club had been run? - No, not with regard to the club; obviously I was aware of disruption of the summer camp.

I am talking about Dunblane High School? - No, I had no indication of any complaint, nor had Godfrey talked to me about any complaint; as we were working closely together he probably would have done.

Finally turn to D233, it is in the other ring binder? - Yes, I have got that.

This is a letter dated the 1st of September, 1995 from Alan Steele to Mr. Hamilton and the question you were asked is why were these questions/

questions being asked again? - Yes.

Could you look at D232, have you got that? - Yes.

Is this a memo dated the 30th of August, 1995 from Alan Steele to David Cobb? - Yes, it is.

In Administration and Legal and does he say under the sub-heading "TW Hamilton -- parental inquiry"? - Yes.

"Please find enclosed a copy of a letter I have received from" and a lady is named, a parent. "Before replying I would welcome your comments" -- do you see that? - Yes.

If you turn over the page is that the letter referred to to Mr. Steele dated the 28th of August, 1995? - Yes.

And does the writer say "Dear Mr. Steele, I recently received a letter from a Mr. Hamilton concerning the Dunblane Boys Sports Club. This has been distributed to all households in my area. I am deeply concerned regarding the" -- whatever that word is -- "of his letter, as I feel he 'protesteth too much!'. What is this man all about?", do you see that? - Yes, I do, this is presumably about the circular we talked about earlier.

Keep that letter in front of you and could you look also at D228? - Yes.

This is the letter you are talking about, it is dated the 18th of August to parents and it puts forward Hamilton's response to what he describes as myths and gossip in the first paragraph? - That's right.

So does that appear to be that lady writing to Mr. Steele enclosing that letter and then if you read through just over halfway down her letter of 28th of August "I would like to ask Central Regional Council if Mr. Hamilton fulfils all the social and sporting criteria to run such a club in their premises" and there is in the penultimate paragraph "I hope you will look into the running of this club from your premises", do you see that? - Yes.

And/

And do we see that Mr. Steele then in 233 writes to Mr. Hamilton on the 1st September? - That's right.

And does he say "As a result of continued expressions of concern relayed to the Council from a number of parents I would ask for your comments in response to the following points"? - Yes.

"A number of which refer to your letter to parents dated the 9th of May"? - Yes.

And then he is asking five specific questions? - Yes.

Could I ask you to look finally at 225? - Yes.

Is that a 12 page letter dated the 9th of May, 1995 from Mr. Hamilton addressed to "Dear Parents"? - That's right, yes, I think about the camera was this?

I think it is, yes? - Yes.

RE-EXAMINED BY MR. BONOMY: So I can understand exactly what you are saying, the letter of 1st September which is D233? - Yes.

Asks about his governing body and qualifications and it asks about the reason for wearing swimming trunks and why they were not asked to provide their own; were these not all questions that had been asked a number of times by the Council before? - Most of these questions did seem to have been asked before by Dr. Young but Alan Steele didn't consult with me when he sent this memo; I didn't know about this memo until I got a copy of it.

GEORGE VALENTINE (56) Sworn

EXAMINED BY MR. BONOMY: Are you a head teacher at St. Francis Primary School? - Yes, I am.

Is that in Falkirk? - Yes.

How long have you been head teacher with St./

St. Francis? - 11 years.

Your first encounter with Thomas Hamilton was to receive communication delivered to the school? - That is correct, yes.

When was that? - It is difficult for me to be precise because I have no records kept but I would assume though around 1988 but I am not absolutely sure about the year.

Were these hand delivered? - Again I can't recall how they arrived in the school, I would suspect they were hand delivered.

What did the relate to? - They related to he was trying to promote or, I think, set up a club in the Falkirk area and the reason I remember it was because included in the literature was the provision for a summer camp as part of the club set-up.

Now, did you learn about this because you had a decision to make or did you learn about it after something had been done with the document? - The order or events are vague after all this time; around that time I was alerted about Mr. Hamilton by a phone call from someone in Central Region alerting me to the fact that the Region was concerned about this person; I also had been alerted by my community policeman, constable, who visited the school regularly; now, the thing is I don't recall the order of events, which came first, the point was I was aware that there was some concern about Mr. Hamilton.

Now, could we put that in the context of how you first realised that there were leaflets; was it before they were distributed or after they were distributed? - I find it difficult to answer that one way or another; this is one of the confusions I have, the order in which these events happened.

Let me go back one stage, were the leaflets which were delivered to your school distributed to pupils? - The leaflets went out to two classes.

How did that happen? - It happened because/

because the secretary in the school at that time assumed that they were official and that they had some kind of official approval; when I discovered the following day they had gone out I sent out a letter to the parents who had received this literature indicating that it was not school policy for the school to promote or to recommend clubs run by private individuals; I did indicate in my letter I was not necessarily saying that this particular club was unsuitable but I did want to stress that the school were not recommending the children attend this club and that the letter shouldn't have gone out to them.

What was your own practice at that time about distributing leaflets about independent organisations? - No school policy.....my own policy was clear and that was we didn't distribute leaflets on behalf of private individuals.

That was a matter for your discretion? - Yes, there was no written school policy on it.

Can I take it from what you have said that the reason you sent the letter was because you knew that the Regional Council were concerned about Hamilton? - Yes, I was aware that there had been some kind of concern.

Can you tell me what was the kind of concern relayed to you? - I remember distinctly asking the person who alerted me what was the nature of the concern and the reply was "I can't tell you that because we have no proof", that was the reply I got so I was never told what the nature of the complaint was but the Region were obviously concerned about the running of the club.

That particular club at Graham High School? - I can't recall, I wasn't looking to see they were talking about a particular club but I seem to remember the concern was about the way in which Mr. Hamilton ran his clubs.

Was that club ongoing or was it about to start up? - I can't remember.

Who was the community policeman? - Constable Kiely -- Constable Kiely was also a parent in the school; it may be he wasn't a community policeman/

policeman at that time but he is now but he was a parent in the school and someone came in and so it is just possible that he was informing me as a parent.

What did he tell you? - Again he said to me that to be wary of Mr. Hamilton because the police were concerned about his activities but that was the extent of it.

Did you ever meet the man who was behind the leaflets? - Yes, very briefly.

When was that? - Around the same time and very close to the events I am talking about but again I can't recall the order in which they happened but certainly within a very short time, around the same time that the leaflets went out.

Where did you meet him? - In my school.

Was it after the leaflets had gone out, do you reckon? - Yes, also I am certain he came to the school I think to follow up the hand-out of the leaflet, to check the kind of response I had received.

Did you meet with him in your office? - I spoke to him only very briefly in the corridor.

And what was the sum and substance of the conversation? - I said to him that it was not policy for us to promote a private individual and that there was nothing personal and that I would say this to anyone wishing to promote a club through the school.

And was that the end of it? - It was, it was all over in the space of a couple of minutes; as I recall he said something like "I am not finding it easy to do what I am trying to do" but there was no sense of irritation personally, he didn't express any personal dissent to me.

Did he make any impression upon you? - No, it was very brief, I can't recall if there was anything unusual about him at all, he seemed reasonable enough at the time I dealt with him, certainly.

Did/

Did any of the children from your school go to his club? - To my knowledge there was one child went to the club, possibly two, but I am certain of one and the parent withdrew him from the club.

Do you know why? - No, I didn't discuss it at any length with them except that the parent was not happy obviously with the way that the club was run.

What was the next you heard about Hamilton? - I heard no more of Hamilton until I received a copy of a letter he had sent to Councillor Ball in January this year.

I should have asked you just to confirm it was Thomas Hamilton you met? - Well, I have to say I can only assume it was Thomas Hamilton I met; I am talking about eight to nine years back.

Was there a name on the leaflets, can you remember that? - No, I can't.

Anyway you got a letter in January of 1996; did you link that to the events of 1988? - Yes, when I got the letter my immediate reaction was, when I got the letter, I remember thinking "Gosh, is this man still on the go" but I didn't think any more about it except that I did file the letter.

Would/

12.20 p.m.

Would you look at D241 in J(i). Is that a copy of the letter? - That is correct.

Do you still have your copy or did the police take it from you? - The police took the letter but I still had a copy of the letter.

I was going to ask you if you did something with it. You said you filed it? - Yes.

Did you discuss it with anyone? - No, except to say on the day of the terrible events in Dunblane I told my staff I had received a letter. Up until that point I had not mentioned the letter at all to anyone.

CROSS-EXAMINED BY MR. CAMPBELL: You told us that you were alerted by the community police constable. We didn't quite catch his name here? - Constable Kiely.

If I followed your evidence correctly, he was a parent as well as a constable? - Yes.

He told you to be wary of something. What were you to be wary of? - The only thing he told me was that the police were concerned about the activities, the way he ran his clubs. The only specific mention was that he was known, Mr. Hamilton was known to have taken photographs of boys during school camps, and that was all. There was nothing else said, no other detail.

You must have had some impression as to why he was telling you Hamilton took photographs of boys. What was your impression of the reason why he was telling you that? - Well, it was fairly clear I think that there was a suggestion that something improper may be happening, but the fact that there was no proof, there was no mention this had been proven, or that there was no substance to it beyond what I had been told. I didn't feel there was any point in me considering it further other than being alert in relation to my own school.

Anyway, it was enough to persuade you to have nothing to do with it? - Certainly. But again I would not have had anything to do with a private individual promoting a club at all anyway.

No further cross-examination.
No re-examination.

PATRICIA MARGARET ANNE CARTER, (48), Sworn,

EXAMINED BY MR. BONOMY: I think you are head teacher at Bannockburn Primary School? - Yes.

How long have you held that post? - Since January, 1994.

Prior to that where were you? - Doune Primary.

Were you head teacher there? - Yes.

While you were head teacher at Doune Primary School did you come across the name Thomas Hamilton? - Yes, I did.

In what connection? - In connection with leaflets that arrived in the school periodically about his club in Dunblane.

What action was taken about these leaflets? - It depended -- I think initially they were issued to pupils but I have to say I was there for ten years so as time when on I gradually stopped issuing them to pupils.

Was there any particular reason for that? - The reason was twofold; one was we gradually got more and more business of that type which I really didn't have time or the facilities to distribute. There were many groups who sent these type of leaflets, for competitions, different things, and I gradually stopped issuing them. The other reason was that I had heard I think from a parent that they weren't too sure of Mr. Hamilton. I had no way of checking or knowing and I decided it really wasn't my function to issue leaflets as they came to the school.

Did you get any more specification than one parent wasn't too sure of Mr. Hamilton? - No.

Did you draw any inference from that, make anything from that statement? - No, just that I felt I didn't need to issue leaflets so I didn't issue them.

And to get on to Bannockburn: did you have the experience with leaflets? - Yes, I did.

When/

When did you first encounter leaflets from Mr. Hamilton? - Being a much larger school, I wasn't aware how they entered the school. Some leaflets had been issued to pupils. I didn't really, because Mr. Hamilton's name didn't mean much to me, I hadn't had any recent experience of him, I didn't actually -- I'm not sure how they were issued. I didn't make much of the connection between Bannockburn and his boys club at Dunblane.

You are clear that when you were at Doune you had actually got the name Hamilton? - Yes.

And you didn't particularly make the connection when this first arose at Bannockburn? - That is right.

Had you any policy at Bannockburn about not issuing leaflets for independent organisations? - It wasn't a policy, it is something that I have done less and less over the years. If they come in to me in the first instance, it is quite likely I would not have issued individual leaflets to pupils.

However, they did get issued, however they came into the school. Was there any reaction from any parents? - Yes. There was a phone call from a parent -- it was referred to the Deputy Head but I happened to be in the office at the time.

What was that about? - It was just again -- it is quite difficult to recall because I didn't consider particularly the relevance of this asking what we thought of the leaflet or the club.

It wasn't a complaint, it was an enquiry? - It would be as a recall -- I'm not sure if it was an enquiry or a complaint. I don't actually -- I do not recall who it was.

Did you take any action on its receipt? - Only to say that really -- the Depute Head said that really it would be up to the parent to look into it and because we issued something we are not recommending that the child actually attends the class, and it would be up to the parent to make that decision.

Can you give us your best recollection as to what it was that was concerning the parent on the phone?/

phone? - No. I really couldn't say whether it was concern over the leaflet being issued or whether it was an enquiry. I would think if it were a complaint it would have been perhaps more forcibly made. I think it was taken as an inquiry.

Anyway, the end result was the parent was told that the school wasn't endorsing this and it was a matter for the parent whether the pupil went to the club? - Yes.

Now, did you receive any correspondence from Thomas Hamilton? - I received several items but I really am not sure -- I don't think I actually received correspondence from him at that time.

What about June, 1995? - Yes. I had a visit from Mr. Hamilton.

Was that the first time you had met him? - Yes.

Why did he come to see you? - He came to ask me for an apology.

What for? - For rumours that were circulating from our staffroom.

Had you heard them? - No.

How did you react to this request? - I asked him if he -- why he thought that this was being said in our staffroom because I had no knowledge of it.

What were the rumours according to him? - According to him we were maligning his good name; I think that was his verbal.....

Did he say specifically how you were doing that? - People in our staffroom were saying things about him.

Did he say what? - I actually at that time, I asked him who in the staffroom was saying this.

And did he tell you? - No.

What was the upshot of your conversation with/

with him? - I then asked him who had said this of him, and then I asked him -- I said if he wasn't prepared to substantiate it I couldn't listen to him any further.

Did this happen in the office? - In my office.

How long did that last? - I would say under five minutes.

How did it end? - I asked him to leave.

And did he? - Yes.

Now, following that you had some communcation with the Regional Council? - Yes. I should have said he said he was reporting me to the Regional Council.

So did you contact them or did they contact you? - I think I made a phone call in at that point so I certainly was on the phone -- I think I made a phone call in but I couldn't be certain if I received a phone call from the Viewforth.

Could you perhaps look at a Production and it may be easier, D223 in J(i). When it comes in front of you you will see this is a letter from Dr. Young of the Regional Council to yourself. Do you recognise that letter to you sent on 13th June, 1995? - That is the letter that I did receive.

It is addressed to Mrs. Carter, Head Teacher? - Yes.

Do you recognise that letter you received from Dr. Young? - Yes.

And it enclosed the letter from Mr. Hamilton; do you remember that? You will see it refers to, "I am now in receipt of a letter from Mr. T.W. Hamilton (copy enclosed) on this issue"? - Yes. I can't recall Mr. Hamilton's letter unless I saw it then.

Is it the next item or is it not there? - It is not there.

In/

In any event, you will see that he says, "You will note that Mr. Hamilton wishes me on behalf of the authority to send out a letter of apology to all parents of Bannockburn Primary School"? - Yes.

Do you remember having a conversation with Mr. Young about this before you got the letter? - Yes.

A little earlier in that volume would you look at D220 and you will see Mr. Hamilton's letter? - Yes, I recognise it.

So you recognise that letter now? - Yes.

Now, you will see Dr. Young wanted to know -- he said that he couldn't apologise on behalf of the authority to all the parents because he was uncertain of what was said by and to whom, and he then goes on, "I would appreciate any further advice which you can give as to the level of conversation such as this described in the letter which you feel may have gone on between staff and parents". What did you do as a result of getting this letter? - I sent a letter back about the telephone call from the parent.

Would you look at D224. Tell me if that is the letter? - That is the letter, yes.

Is that the result of your enquiry into it? - Yes.

Could you read out what you said to Dr. Young? - The whole letter?

Yes, please? - "With reference to your letter dated 13th June, 1995, I would advise that one parent some time ago telephoned us regarding our distribution of the boys' club leaflets. Mrs. Horsburgh (Assistant Head Teacher) informed her that we generally distribute leaflets regarding sports etc. and that we had no information about anyone connected with the club. Further she stated that she could not comment on any individual. As I happened to enter Mrs. Horsburgh's office at that time I can verify this."

That tends to suggest that leaflets were generally distributed, and perhaps that was really a throwback/

throwback to before your time as head teacher? - Yes. In fact, I am unclear about how othe leaflets entered the school and how they were distributed.

Somehow or other they got through the system. Could you read the last part of the letter please? - "To my knowledge there has been no other conversation between other parents and members of staff".

And the next paragraph? - "Mr. Hamilton visited the school briefly last week to express his anger. I asked him to substantiate his allegation. As he declined to do this I felt reluctant to continue the meeting. I may add that this conversation took place in my office with another member of staff present."

You mentioned "to express his anger". Was he outwardly angry? - Yes.

How did he demonstrate his anger? - I had actually not met -- before entering the office he was being quite loud in the corridor outside the office, and from my recall there were children around because there was a teacher, and to keep him away from that situation I asked him to come in. He was wanting to speak to me anyway.

Did/

12.40 p.m.

Did Hamilton ever come back to the school? - To my knowledge, no.

On that occasion would you say he was in control of himself, or at any stage would you say he lost his temper? - No, he didn't lose his temper in the office.

What impression did you have of just how angry he was? - I find it difficult to read anger in a person.

So it was just the noise, the raised voice? - The other teacher felt he was angry. My mind was on getting him out of the office and out of the school. I wasn't really thinking; I just wanted him out of the building.

Are you relating to us an impression of anger that someone else formed? - No. I would say he was angry.

Now, can you tell me how he was dressed? - Yes.

Did that leave an impression on you? - Yes.

How was he dressed? - He was wearing a brown raincoat.

What was significant about that? - It was a summer's day.

Was it warm? - I think it was.

Did he have his head covered? - No.

Did you form any impression of whether he sounded sensible to you? - Yes, he sounded sensible to me.

His conversation didn't sound mixed up or rambling? - No.

Did you ever find out any more about the communication of information about Hamilton than we see recorded in the letter to Dr. Young? - No.

Did/

Did you find a source of rumour that was spread among parents and children at your school? - No.

And that is still the position, is it? - That is still the position.

Could you look just a little ahead in that volume at D241? Do you recognise that? - Yes.

Is that a letter dated 26th January, 1996? - Yes.

Did you get a letter like that? - Yes.

And that is the letter to Robert Ball? - Yes.

It refers to Bannockburn Primary School, teachers informing pupils and parents that Hamilton was a pervert: do you see that? - Yes.

And also that as a result of that the 26 pupils who were members of the Bannockburn Boys' Sport Club left immediately, and local gossip followed? - Yes.

Do you live locally? - I live in Bridge of Allan.

Did anyone from the area who attended the school tell you anything about pupils giving up the sports club? - No.

Or tell you about local gossip springing up about Hamilton? - No.

Where did the sports club take place? - I didn't know at that time, but I believe since I have heard it was at Bannockburn High School.

What did you make of this letter when you got it? - I was anxious about it.

Did you do anything with it? - Yes.

What did you do? - I contacted Viewforth.

That/

That is headquarters? - Yes.

What happened? - I asked to speak to the gentleman I would say one up from me, David McKenzie, but he was not available, and I left word with his secretary about it.

Did you speak to him? - No.

What did you do with the letter? - I filed it.

What was it that concerned you about the letter? - I was surprised that it was still ongoing. I was surprised to see another school named.

That is Dunblane Primary? - Yes.

When you say it was still ongoing, do you mean that he seemed to be continuing to express sentiments about your school? - Yes.

You were a subject for his correspondence? - Yes.

You got another letter addressed to the Queen, did you not? - Yes.

When did you get that? - I think about two days before, Monday, the 11th.

Did it have any other letters or documents attached to it? - No.

It doesn't actually mention Bannockburn Primary School: do you recollect that? - The letter on Monday, the 11th?

Yes? - No, it did not.

It tells us a tale about the history of his involvement with the Scouts, and then talks about rumours reaching epidemic proportions across Central Region. It also mentions certain damaging things about the police and the Council, but largely concentrates on the Scouts: do you recollect that? - Yes.

What did you do with that letter? - I initially/

initially binned it, then I took it out of the bin to keep it and to deal with it in due course.

And is that what you did with it? - Events overtook me, as I handed it in on Monday, 13th.

After the events in Dunblane? - Yes.

What was your reaction on getting the letter? - At first I thought "He is not focussing on Bannockburn", then I felt quite angry that he was continuing to dwell on Bannockburn.

I am sorry? - I was concerned about this ongoing thing, but I felt that that one did not -- it was the Scouts; that is what -- you know, it didn't make such an immediate impact on me.

I think you were the only other school apart from Dunblane actually to receive that letter. When that is related to the one of 26th January you can see at least some connection with Hamilton's attitude to Bannockburn Primary School? - Yes.

I take it you have given some thought to that since the incident on 13th March? - Yes.

Do you know whether any other members of staff have had any direct experience of Thomas Hamilton? - Since Dunblane I spoke to the staff. It has not been voiced to me, but I think certain other members of staff have. But it has not been voiced directly to me.

So you have not been able to pinpoint any source of rumour or established that there were rumours being circulated from your school? - No, I have not been able to establish that.

Perhaps I could break that question down. You have not established a particular source of rumour from your school; is that right? - No.

Do you think from what you have learned that there may have been rumours spread from your school to the minds of parents -- quite justified rumours? - I don't think so. I don't really know. It is a very large staffroom, a very large school.

How/

How many of a staff do you have? - 23.

And number of pupils? - 540.

We have heard that Dunblane is one of the biggest primary schools in Scotland. Yours must be well up the league as well? - Yes.

CROSS-EXAMINED BY MR. CAMPBELL: You have told us about your meeting with Thomas Hamilton in the middle of 1995. Is that the only time when you met him? - Yes.

In the course of your evidence you have said that your mind was on getting him out of the school, getting him out of the building? - Yes.

Why was that? - I didn't like his attitude before he came into the office. I didn't really think he had the right to question me without giving me some indication of what were his views.

Was there anything else that caused you to be anxious to get him out of the building? - I felt I was not reading the situation. I was finding it difficult to read the situation, and also most people who come into the school -- although not always -- are parents, although sometimes things like this do happen.

Once the meeting was over what was your overall impression of the man? - I knew he was going to report me, but I wasn't too worried about that. He had mentioned lawyers to me. I suppose I was thinking rather than receiving impressions.

You looked at the letter from Graeme Young of 13th June, 1995, No. 223 in the bundle before you? - Yes.

We see from the first sentence in that letter that Dr. Young makes reference to a recent telephone conversation with you about the subject matter in the letter? - Yes.

I think you did speak to Dr. Young on the telephone after Hamilton visited you? - Yes.

Did you receive any advice? - Yes.

What/

What was that? - Just to watch how I handled the situation.

Did Dr. Young elaborate upon why he was telling you that? - Yes.

What did he say? - I don't really recall.

In general terms? - Generally he said this could be a complex and difficult character. I think the Region had been having problems with him.

Did you receive any warning or anything of that nature? - A warning? When?

In the course of this telephone conversation? - That really was the warning, just to watch what I said and did with regard to him, because he was quite a difficult character.

CROSS-EXAMINED BY MR. GIBB: On the question of school letting, do you have a School Board at Bannockburn? - Yes.

Do you let out your own school premises from time to time? - Yes, we do.

Do you have any policy or is any guidance given to you from either Central Region or from the new unitary authority about letting? - It varies. The letting at Doune -- it depends how much is delegated to the head teacher and the Board. At Doune the Board handled the lets; it was not really my responsibility. At Bannockburn the Area Officer handles the lets, but they tend to be more traditional lets. If I have any difficulty with a let I would take it to the School Board. It is a difficult situation.

I am concerned about with the devolved management whether it is going to provide an additional complication for letting policy if it is a School Board decision? - Yes.

Is that something on which guidance requires perhaps to be given by the new unitary authority? - Yes.

But/

But there is no guidance as of yet in relation to the administration of School Boards in relation to lets? - School Boards often do not administer the lets; that is often left to the head teacher. Some schools do not have School Boards.

RE-EXAMINED BY MR. BONOMY: Are you saying that if there is an Area Officer responsibility, if there is a difficulty you would take it to the School Board? - It is not really an Area Officer responsibility; I think it is a head teacher responsibility, unless the School Board takes it on.

If you had a problem or difficulty with a let would you take it to the Board? - Yes.

You said you were concerned about the way in which Hamilton behaved before he got into your office? - Yes.

In that he was noisy in the corridor? - Yes.

What was that about? - He wanted to see me. I didn't really -- I could hear voices, and I think he was saying to anyone who would listen.

Who was there to listen? - A teacher and children, and the school secretary came forward at that point.

How many entrances are there into the school? - Five.

Had he come in what is an obvious main entrance? - I don't know how he came in, but I know he left by the main entrance.

Is the main entrance near your office? - Yes.

Have arrangements for visitors changed at all since March? - Yes.

What are the arrangements now that are different? - The signs are more imposing, asking visitors to call to the main office.

Do/

Do you accredit visitors in some way before they are allowed to go through the school? - Yes, we have a visitors' book and badges.

Any other changes in the arrangements for coming in? - We have closed some of our exists.

But the main entrance is open? - Yes.

And a sign clearly saying that visitors should go to the secretary? - To reception, yes, although we have two visitors' books, one being in the janitor's office.

Is it obvious where a person should go when he arrives at the main entrance? - Yes.

Where should he go? - If he is not intercepted by the janitor he should go to the reception.

And is reception manned all the time the school operates? - No.

So how does he attract attention at reception? - The design of the building is that the reception is really the corridor outside my office.

Does it say "Reception"? - Yes.

After/

1.50 p.m.

After an adjournment for lunch.

WILLIAM BURNS MacFARLANE (59) Sworn

EXAMINED BY MR. BONOMY: You work as a gatehouse operator? - That is correct.

You live in Bannockburn? - That is correct.

You were formerly a police officer with Central Scotland Police? - Yes.

During what period? - From 1960 to 1993.

And what rank were you when you retired? - I retired as constable.

Where was most of your service? - Mainly in the Stirling area but it was over Denny, Kilsyth, St. Ninian's, Traffic, I was all over the place; I had two terms in Community Involvement Branch as well with Central Scotland Police.

You knew Thomas Hamilton? - Yes.

When did you first come across him? - I would be very vague about dates but I would say about probably 20 years ago.

In what context? - He rented a small room down in Cowane Street from which he cut and supplied timber, it was just a room with a saw and it was just when I got married and I called at the room just to get some wood cut.

When did you get married? - 1971.

So that we.....? - No, I am saying 1971 I got married, it would probably be two or three years after that.

He cut wood for you? - Yes.

And delivered it? - Yes, and delivered it, he had a van.

Did/

Did his business move to other premises in Cowane Street? - That is correct, I can't remember how long he was in that but he did buy a better shop further down that sold tools and Do-It-Yourself items.

Was it just for Do-It-Yourself or round the house or did you do other things? - No, it was mostly Do-It-Yourself -- your first house, you are always trying to improve it; I did different types of fixing around the house.

You knew him as a customer? - Yes.

When you first knew him did he have another job? - He worked, I believe, as a trainee architect in the Municipal Buildings in Stirling just up the hill.

Did you understand that he worked in the office in some capacity? - Yes.

Did he still keep on that job when he had the wood cutting business in Cowane Street? - I would hesitate to confirm that because I simply don't know.

When he delivered the stuff to the house did he come in at all? - He did, he would come in; he was a lonely type of person and I really felt quite sorry for him; he did come to the house and I would ask him in for a cup of tea.

What stuff interested him in these days? - At that time chess, I think he was also a member of a gun club at that time.

Do you remember which? - Callendar or Dunblane but again I would hesitate to be sure about that.

Did you have any interests in guns? - None whatsoever.

Did you ever see his guns? - You are talking about.....

In these days? - In these days, no.

If, indeed, he had any? - That is correct./

correct.

Do you remember the time when his interests in boys clubs started? - I do -- again I can't remember the specific dates but I do remember that he did say that he was going to start up a youth club.

How long do you reckon you knew him by that time? - If I knew when he started I would be able to give you a date but I am sorry, I can't honestly tell you.

I just wondered if you had known him two or three years through the wood cutting business? - Probably about two or three years.

Do you know where the first youth club was? - I think it may have been Dunblane, either primary or high school.

Well, did he also have other premises in Dunblane? - I think some time after he had started his boys clubs in one of the schools he went to the rifle club in Dunblane, he operated from there.

Do you remember him also running other clubs in Stirling? - Yes, he ran one in Borston Primary School, I can't think of any other place.

Were you still a customer? - Yes, I bought quite a lot of stuff out of the shop.

Did you ever get involved with any of his clubs? - If you mean involved -- I did visit, I was invited by Hamilton along with my wife to go and see how he ran the clubs.

Where was that? - The one at the rifle club in Dunblane.

How often did you go there? - I was there once with my wife and my daughter; he was operating a gun club that night and I went back with a colleague when I was in the Community Involvement Department just to see how he was getting on; I also showed the kids a film on how to co-operate with the police.

Was that at Dunblane? - Yes that was at Dunblane,/

Dunblane, that was at the rifle club.

When was that roughly? - Maybe 1982, 1983.

Through the 1980s did Hamilton continue to call on you from time to time? - Yes, he did.

Was it always because he was delivering? - No, he called at the house on occasions just to discuss the operation of his youth club, it was his only topic of conversation, he would never ever discuss anything else, you couldn't carry on a conversation with him, it was always on his terms, he was a difficult man to carry on a conversation with.

Were the visits always welcome? - No.

What about the length of them? - Well, they would sometimes go on for about three or four hours in which time he consumed about half a dozen cups of tea and I think every chocolate biscuit you had in the house.

Did he ever build anything for your daughter? - He built a Wendy house at the back of our old house for my daughter.

Did he ever go beyond the boys clubs and discuss anything about his own private life? - He did mention the fact that he had been.....he didn't use the words "thrown out" but he had not been allowed to participate in the Scouts for some reason; he didn't go into the whys and wherefors but from his conversation I think that his views on the running of the Scouts didn't conform to the views of the Scouting establishment.

Were you still in touch with him when he started going with boys for camps at Loch Lomond? - Yes.

What is your best recollection of when that started? - Again probably the middle 1980s.

Did you ever go? - I did, I was invited along with my wife and my daughter and I went to one of the islands; he picked us up at Balmaha and took us over; he was cooking a barbecue and there was 12 to/

to 15 boys there and another helper there and he took us out in his boat for a sail round the islands.

What kind of boat was it? - It was a small dinghy type boat at that time.

What island was it? - It was either Inchmoan or Inchmurrin, I am not sure which.

Did the camps seem okay to you? - I saw nothing untoward during the running of these camps.

They were tended camps? - Yes.

Were you on Loch Lomond at any other occasion? - I went with my wife and my daughter and my brother and his wife and he took us for a sail on his larger boat; it was the one that was subsequently destroyed by fire.

Do you know when you went to Loch Lomond that time roughly? - Again I am only hazarding a guess, it is probably the middle 1980s; I would be telling lies if I said dates.

Did you learn about the boat being destroyed? - I did because it was in the local.....the national paper and then I was asked by one of my superintendents if I knew Hamilton which I said I did and he asked me certain questions at that time to establish how the fire might have been caused but I couldn't help him there.

This was your own Superintendent at Central Scotland? - Yes.

What was the implication in his question? - Can I answer that?

Yes? - I think it would probably be was it thought to be an insurance job.

That at least was being considered? - That as the inference that was made -- can I give my answer?

Well, did you have an impression of your own? - I honestly thought that that boat was his pride and joy, he used to wear a captain's cap and he/

he was master of this craft; it was my opinion that that wasn't the case.

When he went off to these camps in the summer did your wife actually run the shop? - My wife went to the shop on two or three occasions in possibly a week, maybe six or seven days whilst he was at the camp.

How often did that happen? - Maybe for three or four weeks but not altogether, separate weeks, but she couldn't simply cope because we had a young daughter at that time and she found it too much and she had to tell him no.

Now, your regular contact with Hamilton came to an end some years ago, is that right? - Yes, I have had virtually no dealings with Thomas Hamilton for about, I would think, seven years, maybe slightly longer; we discouraged him coming to the house, we used to send my father-in-law to the door if the bell went at night and if it was Mr. Hamilton we used to say we were not in, we got my father-in-law to say that; I didn't entirely like just to tell Mr. Hamilton not to come back but I think he eventually got the message.

Were you aware of problems he had with the letting of premises to him when he was running a group called the Dunblane Rovers Group? - Yes, I was aware of that.

Were you involved in any subsequent arrangements to try to help re-establish the group under a different name? - No, I do remember he still came about the house at that time and he probably asked advice but I didn't become involved, that was not my involvement.

A document will be put in front of you just now, it is D53HV and if that can't be found under that number it is DCRC AL B2 F190; now, you have probably never seen this but you will see it is a letter dated the 24th of February, 1984 to a man called Buchanan who was the Director of Administration and Local Services of Central Region? - Yes.

If you go two pages on you will see it is signed by Thomas Hamilton and Catherine Anderson? - Yes./

Yes.

Did you know Catherine Anderson? - No, but I believe my wife did.

You will see on the front page it is all about a committee that has been set up for Dunblane Boys Club? - Yes.

And it may be news to you, you tell me, but your name appears there? - I had no involvement as an assistant leader in any capacity with Mr. Hamilton at all, I can only take it he is using this to give his group some legitimacy.

I see the name Mrs. Evelyn MacFarlane as well, is that your wife? - Yes.

Was she on the committee? - Well, she was on the committee but didn't really take much doings with the club; she went to Borston Primary School several times but again she had other commitments so she couldn't continue.

Would that be around 1984? - Yes, that is probably about right, I would have said the middle 1980s.

So your understanding was she had some involvement in the group that was behind setting up the new Dunblane Boys Club and would take some part in the overseeing of its activities? - Yes, that's correct.

But you didn't have any involvement? - No, that is news to me.

This Inquiry has heard a great deal about rumours and stories spread about Thomas Hamilton; you were the local policeman or one of the local policemen; did you pick up these stories? - Yes, I did.

From when? - Probably just before his let at the Dunblane High School was terminated.

As a policeman on the street, on the beat, what was your understanding of the sum and substance of these stories? - Well, I take people as I find them and some of the stories that were circulating/

circulating I found very hard to believe.

You obviously didn't give credence to some of the stories, is that fair? - That is correct, I think there was a question about his sexuality which I didn't give credence to; certainly if somebody had said the running of his club was a wee bit hard I would have accepted that.

So stories were there that you didn't really think had any substance? - Well, I heard at some of his camps there was no food but again when I visited the camp with my wife who will confirm this there was plenty of food at the camp, that particular camp that we visited; there was other questions about the boys running about with just shorts on; I have never been a member of the Scouting Group or the Cub Group or the Boys' Brigade so I don't know what the normal practice is but I think if it is bucketing with rain I would assume that if you have got a pair of shorts on it is a lot less to dry but I didn't see anything at all untoward at the camp that I visited.

Were you aware of his interest in photography? - He always had a camera, he was always taking pictures, he was always taking pictures of boys that he may photograph and my wife and my daughter and I as well but I believe latterly he went into photography as a business.

In/

In the seven or eight years did you occasionally meet him in the street? - Unfortunaely, yes.

On these occasions did he try to talk to you? - Yes, he did.

Did you form any impression that he, as an individual, was changing in his personality or his mental state during that period? - I can't speak about his mental state but I can certainly speak about his conversations which were all one-way -- he was anti-police, he was anti-establishment, he was anti-the education authority, he seemed to be anti anybody who opposed his views on how the clubs should be run or whether they should be run. He was always a person who had a lot of police contacts and I found latterly his attitude towards the police I couldn't accept and didn't accept it and terminated my -- I use the word loosely -- association with Mr. Hamilton.

Apart from the occasions when you visited his club and were engaged with the shooting activity did you ever see any of his guns? - No.

Did he ever discuss shooting with you? - He was always discussing it, he offered me an invitation to go to..... I believe he shot at Hamilton and he offered an opportunity to shot at Hamilton and I refused; when I was up at his gun club myself, my wife and my daughter, I did shoot at a target but it wasn't my cup of tea, I didn't get anything from it.

When you say he was always talking about gun clubs you gave me the impression that really the sole topic of conversation was boys' clubs? - Yes, but guns did come up but not as often as the clubs and latterly his conversation was all about taking his case to the Ombudsman, it was about the education authority doing this, the community doing this, innuendos being spread throughout the community about him which he totally refuted.

He blamed the authority, particularly the Regional Council and the Scouts and to a certain extent the police for destroying his business? - No.

What/

What do you.....? - Well, this is only my opinion. I believe his business got destroyed by his obsession with running the boys' clubs at whatever expense.

Did he have any competition in his business? - Do-It-Yourself?

Yes? - Well, there was the Kenmore Store in Baker Street, he latterly went into kitchen displays and he opened up his shop in kitchen displays and there was a kitchen display shop next door.

Which one was there first? - Well, it was Kitchen Today was there first and Hamilton started up in opposition to that.

Did he correspond with you? - I was forever getting letters he had sent to parents; I can't remember seeing that one, I honestly don't think I got a copy of that letter but both my wife and I got copies of his camp forms that he would have where he would draft out a letter absolving himself from anything that happened at a camp and the parents had to sign it; we were always getting bits and pieces through the post or hand-delivered but I am afraid latterly the majority were all torn up and put in the bucket.

Was he a methodical person? - I would say he was very methodical, he was nobody's fool.

Would he do things on a whim? - No, I honestly believe.....he was a great chess player as well which I probably haven't mentioned, but he played chess for Stirling Chess Club; I think his life and everything he did was well though out in advance before he actually did it.

A man who planned everything? - I would say so.

You have indicated that some of the regime in his boys' club was a bit strict? - I would say so; I wouldn't say he had power over the kids but he did get them to do what he wanted and he felt one of the things that he did in life was that he felt discipline was lacking in the schools, the parents and he was trying to instill a little discipline into/

into their lives.

Did you see him getting them to do things that were beyond them? - I can't remember seeing him being at any of the clubs where they were doing anything at all.....any of the times I was there..... I was at one club where they were just doing exercises; again my wife would probably be able to remember; I think I would maybe be collecting my wife on that occasion.

Was he a foul-mouthed person? - I never heard him swear in my life.

Was he a man with a smutty.....? - Never heard him telling a joke which had any connotation at all of indecency or whatever.

Did you experience anything that might have suggested an unnatural interest in young boys? - Nothing whatsoever, I think the only thing he did for boys and again this is only my opinion is the power he had over the boys to do what he wanted.

Did you find something strange about what you observed him doing in relation to boys and controlling boys? - Nothing other than I think he was maybe a bit strict; not all boys are able to do the same things, you can't treat them all the same. Some can do more than others.

Would I be wrong to form the impression that you probably thought he was getting something out of dominating boys? - It is beyond me but that is my opinion.

CROSS-EXAMINED BY MR. CAMPBELL: In the course of your evidence you told us that Thomas Hamilton was a man who had a lot of police contacts; what did you mean by that? - Well, he knew a lot of policemen, he was always..... When he met a policeman in Stirling he would stop and talk whether he knew him or not, he would make himself known to the police and I just wonder if he was doing it for whatever reason but he always seemed to.....he could name a lot of policemen through either just coming into the shop to buy stuff like myself and getting to know them that way.

And what was he saying to the policemen when/

when he stopped to speak to them? - As I said his conversation was mainly about clubs; I mean, you couldn't carry out a conversation about what I was going to do next week or last night. If it had nothing to do with his clubs he seemed to shut off.

He would stop policemen specifically to talk to them? - Well, that's right -- I was the Town Centre patrol in Stirling during my service and it was always a Saturday and if you saw him coming and he stopped you if you didn't manage to get away from him it was always about his clubs and about the problems he was experiencing with the clubs, about the running of the clubs and people trying to put obstacles in his path as to his running of the clubs.

But he would be attempting to defend himself? - Yes, always -- I mean to me latterly he was becoming a pain in the neck.

You said that you found latterly that you couldn't accept the views which he held about the police? - That's right, his whole tone changed when he was talking about the police, it was as though.....he wasn't like I would talk to a colleague about the police, he seemed to be crying down the police just by one or two derogatory remarks, he called them cops which he had never done before. His general manner indicated to me that he found the police were more against him than for him. I only met him twice in the last three years, one was in May last year and why I remember it was I had a first aid exam and I met him in Stirling in the Thistle Centre and he stopped me and immediately got on about his clubs. I told him I had an appointment and I left him and the last time I saw him was about the Friday night before Christmas where I met him outside the Miner's Welfare where I parked my car and again I told him I had an appointment and I think the last words he ever said to me was "You will have to come down to my house", that was his last words.

You told us about an occasion when you went shooting? - Yes.

With Thomas Hamilton? - Yes.

And you said that the shooting didn't do anything/

anything for you? - I didn't say that..... I didn't get any pleasure out of it.

What, if anything, did the shooting appear to do for Thomas Hamilton? - I think he got a lot of enjoyment out of it, shooting at targets and if he could hit the targets but I am afraid I didn't, neither did my wife as well who was there. It was obvious to us -- it was the one and only time I have ever held a gun in my hand and I certainly have no intention of ever taking it up as a sport.

You expressed the view that he had a power over the boys in his clubs, a power which enabled him to get them to do what he wanted them to do? - That was just my opinion.

How did he achieve that power over them?
- Well, can I give you one instance where he probably.....the boys would be maybe doing something and he always had a whistle and he would use the whistle for them to stop doing what they were doing and stand to attention, things like this. That is just my opinion; I am not competent to tell you how he got this or why he did that but that is my own opinion, he seemed to have more power over children than he had over adults. I would say he had very few friends as adults.

So if you had to sum him up in his latter period when he was running the boys' clubs how would you do that if you had to sum him up? - How would I sum up Thomas Hamilton? I can't speak to his manner over the last seven years because I have only met him in the Town Centre so in the last years again as I have mentioned I can't form an opinion on him on these two occasions.

During the time in the 1980s after he was trying to organise his boys' clubs how would you sum him up over that period of time? - I think I did
-- a pain in the neck as far as I am concerned.

In the statements which have just been taken from you you said he came across as a bit of a loner? - Yes, I actually felt quite sorry for him, he was a young chap maybe in his early 20s who was wanting to start up a business and I felt that should be encouraged; he supplied materials, he was good, he could give you advice on how to do certain jobs/

jobs in the house, what adhesives to use, I found him quite helpful but I think his whole attitude changed once he started running the boys' club, I think it changed to the detriment of his business.

CROSS-EXAMINED BY MR. TAYLOR: When you attended at the gun clubs.....? - Gun club, one club.

I beg your pardon? - Thank you.

Were you able to form any view on how he handled the weapon? - Well, not being a member of a gun club I would have said he was competent; the safety aspect was very much in prominence at the club; I don't know whether he was adhering strictly to the rules as they laid down at the gun club but they certainly appeared to me to be beyond question.

RE-EXAMINED BY MR. BONOMY: Did you ever visit his home? - I visited his home at Kent Road once. It was on the occasion he flitted and took up the occupancy of Kent Road with his mother and father who I believe were later to be determined as his grandparents. He phoned me at home and asked me if I could come down as someone who was going to give him a hand to carry his mum downstairs hadn't turned up. I went down and between the two of us we managed to carry her in a wheelchair down into a van and take her down to Kent Road, deposited her there and that was the only occasion I visited him there.

The only other question is this -- you said something about him speaking to police officers and you then added the words "for whatever reason"; what did you mean by that? - Well, I suppose if.....what I did mean by that was that if he was seen to be.....if he could name police officers and seemed to know police officers it would give him an air of respectability which I would say is the same as perhaps putting my own name down as an assistant leader.

2.30 p.m.

DUNCAN GRAHAM McGREGOR (41), Sworn:

EXAMINED BY MR. BONOMY: I think you are a Safety Adviser with a university in Glasgow? - Yes.

How long have you been employed there? - Just over three years.

You knew Thomas Hamilton? - Yes.

When did you first get to know him? - About 1980.

What job were you doing then? - Assistant Safety Officer with the Regional Council.

That is Central Region? - Yes.

In what circumstances did you meet him first? - Tom Hamilton came up to Viewforth, came into the Personnel Department to see the Safety Officer as he was looking for advice on what qualifications the Central Region were looking for for people who ran gymnastic clubs in their premises.

And were you able to help him? - Yes, to a certain extent. I was the Assistant Safety Officer and he really wanted to see the Safety Officer who wasn't there. He returned on two or three occasions and phoned up.

Were there any qualifications really required for anyone in those days doing gymnastic classes? - Not really. The advice I gave him was that if he had accepted qualifications for gymnastics that would seem to be sufficient. He wasn't really satisfied with that, and I think at the end of the day we looked for advice from other local authorities to see what sort of stipulations they had. I believe we photocopied material and then gave it to him.

Did you know whether at that stage he had any qualifications? - Well, he said he had certain qualifications in gymnastics.

Did/

Did you have any contact with the shop he ran in Cowane Street? - I think I visited it twice.

When would that be roughly? - A long time ago -- about 15 years ago.

As a customer? - Yes -- just basically to drop some stuff off to him.

Would that be information such as you have just been describing? - Yes.

Did he give you any indication at that stage of why he wanted to go in for classes or clubs, what he had in mind? - No. He was running clubs which were essentially sports training clubs and he had to tolerate a lot of football playing by the boys to keep them interested.

Did he discuss camping at all with you? - Yes. He basically ran camps in the summer time.

Did he indicate that he saw any link between the clubs in the winter and camps in the summer? - Absolutely.

What was the link? - The link was his main interest was in running -- he was interested in running camps during the summer months, but in order to get the boys to come along to the camps and get recruits you might say along to the camps he felt it necessary he would have to run clubs during the winter.

Did you become friendly with him? - Well, it was more of an acquaintance really.

Did he get to the point of suggesting your involvement in the clubs at all? - He did several times try to get me to be involved in his clubs.

And did you? - I always declined.

Did he discuss an interest in shooting with you? - Yes.

Did he try to get you involved in that? - Yes, he did.

To/

To what extent? - Well, he took me shooting on two or three occasions. I was interested in that to see what it was like.

Where did he go? - We went to somewhere away past Motherwell; I think it was the Clyde Valley Pistol Club.

Did you get interested enough to take it up? - No.

How long did your interest last, such as it was? - Well, basically it was something that was outwith my means.

Did he communicate with you either by phone or by writing? - Well, he never actually wrote to me as such but he used to send me copies of the correspondence he was sending all over the place. He used to phone me regularly to keep me abreast of his latest developments.

Did he ever come to your house? - Yes, he came to the house on a number of occasions.

That is fairly vague. Was it regularly or just.....? - No, not regularly.

How many times did he come to your house? - About half a dozen probably.

Do you have children? - Yes.

Any boys? - Yes, two boys.

Either of them involved in any of his clubs? - My elder son went to his short-lived club in Denny.

How did he get on in the club? - My son was mostly interested in the football aspect of it and he enjoyed that aspect of it but he didn't really enjoy the strictness of the club.

Why was that club so short lived? - Just didn't have the numbers.

How long did it last? - Oh about two or three months I think.

Were/

Were you aware of any expression of concern about Mr. Hamilton's activities with the club at that time? - I knew there had been -- subsequently found out there had been an argument with a parent about whether or not her child should wear a T-shirt.

When roughly was this club operating? - About three years ago I think.

Was that after you had taken up your present job? - Yes. I think it was after I had taken up my present job.

When you changed your job did Hamilton still maintain contact with you? - What job was that?

Well, when you moved to Glasgow? - Well, I never moved to Glasgow. Basically I was in Stirling and Denny. I have never moved to Glasgow or anything like that. I just travel in every day.

Do you not work in Glasgow? - Yes, I work in Glasgow.

Did Hamilton not make contact with you at this work in Glasgow? - Yes.

That's really what I was meaning? - Sorry.....

Did he continue after you moved to work in Glasgow, did he continue to keep in touch? - Yes, he did.

How frequently did he keep in touch while you were in Glasgow working? - As far as personal visits to me in Glasgow he made about two or three I would say. He was on shopping trips into Glasgow. He visited a number of camera shops and came in to see me at lunch time.

Did he enlist your help with some of the printing he was distributing? - Well, yes.

In what way did you help him? - Well, basically I gave him a letter -- he had a typed letter and it was a kind of standard letter, and he asked me if I could type something out, change/

change the dates, that sort of thing.

Do you remember what the letters were about? - I think they were to do with recruiting students to assist him in the summer camps and his clubs.

Were you aware of his interest in starting up a club at Bishopbriggs? - Yes.

Did he speak to you about that? - Well, when he started the club in Bishopbriggs as far as I know it was just last autumn, and he visited me. I knew he was running a club in Bishopbriggs because he visited me a couple of times in Glasgow at my workplace just more or less at the close of business, and his reason for this was that he couldn't get a train from Stirling to Bishopbriggs at a time that was suitable for the running of the club. He had to get the train from Stirling to Glasgow, have a look round the shops or whatever, and then get a train from Glasgow back to Bishopbriggs. A couple of times he merely nipped in to see me just as I was tidying up.

During 1995 did he visit you quite often? - No, I wouldn't say that.

How many times in the course of the year? - About four or something like that.

Did he have any correspondence typed or copied in relation to running this club at Bishopbriggs? - I don't think so.

When was the last time you saw him? - The last time I saw him -- my mind has gone a bit blank -- the last time I spoke to him was on the Friday beforehand.

But when was the last time you saw him, the last time he came into your office? - I think that was the Monday before.

That would be the 4th March? - Yes, it would be.

Did he stay for long? - No.

Did you have any conversation with him? - Yes,/

- Yes, briefly.

Do you remember what he was talking about? - Not really, just the usual.

What was the usual? - Well, anything to do with his boys clubs or his correspondence he was sending out here and there.

Did he say anything about shopping the previous Saturday? - Well, he did say to me -- this gives you some measure of his conversation which was a bit tedious -- in a kind of break in the conversation when I was more or less getting my jacket on and going down to the bus station to go home he told me -- I said to him, "Did you do anything special over the weekend?" and he told me he had been into Debenhams and bought two shirts.

Did he say how he had paid for them? - Yes. I asked him if Debenhams had a sale and he said No, but the beauty of it was he had got the shirts on his credit account with the shop and this meant that he would never have to pay for them.

Can you remember his exact words? - He said, "The beauty is I will never have to pay for them ever".

Did he do anything when he said "ever"? - Just emphasised.

Just the way he said it; he didn't make any motion with his hands or anything? - No.

Emphasised "ever"? - Yes.

Did that strike you as odd? - It did indeed, because I felt that if you have a credit account you can run up all sorts of purchases and, I mean, you are paying, you can pay off small amounts albeit per month, but you not only have to pay for the goods but you have to pay quite a steep amount of interest, so it just didn't make sense to me.

Prior to the 4th March when was the last time you had ever spoken to him or seen him? - I think probably a week or a fortnight beforehand.

During/

During 1996 were you seeing him maybe once a fortnight? - Well, perhaps not seeing him but he used to phone the house.

Was there any particular reason why he would phone the house? - Just more or less to keep me up to date with his campaign to clear his name, sort of style.

How long were these phone calls? - Very long.

Could they be an hour? - They could be, yes.

You said the last time you spoke to him was on Friday 8th March? - Yes.

Was that at home? - That was at work.

What was the purpose of his call. This was a telephone call? - That is right.

What was the purpose of the call? - He phoned me to ask me for some help and safety advice concerning someone he knew who was considering making a claim for a hearing loss against their employer.

Were you able to give him that? - Yes.

Did he also say there was a change in his movements on the following Monday? - Well, he mentioned that he wouldn't be in to see me on the Monday because he had found another more suitable train.

And he didn't come to see you on the Monday? - No.

When did you learn about the Dunblane shooting? - At lunchtime on the day.

Did you have any idea at that stage that it might be him? - Certainly not.

In the course of that day did you phone Hamilton? - Yes, I did indeed.

Why/

Why was that? - Well, first of all about lunchtime I heard a kind of rumour that there had been schoolchildren shot in Dunblane Primary, and it was kind of hard to believe really and I didn't pay much attention to it. However, it so happened in the afternoon I had an appointment with someone from the Scottish Ambulance Service who had come in at a pre-arranged meeting to discuss arrangements for ambulances visiting the university to ensure the ambulance when called out was going to come to the correct entrance to minimise delay in getting the casualty. The person who was representing the Ambulance Service had been involved in Dunblane and obviously was giving information about this. The information he gave was there was certainly a lot of people killed in the primary school in Dunblane, and that there was someone who was known to the police and was a member of Dunblane Rifle Club.

Did he give you a name? - No.

Well, you are going to tell us why you phoned Hamilton? - I then phoned -- when this gentleman left I then phoned Hamilton to see if he knew anything about it because, to see who had been involved, because I knew he had been a member of the shooting club at Dunblane and he would certainly be aware of the news because he would watch the bulletins.

I assume you got no answer? - I got the answering machine.

Did you leave a message? - Yes, I just said that this was Graham calling if he wanted to call me back.

In the three months immediately before this happened could you detect any change in his personality and mental state? - No.

You have told us about one statement that he would not have to pay for the shirts 'ever'? - Yes.

Apart from that, was there anything out of the ordinary about him and his conversations during that period? - No, not at all.

No cross-examination.

MR./

2.50 p.m.

MR. BONOMY: The next witness, sir, is William Thomson.

WILLIAM McGREGOR THOMSON (25) Sworn

EXAMINED BY MR. BONOMY: I think you live in Burntisland? - Yes.

I think you are a school teacher? - Yes.

What do you teach? - Physical education.

How long have you been a qualified teacher? - Two years.

I think you actually hold a degree in Sport in the Community? - Yes.

And also a Post-Graduate Certificate in Physical Education and Media Education? - Yes.

In May of 1995 were you working as a teacher for Fife Region? - Yes.

In what particular school? - Buckhaven High.

Were you on a permanent post or a temporary post? - A temporary post, as a supply teacher.

Does that mean you didn't get paid during the summer holidays? - Yes.

Were you interested in finding work during the summer holidays? - Yes.

Did anything come up? - I was working with sports clubs, and I had an interview regarding that, and also in England as well, where I was working in a job down in Somerset.

Did you still have free time left? - Yes.

Did you learn of someone wanting assistance for the period you were free? - Yes. When/

When I was at Jordanhill in Glasgow there were always advertisement for sports coaches, which obviously were for sports clubs.

For which sports clubs? - For Dunblane sports club.

Were these past advertisements you were aware of? - It was from about a year before.

Did you keep a note of how to get in touch? - Yes, I kept a note of all of these jobs for the summer in case I would have to apply for them.

Was one of them Thomas Hamilton? - Yes.

Did you contact him? - Yes.

How did you do that? - I phoned him up. There was a phone number on the advertisement.

Was this for employment in evening club activities or for a summer camp activity? - For a summer camp activity.

To last how long? - About 12 days.

During the summer of 1995, July? - I think it was either June or July.

After you spoke to him what arrangement was made? - He asked me to come along to a club in Falkirk to do a small coaching session, then he offered me a job at the summer camp.

What did you do about the coaching session? - I took a coaching session in gymnastics along with another coach with a group of about six children each.

Did you do that for the whole session? - No, for about an hour, then he asked me to take a football session for about 20 minutes.

Did he interview you? - He talked to me for only a couple of minutes during that time.

What size was the group? - Between the two of us there were I think 12. We split them into two/

two groups of six.

That was for the two of you? - Yes, me and a young girl, who was a student from Moray House.

Did she also come to be checked out? - Yes.

You reckon there was only 12 people there? - There were only 12 in the small session I took, but there were other people in the games hall at the time.

What school was this? - I'm not sure. It was one of the schools in Falkirk. I was going to say Gryffe High School, but I am not sure.

Was Mr. Hamilton the only one in charge? - There was Mr. Hamilton and also a sports student from Jordanhill.

How many kids were there altogether? - I would say about 30, but I would be guessing.

Did anything strike you as odd about the activity the children were engaged in? - Nothing at all. The two of us were taking a small gymnastic session, and there was five-a-side football in the games hall.

How about how the children were dressed? - A T-shirt and shorts. There was nothing odd at all.

Was anyone taking photographs? - No.

Was this the same night you telephoned or a later night? - It was a different night. He had asked me to come along to see what my coaching abilities were like.

Did you get the job? - I did, yes.

Do you get paid for a job like that? - Yes.

Did you get properly paid at the end of it? - Yes.

So/

So when you left that night was there anything, thinking back about what went on, which seemed out of the way? - Nothing at all.

Now, you spent 12 days at the camp. Who did the catering? - Thomas Hamilton made the food.

What were the sleeping arrangements? - The children brought along sleeping bags and they slept either on the floor or on seats.

Where did you sleep? - In a room next door.

Where did Hamilton sleep? - He slept in the room with the children.

Was there any other assistance at the camp? - There were two other coaches, a male and a female. They slept in the other room next door as well.

What did you make of the activity at the camp? - To start with from the first day Thomas Hamilton had given me a list of activities he wanted to get the children to take part in. I felt it was too strenuous, so I told him, and we reduced them.

Were these activities morning, afternoon and evening? - Most of the time, although they were mostly taken part in in morning and afternoon, and at night there was a mixture of events if they wanted to take part in five-a-side football, etc.

Did Hamilton regard this as a holiday? - No, he felt it was more a sports training camp than a holiday camp.

Was it a sports training camp? - Yes I would say very much so. The person who took the gymnastics was very good, so she improved the gymnastic ability of the children.

Was she a female coach? - Yes.

Was she a student? - Yes, I think so.

Was the other one a male? - Yes. He was also a student.

Was/

Was there anything strange about the way the children dressed about the period of the camp? - To start with he gave them each a pair of trunks, which at that time I felt was a bit odd, but the children asked if they could cover up with T-shirts and shorts. I spoke to him and said the children wanted to emulate their childhood heros, and he said "Fine. You know better": so they put T-shirts and shorts on for most of the activities.

For some of them did they not wear T-shirt and shorts? - Sometimes during the gymnastics they didn't wear them, but for five-a-side football, etc., they wore T-shirts and shorts.

Were they wearing swimming trunks when they weren't wearing T-shirt and shorts? - Yes.

Is that appropriate gear for gymnastics? - I wouldn't have thought it was appropriate gear, but I wouldn't say it was inappropriate, because the camps had been run along that way for years (sic), and I never thought anything about it.

Were any of the children upset during that fortnight? - Some of the children got homesick.

Did any of them get to the point of trying to get away from the camp? - Apparently two children had gone away from the camp, and Thomas Hamilton and a janitor went looking for them and found them down at a phone box. One of the parents arrived after that.

Did the children stay? - Yes.

Did he take photographs during the camp? - Yes, he took quite a lot to start with, but didn't take as many towards the end.

Did he take video films? - Not that I know of.

Were you surprised at the amount of photography? - Yes and no. When I asked him about the photography he said he was looking to take the pictures to give to the parents on a marketable basis. He had photographs of the children taken at the high jump that he wanted to give to the parents.

Did/

Did he ever mention he had been complained of in the past? - The only thing he mentioned was that a camp on Loch Lomond someone had complained, but there was nothing found wrong with it.

Did he say what the complaint had been? - I am not sure if he said he had spanked someone, but it was something along those lines.

He didn't say whether he had been charged with anything? - No, he didn't mention anything like that.

Did you find anything odd about the way in which he had treated the children during the fortnight? - No.

He wasn't strict with them? - He was strict to a degree. Maybe a wee bit more domineering -- that is maybe not the right word. He would ask the children to stand in a line and maybe raise his voice, but he never shouted at the children.

Any signs of favouritism? - Yes, very much so, towards some children.

CROSS-EXAMINED BY MR. CAMPBELL: You mentioned homesickness, and a boy leaving camp and going down to the phone box? - Yes.

Did Thomas Hamilton permit boys access to a telephone during the camp? - There was only one telephone I know of, which was used by the janitor at the school. Some of the children were allowed to use it, but I am not sure about the others. I would say no, but certain ones. Some of the children said they were going to be allowed to phone home, but which ones I am not sure.

Did you gain any understanding as to why some boys were prohibited from phoning home and others were not? - No.

Did he ever show any affection or comfort towards upset children? - Not that I can remember, no.

BY LORD CULLEN: How did he show favouritism,/

favouritism, as far as you could see? - He kept on saying "Well done!" to certain children rather than, as we are taught in teaching, trying to encourage everyone. He would say "Well done, Willie, you did well today", but not to everybody.

Was that the only way in which he showed favouritism? - I would say if someone did particularly well he would give them an extra sweet, but that is the only thing I can think of.

No further cross-examination.
No re-examination.

MR. BONOMY: The next witness is Douglas Ralph.

DOUGLAS RALPH (41) Sworn

EXAMINED BY MR. BONOMY: I am an Inspector in the Central Scotland Police, based in Falkirk. I have 22 years' police service.

The Inquiry has had some information about an encounter you may have had with Thomas Hamilton some years ago. Was that the only occasion on which you ever met him? - No. I first met him when I joined the police at first, and I had a motor scooter, and I joined a scooter club. It was not a recognised club, it was just scooter owners in Whins of Milton. I think it may have been in a hall used for other facilities as well. That was the first time I had met Mr. Hamilton.

Roughly when was that? - 1971. Again I was a member of the club for that time. He would come occasionally, but not every week.

Was he also a member? - No, he didn't have a scooter. He came by car. It was not a registered club where we had a list of members: just a bunch of scooterists who got together.

What do you do at a scooter club if you don't have a scooter? - He would come for the meeting starting, but not wait till the whole of the meeting was over until he left.

Did the club have scooters? - No. The persons/

persons who were members had their own scooters.

Was he just a friend? - He appeared to be. He was obviously visiting there before I joined. I was a newcomer to the club. When I went he would be there.

He never had a scooter while you were there? - No.

Now, you are quite clear that is the same Thomas Hamilton as this whole Inquiry is about? - Yes.

Did you know anything else about him, what he did at that time and where he stayed? - I think he lived in Stirling.

Where was the scooter club? - Whins of Milton, which is up towards Bannockburn.

Do you know what he did for a living? - No, not at that time.

Are you sure it was the same person? - Yes.

What I am concerned about is his speaking to you and complaining about the actions of other police officers. When was that? - Again it is difficult to say exactly. Certainly 7 to 10 years ago.

Where were you serving then? - At that time I was either in Traffic patrol or in the Road Safety Section.

Where did he speak to you? - I think it was in the Town Centre area of Stirling.

What did he want to see you about? - He said he had been spoken to by two officers. He had informed me he had been up the Back Walk in Stirling, which is the area which leads from the back of the hall round towards the Raploch, and he had been spoken to by two officers. He had an air gun, and he said they told him he could be charged with recklessly discharging it. He said an officer had taken the gun and discharged it into the ground and had also waved it about, and he was considering writing/

writing in to complain, because how could he be charged with recklessly discharging a gun when the officer was waving it about.

He was complaining about police activity? - He was saying if he was going to be charged with recklessly discharging a gun, he was complaining that the officer had been waving it about, which is very dangerous, far more dangerous than what he would have been doing.

From what he said to you was there any basis on which he could possibly be charged with recklessly discharging a firearm? - No. He said he had been in the wooded area, but he had not been recklessly discharging it.

So he was complaining of the police conduct towards him? - Yes. He didn't name the officers, and he didn't seem particularly annoyed about it.

Yes? - You would meet Mr. Hamilton in the town and he would always have a story to tell, and he would ask specifically about the police. In one instance he said one day he saw police cars going by with their horns blaring and lights flashing; had there been anything happening. Now, I knew that day that there had been nothing happening at all. He would usually tell you a story, ramble on and then say "Bye bye" and walk away.

Yes? - On that occasion he said this about the two policemen, then he said "How is the police? Are things busy?", then said "Bye bye" and walked away.

Did he say he would make a formal complaint? - No, he said if he had been charged he would complain: but had the incident happened he would have been charged there and then by the officers.

So we don't hear of any suggestion that he was actually charged? - No.

Nor that he was even warned. He was threatened, really? - He said he had been spoken to.

Well/

Well, he has been threatened. That is not something you would expect to find recorded in the police records? - No. At the same time, I wouldn't give a lot of credence to what he was saying. It was one of his stories.

However, what action did you take once you had got this complaint from him? - I took no action.

Why? - It was the pattern that he would come and tell you a story. He didn't make any formal complaint to me or ask me to do anything. He was simply telling the story as a matter of interest, which is how he normally acted.

CROSS/

3.10 p.m.

CROSS-EXAMINED BY MR. CAMPBELL: Probably my fault; I am not entirely following the sequence of events. How did the subject of reckless discharge of an airgun come up? - He would just approach -- that was Mr. Hamilton's way -- and say "Are you busy and that". He would come along and ask you how you were, ask you about police matters and tell you his stories. On occasions he would say he had been over at Whins of Milton in the car but he wouldn't give you any information about what the car was. It was as if he wanted to stay for a chat, and once he had his chat he would be away.

How did the subject of reckless discharge of an airgun come up? - I obviously can't remember exactly -- just the fact this term -- he was told he could have been charged with recklessly discharging, and his view was he had done nothing, he hadn't been reckless at all, and in fact the officers had been reckless by waving it about in his presence.

Did he say to you that he had been told by two police officers that he could be charged with recklessly discharging an airgun? - Yes. He did not in fact say he had recklessly discharged it.

You knew nothing about what happened because you weren't there? - No.

Obviously you were told that Hamilton had been told by two police officers that he could be charged with recklessly discharging an airgun in a public place? - Yes.

If I understand correctly, Hamilton's main concern then was to indicate to you that if that did happen he would have some complaint to make about the conduct of the two police officers -- get his attack in first in a sense? - Yes. He saw that as -- how could they charge me if they were waving it around.

Did you know that Hamilton held a Firearm Certificate? - I had no knowledge of that whatever.

Did you take any steps to find out whether he had or not? - No.

Did/

Did you take any steps at all in the light of what Hamilton said to you? - No. I have known him and when he came to speak to you with these stories, it was his normal way of chatting away. At the time he usually spoke to most police officers, he would stop you in the street and speak to you, and he didn't say their names. If he did know who they were he would have said who the police officers were at that time.

You didn't try to find out who it was who had spoken to them? - No.

Did you just dismiss it all completely? - Not dismiss it completely. My opinion was this was his normal method of coming for a chat, giving you a story, going away. He didn't appear particularly as if someone wishing to make a complaint, they are agitated or annoyed. He was like -- he would change to some other subject altogether and he would say "Bye bye" and wander off. Following that time he would often do the same thing, ask me, "How are you doing, are you busy", and it wasn't an isolated incident.

Did Hamilton tell you why he had been at this wooded area with an airgun? - No. He just said he had been round the Back Walk. He didn't specify which part of it. It was quite an expanse of woodland.

Did you ask him what he was doing up in a wooded area with an airgun? - No. I knew he was going up, that he was going to complain.

This was a matter of no interest to you whatsoever, he was telling you he had been in a wooded area with an airgun? - He didn't give me any details of what happened. He was more or less complaining about the officers themselves, and this was the reason for him if he was charged getting off.

No further cross-examination.
No re-examination.

ALLAN MOFFAT, (Recalled),

LORD CULLEN: You are still on oath of course.

EXAMINED/

EXAMINED BY MR. BONOMY: Detective Sergeant Moffat, you previously gave evidence really in your capacity as an officer in the Child Protection Unit in relation to the enquiries that you made? - That is correct.

In the investigations into the Dunblane tragedy one of your roles has been to assist in investigating Hamilton's finances? - That is correct.

The Inquiry heard from Detective Chief Inspector Hughes about that already but I think the Inquiry has been hearing evidence and you have been continuing with your investigations? - Yes.

I just want to ask you about a couple of matters which advance our knowledge slightly about Hamilton's finances. I think you conducted an enquiry with the Royal Bank particularly in relation to any large sums of money that Hamilton may have had in the mid-80s? - That is correct.

Did you discover that he had received an insurance payment for the loss of a boat on Loch Lomond? - I believe so.

Were you able to say when the payment was made to him? - It was in December, 1983.

The amount? - £24,686.

Paid into the Royal Bank? - A business account there.

Already on overdraft? - The amount overdrawn I believe was some £16,500.

So that would kill the overdraft and leave a fair bit? - It did.

Did Hamilton draw on that account? - Yes, very quickly within a period of two months the account was down to £2,000.

Was there any significant withdrawal in that period? - One for £3,500.

Were you establish when that withdrawal was made? - Unfortunately not.

That/

That was the only big one? - It is the ony one the bank was able to advise us on.

Were you able to establish anything about money for the disposal of the business we have heard called Woodcraft? - We learned again a cheque was paid into the same business account.

When was that? - I believe that was October, 1985.

What amount? - From recollection it was some £16,000.

I have a note here of £14,394? - Yes, that would be correct. I submitted a memo on that.

Do you have any information on the state of the account at that stage? - Again the account was overdrawn I believe.

Did that bring it back into credit or not? - I believe it did, but again it was very quickly taken back down.

Was one large withdrawal made? - Yes, there was one of some £2,000 I believe.

We have heard some evidence earlier of the possible use I think of a sum of £7,500 to buy another boat. Do you know anything about that? - I think I have confused the figures. The second large amount which was paid in for the sale of the business was in fact leading to £7,500 being withdrawn. Again we have not been able to easily ascertain the reason for that withdrawal.

I think there has been a suggestion in evidence -- or possibly -- well, it may be my memory is at fault -- but there has been a suggestion somewhere that £7,500 was payment for another boat. You haven't tracked that? - Again this has been the suggestion. I have never been able positively to state he paid that amount of money to any particular person for the purchase of a boat.

Have you somewhere, apart from me, heard suggested that £7,500 was used for the purchase of another boat, or are you only hearing that here? - I am hearing that -- I have heard he purchased another/

another boat but I have not heard he paid £7,500 for it.

Was the £7,500 the only substantial withdrawal around the time the payment was received for the sale of the business? - That is correct.

In the period between these large deposits were there a number of small withdrawals? - I believe so. Again the bank was only able to provide us with information relative to the large withdrawals.

No cross-examination.

RONALD ISLES, (30), Sworn,

EXAMINED BY MR. LAKE: Are you presently an officer in the Police Force of Central Scotland Police? - Yes.

What is your rank? - Detective Constable.

How many years police service do you have? - Eight years.

I understand as part of your investigation into the events of Dunblane on 13th March you were passed by another officer a large bag of photographs? - That is correct.

Which officer gave you these photographs? - It was Detective Constable Simpson.

I wonder if you could have the photographs put before you. Can you tell me the number on the label? - DHE36.

Are these the photographs that were passed to you? - That is correct.

What did you do with the photographs you were given? - They were lodged through the Production Book and they were stored in the Production Room.

Is that all the photographs within that bundle? - No, that is not correct.

Where/

Where are the others? - I did on instructions from the Fiscal's Service make up a sample of photographs and they are in a separate booklet.

I wonder if we can have the booklet containing the photographs put before you? - That's it.

Can you identify the number on that? - DHE56.

And that is the bundle prepared by you? - That is correct.

On what basis did you extract the photographs from the book of photographs to form the album? - I extracted them on a random basis. However, I feel it is a representative sample of the type of photographs which were within the larger bundle.

Could you describe what is depicted in the majority of photographs within the album? - All the photographs depict young boys carrying out various aspects of gymnastics or athletic events.

What are they wearing? - They are all generally wearing either a shirt, tee shirt, or some wearing black swimming trunks -- certainly swimming trunks.

Are all the photographs taken of the boys, are they all taking part in athletic activities? - No sir, there are a number which I would describe as portrait photographs.

Which part of the body is generally shown in these portrait photographs? - Generally from the breast area upwards.

How are the boys dressed in these photographs? - Some are dressed with tops on, but I would say the majority of them, they were naked from the breast up.

Do the boys in the photographs appear to be happy or unhappy? - Some happy, some you could say are happy; others it is hard to say.

No cross-examination.

After/

3.30 p.m.

After a short adjournment:

MR. BONOMY: Thank you for your forbearance, sir. The next witness is Paul Richard Smith.

PAUL RICHARD SMITH (21), Sworn:

EXAMINED BY MR. BONOMY: Where do you stay? - Until recently I stayed at Braco. I have now moved to Bishopbriggs, near Glasgow.

Do you also work in Bishopbriggs? - Yes, at the Leisuredrome.

Are you a leisure assistant? - Yes.

When you were at college did you assist a person called Thomas Hamilton with Dunblane Boys Club? - Yes.

How long did you assist him there? - About a year. When I left college I had to set about getting a job, and I had to leave because of other commitments; I couldn't just stay on.

What year was that, roughly? - 1992.

Do you mean when you started? - Yes.

How did you first hear from him? - It was in a newsagents. He had advertised a boys' club, and I was wondering if he needed helpers. I thought it would look good on my CV if I showed I was working as a helper with the public.

How did you contact him? - I phoned the number given on the advert. It was his house number.

Did he arrange to see you? - He said he had to induct helpers and new members. Myself and my father went round to his house.

Was/

Was there anything odd about the house? - No, just that he had pictures of boys up.

Anything striking about these pictures? - Not out of the way. At first it was because of the way they were all queued up: it was like a class photo. He seemed to have hundreds of them, and lots of videos of boys' activities.

On the wall were there photographs of boys? - Yes.

Were these of individual boys or groups of boys? - Mainly groups of boys.

No individuals? - I can't remember.

Were there other photographs? - Yes, he had photo albums.

Did he show you them? - Yes.

Did he have videos as well? - Yes.

How did the boys appear when you saw them in the photographs? - Most of them had their tops off. They were all at a camp at Loch Lomond. I joined the year after that.

Were any of them wearing swimming trunks? - I can't remember.

Was this in his living room? - Yes.

Anyway, you say that it seemed odd at first, or words to that effect? - Yes.

Did the feeling it was odd wear off? - Yes.

When was that? - As we went on he came to explain the boys preferred it like that, and then when I went to the club itself the boys used to come up to me and say "It is too hot. Is it okay if I take my T-shirt off?" and I thought it must be the norm, so I would just let them.

Did he show you any videos? - Yes, one of a boat trip to Loch Lomond, and all the boys were there too.

Did/

Did that look odd? - No, not really. They all had life jackets on.

At the club itself did the boys wear shorts, or swimming trunks? - I can remember during our usual evening sessions on a Thursday night they used to wear their normal attire, but when I helped out at the summer camp Mr. Hamilton had bought them all black trunks: he said it was just for photo shooting.

Yes? - Given the weather conditions I questioned whether it was advisable -- because it was pretty cold. He said "It is just to get the boys some sun". As soon as Mr. Hamilton left, however, and I got back in charge I made them put their T-shirts back on, because it was too cold.

Where was that summer camp held? - Dunblane High School.

In which year was that? - 1992, 1993.

Was that when you started? - Yes, round about that.

Over the next year after that did you help out with the club? - Say a few months after that. I was just coming up to leave college then.

For how long did you assist him with his club? - For about 20 months in total.

Always at Dunblane High School? - Yes.

Does that cover the period before and after the camp you have told us about? - That was about two months after the camp and the rest just before.

What were the activities the High School club? - On a normal day we would do gymnastics, football, they would play a game called Pirates. That involves taking all the equipment off the walls, the climbing frames and things, and then certain boys are chosen, and all the rest have to be "tig" as it were, and once you are caught you get your T-shirt on and catch the rest of the boys.

Does/

Does that mean you are swinging about between pieces of apparatus? - Yes. A few months after starting working for him I found out this game had been banned, and I said to him "You shouldn't be doing this because of Health and Safety". I was studying Health and Safety at college, and I said "Can we just stick to the gymnastics?".

That game is banned? - I am sure it is. It should have been.

Were there any accidents at any of his activities? - Just the usual rough and tumble, but I wouldn't say anything where anybody had to be hospitalised.

Any obvious breaches of safety or good safety practice? - Not putting the blame on him, but I would say the school. They had five-a-side goals and these should be chained to the wall, and at that time they were on wheels. They could fall down.

Did he take many photographs at the camp? - Yes, numerous, including photographs of myself as well. That is why I came forward.

Why is that? - Because he was taking photographs of me with the boys and himself.

BY LORD CULLEN: I think at this point we should introduce the photographs. Just have a look at that and see if that is you? - Yes.

EXAMINATION CONTINUED BY MR. BONOMY: What is going on there? - That is me standing up at a game of football.

If you just flick through this book, do they show activities at the camp? - Yes, indeed. That is what most of these were, actually.

The one we began with: where was that taken? - That was outside. At the back of Dunblane High School there is a playing field. I don't know if it belongs to the school, but I think it does. There is an athletics track all chalked out and a five-a-side football pitch.

How/

How long were you out there for, each day? - Almost every day, unless it rained.

Do these show just the games or do they cover some of the club activities? - I would say that the boys wearing trunks, this will be the camp.

Is there a date on any of these? - No. Probably we would best be able to tell from the video.

Bearing in mind this is 1996, do you think it was the camp of 1992 or 1993? - Definitely, yes; the one I attended.

Do you know which one? Do you know whether it was three years ago or four years ago? - I probably best say four. This is the one. I remember some of the boys being there.

Were you concerned at all about the volume of photographs that were being taken? - Not really. When I went to his house in the very first place he had a tallboy, and within the drawers in it he had different lenses and different cameras. He showed me videos of weddings he had been to and taken video footage of that and I thought he must have had a natural interest in photography.

During the camp that you ran did the boys stay overnight? - Yes. Some of the boys would have special permission to go home; they just didn't want to stay overnight. Some of the boys did stay with him overnight.

What happened at the weekend? - I was actually off at weekends, because I just went home; I didn't want to stay there.

Did you stay overnight during the week? - No, because what with just living in Braco.

In your statement to the police you said it was in the summer of 1993, but I take it you are in doubt about that? - Yes. I am just trying to remember the year.

Were you paid for what you did? - No. He had offered, but, you know, there was no point, because I enjoyed helping out as well, and it was to put/

put it on my CV that I had helped out at a training camp.

Did he give you anything? - Yes. He was taking pictures with his camera, and he gave me a Minolta camera and a lens.

Did you offer to pay for these? - Yes, because it is expensive equipment. He said "No. If you want, the next time you come round to the house I will give you a few more lenses".

When was that? - At the actual camp. I have still got the camera in question.

How generally did you get on with him? - I would say on the whole okay. He did seem a strange man, but nothing I would say that was very questionable, you know. During some of the activities he did with the boys, I used to say to him -- there was one for instance when we all played football, and Mr. Hamilton would come in and he would say to a boy "Do you want to come through?", and he took them for gymnastics. He was doing that one at a time. When they came back I would say "What did you do?", and the boys gave us the whole routine as to what they did with gymnastics. Then he called all the boys back into the gym, and then we watched the special few he had chosen that were good at gymnastics.

When he was with the boys on his own did you get the impression he was giving them proper tuition? - Well, he said to me he was qualified. I remember he used to teach me on the vault, and he seemed to know most of the support positions, because my mother used to teach gymnastics, and I asked her about this, and she said yes, it is the old way, but it is correct.

Was your impression that he was at least trying to give proper tuition? - Yes.

So while you were initially concerned about them going through to the gym on their own with him they appeared to be involved in gymnastic activities, as far as you could tell? - Yes.

So/

So far as you could tell? - As far as I could tell. It seems strange to me they were going through one by one, because I said to my father it seemed strange, it wasn't a regular basis, and he saud "Just ask the boys". He seemed to have a different rapport with the boys than I had. I think with me being younger than him he was a bit more disciplined. He would line the boys up and say "Right you are Captain, you are Captain," whereas I would just say "Right who wants to be Captain", and they would choose two and let them get on with it. Whereas he used to pick the teams individually. I seemed to be a bit more playful with the boys, let them get on with it, and he would say, "Right, you are doing this, you are doing that, you are going here, you are going here".

Do you think you got a fairly accurate account from the boys when you asked them what was going on next door? - Yes, I would say so.

Thinking back about it, was there anything you could put your finger on that was out of the way
that may suggest he was behaving improperly? - Just that, just that he put the boys in trunks. He always used to say well, he was taking their photos, he wanted them to look nice and smart.

Was that at the club as well as the camp? - No, just at the camp.

CROSS-EXAMINED BY MR. CAMPBELL: You told us you think we are talking of the summer of 1992 rather than '93. Do you have a recollection of an incident when three boys one evening effectively ran away from the camp? - No, I was never actually told they had, no.

You have no recollection of that? - No, that is news to me.

CROSS-EXAMINED BY MR. TAYLOR: Were the boys who were singled out for tuition in gymnastics those boys who had a special aptitude for gymnastics? - Yes, because like a football skill, he used to just choose different boys for football as well.

So was that the basis of selection so far as you could tell? - As far as I could tell, yes.

RE/

RE-EXAMINED BY MR. BONOMY: You said that your involvement finished when you stopped college. When did you finish college? - The beginning of 1993, about May.

May 1993? - Round about that.

Was it shortly after that you went to the camp rather than the year before? - No, definitely the year before. So probably 1992 would be the camp.

BY LORD CULLEN: Would I be right in understanding from your evidence you never saw any sign of what may be called favouritism? - Yes.

You did. You were talking to Mr. Taylor just now of people who appeared to have merit being singled out. Did you look upon that as being favourism? - He seemed to pick favourites. He used always to choose the same boys for Captains.

Was there anything to account for that, any particular reason -- because they were particularly good at something? - Well, yes, I assumed -- I just said they are good at gymnastics and thought well, they are playing football now. He was running the club so I didn't want to sort of question -- I was there to help, not to take over.

DEREK ROBERT PENMAN, (30), Sworn,

EXAMINED BY MR. LAKE: I think you are presently an officer in Central Scotland Police? - Yes, I am a Detective Sergeant stationed at Stirling CID.

How many years police service do you have? - 12 years police service.

Could you have in front of you please two folders HV (Volumes 1 and 2). Before looking at the Productions within that folder is it correct that you have been involved in the investigation into the incident which occurred at Dunblane Primary School on 13th March? - That is correct. I was part of a team that followed the incident at Dunblane and we were tasked with researching the background of Hamilton and the boys' clubs and looking/

looking at the correspondence that was recovered from his home and also the correspondence that was recovered from his dealings with various local authorities.

I think you said earlier you considered his involvement with boys' clubs? - I did, yes.
The boys' clubs information was recovered from an amalgam of researches, mainly dealings with the local authority concerning boys' clubs and also documentation by him concerning boys' clubs, so what in effect we had is from the information from the local authorities and also correspondence recovered from his own records, we were able to form an over-view picture of the boys' clubs in general.

Could I ask you please to look within the folder at the first item, the first major item within Volume 1? - The summary?

It is headed "Chapter 85, Hamilton's Involvement with Boys' Clubs". Is that the report you assisted in the preparation of? - That is correct.

In the next divider from that you show a number of charts and diagrams? - That is correct.

Were these prepared by you? - They were prepared by members of the team I was involved with. I didn't prepare them personally but I was involved in the team in a supervisory role.

What I would like to do is refer to various aspects of the report using the diagrams when necessary and to consider the general aspect of Hamilton's involvement with boys' clubs, and this is only with a specific club. We have heard already the manner in which Hamilton obtained lets of clubs from local authorities. Did you become aware of how these clubs were publicised? - It would appear that it followed the same pattern in as much as he would produce flyers, advertising material, and he would then distribute them unsolicited to local primary schools in the area.

Was that the only way he circulated the flyers? - There was also evidence he circulated flyers actually round the doors of houses in the locality of the area where he was opening the boys' club.

Have/

Have you been able to make any estimate of the popularity of the boys' clubs? - It would appear from research that initially they were extremely popular, the interest that was attracted from the flyers meant there would be a large number of boys attending on the first night perhaps, and they were popular initially, but I think it was interest that however waned and eventually dropped to a small number, sometimes a core group who attended. There was some evidence on opening nights there would be as many as 70 children, and although I know this coming from the source of Hamilton's records, it would appear the attendance sometimes dropped down to perhaps ten.

Was there any particular reason for the reduction in the numbers attending the club? - Again, in my opinion I would say Hamilton himself suggested children didn't have the patience to stay at the club, or whether they just lost interest, and the regime that Hamilton operated, the particular activity, sometimes they lost interest. It would appear from one of the boys' clubs there was a period that complaints were received from parents to local authorities, and whether that had a knock-on effect, certainly the numbers did diminish.

Were you able to investigate the income and expenditure of the boys' clubs? - We were able to recover letters from 7 Kent Road and carried out an analysis of the letters to give us some idea of income and expenditure from these records, but again I would have to say these were records that all appeared to have been recorded by Hamilton.

Can I refer you to one of the charts, that is C3 in H(v). Were you involved in the preparation of this? - Yes.

What does it show? - What we did in this case was to examine the record of a six month period to see the per week income and expenditure that was being recorded against the clubs, to give us some idea of the money that was being generated. What it shows is that you have the actual date of the entry, the club, the expenditure, the number of children who were recorded as attending the club, the income that was received from them, and also the expenditure that was said to have gone for the club for that night. We balanced it, the balanced figure/

figure was a notional figure put in from the start.

Where did you get the balanced figure from? - It showed profit and loss. It was a notional figure. The balance shown is a notional figure. It shows basically the income less expenditure for that particular night, therefore a balance of £10.60 which is shown is the first entry is in effect the figure of income and expenditure, and that figure, that was taken as an opening balance for the analyses and it then works from there.

BY LORD CULLEN: Can you tell me, was the income and expenditure period we are looking at here the figure for a particular organisation or was it in Hamilton's own name or what. How is that shown? - From memory of the books I was shown, it was a simple double entry account book. It would perhaps be a week -- they were done on a weekly basis -- and what you would have is it would be shown as Falkirk High School -- that's just a name -- and all the information would be in one book. It was one set of ledgers.

At some point was there not some organisation allegedly set up called Boys' Clubs Committee? - Yes. It would appear these accounts related to Hamilton's activities with boys' clubs. It was a boys' club account, if you like. From our research the Boys' Clubs Sports Group Committee emerged as being the organisation, an umbrella organisation he would appear to have created, and therefore this meant ostensibly it related to the Boys' Clubs Sports Group Committee.

Can you tell us when that came about, what date it came into existence? - If I can refer to this.....

MR. LAKE: I think page 26 of the report may be of some assistance in this.

BY LORD CULLEN: Yes, page 26. You said it was early 1989; is that right? - How we arrived at that information was from basically correspondence that would appear -- he had prepared a letterhead made up which demonstrated this organisation.

Was/

Was that ostensibly the body that was making this money; is that right? - Yes. I think in reality it was perhaps Hamilton on his own who created this.

No doubt.

EXAMINATION CONTINUED BY MR. LAKE: Without looking at the individual entries for any income and expenditure, is it correct to sayin general the income is either one or two times the number of children attending? - That is correct.

The expenditure figure varies throughout the various clubs? - It does.

Was there any information about a separate expenditure figure or was it merely taken from the ledger? - Again from memory it was actually itemised. He itemised the expenditure in various ways, travelling expenses, chips. He actually detailed the expenditure.

Looking at the totals at the foot of the second page you see over the period which is stated as six months there was a small net loss in running the clubs? - Yes. The average figures show an average loss of £30.84.

I wonder about that because if you see the total figure, it shows a total loss of £25.19 for the entire period of six months. You see the total figure? - Yes, I do.

And you see the average figure and the average income is £12.44? - Yes.

The average expenditure of £12.76? - Yes.

Really it is just a matter of a few pence that has been lost on each one? - Yes.

How did the figure of £30.84 come about? - It was calculated using a computer spreadsheet. If you take the figure of £30.84, if you like, the lower figure in that column, you will see there is some locations when as much as £113 has been lost, but I think you have to show the average on that column.

BY/

BY LORD CULLEN: I take it there were other clubs at other locations which were in operation during that period? - Yes. Looking at this from memory there was a club operating at Bishopbriggs.

I wondered about that. I don't see that? - It clearly didn't feature in the records.

It simply wasn't there? - Yes.

EXAMINATION CONTINUED BY MR. LAKE: Was it clear from the ledger how much Hamilton was charging the boys to attend his club? - I think we can take that from approximately the income, the number of boys attending, and sometimes the numbers were double the amount. On some occasions 12 boys would appear to have attended where the income is £12 which would suggest there was a fee of £1.

On other occasions did Hamilton charge the boys other amounts? - Again purely going by this information -- I think it is at Dunblane -- there are some where on the night of 22nd February where 23 boys apparently are entered as attending, yet the income is only £7. This figure is not what was being charged from the records.

Not merely from the ledger but from other information are you aware of other sums being charged? - From memory, yes. So far as I can make out it was a nominal value, some 20/30 pence, and again from memory I think £1/£1.50 was another rate which is charged.

Were there any entries in respect of photographic equipment or items in the ledger? - Yes, from the ledgers they showed transactions, both purchases and sales of photographic equipment, and also I think there was photographic developing.

They hadn't been included in the summary? - I understand they are in a separate financial profile which was completed in respect of these entries. This was only ostensibly to show the income and expenditure from the boys' clubs, whereas the photographic equipment sales were prior to the six months, and I also understand a separate summary was produced which detailed the income and expenditure over the years which would include the photographic/

photographic equipment.

What activities did the boys attending the club undertake? - I think in the main they were sort of games, football and the like, and also there was an element of gymnastics.

What did the boys wear whilst undertaking these activities? - It would appear that the children wore swimming trunks that were issued by Hamilton although I don't think that has always been the case. It would appear on occasions that the children wore their PE kit. One of the things coming from the statements, we have a complaint they were made, there were certainly numerous occasions where the children were required to wear black swimming trunks.

Were parents aware of that? - To be certain, on some occasions I am not entirely certain, but he did advertise the fact that they were to bring PE kit. I think latterly there were certainly complaints which involved Hamilton having given the children black swimming trunks without their consent, so whether or not the parents were aware of this I don't really know. Certainly parental complaints were received to suggest some parents at least did not know the children were required to wear swimming trunks.

In the course of your enquiries did you ascertain whether or not it was common practice at that time to have children carrying out these activities to wear only swimming trunks? - Certainly it would appear here he preferred children to be either bare from the chest up or only wear swimming trunks which suggested.....

Were you able to speak to other witnesses who indicated whether this was common practice or whether it was uncommon? - I understand in some instances Hamilton -- in some of these exercises there were occasions where Hamilton made the children bare chested.

Did/

4.10 p.m.

Did any witnesses indicate whether it was common to have boys dressed in this way? - I seem to recollect the issue was raised possibly in Fife. From memory, one of the ladies in the Centre there provided us with information that it was not uncommon perhaps round about 1985 for male children undertaking that activity to be bare chested.

We have heard evidence of photographs being taken of the boys, and complaints arose in respect of that. Did you recover photographs of the boys? - Yes; following the incident at Dunblane a search of his house was undertaken, and I understand that a substantial number both of signed photographs, printed photographs and negatives were recovered, as well as videos.

Can I refer you to page nine of your report? You will see there in the paragraph starting halfway down it says that 445 sides, 548 photographs and 4,260 negatives were taken from the house. Were you aware of these having been recovered? - Yes.

It says at the end of that paragraph "None of these photographs contained anything of an overtly indecent nature"? - That is correct.

There is reference there to video tapes which were recovered, and we have already had evidence regarding those? - Yes.

BY LORD CULLEN: Were you able to establish in general terms the age range at which these clubs were targeted? - Yes, it was the 7-year-old to the 11-year-old; these groups.

Is that by reference to the primary class? - Yes: Primary 3, Primary 4 to Primary 6.

I think we have some material with some classes as shown on the forms advertising for people who wanted to go along? - Yes.

The advertising was not always for 4 classes, but generally for 4, 5 and 6; you say 3 as well? - It is aged 7 to 11. I am uncertain what classes that would fall into. The minimum age is 7. There/

There was an occasion in Fife where a child was too tall, and that caused some concern.

EXAMINATION CONTINUED BY MR. LAKE: Turning now to the question of Hamilton's qualifications, were you able to investigate whether he held any qualification as a PE instructor? - He did not hold any qualifications as a PE instruction. I understand he held a Grade 5 coaching certificate from the British Amateur Gymnastics Association.

What did that entitle him to teach? - I think when the witness Chillas looked into it was gymnastics, but that was with the caveat that he had to be supervised by someone of a higher standard.

You have mentioned there the witness Mrs. Chillas. I think she had reported on Hamilton's activities? - Yes.

If I refer you to page 12 of your report, in the third paragraph you refer to Mrs. Chillas and her having seen a video tape of Hamilton running a Boys' Club? - That is correct.

Over the page you set out some of her concerns? - Yes.

Was that the form on which she set out her concern or was that a summary of her concerns? - That is a summary of her concerns.

In relation to gymnastics exercises, can you read out what is stated here? - The first one was that the exercises were too strenuous for the age groups and the body build; secondly, that they were too repetitive; thirdly, that they were potentially damaging; fourthly, that there was no support for many exercises; that there was no chalk used on hands; that there was the use of an elastic device, which was considered dangerous; that there were occasions where children supported each other; and she noted that there was pain showing on the faces of some of the children who were participating.

Under the heading of "trampolining" what were her concerns? - One concern was that there were no spotters; that there were two children on the trampoline with no adults present; that Mr. Hamilton/

Hamilton had no trampoline qualification; and that there was insufficient matting surrounding the trampoline.

And finally there is some general observations? - Yes.

Can you read these? - It was considered that everything was very regimental; it was noticed that children did not smile very often, and almost looked afraid.

Yes? - She noted again that children were participating without shirts on, and occasionally participating in swimming trunks.

Yes? - It was considered to be almost a physical training regime, with few coaching tips offered, and the children were constantly being lined up military fashion.

You referred to that being fully detailed in memorandum D/7: that is the source of that information? - Yes.

I would like to turn now to consider the boys' clubs in detail. You set them out in alphabetical order. When we are considering boys' clubs could I refer you to the chart which you prepared, No. C2? Can you explain what this is intended to indicate? - Again it was gathered from information we had got to show the currency of the clubs, which clubs were operating at which time, to try and give an over-view as to how many clubs would have been operating at the one time.

The first one you have referred to in alphabetical order is Alloa Boys' Club. What was the venue for that? - From memory it was Alloa Academy.

Can I refer you to page 16 of your report? - Yes. It was held at Alloa Academy.

The cost per boy is shown as what? - The cost shown on the let was 20p. per boy.

When did it commence? - From our information, it started on the 2nd November, 1992 and ran till June, 1993.

BY/

BY LORD CULLEN: You say 1993? - I am reading from the paragraph where the initial let was taken from. If I could refer to chart C1, which summarises the dates when each started and finished -- the report is done in a narrative style. It is difficult to establish a start date and an end date.

EXAMINATION CONTINUED BY MR. LAKE: I think on page 17 of your report you summarise a number of let applications, which run throughout that period, leading up to 1994? - Yes. It would appear from the summary that Alloa started in October, 1992 and continued till June, 1994.

I think you also note that this boys' club was linked with Lornshill Boys' Club, at page 17? - Yes, that is correct.

What was the average attendance at the Alloa Boys' Club? - Initially it was 12 to 18 boys, but dropped quickly to around seven boys.

Are you aware of the reason why that club terminated? - No.

LORD CULLEN: Would this be a suitable time to adjourn?

MR. LAKE: Yes, sir.

LORD CULLEN: We will adjourn now and resume at 10 o'clock tomorrow.

Adjourned until tomorrow at 10 a.m.

SEVENTEENTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

THURSDAY, 20th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow)
C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
DEREK PENMAN,	
Examination continued by Mr. Lake....	4
Cross-examined by Mr. Jones.....	42
Re-examined by Mr. Lake.....	49
GORDON DAVID JEYES,	
Examined by Mr. Lake.....	49
Cross-examined by Mr. Campbell.....	80
Cross-examined by Mr. Gibb.....	85
Cross-examined by Mr. Taylor.....	85
JAMES GARDINER,	
Examined by Mr. Lake.....	88
WILLIAM REGINALD COLE,	
Examined by Mr. Lake.....	94
Cross-examined by Mr. Campbell.....	107
Re-examined by Mr. Lake.....	112
GORDON TAYLOR,	
Examined by Mr. Lake.....	116

THURSDAY, 20th JUNE, 1996.

SEVENTEENTH DAY.

DEREK ROBERT PENMAN,

EXAMINATION CONTINUED BY MR. LAKE: Mr. Penman, we were considering yesterday the first of the clubs and taking them in alphabetical order, and first was the Alloa Club. Perhaps it would be easier to give an over-view if we were to deal with things in chronological order referring to the charts which you will see as C(ii) in H(v). Do you have that in front of you? - Yes, sir.

Do you see on that chart the first club run in time order is described as Rover in 1981. Which club does that refer to? - That refers to the Dunblane Rover Club that Hamilton operated at the time. That was the first club that he started.

Were there any details of clubs held prior to 1981? - There was reference in documentation recovered from the Scout Association which refers to a Rover Group, I believe that was in 1978, but the first mention, the 1981 mention, was from documentation recovered from Central Region. That was the date when that club started.

Is there a Scout Association reference to Stirling Rovers prior to that date? - Yes. It would appear he also ran a club in 1978 by the same name that met in the Territorial Army premises in the industrial estate in Dunblane, and the date was 1981 reference and the let was Dunblane High School.

While a club may have existed prior to that date that is when it started having lets? - That is correct.

BY LORD CULLEN: I think what one witness referred to, he called Forth Valley Rover Scouts. Does that ring a bell with you? - It hasn't featured. I understand there was confusion or concern expressed in the late 70s and early 80s by the Scout Association, allegedly by the Scout Association, over confusion with the name "Rover Group".

I understand that. The club I am thinking about was supposed to be a club held at the High School in Stirling in the late 1970s. Is that in fact the same thing as the one that is on your list? - I don't recall any mention of that particular club. Certainly the Dunblane Rover Club, as it was termed then, and there was mention of the name of Bannockburn in documents which also had reference to Dunblane Rover Group. He was obviously using the term "Rover Group". He did have a group that he took at various schools.

EXAMINATION CONTINUED BY MR. LAKE: Where did you first come across mention of Dunblane Rover Group in Council records? - The earliest recollection was 1981 under reference to a memorandum which was sent by Community Education to the Director of Education which was a report on Hamilton following concern that had been raised.

Are you aware of how that club was publicised by Hamilton? - From our researches, we actually recovered two newspaper articles in respect of that club. He had been obviously using the Club Section of the Stirling Observer at the time to advertise or publicise the events he was holding.

If I could just refer you to documents in the second folder, D45 and D46. Do you have D45? - Yes.

Which newspaper is that taken from? - Taken from the Stirling Observer dated 21st April, 1982.

Is there reference to a Rover Group within the right-hand column? - Yes. It has been circled in pen. It is giving information about a meeting to take place on April 22nd at Dunblane High School, gave some information about activities, and in this case asked the parents who may be interested in sending their children to contact Hamilton, and it offered phone numbers and also the address of the shop.

Was mention of various activities included there, and did it also say that the children should bring shorts and gym shoes? - Yes.

Looking at document 46, can you say which newspaper/

newspaper this is taken from? - Again that was taken from the Stirling Observer.

Which date have you given for that? - Yes, it is 19th May, 1982.

Again it is under the heading "Rover Group"? - Yes. A small part of the Club Column of the newspaper, this gives information about a boating trip that had taken place using Hamilton's boat. He had obviously taken some boys out on an outing at Loch Lomond.

While you have the document in front of you can you refer to D42. What is that please? - It would appear to be a flyer or a note printed by Hamilton sent to parents. There has been a note appended to the top of it.

That is the one that begins, "Hamilton is a suspected"? - Yes. The document itself would appear to be the copy of a note that has been appended. I am looking at the document backing sheet, and the Production reference tells me this came from the Crime Intelligence source.

The date of that flyer is what? - The date of the flyer is 15th November, 1981.

You mentioned a memorandum in 1981 by the Regional Council expressing concern regarding the lets by Hamilton. You will be aware of what the Regional Council did about the let? - Yes. Initial concern was raised in 1981. From recollection I think they wrote at that time to take no action although in 1983 the lets were suspended in relation to Hamilton.

And what was the response to the lets being suspended? - It resulted in a complaint by Hamilton against the Council for suspension of the lets and a complaint to the Commissioner for Local Administration in Scotland which subsequently transpired found in favour of Hamilton and the authority reinstated the lets.

Did parents of children attending the club play any part? - At the initial time of the suspension letters and a petition were sent in support of Hamilton to the local authority.

In/

In that flyer, reference D42, you see it is headed "Dunblane Rover Club" with T.W. Hamilton designated as the principal leader? - Yes.

Did you obtain any information regarding other people involved in the Dunblane Rover Group? - Around that time, 1983, there was concern raised that the Dunblane Rover Group did not have a committee, and a condition by the local authority saying that they wanted to meet with the committee to reassure themselves a committee existed. As I understand it, a meeting took place around 1983 with the Education Sub-Committee where certain members were present -- I think the witness Anderson at that time was involved as Secretary of the club.

Can I refer you to D53 amongst the folder of Productions. What is that? - That is a letter sent by Hamilton to the Director of Legal and Administration Services for Central Regional Council dated 24th February.

This gives details of the committee members halfway down the first page? - It does.

Were you able to verify whether in fact those peoples were members of the committee? - People were spoken to, and although some of them admitted some slight involvement with him some people said they were in fact not members of the committee.

Did any of them confirm that they had sat on the committee? - Yes. Initially the witness Anderson said that she had for a short time been involved as the Secretary, and from recollection I think the witness MacFarlane also said that she for a short time was involved with the boys' clubs.

What is the name of the club given on the heading of that letter? - The type on the letter is "Dunblane Boys' Club".

The final one which I referred you to is headed "Dunblane Rover Group"? - Yes.

Are you able to tell if that is a new club or in any way related to the previous one? - It is difficult to tell when clubs were operating. There is suggestion Dunblane Boys' Club came about as a result/

result of Hamilton agreeing to drop the name "Rover" from the title. I think in view of the concerns that had been expressed by the local authority earlier that there was some confusion with the Scout Group, I think the name "Rover" was dropped from the title.

Did you find any reference to Dunblane Rover Group after reference commenced to Dunblane Boys' Club? - I can't recall from memory.

Can I refer you back to your chart, C2. The first item there is a Rover Group which is shown as running from 1981 to 1982 and then nothing thereafter. In the third line there is reference to Dunblane which picks up in 1983 and runs until 1996. Are these the two clubs you have just been referring to? - Yes. I would say it is one and the same club, and where the Rover Club would be changed to Dunblane Boys' Club it would continue and I would imagine it would be the same club. It would be the same club meeting in the same premises and the name was changed.

BY LORD CULLEN: Can I ask you one question in connection with that: would you look at the fact sheet. You have shown the Rover Group as ending in October, 1983 but you show the boys' club as beginning in October, 1985 and there was a two year gap. Now, is that for a particular reason? - Looking at this and looking at the chart I suspect what happened, there has been mention of Dunblane Boys' Club in correspondence probably around 1983, and again from memory, the lets were terminated and the correspondence continued. Although the clubs were not actually in operation he still corresponded back and forward with the Region, and I think what from memory has happened there is he changed the name of the club, he appeared still to have the club although the club was not meeting because the lets were suspended, and when these lets were eventually reinstated.....

So the dates you have shown in this C1H, they are really meant to denote periods of non-activity? - Yes, sir.

EXAMINATION CONTINUED BY MR. LAKE: So when did the Dunblane Boys' Club resume? - From the chart it is shown as October, 1985 until March, 1986.

Are/

Are you aware why it resumed in 1985 after the gap?
- I understand that it resumed as a result of the lets being reinstated by Central Regional Council to Hamilton after the finding of maladministration by the Commissioner of Local Administration in Scotland.

Were/

10.20 a.m.

Were you able to uncover whether further lets were granted by the Council to permit the Dunblane Boys Club to conduct its activities? - I understand that other lets are through research, were recovered which showed activity at the club.

What premiss was this club held at? - It was held at Dunblane High School.

Was it ever transferred to any other premises? - Not to my knowledge.

Were you able to uncover any details of insurance for the club? - I was aware there were insurance policies held with the General Accident Group at some period during these boys clubs.

I refer you to document D55 in the folder? - Yes. This is in fact an insurance document from General Accident in relation to the insurance policy that was held by the Dunblane Boys Club per Thomas Hamilton. It expired in December, 1988, being effective from December, 1987.

Do you see what the premium payable in respect of that policy was? - The premium payable would seem to be £185.50.

Returning to the second page of that policy, which detailed the cover, do you see at the foot of the typewritten text a heading "Special Endorsement 1"? - Yes. That is a clause which states that "The indemnity granted by this policy does not apply in respect of injury to participants in ball games".

You have said that was one of the activities which it was anticipated Hamilton would be carrying out in his boys club? - Indeed, that is correct.

Turning through the pages, on the fifth page of that do you see what is described as a Certificate of Employers Liability Insurance? - Yes, sir.

What period is that in respect of? - It runs from the 5th December, 1985 until the 4th December,/

December, 1986.

Again looking a further two pages forward from that, is there again a special condition tagged on to that? - Yes. Again this is an exclusion from the insurance. It states "The indemnity granted by this Policy does not apply in respect of injury to participants in ball games and/or gymnastics". Again these were activities undertaken by Hamilton at the club.

Were you able to find any details of insurance for boys clubs held by Hamilton for years other than those I have mentioned? - Again from the correspondence recovered this to my knowledge is the only insurance details recovered.

You referred earlier to the initial publicity for the Rover Group being by way of newspaper articles. By what other means did Hamilton publicise these clubs? - He tended to produce "flyers" which were distributed round the local primary schools, given to head teachers and asking them to distribute them. It is also known that he on occasion posted "flyers" through the doors of dwellinghouses in the local area.

Could I refer you to document D56, please? - Yes.

I think that is a letter dated 14th October, 1991 from Hamilton, designated Group Chairman, to the Chief Executive of Central Regional Council? - That is correct.

Looking at the first paragraph, what is Hamilton requesting? - He is making a request for the Committee to grant permission for leaflets and posters for children to be distributed within the schools, advertising his clubs.

What is the response to that request? - I seem to recollect we recovered a draft response that declined this request.

Did Hamilton have any assistance running Dunblane Boys Club? - It is shown that the witness Boal had given him some assistance in running the club, and it also says here that for a period the witness Smith was also an assistant.

Without/

Without mentioning the names of any person, were any complaints received in respect of the activities of the Dunblane Boys Club? - Yes; in 1994 a letter of complaint was received by the Rector of Dunblane High School concerning a parent who had complained about Hamilton instructing their children to change into swimming briefs during the club, and also to photograph these children.

If I could refer you to document D57A, do you see that is a memorandum from Detective Sergeant Moffat to Detective Superintendent Ogg regarding that complaint? - Yes, that is correct.

Was the club closed down following that complaint? - No, it appears the club was allowed to continue.

Was the club still continuing in March of this year? - Yes, it was.

BY LORD CULLEN: Which club are we talking about in 1994? - This was the Dunblane Boys Club that ran from Dunblane High School.

EXAMINATION CONTINUED BY MR. LAKE: Returning to your chart C2, between the Rover Club specified there in Dunblane you have made reference to the Bannockburn Club, which I think you have said started in 1983? - Yes, this is shown on chart C1 as commencing around May, 1983, and shown still to be in existence at March, 1996.

I think that is dealt with at page 19 of the report we are referring to? - Yes.

When did you say that club commenced? - It is an estimated date of 27th May, 1983. This relates to the first mention of the club in documentation we recovered as a result of our inquiry.

Was that documentation which the club is mentioned? - It was in the form of a letter from Hamilton to parents, albeit written on Dunblane Rover Group headed paper.

If I could refer you to that letter, which I think is D15 -- have you got that? - Yes. This/

This is a letter dated 27th May, 1983. It is a letter on Dunblane Rover Group headed paper, with printed above it and slightly obliterated "Bannockburn Rover Group", and it shows Hamilton as the principal leader.

Yes? - It is a letter to parents, stating that Mr. Adamson has been giving classroom talks in an effort to discourage pupils from attending the group.

Who was Mr. Adamson? - He was the headmaster of St. Ninians Primary School at that time.

Are you aware what sort of comments Mr. Adamson had been making? - I think it was alleged Hamilton was not a responsible leader, and he was concerned about the organisation of the club and also about the number of accidents at the club.

Was the Bannockburn Rovers Group affected by the action of the Regional Council in 1983? - Yes; effectively the Regional Council terminated all lets held by Hamilton, which I understand were the ones in Dunblane High School and in Bannockburn High School.

Did the Bannockburn Rover Group resume at all after the ban had been lifted on the lets? - We were unable to find any mention of the club from the period of the termination of the let up until or round about 1992.

What did you find in 1992? - There was a let form which showed that Hamilton had applied for and had been granted a let of Bannockburn High School from the 8th September, 1992.

If I could refer you to document D18 within the folder.....? - Yes.

Is that the application you are referring to? - It is, yes.

You see there heading 4 is details of the approximate number of persons who will attend per night? - Yes. It is shown as 20 primary school boys and two leaders.

And/

And that was the first mention you could find of the Bannockburn Group after the lets had been cancelled? - That is correct.

So that on chart C2 there was little evidence of any Bannockburn Club between the periods 1983 and 1992, for nine years? - Yes.

Were any complaints -- without mentioning any names -- made regarding the Bannockburn Group? - Yes; in December of 1994 a parental complaint was received, again in respect of Hamilton taking photographs of the boys.

Are you aware of any action being taken in respect of the group following that complaint? - The complaint had been referred to the Family Unit, and had been investigated by Detective Sergeant Moffat, as far as I am aware. From memory, the lets were not terminated.

Was that club still running in March of this year? - Yes, it was.

Did Hamilton have any assistance in running that club? - I understand he was sometimes assisted by the witness Boal.

The next clubs referred to on your chart are Lynburn and Dunfermline. We can see from the chart that the Dunfermline club takes up exactly when the Lynburn Club left off. Is there any link between the clubs? - This is an example where he started off using one name for the club. He started with the Lynburn Gymnastics Club. That club was held at the Woodmill Centre. He also operated a club in Dunfermline, which shared the same name. There is some confusion between the Lynburn Gymnastics Club, the Lynburn Sports Club and the Dunfermline Sports Club: it appears they are all exactly the same.

These are different names for the one club? - Yes. The names vary considerably.

If I could refer you to the section of your report dealing with the Lynburn Gymnastics Club, which is at page 52, when did the Lynburn Club start? - From our records it was the 22nd February, 1985.

On/

On what basis is it said that the class started on that date? - I understand we received information from a letter we recovered in which Hamilton states the club was officially formed on that date for a trial period of 20 weeks.

If I could refer you to a letter, D88, which is written in response to a matter to which we will return, do you see that is a letter dated 11th September, 1985 addressed to the Scottish Amateur Gymnastics Association, and is written by Hamilton? - Yes.

In the first paragraph of that he gives the start-up date for the club? - Yes, that is correct: that is the 22nd February.

What is the title of the club at that time? - He refers to it as the Lynburn Gymnastics Club.

Were you aware of any complaints being made regarding that club? - Yes. Our earliest recollection shows that on the 3rd September, 1985 a letter was sent from the Social, Legal & Welfare Rights Services, which is a Legal Advice Centre in Dunfermline, where a parent had made a complaint in respect of Hamilton alleging negligence and cruelty at one of the camps that had been operated by him.

Do you recall the nature of the complaint? - Yes; it was alleged the children had been attending the 1985 summer camp and had been left unsupervised for long periods of time, had only been given a very small amount of food to eat and had been denied warm clothing by Hamilton.

If I could ask you to look at D89.....? - Yes, that is a letter we had recovered, dated 3rd September, from the Rights Office in Dunfermline.

Is that the complaint you were just referred to? - Yes.

What action was taken in respect of the club following that complaint? - I understand in this instance it was referred to Fife Regional Council and was investigated by the witness Baxter, who was employed in the Community Education Department:/

Department: but the matter does not appear to have been reported to the police.

You see in that letter of complaint it is addressed to Mr. Baxter, and that is at Woodmill High Schyool? - Yes.

Was that the venue from which the club was conducted? - Yes.

Was it the only venue from which the club was conducted? - No, I understand they also met at the Dunfermline Centre. There were two venues in Dunfermline. I am sorry, it was Queen Anne High School was the other venue.

Was that two different clubs or the same club meeting at two different places? - It is the same club. With Hamilton, he tended to form them in the same name, and they met in different venues.

The use of the Queen Anne High School comes about at the same time as the use of the Woodmill Centre? - I am trying to find out from the notes I have.

Can/

10.40 a.m.

Can I refer you to a document, just to be clear about the venues used, to document D90 in HV. I think the first part of that is a compliments slip. What is attached to the compliments slip? - It is a letter from Thomas Hamilton.

What date is that? - Dated the 16th September, 1985.

Who is it addressed to? - Addressed to the Dunfermline Centre.

I think in the first paragraph we see some reference to Lynburn Gynmastics Club being informally formed on the 22nd of February 1985 for a trial period of 20 weeks, do you have that? - Yes, I do.

It says that the club catered for a total of 107 boys between the Woodmill Centre on Fridays and the Dunfermline Centre on Mondays? - Yes, that is correct.

It seems at that time that the club was split between the Woodmill and Dunfermline Centre without any reference to Queen Anne High School? - That is correct, from my recollection a let was held by Hamilton at Queen Anne High School but whether Queen Anne High School and Dunfermline Centre are one and the same I am not entirely certain.

I would refer you to document D64, what is that? - It is an application for a school let that had been made in the name of Dunfermline Boys Sports Club and signed by Thomas Hamilton.

What is the name of the premises which is sought to be let? - It is seeking to let Queen Anne High School.

That is a distinct reference to Queen Anne High School as opposed to the Dunfermline Centre? - Yes.

What was the period he was seeking the let? - Every Monday from August 1991 to June 1992.

Did you find any evidence that the club had/

had been held in Queen Anne High School prior to that date? - No, I could only go on again the documentation that had been recovered from various sources and from Hamilton's own records.

Turning to consider that part of the club that was being held at the Dunfermline Centre can I refer you to document D92 in the folder? - Yes.

Do you see that is a letter from Mr. Baxter to Mr. Somerville, the Senior Assistant of Recreational Education at Fife Regional Council and the letter is dated the 20th of January, 1986? - That is correct.

Do you see in the middle of the paragraph of that letter it states "It appears that the numbers taking part have dropped substantially, the maximum is now 25 and the class at Dunfermline Centre appears to have folded"? - Yes, I see that.

So if the club originally started at two venues, the Woodmill Centre and the Dunfermline Centre, it seems that the Dunfermline Centre dropped out for a while and a let was taken in Queen Anne High School? - Yes, that would appear to be the case.

Did Hamilton have any assistance running these two clubs, the Lynburn and Dunfermline? - I understand for a period of time he employed a witness Armstrong who was a physical education teacher.

And when was that person engaged to assist the club? - From the letters it would appear to be from 1988; she left after a year when she became uncomfortable with the manner in which Hamilton conducted his club.

Were there any further complaints received in respect of the Lynburn Gymnastics Club or the Dunfermline Boys' Club? - If you bear with me I think.....

Page 39 of your report is the section for Dunfermline? - Thank you -- at the Dunfermline Club there were various items of correspondence recovered which relates to it; there was correspondence in 1990 which concerned, in this case, it was a letter sent/

sent by a parent who had mentioned the financial costs incurred in sending the child to the club.

Were the complaints in respect of how Hamilton treated some of the children? - In 1990 there was an instance where Hamilton had failed to allow a boy access to the club on the basis of him being physically too big which had resulted in a letter of complaint being sent to Fife Regional Council.

Was any action taken following upon this complaint? - The complaint was investigated by the witness Somerville and I think correspondence was exchanged between Hamilton and Fife Regional Council concerning the Equal Opportunities Policy of the Council and asking him to review his own policies in the light of this.

Was the club stopped at that time? - No, the club was still permitted to continue.

Was the club still continuing in March of this year? - No, in June 1992 following an incident at the Dunblane High School a residential camp was being held by Hamilton on that occasion and officers from Central Scotland Police came across three young boys who had apparently walked out of the residential camp dressed in pyjamas and had phoned their parents asking to be returned home. When the information was conveyed to Fife Regional Council involving Fife Constabulary and also the Reporter to the Children's Panel at Fife as a consequence the lets held by Hamilton which, I understand at that time, were Woodmill and Queen Anne were terminated.

BY LORD CULLEN: Can I ask you to look at your report page 52, the top of that page you have got certain dates for commencement and ending in the case of the Lynburn Gymnastics Club; is that ending date correct? - No, that is clearly an error.

It looks as if it might be 1986 rather than 1996? - That is correct, it will be effectively the same date as the termination of the Dunfermline club.

Well, did one stop and the other followed? - Again this is difficult to say -- the last mention perhaps is February 1986, that would be the/

the last mention.

So that really means 1986 rather than 1996? - Yes.

Armstrong, was that a lady? - Yes.

She was helping, in fact, the Dunfermline Boys' Club rather than Lynburn? - Yes.

Because she is in 1988? - Yes.

EXAMINATION CONTINUED BY MR. LAKE: Moving on in date order the next club is held in Falkirk and I think reference to that starts on page 42 of your report? - Yes.

At what venues were the Falkirk club held? - It shows here that it was held at both Graham High School and for a period of time Falkirk High School.

If I refer you to document D58? - Yes.

Can you say what this is? - That is a letter that has been typed sent by Hamilton and headed "Falkirk Boys' Sports Club"; it is dated the 21st of May, 1987 and it has been sent to Mr. Mike Watson who was a Youth and Community Officer at Central Regional Council.

Do you see in the first paragraph there he refers to having the use of both Falkirk High School gymnasium on Wednesday evenings and Graham High School gymnasium and games hall on Monday evenings? - Yes.

"Both up to the 1987 summer holidays for a trial period"? - Yes.

Was the club conducted at both these premises? - It would appear from the contents of this letter that he did use both.

I think in your report at page 42 you indicate that these clubs were rather intermittent rather than continuous? - Yes, it is shown here as a period of 1986 to 1988 for the Graham High School and then again the Graham High School from 1991 to 1994 and Falkirk High School there is shown as September/

September 1995 to March, 1996.

So on the chart where it says no information in respect of Falkirk in fact there was no club being held there at all? - There was no evidence of any club being held.

Why was no club held during that period, are you aware? - I understand that the let held by Hamilton was terminated in respect of this in favour of an activity held by Central Regional Council.

Had there been a complaint prior to that let being cancelled? - There was a letter of complaint received on the 20th of June in respect of a child who had suffered a broken wrist while being at the boys' club where it was alleged that Hamilton had offered no first-aid and considered the wrist to be badly bruised and on the 29th of August 1988 the Council contacted Hamilton to advise him that the let had been cancelled in favour of the Education Department.

What is the next reference to the club being conducted in 1992? - In July 1992 it would appear that Hamilton distributed literature to a primary school in the Falkirk area with a view to promoting his club at Graham High School.

Is there any evidence at all of the club being run at Falkirk for the period 1988 to 1992? - No, again I am relying on various sources to try and piece together but there would be no mention made of the clubs at that time.

Did Hamilton have any assistance with the running of the Falkirk clubs? - I understand that the witness Jones who was actually a parent who had taken his children along to the club helped Hamilton out and I understand latterly he took over the operation of the club which I think continued up until March, 1996.

I think the next club you refer to on your chart is that held at Linlithgow and from the chart it appears to have had quite a sort duration? - That is correct, it appears to have operated from April, 1988 until June, 1989 and was held at Linlithgow Academy.

I/

I think there is reference to that at page 47 of your report? - Yes.

What evidence did you have that the club started in 1988? - I understand that we recovered an application for the use of the premises which had been made by Hamilton to Lothian Regional Council.

If I could refer you to D75? - Yes.

Is that the application you refer to? - Yes, it is and attached to the application is a registration for the youth group which was made by Hamilton in respect of Linlithgow Boys' Sports Club.

I think we have heard evidence in respect of this club that there was or there were complaints made in May 1989 and that subsequently the let was cancelled following an event in which Hamilton had various substances poured over him, were you aware of that? - Yes, it involved a witness Haggar regarding a complaint that had been made regarding Hamilton and the previous summer camp which had come to the attention of Lothian Regional Council and had been publicised, as a result the let held by Hamilton had been terminated.

BY LORD CULLEN: There were complaints about the club itself? - Yes, there was also a complaint which had been received from a parent via the local MP.

I think I am only concerned with the nature of the complaint? - It was reported that Hamilton took children to do exercises without their tops on and to keep it a secret from their parents.

EXAMINATION CONTINUED BY MR. LAKE: I think that the next club referred to in your chart is simply under the name of Alva; is that a reference to a club known as Menstrie, Alva and Tillicoultry Boys' Club? - Yes.

I think that is referred to in page 56 of your report? - Yes.

What was the venue for that club? - It was Alva Academy.

When did Hamilton first apply for a let at/

at these premises? - The let appeared to be from the 15th of March, 1989, that was the first application.

If I could refer to D95? - Yes, it is a copy of the let application to Alva Academy, this time the application had been made in the name of the Boys' Sports Group Committee seeking a let which was granted on the 15th of March, 1989.

You referred there to a committee; did you discover any evidence there was, in fact, an entity such as the Boys' Sports Club Group Committee? - No, again this was an example where Mr. Hamilton had over-stated the entity of the Boys' Sports Group Club Committee; from research it would appear that this was done at a time when Local Authorities were looking for evidence of a committee and it would appear that there was no committee but I think it was an attempt by him to bring the various groups under the one umbrella of the Boys' Sports Club Group Committee.

Before/

11.00 a.m.

Before continuing on with the Alva file, can I refer you to documents starting at D30. What is that? - That is a letter dated 19th January, 1989. It appears to be a standard letter entitled "Parents Supporters" and it is a letter from Hamilton advertising his Boys' Sports Club Group Committee. It would appear that he is seeking assistance on his committee.

If you look at D31 that appears to be a statement of account for the committee in respect of the period from 1st August, 1990 to 31st July, 1991? - That is correct.

D32, a statement of account from 1st August, 1991 to 31st July, 1992? - Yes.

D33, a statement of account again in the name of the committee for the year following on from that? - That is correct.

Let us look at D34 please. You see the first page of that is a memorandum to the Director of Education. Could you look at the document attached to that? - Yes.

What does that appear to be? - It appears to be a Minute of an Annual General Meeting that had been held by Hamilton for his Boys' Sports Club Group Committee and the Minute also details persons who were present.

When does it say the meeting was supposed to have taken place? - The meeting was alleged to have taken place on Sunday 8th August, 1991.

The persons Minuted as having attended were Mr. Hamilton, Mr. Brown, Mrs. Watt, Mr. McDonald, Mr. McDonald again, Mr. Gillespie, Mr. Robertson and Mr. Smith? - That is correct.

Have you spoken to any of these people? - I understand the enquiry was that Mr. Hamilton obviously is himself, Mrs. A. Watt is Hamilton's natural mother and denied any involvement with the boys' club. I understand that people were traced and denied having ever been to a meeting. Some people couldn't be traced and I understand one person is deceased.

Have/

Have you spoken to anybody who said they were at the committee? - From recollection I understand the Minutes would appear to be a fabrication -- no person had been at the meeting.

Was that committee entirely different from the one referred to in 1983 where in fact persons did recall having formed a committee in respect of the Dunblane Club? - The one in August, 1983, persons actually attended at the Regional Council premises and had a meeting with Councillors and were Minuted as having been present.

Turn to the application for premises at Alva in D94. You see that Hamilton makes reference to his qualifications? - Yes. He said he holds a BAGA Grade 5, which is the British Amateur Gymnastic Association qualification.

How much does he state he is going to be charging persons who attend this club? - He states he will be charging 30p.

I think when we considered the finances of the club yesterday it was apparent Hamilton had been charging on the whole either £1 or £2 per person to attend? - It had been fairly typical -- in the application it says a nominal charge but in reality the money was more likely to be £1.

Any idea why that.....? - I understand the Region have guidelines which relate to the cost involved for participants and when they reach a certain level that makes it a commercial venture rather than voluntary which would affect the payments he would have to make for the premises.

The date for the commencement of the let again, what is that? - 15th March, 1989.

How did Hamilton publicise that club? - In March, 1989 Hamilton wrote to the Director of Education seeking permission to distribute information round the primary schools in the area.

Was he granted permission? - No, he wasn't.

I refer you to document D97? - This is a letter which has been sent to Hamilton by an Assistant/

Assistant Director of Education dated 21st March, 1989. He states it is not the policy of the Council to allow head teachers to distribute publicity material on behalf of private individuals.

Were any complaints made or received in respect of the Menstrie, Alva and Tillicoultry clubs? - Yes. We learned in March, 1995 a member of the Alva Primary School Parent/Teacher Association was informed by two or three unidentified parents they had concerns about Hamilton's boys' club. These concerns related to lack of supervision at the club by Hamilton.

What action was taken in respect of those complaints? - This witness states that she informed the police at Tillicoultry regarding her concerns. However, from our own researches after the incident we were unable to establish any record of this complaint having been made and the identify of any officer whom she had spoken to.

Presumably there is no reference to any action having been taken by the police? - That is correct.

When did the club cease? - The club would appear to have ceased in March, 1995.

Is there any evidence why the club ceased? - No. I don't appear to have any further information on that boys' club.

Would that time coincide with the date you have given for the complaints that were investigated regarding the club? - Yes. It is probably the last reference that we had.

I think in your report you refer to assistance having been given to this club by Ian Boal? - That is correct. That is shown in the report.

I think in fact we heard from him yesterday he had assisted at certain other clubs but not this particular one. Is it possible this is an error in including him in relation to this club? - It is possible. The methodology adopted was to look at the correspondence we had and also the statements that had been obtained, and I am not certain/

certain but it is possible Mr. Boal may have made reference to this club in his statement and that was taken as being an involvement in this club, but it is likely there has been a mistake.

I think in Mr. Boal's statement he said he was informed by Hamilton that he ran a club at Alva High School? - If that is the case there has perhaps been a misintepretation in the report.

The next club we have reference to is Stirling Boys' Club. On the chart you show it starting in April, 1989? - That is correct.

When did it start? - Shown as having started in May, 1989 at Wallace High School.

Has that any connection with the Stirling Club? - There is also reference to the same club having met at Stirling High School, which commenced in June, 1991.

Dealing with the one held at the Wallace High School, how was that club publicised? - It would seem to be advertised by Hamilton by means of flyers which he distributed locally.

I refer you to D98? - Yes. That is the flyer that was distributed, and there is an enrollment form.

How long was the club held at Wallace High School last? - It would appear to have run until he applied to renew the lease which was on 14th September, 1992, and on that occasion the Regional Council declined the renewal on the basis that the premises had become fully booked.

In relation to the club held at Stirling High School, when did it start? - Again from our research it would appear to have commenced on 16th June, 1991 when Hamilton applied for and was granted a let.

Have you any indication of when that club ceased to run? - It has been shown as an estimated date, June, 1993.

Why was that estimated on that date? - I am just checking the summary to see if there is any reference/

reference to it. I don't see it in the summary. It may be because the last reference we have to the club is a let or lets from the summer of 1992 to summer of 1993. That date may just be the last record we have of lets which is why the club was considered not to have met after that time.

You have no evidence to indicate it existed rather than evidence to indicate it terminated? - Again we were relying on documentation we recovered, yes.

The next two are Alloa and Lornshill. I think those clubs were run attached to one another? - Yes, it would appear they were.

We heard some details about the Alloa club yesterday. the details regardig the Lornshill Club were given at page 50 of your report. Again the date from the club started is? - It is shown as having commenced on 28th October, 1992.

Although not exactly the same the Alloa Boys' Club also commenced in October, 1992? - Yes.

I think there is reference within document D87 to the club. Could you refer to that? - Yes, this is a letter dated 13th October, 1993 again headed on Boys' Sports Club Group Committee letter-heading. It would appear to be a letter that was sent, distributed to parents in the Fishcross area, which was an area of Alva, and it is advertising clubs which were formed recently according to the letter meeting at Lornshill and also at Alloa.

In fact it refers to them being one new club meeting in Lornshill on a Monday evening and Alloa Academy on a Saturday morning? - That is correct.

The tone within the second paragraph of that letter seems to be referring to complaints or comments that had been made by a mother of a child living in the Fishcross area? - That is correct.

Seeking to refute these complaints? - Yes.

In your chart this is shown as a club which terminated in May, 1994. In the summary it is indicated/

indicated problably as having been an estimate? - Again I think this is the phase where the last information we were able to recover would have been from the lease which was terminated around that time.

There is nothing definite to indicate it did terminate on that date and there is no evidence to indicate it continued? - That is correct.

On the chart you show another club being held in the same period as Alloa and Lornshill and this is one held at Denny. When did that club start? - Again the date recorded as having commenced was 28th September, 1992.

Where was that held? - This was held at Denny High School.

If I refer you to D37 amongst your Productions? - Yes, this is a copy of a let application which was made by Hamilton in the name of the Boys' Sports Club Group Committee for the premises at Denny High School, and the date on the lease was 2nd October, 1992 until the end of June, 1993.

There is reference there to persons attending being 20 children and two adults? - Yes.

The charge per week as being 20p? - Correct.

Were there complaints made in respect of this club? - Yes. In November, 1992, not long after the club had commenced, a number of parents had cause to write to Hamilton, to Denny High School Board, and also Central Regional Council, complaining about the conduct and the running of the boys' clubs.

I think we have already heard some evidence regarding these complaints. Did these result in the lets being terminated? - Not that I can recollect. I think the let was allowed to continue. Enquiries were made within the Regional Council.

In fact, if you refer to document D38? - Yes,/

Yes, this is a further application for the let of educational premises made by Hamilton for Denny High School which on this occasion was lodged from 9/1/93 until the end of June, 1993.

I refer you to a document which is D39. What is that? - It is again a letter that has been typed on Boys' Sports Club Group Committee notepaper by Hamilton dated 8th February, 1983, headed "Interim Progress Report for Boys' Sports Club".

Who is it addressed to? - Addressed just to "Dear Parent". It would appear to be a sort of standard letter that had been introduced.

You see under the heading "Membership" it gives the total attendance for the club? - Yes. it says the total number enrolled according to this record is 74 boys.

Is there an average attendance on a Friday? - It shows over 20 boys.

Is there an average attendance for the Saturday morning? - It shows only eight boys.

Is there under the heading "Complaints" on page 2, what does Hamilton say under that heading? - He says "In respect of the management of the club there were no complaints".

Was that borne out by the evidence? - Again looking at the dates of this, complaints had been received in November, 1992 from parents addressed to the School Board.

Is there under the next heading "Discipline", he gives a list of actions taken in respect of boys attending the club? - Yes, that is correct, he lists certain actions taken and the particular boys who received these actions.

On/

11.20 a.m.

On the final page of that do you see a heading halfway down "Problems with Parents"? - Yes.

Which seems to give certain views justifying his position in relation to certain complaints? - Yes. There were two problems he recorded. On one occasion there was a different of opinion with a parent who was opposed in principle to competitive sports and games. The second reason was that the parent couldn't accept or did not want to accept that their son was capable of misbehaving.

Could I refer you to document D40? - Yes.

What is that? - That is a letter on Boys Sports Club headed paper, dated 16th February, 1993.

That is just eight days after the previous document we have been referring to? - Yes. He appears to be making some adjustment in respect of the Denny Boys' Sports Club, which he claims were made in favour of the parents.

In paragraph 1 he talks about the weekly fee now being up to £1.50? - That is correct.

That would accord with what you said in respect of the charges to the boys being increased considerably above the amount stated in the application forms? - That is correct.

Were further complaints received regarding the club after this particular date? - Yes. In May of 1993 a parental complaint was received by the Central Scotland Police Family Unit which again concerned Hamilton taking photographs of a boy in a locked gymnasium when he was wearing swimming trunks.

What action was taken following that complaint? - That complaint was investigated by Detective Constable Taylor. Certainly it was reported to the Procurator Fiscal.

When did that club cease its operation? - The/

The date we have is the 17th January, 1994.

On what basis did you come to that date? - That was from a letter which Hamilton had written to Detective Chief Constable McMurdo, in which he was outlining complaints against the police and members of the community, which he said had resulted in withdrawal of support for the Denny Boys Club, and stated that he was closing the boys club from effect from 15th January, 1994.

LORD CULLEN: We will now take a short break for 10 minutes.

After a short adjournment:

LORD CULLEN: Mr. Lake, can we now resume our quest?

EXAMINATION CONTINUED BY MR. LAKE: I think we were about to move on to Balfron, which on your chart is given as being a club of very short duration. This was referred to in your report at page 17. I see it states the venue was Balfron High School and that the club commenced on 6th April, 1993 and ended shortly afterwards, on 30th June, 1993; is that correct? - That is correct.

And the basis for the determination of that period has been taken from the document D12 within the bundle? - Yes, that is correct. That is an application for let submitted by Hamilton.

And those dates are the dates for which the let is sought, in the table in the centre? - Yes. 20th April to 30th June, 1993.

On the form do we see some of the familiar details, qualifications, number of people attending and the charge to be made? - Yes, that is correct.

Could I refer you to document D14? What is that? - This is a letter from the Chief Executive of Central Regional Council addressed to Thomas Hamilton.

Yes? - Hamilton had posted "flyers" advertising/

advertising this new club and had named certain individuals as being a contact for him. These included the Chief Executive of the Region, and he was asking him to withdraw this reference.

Is D13 the "flyer" you are referring to? - That is correct. It also quotes Mr. Michael Forsyth, MP, and Inspector Mike Mill at Dunblane Police Office and other members of the Regional Council.

Is that form dated 19th April, 1993? - That is correct.

Did both the Chief Executive and Mr. Michael Forsyth object to the use of their name on this flyer? - Yes, that is correct; as did Central Scotland Police.

I think you note on pages 18 and 19 that the headmaster of Balfron High School, Mr. Fleming, became aware of concerns regarding Hamilton? - Yes, that is correct. He was made aware of concerns about Hamilton that were circulating, and he effectively ensured that the premises were fully booked thereafter, which precluded Thomas Hamilton and his boys club.

So by that method he was able to stop the club continuing any further in Balfron? - Yes.

The next one, which is also one of short duration, I think, is Callander Boys Club. You report on that starts at page 27? - That is correct. It shows the club as having met at McLaren High School in Callander, commencing 31st March, 1995 and ending 21st April, 1995. Those dates were obtained from a let application that had been submitted by Hamilton. That was the only documentary evidence we had, although we received evidence from the janitor that showed the club only ran for three weeks, and was suspended after the third week when only one boy turned up.

The final club is the one held at Bishopbriggs? - Yes.

That is referred to at page 23? - That is correct.

I/

I see there that the venue there was Thomas Muir High School? - Yes.

And over the page you note that subsequently there were applications made for premises other than merely Thomas Muir High School; is that correct? - Yes, we recovered documentation which showed an application for Kirkintilloch High School.

This is another example of the same club being held at two different venues? - Yes.

When did the Bishopbriggs Boys Club commence? - The club was first advertised by leaflets in September, 1995: the date we have here is of it having commenced on the 26th July, 1995.

If I could refer you to D21 in the folder? - Yes. This is effectively an application for the let of Kirkintilloch High School, which was for the boys sports club group committee.

And that has got a date in July, 1995? - Yes; 26th July, 1995, signed by Hamilton.

And it gives the commencing date as being the end of August, 1995 on that form? - Yes, and ending in June, 1996.

In/

11.50 a.m.

In the summary contained on page 23 of your report you actually state that the commencement date is the end of August, 1995? - Yes.

I think you note at the foot of page 23 and here you will see is the usual pattern of attendance, it starts with 70 children being in attendance and fell back to 16 boys? - Yes, that would be fairly typical.

Above that you note that Ian Boal assisted Hamilton in running this particular club? - Yes.

At the foot of page 25 of your report you refer to complaints having been made and you see that records a mother of a boy who had attended the club saying that her son had been shown a gun and had been offered a certificate 18 video? - Yes, that is correct, a complaint had been made by a parent at Bishopbriggs Primary School and the headmistress there.

I think we have heard while proceedings were started in respect of this complaint nothing had been concluded by March of this year? - Yes.

Were these all the clubs you were able to ascertain in respect of Hamilton's operations? - Yes, but again we were relying on documentation that we had recovered from various sources and also witness statements.

Is it correct to say over and above the boys' clubs there were various summer camps and training courses run by Hamilton? - Yes, he appeared to have a series of residential camps held in the Loch Lomond area where the boys at his boys' clubs attended and latterly residential training courses held at Dunblane High School.

Look at page 59 of your report; I think you note a camp in the summer of 1985; were you able to discover any details of the camps prior to that date? - No, not from the records recovered.

BY LORD CULLEN: We have heard some evidence suggesting that they were highly numerous for/

for that year but can you confirm that at all? - I think there is witness statements making reference to outings, Press coverage going back to the early 80s, 1978 making reference to taking children to Loch Lomond and boating outings which would be the first formal mention of summer camps we have recovered.

EXAMINATION CONTINUED BY MR. LAKE: You were able to find that summer camp had taken place in 1985? - Yes, there was a letter that a complaint had been made by the Rights Office in Dunfermline, a complaint had been made by a parent protesting about the treatment that Hamilton had given to a child at the camp there.

Is it possible that camps had been taking place in earlier years but there was no record of them because there was no complaint? - Yes.

That would fit with the newspaper article in regard to the Dunblane Rover Group regarding outings and boating outings to Loch Lomond? - Yes.

I think we have heard already about a complaint made in respect of the 1985 camp; did you have any details of a summer camp being held in 1986? - No, again we recovered no correspondence about an 1986 camp.

You don't know whether or not a camp took place in that year? - Apparently one did but no correspondence was recovered.

Were you able to discover whether there had been anything in 1987? - Yes, we recovered documentation which was a circular to head teachers from Hamilton advertising the 1988 summer camp and makes reference to the success of the 1987 summer camp.

Have you been able to discover whether there were any complaints in respect of the 1987 camp? - It would appear from the information we have in the references from these advertisements for the 1988 camp there was no reference to any complaints.

We have heard quite a bit of evidence about the 1988 camp and complaints that existed in respect/

respect of that; do you see on page 61 of your report you note that this was held at Inchmoan Island in Loch Lomond, do you see that? - Yes.

In the third paragraph, information to parents about the camp, it would be restricted to 12 boys supervised by three adults, do you see that? - Yes.

The cost of the camp is given there in the fifth paragraph as being £40 deposit and a further £85 payment? - Yes.

That was for a two week camp? - Yes.

What was the cost for a one week camp? - £70.

The next paragraph refers to the safety equipment, do you see that? - "Hamilton stated that transport to the island would be by boat and there was a British Standard lifejacket provided for each boy for the said boat journey".

We have heard in some detail about complaints that were made by parents about that camp and investigations that were carried out by Constables Gunn and Duncan and the follow on from that in terms of police investigations and complaints regarding the police made by Hamilton. Were you able to recover any information regarding the 1989 camp? - Yes, we recovered correspondence from Hamilton to the witness Scott who, I understand, is the owner of Inchmoan Island seeking permission for his camp.

Was he granted permission? - No, it would appear that the witness Scott had received information, he received a complaint that people objected to Hamilton holding the camp and he decided there wouldn't be any camp.

Did Hamilton hold a camp in 1989? - Yes, it would appear that the camp moved to Milarrochy Bay in Loch Lomond.

I think you note at the end of that section of the report there were no incidents reported regarding the 1989 camp? - That is correct.

I/

I think under the heading "1990 summer camp" you note that very little is known about that camp other than one complaint regarding a boy who developed a chest infection while he was at the camp? - That is correct.

On page 64 of your report you refer to the 1991 summer camp which again was held at Milarrochy Bay in Loch Lomond; how many boys attended that camp? - Hamilton made reference that he would be supervising 15 to 20 boys.

Were you aware of how many actually attended? - Sorry, I can't find it in the body of the report.

On page 64 about two-thirds of the way down you refer to 20 summer camp contracts were filled in by parents? - Yes.

Again I think you go on to refer to complaints made in respect of Hamilton's behaviour at that camp and follow up action that was taken by the police? - That is correct.

Were you aware or have you been able to discover whether or not a summer camp was held away from the Dunblane/Stirling area after 1991? - No -- sorry, there is no camp in the Loch Lomond area after the 1991 camp and it would appear subsequently that Hamilton changed the format of this to a residential sports training course and this was held at Dunblane High School.

On page 66 of your report you refer to the 1992 course that was held at Dunblane High School? - Yes.

In the second paragraph you note that 21 parents had completed application forms in respect of that? - Yes.

And in the third paragraph you note that there was certain correspondence by Hamilton which took a harsh line indicating that he was to stand in "loco parentis" to the boys? - Yes.

At the end of this page and going on to the next page you summarise the incident in which three boys ran away from the camp one evening and were/

were picked up by parents in Dunblane? - Yes, that is correct, this effectively terminated the lets by Fife Regional Council.

Notwithstanding the fact it terminated the lets within Fife you have noted there is thereafter a subsequent camp held in 1993 also held at Dunblane High School? - That is correct.

Were there any complaints regarding this camp? - No information of any complaints received.

Page 68, you note there is a 1994 course held again at Dunblane High School? - Yes, that is correct.

You note there that there is some difficulty regarding the operation of a let which initially had excluded Sunday morning? - Yes, there was difficulty with the let in that part of the premises which was going to be used by another group that Hamilton had objected but I understand that the camp still took place with some 18 boys attending.

What did Hamilton do when he was told he wouldn't be able to have the whole school on a Sunday morning? - From my recollection he protested to the Authorities, in particular to the Chief Executive and he wrote to the Commissioner for Local Administration for Scotland and Michael Forsyth, MP.

How did the Regional Council respond to that complaint? - From memory the Chief Executive resolved the matter of the let and the Commissioner for Local Administration for Scotland took no action.

Are you aware of any complaint having been made in respect of the 1994 camp? - No, there was no evidence of any complaints.

At the foot of page 68 you refer to a summer camp being held in 1995 again at Dunblane High School? - Yes, that is correct.

It says he had arranged for a Mr. Thomson to help in carrying out that camp? - That's correct.

Was there any complaint regarding that camp?/

camp? - No, it didn't appear there were any complaints made at that time although certainly the Regional Council wrote to him seeking information from him about the number of helpers who would be attending his course.

What reply did he make to that? - Hamilton replied in an ambiguous tone giving details of the help that would be available.

I think in the second-last paragraph it says Mr. Thomson noted the camp was reasonably well run? - Yes.

Although "He did maintain though that Hamilton could change from praising the boys one minute to treating them in a military fashion the next"? - Yes.

Although you don't note that in the report I think you have had a chance to consider certain other documents regarding the camps run by Hamilton? - Yes.

Could you refer to DDH359, I think a copy of that has been made available to parties; what is that? - It is the original application for the let of Educational premises by Hamilton dated the 18th of December, 1995.

Now/

Now what premises is it in respect of?
- In respect of Dunblane High School for the purpose of a residential sports training course which was to run from 7th April to 13th April, 1996.

That would be during the Easter school holiday? - That would appear to be the case.

The time it is expressed to run from is 1.00 p.m. on Sunday, 7th April, 1996 to 6.00 p.m. on Saturday 13 April? - That is correct.

You noted that has been signed by Hamilton on the 18th December, 1995. The part relating to the decision on that has been left blank? - Yes. From the code above "DDH359" it would indicate this document was in fact recovered from Hamilton's premises, and that would tend to suggest it had been completed by him and had never been sent.

The second document I would like to refer you to is DCF113. I believe this was referred to yesterday in relation to the evidence of Mr. Forsyth. You see in the first page that is a letter dated 11th February, 1996 from Hamilton to Michael Forsyth at the House of Commons? - That is correct.

And attached to that there are a number of other letters? - Yes.

I refer in particular to the letter dated 18th August, 1995 attached to that. Do you see that is a letter addressed simply to "Dear Parents"? - Yes.

And it is signed by Thomas Hamilton? - Yes, it is.

On the second page of that letter at the end of the larger paragraph you see Hamilton notes "In relation to the 1995 course it was the 74th camp. It was attended by 25 boys" and he says, "It is possibly the best and most productive event in the history of my group"? - Yes, I see that.

Looking on through these letters, can you find the one dated 24th July, 1995. It is headed "Boys' Sports Club Group Committee"? - Yes.

You see dated 24th July, 1995? - Yes.

Signed by Hamilton and addressed "Dear Parents"? - Yes.

Do you see at the foot really he says, "Thank you for your support in this event. The dates for the next course are 28th June, 1996 to 11th July, 1996"? - That is correct.

So we might presume from that that Hamilton had anticipated running a summer camp in the summer of this year? - Indeed.

In respect of the various complaints that were made to the police I think you stated there were a number of them involving photographs having been taken? - Yes.

Did you recover any of the photographs that had been taken? - Yes. I understand that a search of Hamilton's home following the incident at Dunblane recovered a large number of photographs.

Did these photographs depict anything indecent? - I haven't personally examined the photographs, although I understand there was nothing of an indecent nature in them.

CROSS-EXAMINED BY MR. JONES: Could you look at the J(i) bundle please. If you turn to two documents, D1 and D52. D1 is a Central Regional Council memo dated 27th October, 1981 from the Youth and Community Organiser to the Director of Education; have you got that? - That is correct.

You see in the first paragraph the Youth and Community Organiser there says, "I refer to the above and your recent enquiry seeking further information. I can confirm that Mr. Hamilton has an official let of Dunblane High School gymnasium processed through normal channels, i.e. Jim Gardiner and the school Council Clerk. He has also previously had a similar let at Borestone Primary School". You see that? - Yes.

If you turn to D52, that is the Ombudsman's report. If you look at paragraph 3 on page 2 of t hat, the Ombudsman refers there to, "The complainant was formerly a leader in the Scout Movement./

Movement. He left them in 1974 and soon after formed a locally organised boys' group which catered for boys ages about 9/16. By 1983 there were about 70 boys in regular attendance". And in the final sentence, "The group had the use of Regional Council school and recreational premises from 1980". You see that? - Yes.

Have you found any information firstly that showed the use of Regional Council premises at any time before 1980? - No. Again I am relying again for information on the documentation we had recovered and in the main that was lets and reference to witness statements.

We did hear that some time in the 70s Mr. Hamilton ran a club from the Duckbarn Centre in Dunblane which I understand is a TA Hall? - I understand it is. That information came from witness statements.

Going on, I think the position is that to all intents and purposes Dunblane Rovers' Group ceased its activities when the lease was terminated in 1983; is that right? - That would appear to be the case.

And it never re-emerged? - Not under the same name, no.

Could you look at your own bundle which is D53 in H(v). We have seen this earlier as an attachment to the Regional Council Sub-Committee Appendix of an agenda of a meeting, and this appears to be a letter from Hamilton and Mrs. Anderson to the Director of Administration and Legal Services at the Regional Council dated 24th February, 1984; is that right? - That is correct.

If we go to the second page of that, do we see that under the heading of "Membership" is a sub-heading -- perhaps it is a different heading altogether -- "Differences Between Dunblane Rover Group and Dunblane Boys' Club"? - Yes. These differences are then listed.

I think it says "(1) The committee has agreed to disband Dunblane Rovers' Group; (2) The committee has agreed to form Dunblane Boys' Club and (3) The committee has agreed a new Constitution as requested."?/

requested."? - Yes, that is correct.

As you said earlier in evidence, Dunblane Boys' Club started up after the meeting in 1983 with the Regional Council. Did you mean to say 1985; is that right? - That is possible, because there was some confusion about the period when the lease terminated and there was correspondence on the basis of the boys' club. There were meeting back and forward -- 1985, that will be correct, it changed to Dunblane Boys' Club. There was a period of activity with correspondence but clearly the clubs didn't operate.

That's right, Hamilton was writing, but there was no activity actually taking place in the schools? - That is correct. He was writing under the auspices of the boys' clubs.

If we go back to J again, turn to D78. This is a report on the second page, a report of a meeting of a special sub-committee of the Education Committee held on 4th September, 1985? - Yes.

And we can see on the next page just reading below the list of attendees from Dunblane Boys' Club a list of specific points that were raised at the sub-committee; you see that? - Yes.

And you see that the third is, "During the period since the let for Dunblane Rover Group was terminated had the committee made any attempt to find alternative accommodation in Stirling, Dunblane or any other area". Do you see that? - Yes.

Then if you go over the page do you see there is the response to (3), "The club had been given the use of Dunblane Rifle Club premises which they had used previously but they had discontinued the use of the premises as they were not suitable for their purpose and also too expensive. The club's main activities were concerned with physical fitness, indoor football for which the games hall and gymnasium of Dunblane High School were very suitable". You see that? - Yes.

Now, keeping that with you and going back to the letter of February, 1984, you will see there is a list of names of members of the commitee. I am not sure I caught your evidence on this earlier but I/

I want to be quite clear what we know about the committee. Are you able to say that any of the names given there were not on the management committee in February, 1984? - Again going from recollection and statements that were obtained I seem to recollect that Catherine Anderson admitted to having an involvement as Secretary and Evelyn MacFarlane certainly admitted having some involvement in assisting with the boys' club.

I am really interested to know whether you found any evidence of anybody who was not a member of that club whose name is put here? - From memory I honestly can't recollect, although I do recall some members said they were not committee members. In fact some of the witnesses I recollect said they couldn't recollect having attended even the meeting at the Regional Council.

That's a slightly different point. I am just wanting to be clear that what we have in the Minute of the meeting as the list of attendees -- Hamilton, Mrs. MacFarlane, Mrs. Anderson, Mr. Anderson, Mr. Williams and a solicitor, whether you found anybody who was named as being on the committee in February, 1984 who said as a matter of fact they were not on the committee? - Sorry, I can't recollect offhand.

You were asked some questions when camps were run. If you look at your own bundle and turn to D4. This is a letter which is undated but it is headed "Dunblane Rover Group". You see that? - Yes.

And this appears to be signed by Hamilton and it is addressed "Dear Parents"? - Sorry, I may have the wrong reference.

12.20 p.m.

D4/H(v)? - I have got it now, sir.

This is signed by Hamilton and addressed "Dear Parents", and it is addressed "Woodcraft, 49 Cowane Street"; is that right? - Yes.

So that would date it some time prior to October, 1985? - Yes.

It is headed "Dunblane Rovers Group", so this indicates it would come some time before 1984? - Yes.

This is giving parents the opportunity to enrol their sons into the Rovers, which it says is "A club for boys 10 to 16 years. However, boys can only be enrolled between the ages of 10 to 13 years. At present we are 12 boys under strength, and we must fill these places this Thursday"? - Yes.

"We meet on Thursday evenings, 6.30 to 9.30, at Dunblane High School for physical training, games and training in mapping and compass, first aid, camping, cooking, boating, hillwalking, etc."? - Yes.

That would seem to place it pre-the termination of the let in the summer of 1983; is that right? - Yes.

Do we see there is a reference to meetings at Dunblane Rifle Range on Fridays? - Yes.

And he goes on "The Rovers have been active for six years, and have perfected a system of training for boys", and then there is a reference to the activities? - Yes.

And the next sentence says "Running a disciplined club as we do it's sometimes as popular as school and homework, and it takes forward-looking parents to encourage their boys to attend. On the other hand, boys become very excited about their training and are often lost because their parents decide to use the club as a punishment, i.e. a bad school report means you're not getting to summer camp"?/

camp"? - Yes.

So here is a reference to summer camp, presumably some time prior to the summer of 1983? - Yes.

And in the second last paragraph "We have no membership fee, only camp fees, which are very reasonable"? - Yes.

Then "Our equipment is first class. Camping is usually at Loch Lomond, and is combined with water activities, hillwalking etc. All members must be good swimmers, well behaved and of good temperament". Do you see that? - Yes.

Can I ask you to look back at the file J(i) and turn to D21? Have you got that? - Yes.

Now, these are 22 letters from parents dated around or about October, 1983 to the Regional Council; is that right? - Yes.

If we look at the first of those -- I don't want you to name her, but this is a lady who has written a typed letter. Do you see that? - Yes.

At the beginning she says "Dear Sir, It saddens me to find out that this very worthwhile job Mr. W. Hamilton, Principal Leader of the Dunblane Rover Group, has for the time being been terminated due to some complaints. My son, who is a member and has been a member for the past four months, really does enjoy his Thursday meetings. He has been on day trips and an eight day holiday with Mr. Hamilton and a group of boys from the Rover Group": do you see that? - Yes.

So here there appears to be a reference to a camp or some residential course in October, 1983? - Yes.

Finally can I ask you to look at your report again, at page 76, please? Have you got that? - Yes.

You will see that in the second paragraph you refer to your chart C, which we looked at/

at yesterday, I think; is that right? - Yes.

And you say "With each boys' club, Hamilton would normally state on the let application form that the boys were being charged 20p or 30p to attend. This would be followed later by Hamilton advertising on circulars that the cost was £1 for each boy to attend"? - Yes.

"The reason for this may have been that normally a charge is waived for lets to educational establishments, but if the Education Department were aware of the charges and profits made they could make a charge to Hamilton"? - Yes.

I would like to understand a little more about the source of this passage. Can you help us by showing us the let applications that you have in mind that were then followed by circulars showing a different cost? - Offhand it is difficult. I seem to recollect early this morning there was identified the Denny Boys Club, where a let application showed a nominal figure and a "flyer" advertised £1.50.

I'm interested in the dates that one sees on the let applications: the early applications I think give figures of 20p, 30p or 50p, but the later let applications mention fees of £1 or thereabouts. I want to be clear whether there is a consistency in dates between the let applications and the "flyers"? - It is part of the report. This part is an overview of all the lets among all the local authorities. I think we found there we had lets showing nominal charges, letting forms, but he was charging more than that, £1 or whatever.

But you can't help us with any examples of that? - Short of going through the let applications and the "flyers". Off the top of my head I couldn't pinpoint them specifically. Denny seems to figure in mind, which was referred to this morning.

If you could find that, perhaps that would be a good example. I think you will find Denny starting at D38? - If I could refer to page 30 of the summary, the second last paragraph on that page makes reference to a weekly fee according to the/

the let application form D37 of 20p, and it had risen within five months to £1.50 each.

You are referring now to D37, which is a let application in which he shows that the charge to be made is 20p; is that right? - That is correct.

And what you are referring to at page 30 is a letter dated February, 1993, D40? - Yes. D40 is the letter making mention of a number of adjustments, which shows that the weekly fee was £1.50 and not the 20p which had been shown in the let application.

RE-EXAMINED BY MR. LAKE: When you were talking about the member of the Committee of the Dunblane Group, are you saying that you were aware that everybody that was listed was a member of the Committee, or is it simply that you cannot recollect whether or not some of these people were members of the Committee? - I cannot recollect off the top of my head without referring to the specific part of the summary. I do recollect that some witnesses could not recollect being Committee members or being involved with the Committee. Even those who attended the meeting in 1985 had a recollection of attending the meeting -- sometimes not -- but were unable to recollect their involvement as Committee members.

You said at least one person confirmed being a Committee member? - Yes, the witness Anderson stated for some time she was the secretary: indeed there is correspondence showing that she was. I also recollect a witness Evelyn McFarlane made some mention of being involved in the Committee in some capacity.

Did anyone ever deny it? - Off the top of my head I cannot think of anyone.

GORDON DAVID JEYES (45), Sworn:

EXAMINED BY MR. LAKE: I am presently Director of Education with Stirling Council.

Stirling/

Stirling Council has been in existing only since 1st April of this year? - For operational responsibility yes, that is correct; but obviously it had its shadow year.

When did you commence your responsibilities regarding to being the Director of Education? - Late August, 1995.

Prior to that what was your employment? - I was employed by Strathclyde Region, the post being Divisional Assistant Director of Education, with operational responsibility for the Argyll & Bute Division.

Before I consider questions of school security and the vetting of persons I would like to look at measures that have been carried out at Dunblane Primary School since the 13th March, 1996. I think I am right that measures have been taken to increase the level of security at the school? - That is correct.

What measures have been taken? - Obviously in Central Region in the immediate aftermath of events certain measures were taken to offer reassurance, such as the placing into all of the classrooms a telephone, increased janitorage, the installation of a CCTV camera. In addition, since Stirling assumed responsibility we have reviewed security, introduced a signing-in system for all visitors for visitor identification, and there has also been discussed with parents most concerned, with technical and emergency services and also with the police, and we are currently installing an integrated security system for the main building at Dunblane, with ancillary locks for the other buildings.

You referred to closed circuit television. What areas will actually or are actually covered by the closed circuit television? - The school grounds are monitored. That would be primarily the responsibility of Central Scotland Police, because it is one of their cameras; it has not been specifically put in by the Education Service. It would be operating to review the school grounds, and would be monitored at Randolphfield.

Was that installed after March of this year?/

year? - Yes.

You refer to increase in the janitorial staff. How many people were employed in that capacity prior to March of this year? - One.

How many are employed now? - Two.

What is the benefit to the school of having the second person employed? - Clearly there are advantages in terms of increase surveillance, not least in terms of the health and security of the youngsters, to make sure those potentially vulnerable are given immediate support.

Yes? - There is also a number of occasions when there has been increased interest in the school and the individuals around the school, and the janitor himself was at the school and was directly involved that day.

Yes? - It was felt therefore appropriate to provide additional assistance. This is mainly in the sense of an extra presence in terms of playground supervision and the additional duties to assist the janitor.

Have any additional duties been formally allocated to the janitor since March? - I don't think it is necessary to do this in a formal way. There are more duties arising from the situation Dunblane Primary School finds itself in since the 13th March, so these duties are carried out now by the janitor and by a temporary assistant.

What are the additional duties? - Increased pupil surveillance, and the fact that there is an opportunity to discourage visitors and to make sure that reception arrangements are discreetly and effectively carried out in terms of ensuring the prime health and safety consideration that a head teacher or someone delegated by him should always know who is in the building at any one time.

You mentioned reception there. What were the arrangements at the school for reception of persons prior to March? - Prior to March I couldn't comment, because it was not a school for which I had operational responsibility. This would only/

only be reflecting from general knowledge and a knowledge of practice in terms of reception arrangements and signage, which can vary much from school to school.

What are the various things you might find in reception in a primary school? - To a certain extent it will be a function of the design of the school, and an increase in the numbers of visitors, adults and parents, in a school will have increased much over the years.

Yes? - In some of the Victorian buildings we have, finding your way to the office might not be the most straightforward activity, so clear signs as to what a visitor should do, depending on the size of the school and how often parents and others visit the school. That may also be determined by whether or not there is a pre-five facility, because clearly where there are nursery facilities there is the likelihood of more parents being in and out of the building during the day.

Yes? - Some schools do certainly have signing procedures and badges, but I am not aware that Dunblane prior to March 13th had such a system.

We will return to the issue of reception later. In considering the janitorial assistance you referred to, you said a second janitor has been brought in as a temporary assistant? - That is correct.

For how long is it envisaged he will be at the school? - It is necessary for me to provide a service which as best as possible meets the needs of parents and pupils in Dunblane, and taking account of the situation there. But of course as of yet I have no budget provision for this additional expenditure in terms of supervisory assistance, school helpers, additional teachers and janitors. It is incumbent on me to keep it under regular review. I think we could be in for a long haul, and that the school will need support for a particular period.

Yes? - Clearly, since we are in an area of unforeseen expenditure, it would not be possible for me to declare an idea for a fixed period. We are keeping it constantly under review.

You/

You referred there to assistance being provided to meet the needs. Is it fair to say that this is just to meet the particular needs of Dunblane Primary School and its particular circumstances and that in your view that that need will not be provided long-term? - That would be correct.

You referred to a phone having been installed in each class room? - That is correct.

Does that mean therefore that the phone lines into the school have been increased or is it just more phones leading into the one line? - The number of lines into the school was increased.

How many are there there into the school? - I am not aware exactly how many, I know it has been increased by several.

You referred to a signing in procedure; how did that operate? - Reception desk at the main entrance to the school which is manned and all visitors are asked to sign in and give the time and are given a visitors badge and obviously on exit their departure is noted.

What arrangements are in position for the school being aware that a visit is likely prior to their arrival? - Well, clearly in terms of reception there is still the potential up to the point of arrival at the reception desk for it being a parent visiting the school, a member of staff visiting the school so in that sense I can't say that notice is necessarily going to happen and therefore it is important that the reception desk is manned.

So the reception desk is to deal with effectively unannounced visitors? - That is correct.

How do they deal with someone arriving at the school unannounced? - Well, all visitors to the school are asked if they can be assisted and asked to enter their names and their business in the school in the book for that purpose and this will be.....it may well be that somebody is known and hasn't/

hasn't got on the visitors' badge and asked where they are going to in the school and then that would be confirmed in terms of their business.

And after a person has checked in at reception and indicated their business they would be directed where to go to speak to a person or carry out whatever is required? - If it is appropriate but clearly in terms of daily life of a school it would be a matter for the head teacher to judge so unless it was something that had already been agreed because it wasn't going to interfere with the teaching and learning it would be referred to a member of senior management of the school, the head teacher or his other senior colleagues; you wouldn't be operating a school in terms of unannounced visitors, whatever their purpose, directing them to a class room, that wouldn't be normally the case.

Who mans the reception desk? - The reception desk is manned by the janitor although I believe in recent weeks there has also been a community policeman on the premises working with the children; it is not so much a security measure as it is just work in the general terms of reassurance.

Is that seen as being a long-term measure or something that would be required to be adjusted? - It would be adjusted; I am sure there will be long-term measures in the way that we will work with community complaints in Dunblane but his presence in the school is short-term but once the integrated school system is completed there is an ability to focus accesses to the people more readily and in a more controlled way.

Before referring to the integrated security system and the management of access, still dealing with the reception desk, during what hours is that manned? - During school hours.

Is any use made of the school after hours? - Yes.

Is the reception desk provided during that period? - Not always although the janitor is on duty at all times.

I think at the outset of the Inquiry you saw/

saw aerial photographs of Dunblane Primary School which indicated as well as the main buildings there were a number of outlying huts? - Yes, that's right.

This reception desk applies only to the main entrance to the main building? - That is correct.

By what means are you able to channel persons towards the main entrance away from other entrances to class rooms? - At the moment that is by signage and by direction but clearly the existence of huts is an example of the complication of the security system and action has been taken on that in temporary measures but as the new primary school in Dunblane opens in the autumn it will site the redevelopment and it is hoped that with part of that refurbishment of Dunblane Primary School that the needs of the people and the number of classes will be accommodated within a single detail.

How have the huts been taken account of within the present arrangement? - I do have to point out that although there has been considerable discussion with regard to these increased security measures by locks that are not fully in place it is envisaged that as part of the integrated system that key pad locks would be used within the hutted accommodation were such to remain.

How would access be obtained once the key pads were fitted? - By the appropriate code.

Who would have that code? - The code would be readily available so in terms of the security measures it is far from ideal but in the circumstances of a spread site there is no other option immediately available but it is important to look at it in terms of its temporary nature because it is not envisaged that these particular steps will be needed in the long-term; it is my understanding that the main reason for the former Council deciding to build a second school was because of the pressures in the building and the unsatisfactory nature of having a school ringed by temporary accommodation.

BY LORD CULLEN: Are these separate buildings equipped with a phone now? - Yes.

Does/

Does the phone enable communication to be made between them and other parts of the school or is it only for an external purpose? - No, it can be used internally and also if people wish to phone in.

EXAMINATION CONTINUED BY MR. LAKE: Is it envisaged that the children will be aware of the codes for this building or is it staff members only? - For the hutted accommodation I am sure it will be necessary for the children to be aware of the code which is why I pointed out from a security point of view it is far from ideal.

I think you also said that outside there were a large number of potential access points to even the main school building; what measures have been taken to ensure the security of these entrances to the building? - That has been done by trying to create a single access point which can be the set pattern of the school and can be accessed by members of staff with electronic keys and that the capacity to do that can be set for the rhythm of the day so by being operational people are being supervised in the playground or intervals and at lunch time and there are security measures built in and it is computer monitored so that people are aware of which key has been used and so on and so forth and the time of access to the building.....it is a straightforward manner to programme it within the system.

So just to be clear about that, what is envisaged is that there is only one main access to the school? - That is correct, and other doors are being reinforced in terms of fire doors which will have a panic bar egress that will be alarmed and the janitor will be able to monitor the comings and goings both through a computer monitor in his room and with a gadget which will operate at a mile radius so he can go about his duties.

If a person was to gain access to the school by means of any doors other than the main entrance then one would require an electronic key? - Yes, the main entrance would require an electronic key during school hours; for visitors to the school like myself access would be by means of a buzzer.

How would the children have access to the school? - The children would have access to the school/

school at the beginning of the day because the children would be received at the door; if there was children attending the doctor or the dentist and the children were coming later the children would have to buzz.

Is it envisaged that the children arriving at the start of the day would be able to gain access through all the doors or merely the main entrance? - The main entrance.

Even at the start of the day? - That could be primarily a matter for the head teacher to determine the way in which the school should operate; it can be programmed separately in the light of my experience it is envisaged that Mr. Taylor and his staff.....what we have to remember is it is a new system which offers security and reassurance to people but it does not inhibit the school from being a warm and welcome place that parents are part of.

These are the means for controlling the ways for getting into the school; I think you said there is going to be a fire access bar if people wish to get out? - Yes, in terms of an electronic door, it is simply a button beside or inside and would be simply operated by pupils. Similarly if there is any flaw in the electricity supply at any point the system is automatically shut off and it will be linked to the fire alarm and when the fire alarm goes off the system automatically opens.

Within this system are there any measures in place to prevent a person being accessed through a window on the ground floor? - I can't think of any.

Is this a system which you just described as the integrated security system? - In the sense it has been monitored and we are gaining information about the benefits of it.

What is the proposed timescale for implementation of the security system? - It is being introduced at present; it has been found necessary to strengthen some of the doors; it began in late May and is taking place at present.

At what time do you envisage that it will be/

be complete? - It will be complete at the end of term.

What is the cost of installing this integrated security system? - £24,000.

Is it proposed that this integrated security system be extended to other primary schools managed by Stirling Council? - I do feel it may be for Stirling Council to evaluate the effectiveness of the system and its effect on the life of the school but certainly it has been put in with a view to learning lessons but whether or not it would form part of the way forward for school security elsewhere. Clearly in any consultations with staff and School Board about this these issues will be determined at the end by the sums available by the Scottish Office; it is my understanding that the Secretary of State is considering some specific action in this area and it seems a sensible way forward because there are discussions with the School Board, school security.....

Is what you are saying that there are no present plans to install the same system throughout your control of Stirling Council? - There are no funds to extend the system. Clearly in choosing to gain further information about school security will at some time recognise a need, a particular need, for reassurance in Dunblane is what it has come to.

We heard in evidence that the primary school in Dunblane is one of the largest primary schools in the Region or even Scotland; does that require that the cost is more extensive than for other schools? - I think that is right; Dunblane would have been a junior secondary building originally so it is commensurate with a secondary school. The issues which you talked about earlier in terms of additional accommodation will be one that it will be difficult for schools to address; there are very few secondary schools which are absolutely one site, one building.

Has an estimate been made of the cost of installing a set integrated security system in all primary schools operated by Stirling Council? - That has not been carried out at this stage.

How many primary schools are managed by Stirling/

Stirling Council? - When Newton Primary School is opened in the autumn there will be 46.

Presumably some of them are much smaller than at Dunblane? - Yes, given that Stirling has a vast rural area Dunblane has 650 primary pupils and Inversnade has four.

As part of this integrated security system are there any measures other than the key pad proposed for the external building? - Not at this stage.

I would like to turn to the construction of the new school which you have referred to; what is that school called? - For the time being the school is called Newton.

Where is it being built? - It is being built in the north of the town above the river in a development as you exit Dunblane on the old A9 it will be into your right, just having left the Stakis Hotel.

At what stage is the construction of the school at present? - We are due to take it from the developer on the 4th of July.

How many pupils will attend the new school? - 200 in the first instance but the projection will be that it will grow and it is capable of taking in excess of 400.

Is it capable of accommodating that number within the present or is it anticipated it will require to expand by ancillary huts? - The present building has a capacity of 434.

Has modification been made to the design of that school following the events of the 13th of March? - Yes, given that the school was still under construction on the immediate activity after the 13th of March one thing was to review the security system there and considerable changes have been made.

What changes have been made to the school following these events? - During the school hours there will be a single point of access to the main school building. There is a conservatory there which/

which will be open during school hours but you will be able to proceed no further, it will be glass fronted and visible from the janitor's office and the glass is specifically provided for this in security terms. All the other doors will be panic bar exit doors and that the appropriate safety measures will be swing doors and because all the accommodation is separate a buzzer will be straight to the class room.

Does this school have this integrated security system that you have previously described? - No, it involves these measures which have been built into the design of the school in terms of the glass fronted approach and the fact that a buzzer system can be sounded in the staff room office or the janitor area and so in terms of the reception arrangements the design has been to build a built-in feature more specifically.

In respect of doors other than the main doors how is access controlled through these? - Access during school hours is through main door access but all other doors are swing shut. If somebody uses them through the panic door access to get out as youngsters will at the interval the doors will shut and it will be necessary for staff to receive them.

It is not a question that it will be, as at Dunblane, that teachers can get access by an electronic key? - No, it is not necessary because the design has been built in.

Does the main entrance and glass conservatory that is in the form of a reception provide for visitors? - Well, clearly it can be developed as a reception area but in terms of the reception in glass we spoke of in Dunblane that would be the first point that the staff side would see visitors arriving and it wouldn't be possible in the way that the school is presently constructed for people in the office to see people coming in as in Dunblane Primary.

Did the measures that were proposed in respect of Newton School have an impact on the cost of the school? - Yes.

How was that additional cost accommodated?/

accommodated? - By seeking additional borrowing consent as part of the legally committed project inherited by Stirling Council.

I would like to turn to the question of the issue of security generally and identification of the concerns. It is my understanding that there are no national guidelines available in relation to school security or design of school buildings? - That is my understanding.

Have there ever been such guidelines available? - Not to my knowledge.

You have mentioned consultation which has taken place with various bodies; is that consultation which had taken place since March of this year? - Well, obviously we have only been operational since the 1st of April, the consultation would have to be after that date.

Nothing during the shadow period? - No.

Are you aware of consultation having taken place during the period when the Local Authority was Central Regional Council? - I am certainly aware that Central Region were looking into safety and the risk assessment was being considered.

Who was it being considered with? - Central Police and the relevant Services Department.

I think you mentioned earlier a School Board; did they play a part in that? - They would in terms of my understanding of past practices, in terms of what Stirling Council has done. We have written to them asking them to review their practices with regard to existing best practices and to consider visitor identification; signage and a visitor book in line with a Health & Safety requirement of knowing who is in the building at any one time is also specified.

BY LORD CULLEN: So far as you understand the position was there in existence before the 13th of March some procedure for carrying out risk assessment within schools covered by Central Region? - No, I think that would be to exaggerate the point; I am aware in terms of current interest in risk/

risk assessments there has been some initial discussion but I think that was as far as it went from my knowledge.

At the moment is it intended there should be a procedure for risk assessment? - Yes, absolutely, we have established a Working Group with the Education Services and Central Police and we would wish to consider within the context of risk assessment.

That would be on a school by school position? - Yes, absolutely.

Is some form of guidance given about the exercise? - Yes, in terms of establishing the framework clearly in terms of our consideration once we have got the framework we will wish to involve the school, Board Members and Staff Association.

Can you tell me what you envisage risk assessment in this context as meaning? - Risk assessment will have to take into account the situation of a school; I think it is important to say that in conjunction with Central Police we took account of the whole opinion of the community and we looked into CCTV for this building and I can say again that the risk assessment may usually be in terms of the evaluation of the risk.

What is the system, if any, that is used to carry out this risk assessment; no doubt it is basically a concern for identifying what are risks, asking a question and then trying to see what is best that can be advised for controlling the risk? - That is correct.

Is that going to be the system from now on for schools at large? - I think that in terms of our consideration of matters there is a need to get people to think about what the issues are here in terms of theft, vandalism or issues which may be more serious than that.

What about the position under the Health & Safety at Work Act? - The Health & Safety at Work Act as such doesn't apply directly to schools but we do have Health & Safety Officers who are aware of these issues and will be working with us on it.

What/

What about the responsibility of the School Board to the teachers; is there a Health & Safety at Work aspect there? - Schools do have an opportunity for recognising their needs to nominate the Health & Safety representative.

I am talking about the Act. Does the Act apply, can you guide me on that as between the school authority and individual teachers? - I am sure there would be others here who will be more able to.....

This could be quite important but perhaps it doesn't arise and we may come to that in due course; as far as you are concerned the Act doesn't apply? - I think there are differences.

You are not sure? - Absolutely.

After/

2.00 p.m.

After an adjournment for lunch.

EXAMINATION CONTINUED BY MR. LAKE: Mr. Jeyes, just before lunch you were considering the consultations which had taken place in relation to the issue of school security? - Yes. I had referred to the fact a Working Group had been established including officers from the Education Service, Technical and Commercial Services and the Central Police. It is my intention in due course representatives from School Boards and from Staff Associations should be invited to join that group. I have written to all head teachers and all School Boards seeking their comments on the recently published report "The Review of School Security" in England and Wales, and I circulated that to them along with the Scottish Commentary.

That was a report prepared after the murder of a headmaster outside a school? - That is correct.

You refer there to the input from School Boards or the potential input from School Boards to this committee. Is that a means by which you are able to obtain the views of parents on the issue of school security? - It is one of the means.

What other means are there? - We have already had a number of meetings with parents and a series of forums and it is the intention of the Council to try and build up a Parents' Consultative Group. It could be in due course School Boards will be an effective mechanism within Stirling Council but unfortunately just under 50 per cent of schools do not have a School Board at present, so I would not wish to rely on that as the sole mechanism, important as they are.

As a result of the consultation progress have you been able to identify what the concerns are? - Given that the review report has only recently been produced and I have asked for returns by 21st June, no, I would not be able to adduce anything at this stage.

Can you say at the moment as far as you are concerned from what are schools to be protected? What/

What are the aims of the policy of school security? - I think the starting point is one to which I referred earlier: at all times the head teachers or the person nominated by the head teacher should know who is in the building, should know each child and each adult that is in the building. Therefore that immediately leads you to the notion of a single entry point, a reception arrangement and so on and so forth. I think that is the starting point. Such discussions as have taken place with parents, they are as concerned as the others about getting the balance right between the school as a warm and welcome place, the heart of the community, and an increase in general measures of security and reassurance. I think provided there can be careful consideration of this we can get the balance right and those elements need not inhibit any other.

If I can take you back a little beyond that starting point you referred to, you referred to headmasters knowing who was in the school. What is the purpose of all of these measures. What degree of protection are they intended to confer? - I am not exactly clear in terms of -- the question is particularly open, but clearly my interest as Director of Education is to ensure that there is the best possible environment wherein learning and teaching can take place, so one can see that happening in a way in which it would not be disturbed. The more common occurrences in terms of disruption, rather than the unique and heinous events of 13th March, would be occasional intrusions by the youth of the area, vandals, recent school leavers. Whatever the circumstances we would be looking to create a secure environment wherein there is an appropriate atmosphere for the life of the school to go on independently other than in an organised way.

You mentioned there vandalism. Is that one of the things that concerns you? - Absolutely. I am not sure it necessarily concerns me in terms of consideration of the issue as Director for Stirling. I am conscious of my knowledge of other areas that it is an issue that can arise.

What I am trying to get at is whether the measures which you are proposing are intended to deal primarily with the safety of the persons or whether they have a broader ambit than that? - Clearly/

Clearly they have features relating to the safety of persons, but it is also in the context of enabling school life to go on undisturbed other than by intentional work of teachers and the pupils.

But as well as that goal, the protection of the person, is it also intended to deal with various forms of criminal damage and theft? - Clearly if you are introducing security systems that is introducing additional features of security at points where theft is more likely to occur -- and that is during hours when pupils and teachers are not present -- and that is an additional benefit. In terms of a scheme that has been introduced in Dunblane it's primary feature is one of security in terms of persons and it will be drawn up -- I hesitate about the words "risk assessment", to bring that up again, but clearly the security system that is introduced would be a feature of the analysis done of the circumstances and risks faced by a particular school. Whether or not any part of the building was thought to be particularly vulnerable to theft and vandalism does have a bearing on that.

But it is a matter which may be taken under the heading "Risks" that you are concerned with? - Absolutely.

You have defined in there in general terms it is providing a secure and safe environment for teaching? - Yes, to be carried out.

The starting point has been the headmaster should know who is in the building? - Yes. That is an essential element, the head teacher is aware of that.

What sources are available to you for information regarding the means by which a school may be secure? - On a daily basis?

Yes? - The responsibilities delegated to head teachers is clearly in terms of their managerial function and these matters are primarily through their educational responsibility on a day-to-day basis. It would be my function and the colleagues working with me to review that and make sure they are getting the best guidance and support so far as each point is concerned, and that is what I have been seeking to do in terms of the risk issue all/

all along.

BY LORD CULLEN: Does the Education Authority itself have a safety policy? - Not that could be described as such at present.

Do you think it should? - I think that may well be one of the features that will emerge from this in terms of guidance, yes.

EXAMINATION CONTINUED BY MR. LAKE: In formulating a policy such as mentioned there presumably it would be necessary to take account of a variety of circumstances that may obtain for each particular school? - That is correct. That is why we are carrying out the review at present.

You mentioned earlier difference in size of schools in that you may have some as small as having four pupils and others run into many hundreds. What are the other principal differences between schools which would have an impact on the means by which the goal you seek is achieved? - The extend of pupil movement around schools does have an impact, because you would not wish to have, if you provided a security system, one that was so cumbersome it was inhibiting the daily life of the school. That particularly will apply to secondary schools -- you wander round any secondary school and you will see a considerable number of access and exit points, and it really is quite difficult on many occasions to think how this may be rationalised to only one. In addition in secondary schools the likelihood is they may have a separate block for technical or physical education or whatever or an additional annexe because the school will have expanded at some point in the past, and that is a probability, so clearly the issues of security are far more complicated for a secondary school because of pupil movement and because there will be several buildings involved.

At present what you said was your security system was concentrating on providing security requirements for the buildings rather than within the context of the school as a whole? - The same cosideration has been taken of hutted accommodation.

I was thinking of during any break time, a large number of children are concentrated outwith in the/

the playground? - Subject to playground supervision.

As well as those you have told us about, are there other factors which will have a bearing on the ability or manner in which security is achieved? - I think it relates to the configuration of the buildings and the site. When a site is drawn up in terms of how compact it may be clearly in terms of reception arrangements they are detemined by the site and may be more or less expensive and that would need to be put in.

You/

You said at the outset you had older schools which are laid out in a manner which makes that more difficult? - That is correct.

Why is that? - Well, if you were to go to some of the Victorian schools in the eastern villages, for example, they have by no means -- the creation of a school office was perhaps not foremost in their consideration and it is not altogether obvious when you call where the office is sited, and therefore clear signage is important, and issues of addressing security and access, even if the budget were clearly available, will be more problematic in these schemes than ones of a more modern design.

I appreciate you said it is early days, but has there been any policy formulated to deal with the situation regarding older schools? - Other than considerations, as I have said earlier, of best practice. We have caused there to be increased signage and have courteous requests for all visitors to make their presence known to the school secretary or in the smaller schools direct to the head teacher. It should always be obvious where such a person is based and how the visitor should make their presence known. It is part of the function of changes for visitors so that they know this is what is expected of themd, whether it is by officials of the Council, parents or others who are going in and out to work or do other duties in the school, and clearly all of us as we go about our work supporting schools have a role to play. They are the more difficult area of cultural and attitudinal change.

Turning now to the issue of making school premises available to groups outwith school hours: is it correct to say Stirling Council have a policy that their school premises should be made available for the use of the community? - Yes.

And they are made available by means of applications for lets? - That is correct.

Within Stirling Council who would such an application be submitted to? - The establishment system under Community Services in the form of letting but who organises it is in terms of the size -- the actual person who may have local responsibility in theory is dependent on practice. It/

It may be the area officer reporting to Civic Services, or it could be power which has been assumed by a School Board and therefore a person with local responsibility would be the Clerk to the School Board.

But there is no uniform policy throughout the Council's area as to how this would be dealt with? - There is a uniform policy. What I was illustrating was that the person who would be dealing with the matter may have a different province. I think it is important to say in terms of School Board legislation School Boards do have the capacity and power to be involved in community use of schools subject to the direction of the Council. In many Council areas in Scotland School Boards have decided it is more appropriate to be consulted on letting schemes and let the local authority run it: in others, subject to the direction of the scheme by the Council, they have become more involved. As I have already indicated, there aren't School Boards in every school who prefer the Council to arrange this as a consequence of the School Board legislation, and we have a mixed package of administration, but that doesn't mean they are not all operating the scheme.

If the matter is being dealt with by the School Board or the Clerk to the School Board what degree of support would they have from the central offices of the Council? - Clearly they would be working within the letting scheme as laid down, and Stirling Council is at present implementing increased measures including a vetting scheme and that vetting scheme will be centrally run. It is intended that additional information will be made to the Clerk of the School Board, and it is hoped there will be more power being given to one organisation, being best practice, so that both interests may be kept together. Certainly the District Council had good practice in terms of computerised facilities, they were able to monitor the letting and use of buildings.

BY LORD CULLEN: Would vetting include insistance on certain conditions being applied? - Absolutely. I think there would be changes from the previous practice. I think it does go to the key of some of it. I accept if activity is taking place in Council premises that to some extent authenticates/

authenticates it, but it is not just the Council -- Council letting has happened in the past as a landlord, and it could operate in a supportive and enabling way for the activity, accepting a certain level of activity, so vetting will look at the standard of activity and will use its discretionary power with the Scottish Criminal Record Office to check the name of a person and so on and so forth.

I was thinking, for instance, of a constitution or insurance matters that we have been thinking of during the course of this Inquiry and possibly parent representation of some form on a committee, things of that sort? - I think these are extremely important. I was thinking in terms of users committees, parental involvement, and people working with the youth or children's activities being accredited in some way, the standard of training. These are all matters we would take into account. I think it is important to be seen vetting is done as a way of quality assurance and we are not just doing this to be obstructive. I have been insisting that the quality concerned on offer is improved. I think it has to be noted that if one does go beyond just having mechanistic answers to this, if we are going to work with people, how they relate to their community, that has significant resource implications.

In terms of the amount of supervision you put into the vetting? - Supervision, yes, on a regular basis. I am not thinking of a registration scheme but one which has the features that would apply for under eights, the under eight groups in chapter 10 of the 1989 Act. It is developmental work, and we have got to do this in a way which still gives the opportunity for people to be included that would not put volunteers off doing it, and it would be a developmental approach which is going to be expected.

I/

I think the danger is if the answers are lets expand the capacity to have criminal record checks, I think it is a necessary condition but it is far from sufficient on its own. This I feel could inhibit the level of activity within the community and there would be less for youth, and I think the Council would be seen, probably quite rightly, as bureaucratic and mechanistic because this is what it would be resourced for. I say that in full knowledge of the present system in the terms of use of checks both from the police side and on our own.

EXAMINATION CONTINUED BY MR. LAKE: As regards to vetting, am I correct in understanding you would be vetting not only the individuals involved but also the activities which are proposed to carry out? - Yes, that is right. I do think it is appropriate that there should be a standard. I think it is important we give, as it were, guide marks through a system of accreditation and I think that may be part of the way forward.

Do you see vetting and accreditation as being two different things. Do you see accreditation as another means of vetting? - I think they are potentially complimentary, because I think while it one way it is possible to introduce some vetting, as I have already indicated, on its own that may be insufficient, and I think the more appropriate way forward is to look at a way of reassurance when working with children. Many people are doing so at the moment as part of a team and not as individuals, and they have an association with the community, perhaps with the Council, or perhaps with another nationally affiliated recognised youth body, so that parents are aware of the standards that implies.

Before a system of accreditation or vetting could work there would presumably have to be a healthy level of activity carried out by parents or adults for children throughout the Stirling Council area? - That is correct.

There are other matters such as music or sports education? - Yes.

Which would be carried out on a one-to-one basis? - Yes.

Often/

Often in Council premises? - Yes.

How would these fit within the scheme if required? - I think in terms of sport or even music itself it will be important the Council will be assured with regard to the qualifications of the person and that the service they are offering within Council premises is what they maintain it to be. Also with regard to -- I accept in music or in athletics individual training or support can come into it, but I don't see that should necessarily be dealt with in isolation nor should that isolation be of itself a good thing. At present we would be looking to groups using our premises have to have two adults present.

BY LORD CULLEN: When we talk about accreditation and vetting I take it we are talking about that being done of the person who is the provider or the organiser as opposed to every single person who is working with that organisation? - Absolutely. Within the Code of Practice clearly you would wish to see the way in which the others were.....

You may do that under the appropriate conditions, referring to some Code of Practice? - Yes.

EXAMINATION CONTINUED BY MR. LAKE: How would you propose to vet persons and organisations? - We would intend using the discretionary capacity to have a criminal records check. We would have the resources of the SCRO, interviews with Council officers or Community Services, and there would be an assurance that they were going to abide by the Code of Practice which gives the capacity in resource terms for monitoring all features of the work with them in terms of inspection.

What would you be looking to detect in the course of that vetting. Who would you hope to weed out? - The Code of Practice will set out certain approaches in terms of the way we would expect that activity to be run along with the normal safeguards, and there will be other advice in regard to the Code of Practice in terms of equality of opportunity and respect and esteem for children. We mentioned earlier the paramount importance of parents having opportunity to make their views known,/

known, and we need to do everything in practice in regard to allowing children's voices to be heard, taking children's points seriously. We would wish to do this with regard to best practice for us. It is one way in which children should be treated with respect.

How would you propose taking into account the views of parents and the views of children in such a vetting procedure? - I don't think in the initial vetting and these matters of attitude and developmental issues you will be able to take them into account. I think vetting covers the necessary conditions of general support or further inspection or work with different groups as part of the community support and ensures a sufficient condition to make sure that we can still be exclusive and are not increasing the capacity to have further people alienated or people who may wish to volunteer their support being put off by the measures being introduced.

What degree of manpower do you consider would be necessary to institute such a system in respect of activities carried out in Stirling? - I think at this early stage I really wouldn't want -- I hesitate to guess at that, because I think it is -- it would be much more important the activity is properly balanced and whether or not there is a need for an additional framework that our Council can operate. I think it is interesting in terms of the way Chapter 10 of the '89 Act is operated, child minders will sometimes be denied that status because of developments such as the -- on the developmental side, whatever the criteria of a fit person in terms of how they approach children and so forth, challenges in that area are much more difficult. There was one famous case I think south of the border of a child minder who was de-registered for smacking children, and she took the Council on and challenged the Council and won. So I think it is important to get a framework laid before we would be in a position to assess what the implications would be. Nevertheless I think if we are going to do it properly in terms of serving the community we should do it -- lessons learned, and it will have to be provided with resources and so on and we will have to set certain codes which do not lead to a significant diminution in activity.

Do/

Do you think an accreditation scheme would work apart from there being the vetting scheme you have just described? - I think it would be possible for it to work. I think it is an issue which should be fully explored. Clearly any Council officer wanting accreditation works through the Council but others may have different views, and there is nothing about accreditation of itself that means that duty need to be given to Local Authorities; there are other national areas where it can be done. I think what is clear is it would be of assistance to parents if they were clear what standards would apply for children's work if they were to accept that description.

How would you see an accreditation scheme working? - Again I think it would come back to the notion of a clear Code of Practice in terms of what was available for affiliated organisations, national boys' clubs, uniform organisation and others to make information available which the local organisations can tie into.

Would/

2.30 p.m.

Would the effect of what you have described not be to shut people out who were not part of a national affiliation or registered with a training body? - I am indicating that merely in terms of a code of practice it would seem appropriate that people should be encouraged to take training and that training should be available.

Yes? - In terms of best practice, in the community training service throughout Scotland youth leaders would be attracting people and giving them training, but they wouldn't leave them as part of a team to take unsupervised activities until they felt that they were ready so to do. It is not a case of using that system to close people out; it is using the system to involve people and give them an opportunity to follow their volunteer impulse.

Once people have been accredited or approved what steps do you envisage would be required to maintain the standard provided by that person? - I think ideally there should be the resources in the activity for an inspection, as well as the case of a user committee, parental involvement and children's complaint procedures should be ongoing procedures that the thing is subject to, consumer pressures, as it were.

This is something you envisage applying to premises let from the Council only, or do the Council have a general responsibility within this area? - Clearly this relates to Council buildings. I think it is important to point out that that would not cover all buildings used for these purposes, because there will be village halls and similar buildings that will have been granted and funded and run by local committees, and there will be Scout halls and others where when they are not used for the Scouts they would also be let to different classes. What I have been describing would apply in the first instance only to premises run by the Council, and it is then inherited from region to district.

Do you consider it would be possible with resources for the Council to provide the same quality assurance in relation to non-Council premises? - I think in terms of the schools and the/

the issue which has come up it is important for there to be reassurance about any activity, but whether it is appropriate that that be for the Council, I think it would be more important to work that through.

You have referred to a code of practice. Does such a code exist at present? - A code of practice has been introduced and adopted by Stirling Council, yes.

When was that? - The first consideration was by the Community Services Committee on the 12th March, and the code of practice was first looked at on the 8th May, and there was a further briefing report at the most recent meeting of the committee.

Perhaps I could refer you to a document which was handed out immediately before lunch. It is headed "STIRLING COUNCIL COMMUNITY SERVICES. COSLA: CULLEN INQUIRY": do you have that? - Yes.

Have you seen this document previously? - Yes.

Would you turn to the third page of it? It has actually got the number 13 at the top, so it has been extracted from something else. Do you see that as a Minute of the Stirling Council Community Committee? - No, it is not a Minute, it is the report that would have been placed to the Committee for their consideration.

In paragraph 1.1 there is reference to the fact that the Committee Paper was presented on the 12th March. Is that the one you have referred to? - Yes.

In No. 2 there were certain recommendations. Could you read these recommendations out? - "It is recommended that: The Working Group continues to review and research Community Use of Schools and presents a revised letting policy to the next meeting of the Community Committee.
The existing letting scheme remains in operation until 31st July, 1966.
The implementation date for the revised letting scheme/

scheme is 1st August, 1996.
Vetting procedures as outlined in Appendix 2 should be implemented immediately for all halls, centres and schools.
The Working Group continues to research centralised letting procedures and makes recommendations to the next Community Committee on the possible implementation of a pilot scheme".

If I could refer you to the section headed "Appendix 2, which is four pages on from that, is that the vetting scheme which has been referred to? - Yes.

Can you read out the recommendations? - "It is recommended that the following vetting procedures to be incorporated into the letting scheme:
Anyone working with young people under the age of 16 should satisfy the following procedures:
(1) Complete SCRO check.
(2) Provide two references.
(3) In the case of a sports group, instructor/coach must have the relevant governing body qualification.
(4) Go through an interview procedure with nominated Council representative(s).
(5) A code of practice should be issued to individuals taking out lets. This code of practice would recommend that it would be desirable for all activities organised for young people under the age of 16 there should be at least two adult representatives in attendance".

Is that a scheme which is to be introduced in Stirling Council fairly shortly? - Yes, as described in the recommendations.

BY LORD CULLEN: Is the code of practice you referred to already the code referred to in paragraph 5? - Yes.

So it is in existence already, is it? - It is in existence and has been introduced, yes.

Is there a text one can read? - Yes. At the stage when this submission was made it was still being revised.

But/

But it has been finalised since that time? - That is correct.

Is this document, Appendix 2, referring to the vetting of everybody who works? - We are talking here about volunteers.

There was a distinction drawn earlier between the organiser and those working with the organiser. Is this to cover the organiser or is it to cover everybody working as part of the team of the organiser? - Ideally it will be to vet all those who are working.

Is there some doubt about this? - No, but I am sure in terms of making sure there is a balance -- we would be vetting the providers and....

You would be vetting the providers? - Yes.

You say, however, this is intended to go on to deal with everybody working to the provider, as it were? - Yes.

EXAMINATION CONTINUED BY MR. LAKE: It refers to here young people under the age of 16. Do these guidelines apply whenever there is to be a child under 16 in any group, irrespective of how many adults are to be present? - I think it would be difficult to be exact on that. In terms of the speed with which these matters were thought about -- I am quite sure we could come up with examples in terms of church groups and others where there was a predominance of adults, where it would be simply bureaucratic to implement the procedures. The intention behind them is where the activity is for under 16's rather than an activity where an under 16 may happen to be present.

You have previous made reference to chapter 10 of the Children's Act, 1989 and the registration requirements which exist. To which situation do these requirements apply? - They apply to children under 8, and in certain categories, although the provision will divide the powers between mandatory and discretionary. It includes less than two hours per week, or at present less than six, then checks will not take place, although the Government has been recommending a proposal/

proposal that the six should be extended to 60.

That would mean that anyone who was supervising children for fewer than 60 hours per year would not have to be registered? - If the Government's recommendations were accepted. At present it is six.

Part of the scheme proposed is that you should have access to a complete SCRO check, from the SCRO computer? - Yes.

To what extent are the Council able to carry out such searches at present? - The capacity for such a search to be carried out for purposes of chapter 10 of the Children's Act, that is within the scheme of delegation to the Director of Education, as I have responsibility for children's services. As well as that, in terms of scrutiny of those who have substantial access to children, Education and Social Services can access it.

Yes? - There is a flaw, however, in that previously Leisure and Recreation Services of the District Councils could not access it, so it will be a matter of serendipity that if Leisure and Recreation happen to have merged with Education they can access quite easily, but if, as in Stirling, a separate Community Service is set up they would have to route their inquiries through the Education Service rather than being dealt with by the Director of Community Services, which seems inflexible.

Do you have any other proposal whereby you may obtain information from the police not contained in SCRO files? - Clearly there is the opportunity for normal good liaison, but not officially.

CROSS-EXAMINED BY MR. CAMPBELL: I wonder if I could ask you a few fairly general questions? Am I right in understanding that an appropriate safety or security regime is likely to vary from school to school, at least in detail? - I think that is the case.

So do you favour what I think is a common theme of many of the submissions which have been made to this Inquiry on this subject, the policy/

policy of safety audits or risk assessments being carried out for every school? - I think there is benefit in that, but I think it is important that it should happen within a framework of guidance from Government and best advice, not least on matters of design and sharing of risk factors.

Yes? - Perhaps in terms of the Scottish commentary on the publication of school security, it is disappointing that a role in that area is not necessarily envisaged.

So the idea might be that in due course every school, whatever it might be called, would have its own security plan? - Yes, absolutely.

Derived from a process of risk assessment or safety audit, whatever you might want to call it? - Yes.

That plan would then require to be implemented, I take it? - Yes.

And would you see merit in the plan being reviewed, perhaps on an annual basis? - Of course. All schools have policies. I think it is appropriate a school has a policy for matters of security. In the circumstances we find ourselves in, the idea is that there should be a heightened awareness with regard to these matters. So yes, the review of a policy would be part of a normal best practice issue in school.

At the moment we are not talking about that, we are talking about a security plan, a written-down document setting out what should be done to provide adequate security for a particular school, a plan derived from the process of risk assessment, a safety audit. Do I take it you are in agreement that if and when such a plan was in place for each school the plan itself should be subjected to periodical review? - I think what you describe I would be happy to consider as a policy. I think we are into a semantic difference. Yes, I do.

In terms of the process of risk assessment in the first place, plainly there would be value in an input into that process from those with expertise in education? - Yes, I have already/

already stated I think there are a number of people may have expertise, and that is why that has happened within a framework of guidance.

Would it also be in your view appropriate that persons with expertise in security are involved in the safety audit or risk assessment of a school? - Yes.

Anything else? - I think that these matters should be taken forward by those with the technical expertise, by those in education, because they know how they wish a building and the activities therein to function, and some of these matters should be considered within general community considerations of safety.

So presumably the national guidance you mentioned a moment or two ago amongst other things would identify those organisations who should be involved in the process of risk assessment for each school? - I think that would be of assistance, yes.

So far as implementation of the identified recommendations for any individual school is concerned, you have mentioned resources a number of times in the course of your evidence? - Yes.

Would it be important that provision was made to deal with the resource implications involved in what we are talking about? -

I/

I think that is absolutely important. I mean, I think that there is a need to keep in balance the public expectation and need for reassurance in this area with the resources that can be made available. It has got to be seen in context; as an example, Stirling Council is facing a 20 per cent reduction in its capital capacity and capital minor practices as well and this is a reduction of £100,000 of a budget which was already looked at as already under-resourced so I would be more comfortable taking this issue forward with monies made available, specifically made available by Central Government.

Monies made available by Central Government? - I am not aware of any other source it would come from; that is where most of the funding for local government comes from.

So the broad scheme which you would endorse, am I right, would be that in due course, hopefully sooner rather than later, identified security recommendations would exist for, and let's just take your area, for schools in Stirling Council? - Yes.

The Stirling Council area? - Yes.

You were asked as to whether Stirling Council presently have a policy for school security, and the answer to that question is no, is that right? - Right, as previously stated at the beginning of April I asked schools to review their practises and gave them a number of questions to consider that I thought would be considered in calling for a policy.

You have previously worked with Strathclyde Regional Council? - That is correct.

Do Strathclyde Region have a policy for school security? - As things commenced with other authorities they were considering these matters, again with the context of risk assessment and I am aware of certain initiatives they took, I am aware of discussions that we were asking them to consult with teachers, no less following the events in Cleveland but no, not as such, I am not aware of any policy specifically of security as you have described.

What about security more generally; going back to Stirling Council does Stirling Council have a security policy in relation to its property -- libraries, leisure and recreation facilities, etc.,? - Clearly there will be security measures in terms of the building, I am not aware of any document that would be covering advice in the way that this security should apply to all the buildings that happen to be owned and run by Stirling Council.

Does an authority such as Stirling Council or did an authority such as Strathclyde Regional Council employ its own staff to implement security in buildings and property? - I am aware that in parts of Glasgow where security personnel were employed because of the extent of damage and theft within the community.

So this would be on a somewhat ad hoc, as a need arises, basis? - Presumably initially it was felt it was not an ad hoc basis but it was based on the assessment of risk as they perceived it and felt it money well spent because of the significant reduction in vandalism that was achieved.

So is it fair to say that the whole issue of school security, despite the fact that schools have been around for such a long period of time, still is in its infancy so far as policy-making is concerned? - I think that is correct but I think it is the case that schools require to..... it is unfortunately the case that schools are having to address with some alacrity the matters that we are discussing.

You have mentioned matters which are now being viewed in relation to Dunblane Primary School and you have talked a little about the new Newton Primary School; can I ask you for your view, if you have any, on outer perimeter fencing? - There will be outer perimeter fencing 5 feet high at Newton Primary School, we are still considering the issue of site development at Dunblane and that matter will come on the agenda at a later stage. Again it takes us back to what we were discussing earlier and that this is an issue that can be considered on a school-by-school basis.

Plainly security doesn't begin at the door to the building itself, security must cover the whole/

whole of the school property so the area within the boundary of the school must be considered from the point of view of security of children and those at the school, am I right? - Clearly intrusions in schools are more likely to have happened in the grounds and that is one of the reasons why the authority has introduced playground supervision.

Leaving aside the capital and revenue expenditure and the like would you envisage Stirling Council's policy in this area, once it is in place, covering matters such as staff security awareness and property management procedures and the like? - Absolutely.

And training in these matters? - Yes, certainly there will be training and further awareness received and discussed with head teachers in the autumn time.

Again, sorry to mention what is a point of detail, but am I right in understanding that consideration can be given to doors which at least in general open only from the inside? - Yes, that is correct -- the number of such doors alarmed have been increased in Dunblane and there will be a number of those doors in Newton and they will swing shut again after use.

CROSS-EXAMINED BY MR. GIBB: I wonder if I could try and canvass with you two separate aspects -- community schools, how are they different from ordinary schools? - I am not best placed to comment on that because although I have some knowledge of that I have no practice of working with them but it is my understanding that community schools have additional resources in terms of staff in order that the facilities can be made available for educational and recreational purposes for longer periods, so they will operate a different regime but I have no particular background on that.

CROSS-EXAMINED BY MR. TAYLOR: There are a number of measures which can be taken to improve security in schools, is that a fair comment to make? - Yes, absolutely, yes.

Some of them will be fairly expensive and others will be less so? - Yes.

One/

One reaches a stage where society has to decide how much it is prepared to pay in order to achieve the security desired in any given school?
- Yes.

And that would be something which a risk assessment could address? - It is something in which a risk assessment could be made in time to determine what steps can usefully be taken to handle the risks that are available, but you are right.

In an exercise one would be balancing the cost of the particular piece of equipment with the benefits which might accrue from it? - I can't see any other way to do it.

In the consideration which was given to the security system at Dunblane following the incident was any thought given to a system whereby the entry to the school was obtained by the use of a fingerprint? - Not that I am aware of, I wasn't involved in all of the discussions.

Do you see any merit in such a system whereby all attending at the door of a school, a person seeking entry simply puts their fingerprint, a pre-determined finger, against a detector which would already have on the database an imprint of that fingerprint? - I can see merit in a number of systems but given that the system put in is individual electronic keys and if any of these keys are missing can immediately be programmed out, I am interested in learning from that but there is nothing to suggest that your proposal would not have merit.

You see, such a system would also have the advantage that in the event of there being another disaster the authorities would be able to identify those who were the victims very much more readily because they would have the fingerprints already on the database; do you see that as a potential advantage? - I am struggling with this because clearly many of the victims here would not necessarily have been fingerprinted to give them access to the building premises but I certainly accept the point you are making, that we need to look at management information to how we can deal with issues of identification better than the way we did on the 13th of March.

Were/

Were there to be a problem with either a teacher or children at the school the fingerprint is stored on the database which would not only give them access to the school but further assist in identification? - It is not an issue I have been asked to consider before; I think it would have some ramifications and difficulties. I am not as yet from your point convinced of its advantages.

What do you see as its disadvantages? - In terms of having a simpler system, why you would wish to enable children within the school to be able to access the premises other than under the supervision of the teacher, even if that were the system that was operating during school hours; I don't see that as being necessary for the efficient running of the school; no, I am not necessarily convinced that the distribution of fingerprints would be necessary to take forward the matters which need to be made in terms of identification.

LORD CULLEN: Before you leave there is one point I would like to raise which I did raise when I asked questions earlier and that is the matter of existing legislation of the Health and Safety at Work Act. I am not clear, does it apply in the case of schools and if so how is it implemented.

MR. JONES: We had a very busy lunch time, sir, and unfortunately it wasn't long enough to find the answers to the questions I think you had in mind.

LORD CULLEN: Perhaps I could list what the questions are; first of all, does the Health and Safety at Work Act apply to a school such as the type we have been dealing with here. Secondly, does it have any relationship to the hazard represented by the present type of case where some intruder has caused grevious injury to people in the building, and thirdly, by what means is the Health and Safety at Work Act and the regulations implemented because if it does apply there should be a policy and there should be a risk assessment already in existence. That is why I asked that question, to find out what was already in place.

MR. JONES: I understand that and we are looking at it and as soon as we have the answers you will be informed.

JAMES GARDINER, Sworn,

EXAMINED BY MR. LAKE: What is your occupation? - Retired.

What was your former occupation? - Local Government Officer, Youth and Community Officer, maybe is the title.

Did you have experience as a Youth and Community Officer dealing with the letting of premises, school premises, outwith school hours? - Yes.

Just to be cleark, when did you retire as a Youth and Community Officer? - 1993.

We have heard some evidence this afternoon about proposed changes in letting premises by Stirling Council and the question I would like to ask you is in relation to that policy that existed previously. Could you have in front of you a number of documents which will be found under the reference DDH322 and I think these are to be found in folder J(Other). Perhaps it would be easier if I could refer you to document D6 within folder J(i). I understand that there is some convenient reference in J(i), if reference can be made to D139 within J(i).

Looking/

3.10 p.m.

Looking first at that bundle, that is a bundle of applications for the use firstly of educational premises and also for the Educational Service minibus? - Yes.

Are these typical examples of such applications for use? - Yes, they are.

I think you see in respect of each of them that they are all prepared by Thomas Hamilton, and seek the various things to which they refer? - Yes.

On the back of the various documents do you see printed terms and conditions? - Yes.

In respect of the applications being made, it is headed on the reverse of that document "Conditions of Let"? - Yes.

Are these the only conditions of let that would have applied to persons seeking the use of educational premises? - I am not sure what you mean by that. These were applied to each person who made the application.

By signing the application form on one side they were accepting the conditions on the other? - Yes.

But there was no other condition to which the person was subject? - Not really.

LORD CULLEN: Are these conditions printed in the file we have?

MR. LAKE: I think there has been a one-sided copy printed.

LORD CULLEN: It looks like it, yes.

MR. JONES: I think in D6 in Volume 1 there is an example of such an application.

BY LORD CULLEN: Yes. I notice that form is a 1983 form. I don't know if these are the current conditions. Did they change over the years? - Yes, they have changed two or three times over the/

the years. This is probably the current one, because it is dated 1994.

MR. LAKE: I will make available a full set of reverse side copies for the full Production 139.

LORD CULLEN: Presumably they are all the same?

MR. LAKE: Yes, as long as everybody agrees they are the same.

EXAMINATION CONTINUED BY MR. LAKE: Would it be fair to say these are aimed predominantly at preserving the premises from harm from persons using it? - That is correct.

There are some details there regarding two questions under the Licensing (Scotland) Act, if anyone is wanting to hold an event at which alcohol is to be consumed; is that correct? - Yes.

Anywhere within the conditions of let is there any attempt to impose a vetting requirement on the person who is organising the event to take place? - No. On the other side of the form there is a space for the responsible person, so we assume that would be the person who filled it in.

That refers to paragraph 5 of the conditions of let? - Yes.

That reads "The lesees will nominate a person who will be deemed to be the 'responsible person' in respect of any let. The lesees shall be obliged to advise the Council of any change in the responsible person, as may occur from time to time throughout the currency of the let"? - Yes.

Is that merely intended to make a person who must answer to the Council, or is it intended to denote some quality to be applied to that person? - The person responsible would be the contact person for the janitor of the school, the caretaker or officer who would have contact with that person, and who would be responsible for the general wellbeing of the organisation within the premises.

It is not intended to suggest there will be/

be any categories of person who are not suitable to take on the let of the premises? - No.

If you look through there to one of the applications for use of the school minibus, the same is largely true, in that there is no particular requirement as to the bona fides or suitability of the person using the minibus? - No, other than they must be the holder of a current driving licence.

The same in relation to safety. There is also a requirement about not consuming alcohol prior to driving the Council's vehicle? - Yes.

Were these the forms still in use at the time you retired? - Yes, they were.

Could I refer you now to Production D6 within Volume J(1)? Do you see that is an application for the let of educational premises in respect of Dunblane High? - Yes.

What date is that application? - The date of the application is the 27th May, 1983.

Just beneath the box in the centre thre is typed "Confirmed 6.7.83. p.p. J.G.S.K."? - Yes.

Who do those initials refer to? - The "JG" is probably myself and "SK" is the clerical assistant at the time.

On the reverse of that, which has been photocopied as the next page in the folder, that is headed again "Conditions of Let"? - Yes.

Referring back to D6, do you see also beneath the table there is reference to applications being sent to the "Clerk to the School Council/ Manager of Centre/Principal of the College"? - Yes.

Are these all means by which an application might be made for the let of school premises? - Yes.

Was there any means of centralising applications for lets to the Council? - No. It was a local issue. The diaries were kept locally.

Was/

Was that the same up till the time you retired? - Yes.

What sort of checks were carried out of a person seeking to apply for the let of educational premises while you were employed with the Council? - There were no lets as such, the application came in, and if the space and the premises were available then the lets were confirmed.

Were there ever any checks made on the applicant? - None at all.

Did you ever have any dealings with the Council for Dunblane High School? - Yes.

Were you aware that Thomas Hamilton sat on that Council? - Not when I was employed, no.

No cross-examination.

MR. LAKE: Dealing with the issue of the scrutiny of applicants for various posts, this may be an appropriate time to remind you, sir, that during the evidence of the Chief Executive of the Scouts, Mr. Shelmerdine, he was asked questions regarding the success rate in determining persons who might not be suitable to act as leaders of the Scout Association, and he indicated he was unable to provide that information, but would seek to do so. We have now had a letter from Mr. Shelmerdine, and rather than recalling him as a witness to the Inquiry I will just read out his letter. It starts: "I have been in touch with our UK Records Office based in Lancing, West Sussex, to seek the information requested.

"The Association does not keep exact statistics on the number of confidential inquiries (requests for vetting) it receives. Neither does it record the exact total number of checks that result in a report that an individual is unsuitable.

"However, the Records Secretary, Mrs. Win Trott, has provided me with the following information based on many years' experience as head of the department.

"The Association current checks (vets) about one thousand individuals per week. These are checks/

checks on individuals who may have substantial access to young people. It includes parents, helpers and instructors.

"The Records Department also receives 400 plus warrant applications per week. These are for specific appointments such as Scout Leader, Cub Scout Leader, etc. A check is also made before these warrants are issued. This is done even though a check must have been made by the local District Scout Council before a warrant is applied for.

"However, this original check may have been made two weeks, two months, or even two years previously.

"Adults often help out for a period of time before they apply for a warrant for a specific warranty appointment.

"Of the total number of individuals checked weekly, the Records Department usually identified approximately 15-20 individuals that require some follow-up action.

"We should emphasise that these individuals do not necessarily refer to someone who is totally unsuitable to work with young people.

"The report may refer to an individual whose previous service was not entirely satisfactory in a particular role. Some queries may appear to refer to someone named in a recorded Press cutting of offences against children. Further investigation may show that this is not the same individual.

"There is a fluctuating number of individuals that has to be further investigated through the year.

"On average, Mrs. Trott believes that the Association probably identifies 5-6 individuals per month as being totally unsuitable for working with children.

"Please let me know if you require any further information or clarification of the above".

My next witness, sir, is William Cole.

WILLIAM/

WILLIAM REGINALD COLE (59) Sworn

EXAMINED BY MR. LAKE: I live in Tullibody.

I think you are presently retired? - Yes.

What was your previous occupation? - Mechanical Engineer with the National Coal Board.

I understand you are a member of Stirling Rifle and Pistol Club? - Aye.

What premises are used for that club and its shooting activities? - The premises used are within two ranges, one at Whitestone and one at Blair Adam, I think it is called, up in Kinross.

Who whose those ranges? - The Ministry of Defence, I believe.

What arrangements does the club have for using them for its own purposes? - We rent them out.

How long have you been a member of the Stirling Rifle and Pistol Club? - I think about 23 years.

Have you had any involvement with the Committee of that club? - Yes.

What is that involvement? - I was the armourer for the club for approximately 12, 13 years.

When did you start being the armourer, roughly? - I gave up approximately a year and a half ago. 12, 13 years ago.

What duties would fall to an armourer? - I was in charge of the club weapons and ammunition.

What do you mean "in charge of"? - I kept them in my premises at home.

Does the club have any premises of its own? - No.

What/

What were the club weapons? - A .22 revolver, a .357/38 Special, a .22 rifle and a 303 rifle.

The .357: what kind of weapon was that? - A revolver.

Was the club able to acquire any further firearms? - Yes, with police permission.

Did it hold permission to enable it to acquire more any time it liked? - I think there was a .308 rifle and a 9mm, but I am not sure about that.

Was the club entitled to hold ammunition? - Yes.

How much ammunition was it entitled to hold? - Offhand I couldn't tell you exactly.

Perhaps I could read out from your statement, and you can confirm if this is correct. For .22 calibre they were entitled to purchase 10,000 rounds and possess 10,000 rounds? - That would be approximately right.

In respect of 9mm calibre, to purchase 5,000 and to possess up to 5,000? - I think that was 500. It could be 5,000, but I think it was 500.

In respect of 38/357 calibre, to purchase 5,000 and possess 5,000? - Right.

In respect of .303 calibre, to purchase 1,000 and possess 1,000? - Right.

And in respect of .308(762) calibre, to purchase 1,000 and to possess 1,000? - Yes.

You said the 9mm calibre might only be 500? - Yes.

Why would it be lower than all the others? - I didn't have a weapon. There was not a lot of people in the club wanted that calibre.

So/

So persons coming to the club would use 9 mm ammunition? - Correct.

In respect of the ammunition where was that stored? - In my ammunition safe at home.

Did you just take it to the club whenever it was required on club night? - Yes, correct.

How often did the club meet? - Once a month I believe at Whitestone and whenever they could I think at Blairadam.

That would be over and above Whitestone? - Yes, we also shoot at barracks down at Forthside. I believe that was every second Wednesday, which was another range we had.

There was a club meeting every fortnight? - Yes, roughly.

How many members would turn up for these meetings? - It varied from 20 to 40, something in that range.

Did everybody turn up to shoot or did some come to meet people? - Most came to shoot.

Was everyone who turned up to shoot a member of the club or were some visitors? - Some visitors, some guests.

How many visitors could you get at an average meeting? - Sometimes none, sometimes two.

And would these be people who had just visited the club or would they already know someone who was a member? - They would be people who would be coming to join, you know; they were classed as a visitor before they were allowed to have an application form to join.

Were they entitled to shoot at the club without being a member? - Yes, under supervision.

The supervision of whom? - Myself.

Was that in your capacity as club armourer? - Yes.

For how long were they entitled to shoot as a visitor? - Three shoots.

And then what would happen? - They would be asked to join.

What was involved in joining the club? - An application form.

Who would they apply to? - The Secretary, I believe.

What requirement was there in filling out the application form? - Name, address and two members of the club to countersign it.

After the form was submitted with the two referees in that way would the person become a member at once? - I think there was a six months probationary period before you would become a full member.

What was the purpose of the probationary period? - To make sure they were safe to handle a gun, a suitable person to be handling a gun.

You were talking both of your supervision of a visitor as an armourer and the proposed period of safety; what sort of things were you looking out for in a person which would indicate that they were not suitable? - Whenever I told anybody what to do from the very start I expected them to carry it out and not to walk off the firing point without a weapon, without it first being checked, without pointing the firearm up the range all the time.

If someone was waving a firearm about what would that signify? - I would immediately take it off them and send them home.

Is that what you would do in that situation? - If they were a visitor, yes. If they were a member of the club I would put it to the committee for their discussion.

What might happen after the discussion? - They would be asked to leave.

If they were asked to leave would that be notified/

notified anywhere else? - Not that I know of.

There would be no information to the police that they had been ejected from the club for unsafe practices? - Not that I know of.

Were/

Were you involved in this committee discussion regarding anyone engaged in unsafe practices? - Yes.

Where people were ejected from the club on that basis? - Yes.

How often might someone be ejected from the club on that basis? - As far as I know in my time once.

That is in the whole of your time at the club? - Yes.

What had that person done which required him to be ejected from the club? - He discharged a weapon in the ante-room and laughed about it and said "It's okay, it is blank" and I immediately asked him to go, not in these words I might add.

We have heard a person attending the club might purchase ammunition from it; if someone wanted to purchase ammunition from the Stirling Club who would they approach? - Me.

What formalities do you take before selling a person ammunition? - I had to make sure they had a firearms certificate and enter the amount into the firearms certificate.

Did everyone shooting at the club require to have a firearms certificate? - No.

What would someone do if they were to buy ammunition and didn't possess a firearms certificate? - If they didn't use all the ammunition they would write their name on the box and give it back to me.

Someone who didn't have a firearms certificate could buy it but give it back to you? - Yes.

Was there any way of monitoring whether a person had used all their ammunition? - I would usually stand next to them and I knew what they had fired.

Are you aware that Thomas Hamilton attended the Stirling club? - Yes.

When/

When did he first attend? - Approximately 10 years ago.

Did he attend at a visitor at first? - Yes.

Did he attend with anyone? - I don't know, I can't remember if he was brought up by any member or not; I know I was asked by the then President to go and make sure that he was a safe gun.

Did you? - Yes.

Was he? - Yes.

Did you form an impression as to whether or not he had used a firearm before? - Yes.

Did you think he had or he hadn't? - He had.

What led you to think that? - The way he was talking about it.

What sort of things did he say? - "I know about double action, I know about single action, this is a handgun".

You were satisfied as to his safety? - At that time, yes.

You say at that time, do you have.....? - Now I am not.

Leaving aside what happened in March did you have any reason to doubt Hamilton's safety with a gun? - No.

Did he attend the club regularly? - As far as I know, yes.

Has that been throughout the time you were at the club? - Yes.

In particular between the years of about 1988 to 1995 did he attend? - I wouldn't say he was at every shoot, no, but he did attend.

Did he purchase ammunition from you during/

during that period? - I wouldn't swear to it, I can't tell you aye, I can't tell you no.

If he did purchase ammunition from you a record would be available of that? - It would be on his firearms certificate.

Just to be clear about this, if someone who has a firearms certificate buys ammunition from you and uses it on the range that day would that require to be entered into his certificate? - I don't think so in law, no, but if he came and purchased an amount from me I would put it in, I always put it in as course.

Is that always the practice? - Yes. All the ammunition, I would put it in the certificate and write on it.

Are you aware whether or not that same practice is carried out at other clubs, that it is always written on it? - It should be.

Do you think it is a matter of good practice rather than legally advised? - Yes.

We have heard earlier that some persons choose to use their own ammunition, reconstituted ammunition rather than purchased ammunition; can you remember what sort of ammunition Hamilton used? - No, when he was shooting with a .22 it was bought ammunition, it wasn't tailored, manufactured.

Is it common or uncommon for persons to use ammunition which they reconstituted themselves? - Very common.

Is it a common for a person to use purely purchased ammunition? - If he doesn't have the means to reload his own, yes, he has no option.

What is required to reload ammunition? - A press, a set of scales and obviously the requirement to make the bullet.

BY LORD CULLEN: Could you give me some idea as to the cost of this equipment leaving aside the raw materials? - The press, I believe it was £84 for my one, £40 something for my scales to measure the powder.

Are/

Are these up to date prices? - No, quite some time ago.

You don't know the current prices? - No.

EXAMINATION CONTINUED BY MR. LAKE: Is the equipment bulky? - The press sits about 18 inches tall, you bolt it to a bench, the scales are about a foot long, very accurate.

Apart from the machinery or the equipment to remake it what is required as of raw materials to reconstitute ammunition? - A primer cap, powder, the bullet head and the reconstituted case.

The reconstituted case, is that what is left over after the ammunition has been used previously? - Yes.

Where would you obtain supplies of these things? - From a gun dealer.

Would you require a firearms certificate to purchase these? - No.

Did you form an impression of Hamilton during the time he attended the club? - He was pretty much a loner, he would stand to one side, he wouldn't come and join in the talk, you know at ceasefire and things like that, he would stand to one side.

Were there other people who did that in the club? - Not very many.

But are there others? - Yes, I suppose so.

You have mentioned that, I think, when Hamilton shot the .22 he didn't use.....he wouldn't have been able to use reconstituted ammunition; why is that? - You can't reconstitute a rim fired bullet.

Why can't you reconstitute a rim fired bullet? - It can't be done, there is no primer cap on a .22 bullet, it is struck on the rim; after it has been used it can't be used again.

What/

What is the difference between that and another bullet? - The primer cap of another bullet is right in the centre and can be removed and a new one inserted in its place.

When Hamilton first attended the club what sort of weapon was he shooting? - To my knowledge, none.

When Hamilton first attended the club I think you said that was 10 or 11 years ago what calibre of gun did he use? - It was the club's .22.

He used the club's .22? - Yes.

Did he always use the club's .22? - No, other people would loan him weapons.

Did he switch from using the .22 to using other calibres? - Yes.

What other calibres would he switch to? - .9 millimetres as far as I know.

Any others? - Not that I know of.

Are all the ranges used by the club able to accommodate all calibre of weapons? - Yes.

In the early days of Stirling Rifle Club was it possible to shoot all calibres of weapons? - As far as I know, yes.

During that period has there been any move from using small bore, a general move from using small bore weapons to using full bore weapons? - No.

No more common today then than say 11 years ago; have there been any new sporting events arisen within that period? - Sporting events?

Pistol events? - I believe practical pistol is a new one.

If someone first attended 15 years ago what sort of event would they be engaged in? - Target shooting with a revolver or automatic pistol.

What/

What exactly do you mean by target shooting? - A target facing you and you point and fire.

What sort of distance would the target be away? - From 10 feet back to 100 metres, 100 yards.

The distance would depend on the weapon? - Not necessarily.

Might you use a pistol at 100 yards? - Yes.

What size is the target? - A figure 11 I believe.

BY LORD CULLEN: What does that mean? - That is the type of target.

What does it look like? - A human being.

EXAMINATION CONTINUED BY MR. LAKE: 15 years ago that was the sort of target that was used, was it? - Yes.

Was the target static or moving? - Static.

BY LORD CULLEN: Is it just an outline or is it more than the outline of a figure? - It is a figure in battledress that the Army use.

You can make out some sort of features? - Yes, a helmet and what have you.

EXAMINATION CONTINUED BY MR. LAKE: Do people ever shoot at circular targets or rings? - Yes, we take them ourselves.

What is more common say 15 years ago, simple circles or.....? - I would say both, they were just as common.

Is that still true today? - Yes, as far as I am concerned that is what I shoot at, both.

You said that the target shooting was what you may do 15 years ago; what other disciplines/

disciplines are available now? - We have got what is called practical pistol; I don't particularly like it.

What is the difference between that and target shooting? - You have to be more quick with your shooting.

Why? - Because that is the discipline that they have, you have two seconds to fire two rounds and things like that; I don't like it, I don't know a lot about it.

BY LORD CULLEN: Why don't you like it? - I don't have a weapon for a start, I only have a revolver; I don't particularly like automatic weapons.

EXAMINATION CONTINUED BY MR. LAKE: Is it necessary to have an automatic weapon to engage in practical pistol? - Yes.

Are the targets in practical pistol static or moving? - It faces you and then it turns away from you.

What is depicted on the target in practical pistol? - I think it is figure 11 again, an Army target.

Are any other targets used at the club at the moment? - We have got some deer targets and some wild boar targets, you can buy them yourself at different shops.

Are there any other three dimensional targets used? - No, not that I know of.

Do you use dummies or anything like that? - No.

Are you aware of them being used in any other clubs? - No.

BY LORD CULLEN: Do you shoot a police pistol? - Yes.

Do you take part in that discipline? - Yes.

What/

What do you use for that? - A .38 special.

A revolver? - Yes, a Smith & Wesson model 10, a police model 10.

Is that used on a turned target? - Yes.

EXAMINATION CONTINUED BY MR. LAKE:
When did you last see Hamilton at the Stirling Club? - I think it was about 18 months, maybe two years, something like that I last seen him.

In/

3.50 p.m.

In the six months prior to that how often had he attended? - I couldn't tell you exactly. Two, three, maybe even four or five times a year: I couldn't tell you.

Could it be he was not attending at all in that period, and that for about five years he didn't attend? - Possibly. I don't know. I was going through a traumatic time: my brother-in-law was dying from cancer, so I wasn't attending.

Then you recall meeting Hamilton either 18 months or two years ago? - Yes.

Can you remember where that was? - I think it was at Whitestone Range.

What sort of event was being carried out at that time? - Just the standard. Pistol shooting on standard targets.

Was Hamilton there with anybody? - I couldn't tell you. I don't know.

Can you remember what sort of weapon he was using? - I believe it was a 9mm Browning, but I am not sure.

What sort of targets was he doing on that? - Figure 11 and round hole targets

Can you remember what sort of targets Hamilton was using? - No.

Were you able to see Hamilton shooting that day? - Yes.

Did anything strike you as odd about Hamilton shooting on that occasion? - No.

Prior to that date had anything ever struck you as odd about Hamilton's shooting? - No.

CROSS-EXAMINED BY MR. CAMPBELL: You tell us that the Stirling Rifle and Pistol Club owned some firearms? - Yes.

You told us about them. Am I correct in understanding/

understanding that some people would come along to the club who did not possess their own firearms? - Yes.

So would such persons use firearms belonging to the club? - Yes.

Would those members of the club who did possess their own firearms sometimes use club firearms as well? - Yes.

And I dare say there would be others who only used their own firearms? - Yes.

You have told us that the club themselves owned four weapons? - Yes.

Can I take it therefore that that was a sufficient number of weapons to provide those who were attending and requiring to use someone else's weapon? - Yes, that is right.

So it was only necessary for the club to have for example one .22 Smith and Wesson revolver? - Yes.

How many people would use the range at the same time? - There is 12 firing points. If there were 12 people there 12 would use it, and if there were four people there four would use it. The maximum was 12 at the one time.

Let's suppose you have half a dozen people using the range at the same time. Would they all be using the same type of weapon or would they be using different calibres of weapon? - Do you mean a rifle and a shotgun at the same time?

Perhaps you could help me a little, because I am speaking from a position of some ignorance about these matters? - We shot rifle so long and then we shot pistol for so long. At one point everyone was using rifles, and the next time everybody was using pistols.

Is that because people were competing against each other? - No. You can't have people wanting to shoot rifle at 100 yards and people wanting to shoot a pistol at 50 yards.

Is/

Is it essentially a different thing, that they are testing their own ability, rather than competing against the man next to them on the range? - On the range it is just shooting for yourself. If you are in a competition you are shooting against the man next to you, to get a better score than him.

Let's assume everyone was using pistols: would they all be using pistols of the same calibre? - No.

I want to put a hypothesis to you. Let's assume nobody who attended the club owned their own weapons. How many weapons would the club need to possess in those circumstances to allow those who attended the club to use the facility? - I have no idea. How can I answer that?

How many people who attended the club did not own any weapons, in general terms? - Most people who are members of the club owned their own weapons.

Would most people own all the types of weapons they would need to fire? - No, that is why the club had other weapons.

But four was enough? - Yes.

So if for example you quadrupled the numbers and you had 16 weapons owned by the club, would that be enough to allow the club to operate, assuming there was no private possession of firearms? - I don't understand your question. I couldn't have kept that amount of weapons in my house, my own home.

I am not putting the questions very well. Forgive me. I will try again. I know this is an assumption, and it is a difficult matter, and if you cannot help me please just say. If we assume that nobody who was attending the club had their own weapons, do you think somewhere in the region of a dozen to 20 weapons owned by the club would be enough to allow the club to operate? - I suppose so. I don't see how that comes about, how you are getting that question, to be quite honest with you. It is like say a battalion of soldiers, how many rifles do they need.

Let's/

Let's just leave the reason for the question to one side. You are indicating that somewhere between 12 to 20 might well be sufficient? - No, I am not saying that at all: I wouldn't say that.

You can't help us with that? - No.

Now, you were the armourer of the club for a period? - Yes.

And you kept the club's weapons at home? - Yes.

What arrangements did you have at home for the storage of the weapons? - A lockfast gun cupboard with steel doors, steel lined.

For those of us who are not familiar with these arrangements, can you elaborate? - The rifles were kept in a gun cupboard with a chain through the trigger guard, padlocked, and the rifles had the bolts removed: the handguns were held in a steel pistol case, which was locked and bolted to the floor.

So if someone were burglaring your house and they came across the gun cupboard would there be any way at all in which they would be able to steal those guns? - If they had an acetylene torch you could burn your way into it, I suppose.

So you were more than satisfied with these arrangements, that they were sufficiently secure? - Yes, and so were the police.

The police would come to inspect? - Yes.

Presumably it would be important that as the armourer you had satisfactory arrangements for the security of the weapons? - Yes.

And while you have said a moment or two ago that you would not be happy with having a substantial number of guns in the house, in principle would there be any reason why the gun cupboard facility could not have held more than four weapons? - You would just buy a bigger box.

Do/

Do you have guns of your own as well as the club guns? - Yes.

And do you use the same facilities for storing those weapons? - Yes.

How many weapons of your own do you have? - Five rifles and five handguns.

So when you were armourer of the club you held in the region of 14 or so weapons at home? - Yes.

You told us that to your knowledge one member of the club was expelled for discharging a gun in an ante room? - Yes.

Were you directly involved in that expulsion? - Yes.

Were you the person who expelled him? - Immediately.

Did you or any member of the club take any other action in the light of that expulsion? - I have already answered that question to that gentleman (indicates Mr. Lake). I said no.

I do apologise. You didn't inform the police? - No.

Did that man have a firearms certificate? - Yes.

The disciplines you talked about in relation to a police pistol and a practical pistol: do those disciplines require the use of a pistol, or could you use a revolver? - A police pistol 1 is a revolver competition; a practical pistol is for an automatic weapon.

Why is an automatic weapon required for that discipline? - That is the type of discipline it is. You use that type of weapon. I believe you have to drop the magazine out and insert another magazine and continue firing.

So rapid fire would be necessary? - Correct.

CROSS/

CROSS-EXAMINED BY MR. TAYLOR: When the club is holding a meeting does it keep any attendance record of those attending? - I think the Secretary does keep a record, yes.

And if there is a competition do you keep a record of those who enter the competition? - Yes.

When you sold ammunition to your members did you keep a record of their names? - No.

You have told us that you were unable on occasions to attend at club meetings due to personal circumstances? - That is correct.

When you were so incapacitated was it possible for members to acquire ammunition through the club? - No.

When you expelled the member from the club did it occur to you that perhaps you might draw the circumstances to the attention of the police? - No.

When was the expulsion? - Seven or eight years ago, at Forthside.

Did you not think at that time the police might be interested in somebody who was reckless with a firearm? - No, because it was a blank he fired; it was not a live round.

But it was sufficiently serious for you to immediately seek to expell him from the club, was it not? - Yes.

And although it was sufficiently serious for you to take those steps you did not think it was sufficiently serious to inform the police? - That was the decision of the committee.

That was not your decision alone; it was that of the committee? - Yes, to take no further action.

Do you think that was a responsible course of action? - If it had been a live round I would have immediately informed the police, but as it was not a live round, no.

BY/

BY LORD CULLEN: Can you tell me broadly speaking how many firearms would a typical member of your club have? - Anything from two to eight.

And within that range of two to eight would there be cases in which there was more than one gun of the same calibre? - Yes. I own two guns of the same calibre.

Well, let's take your case as an example. Are they precise duplicates, or is there a difference between them? - There is a difference between them. One is a complete target pistol, a .22 target pistol, and the other one is just a standard .22 pistol.

Can you speak for others? If they have got more than one gun of the same calibre are there likely to be differences, or will they be straight duplicates? - I would say most of them are different.

You have been asked certain questions about what it would involve for the club to replace the guns which are used. To what extent do the members of your club have particular modifications between one gun and the next? Are there differences? If you take for example all the guns which were 9 mm, are they all likely to be the same, or would there be differences in feature? - Different features will just be in relation to the manufacturer. It could be a Browning, a Smith and Wesson, a Luger, whatever manufacturer it is.

Does your club have any competitions where features are of particular importance, in other words where you couldn't go in for a particular competition unless you had a particular feature? - No.

When you keep handguns at home are they dismantled to any extent? - No.

Would it be practicable to dismantle them to any extent? - Very impracticable.

Why is that? - You would keep losing screws if you dismantled a revolver.

You have a pistol, don't you? - I have

a/

a .22 pistol, yes. In fact I remove the slide and the magazine from that.

Do you store them separately? - No.

But you could obviously keep them somewhere else? - Yes.

And do you have any pistol apart from that? - I have a .357.

And that is a revolver? - Yes.

And I suppose that might be fiddly, would it? - Yes.

You were asked some questions from Mr. Taylor about keeping an attendance record. What categories of information would you put in that record? The date, presumably, the name and what else? - Yes. The date and the range is on the top of it, then you print your name, sign your name, and if you have a visitor they print and sign their name beside yours.

Would it be practicable if you wanted to do this to record the calibre of gun that is shot? - I believe you have to record the calibre of gun that is shot within the range log.

In terms of what is and what is not practicable, you could do that? - Yes. I believe you have to put in the range log for the Army's purposes. They want to know what calibres have been shot that day.

If the club wanted to know that you could obviously keep a record? - Yes.

RE-/

4.10 p.m.

RE-EXAMINED BY MR. LAKE: You said in your earlier evidence that you removed bolts from rifles? - Yes.

Were they your rifles or the club's? - Both my rifle and the club's.

Why did you remove the bolts? - Because they can't fire the rifle without the bolts, it is an extra safety precaution.

Where did you keep the bolts? - In a steel box.

Is that a separate steel box from the one in which the rifle was kept? - Yes.

Is that the same reason for removing the side magazine from a pistol? - Yes.

You said you had two .22 pistols? - Yes, correct.

I think you said that one of them was a pure target pistol? - Yes, correct.

What is the other one? - It is an automatic pistol.

What do you use the other one for? - Target shooting obviously.

That is precisely my point, what is the difference between the two of them if they are both going to be used for target shooting? - One is very accurate, the other one isn't so accurate.

Why is one so accurate? - Because it is designed that way.

BY LORD CULLEN: What is it about it that makes it more accurate? - You would have to ask the designer of that, I don't know.

When you bought it were there features advertised about it? - Your hand was actually moulded to the grip, it didn't slip around in your hand when you held it.

Is/

Is the barrel length the same in each case? - Four and a half inches against three and three-eighths inches.

Are the sights similar or different? - The sights are completely different.

RE-EXAMINATION CONTINUED BY MR. LAKE: And is this a speciality target pistol? - Yes.

It is a more accurate one? - Yes.

Why do you have the other one if it is less accurate? - I bought it first.

Do you still use it? - Yes.

Why do you use it if it is less accurate? - It is for the joy of shooting it.

Now, in relation to the purpose for having any pistol, it is for target shooting; do you understand that to be the only good reason for having a pistol? - That is the only legal way to have a pistol in Britain.

And that target shooting is going to have to be carried out at a pistol and rifle club? - Yes.

So if the person is to be expelled from the club he is left in a position effectively where he no longer has good reason for holding that weapon? - Yes, correct.

GORDON TAYLOR (35) Sworn

EXAMINED BY MR. LAKE: You are presently a detective sergeant stationed at Tulliallan Police College? - Yes.

How many years police service do you have? - 11 years.

Although you are currently at Tulliallan Police College am I right in saying that between March 1991 and May 1994 you were a detective constable within the Family Unit of Central Scotland Police? - Yes.

Did/

Did you carry out an investigation into the activities of Thomas Hamilton? - I did.

Could I ask you to have before you Folder I of the Productions? - I also referred to a copy of the report.

I think there will be a copy of that in the Productions. I'm going to ask you about certain of these investigations you carried out and in respect to what they were carried out and can I ask you not to identify the names of any persons in respect of whom an investigation took place? - Yes.

Could you look at document D3 in the folder? - Yes.

What is that? - It is a memorandum report from me to a Detective Superintendent, an internal police report.

We see it is headed "Thomas Watt Hamilton (39)" and it has his date of birth and his employment or his unemployment and his address? - Yes.

Under the heading "Antecedent history" you have a number of background facts about Hamilton? - Yes.

Do you see at the bottom of that paragraph, the last sentence, it is stated "Mr. Hamilton is the holder of a firearms certificate which is recorded, as per procedure, on the Scottish Criminal Records Office computer files"? - Yes.

Was that known at that time as the SCRO? - Yes, at that time.

Was it a routine matter to obtain that information in the course of the inquiry by the Family Unit? - Yes, it would be to check out the possible aspects of his background.

Was that with a particular view to the firearms or.....? - Mainly for a criminal record.

Looking over to the next page do you have a detail of complaints which had arisen in respect of clubs held by Hamilton at Denny High School? - Yes./

Yes.

In the second paragraph on page two you actually have a complaint by a parent who said her son had been attending this High School and that Hamilton had required him to change into ill-fitting trunks to perform gymnastic exercises? - Yes.

Do you see the next paragraph refers to that parent carrying out further investigations and attending at the school where she discovered Hamilton only with another boy, not her son, and that he was taking photographs of that boy? - Yes, that is correct.

How did you come to hear about that complaint? - The matter was referred or reported initially to the Deputy Chief Constable and, I believe, Dunblane Police Office; it was subsequently passed to the Family Unit for inquiry.

Was that reported by the parent? - The parent reported it to the local Councillor who passed on that information.

Did you speak to the parent? - Yes, I did.

When did you speak to the parent? - I have a copy of the statement that the parent made in my folder if I could refer to that, I have the date I took the statement from him, can I refer to that?

Yes? - I am sorry but I am actually a bit confused about the two, there was actually two complaints; the second complaint referred to a complaint through a Councillor, not this one.

Right, the first one on page two which is the 26th of May? - Yes.

Was that complaint made by a parent to the Family Unit? - Yes, that complaint was made to the Family Unit by the parent.

And did you speak to that parent? - Yes, I did, I obtained a statement from that person.

Is that really narrating the facts that you set out here on page two? - Yes.

As/

As well as the parent that actually made the complaint there did you speak to both parents of the boys concerned -- sorry, a parent of both boys concerned? - Yes, I believe from memory the first parent who found this child in the gymnasium with Thomas Hamilton reported the matter to the mother of the child who was in the gymnasium and she then..... I think she may have had some connection with the Social Work Department and it filtered through to the Family Unit in that matter and I then interviewed everyone.

Could I ask you to look at page three of that memorandum; you see there in the second paragraph starting about an inch down reference to a further complaint being received from the second parent regarding Mr. Hamilton's club which was held at Dunblane High School and the second parent's "Nine year old son attended this club and recently told his parents that Mr. Hamilton had called him away from the other boys at the club and took him into another hall. There Mr. Hamilton had caused the child to change into ill-fitting trunks, perform exercises which were photographed and at which time no other person was present. This complaint is completely unconnected to the matters at Denny and quite independent". It says the parent "Initially contacted her local Councillor, Mrs. Davidson, who passed the matter on to the Deputy Chief Constable, Central Scotland Police and Dunblane Police Office"? - Yes, that is the one I was becoming confused with here, that was the second complaint.

That was passed to you? - That is correct, yes.

And you note there in the paragraph that there has been particular concern in relation to the second complaint arising out of the sort of exercises that were going on without a need to go into what exercise it was? - Yes.

Adjourned until tomorrow at 10 a.m.

EIGHTEENTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

FRIDAY, 21st JUNE, 1996

Within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow)
.C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
GORDON TAYLOR, (Recalled),	
Examined by Mr. Lake.....	4
Cross-examined by Mr. Campbell.....	18
Cross-examined by Mr. Gibb.....	35
Cross-examined by Mr. Taylor.....	35
Re-examined by Mr. Lake.....	44
ROBERT MARK URE,	
Examined by Mr. Bonomy.....	47
ALISTAIR BUCHANAN PATON,	
Examined by Mr. Bonomy.....	54

.....

FRIDAY, 21st JUNE, 1996.

EIGHTEENTH DAY.

LORD CULLEN: Can we begin, Mr. Lake?

MR. LAKE: Thank you, sir.

GORDON TAYLOR, (Recalled),

EXAMINED BY MR. LAKE: As we closed last night you mentioned the second complaint that came in, and I had finished the part of the report that detailed the subject matter of that complaint? - Yes.

What did you do to investigate that second complaint? - I approached the people concerned and interviewed them.

Who did you interview? - The child concerned, and the child's parent.

Once you had gathered information from both complaints what did you do with it? - I prepared this report.

Did you discuss that with anyone prior to preparing this report? - With my line manager at the Family Unit, Detective Sergeant Moffat.

What was your purpose in preparing this report? - To progress the matter further. The reason for the report was to submit it through my supervisors to the Procurator Fiscal to obtain a search warrant.

Could I refer you to the fourth page of the report, and can I ask you to read out the last three paragraphs of that? - "The investigation is now becoming problematic due to the numbers of individuals learning of the ongoing enquiry. It is only a matter of time before Hamilton learns of the investigation".

Yes? - "Bearing in mind the photographs/

photographs may be of a lewd nature, which are still thought to be in Hamilton's possession, it is of great importance to secure this material as soon as possible to prevent its disposal, bearing in mind Hamilton has previously withheld photographs from the police as highlighted in Detective Sergeant Hughes' report", which is attached to this report.

Yes? - "To this end I respectfully request this report be forwarded to the Procurator Fiscal, Stirling, for consideration to be given to the issue of a warrant for search of Hamilton's home address to secure these photographs, photographic equipment, documentation and other items which may be of relevance to this enquiry".

Thank you. I would like to ask you about some of the points raised in these three paragraphs. Firstly, why were you concerned about individuals learning of this enquiry? - The main concern was that Mr. Hamilton himself may find out about the ongoing enquiry.

Why did that worry you? - I had previous knowledge that where investigations had been ongoing before Mr. Hamilton had created a smokescreen situation for the police and had obstructed the police.

How had he obstructed the police? - He withheld photographs from a previous investigation.

What smokescreen situation or tactic had he engaged in? - I had knowledge that he had made numerous complaints against the police on previous occasions, and I wanted to ensure before we went any further that I wasn't giving him that opportunity.

Looking at the second paragraph, you state "Bearing in mind the photographs may be of a lewd nature.....". Why did you think the photographs might be of a lewd nature? - Because of a statement from one of the chldren whom I had interviewed, who had described the particular situation, the particular situation which we referred to yesterday, with the exercise. My interpretation of that was that that may well be lewd, and I had to have the photographs to back up what the child had said, and to have a proper interpretation/

interpretation of that photograph myself.

You say "It is of great importance to secure this material as soon as possible to prevent its disposal"? - Yes.

What was your concern in writing that? - Mr. Hamilton when he found out about the enquiry and that we had an interest in the material he had, that he may well dispose of it.

At the end of the second last paragraph you refer to a report by Detective Sergeant Hughes. Is that the report which is attached to that production? - Yes, that is correct: with a number of charges on the front page.

I think we see two pages, numbering 10 different charges? - Yes.

And they all relate to events in 1991, two years prior to the events you are concerned with? - Yes.

And beyond those charges there is a summary report and then a statement of the facts which gave rise to those charges being drafted? - Yes, sir.

Is that report by Detective Sergeant Hughes attached to this memorandum? - Yes, that is a copy of the summary report.

Did you attach anything else to this memorandum? - No, apart from the statement at the back from a gentleman.

That is the statement on the last three pages of that, is it? - That is correct, yes, sir.

That is from someone who works in a camera shop called Jessops? - Yes, sir, that is correct.

Can I ask you to look at Production D5 in that folder? Do you recognise that? - Yes, sir, I do.

Do you see that is again a memorandum from/

from this time Detective Sergeant Hughes to Detective Superintendent at CID Headquarters? - That is correct.

Were you aware of that at the time you wrote the memorandum you have previously referred to? - I was aware of its existence, sir, yes.

But you did not send that with your report to the Procurator Fiscal? - No. When I say I sent the report to the Procurator Fiscal, I took it personally.

But that was not part of the documents you put to the Procurator Fiscal on this occasion? - No.

I think there may have been some evidence earlier from Detective Sergeant Moffat which gave the impression that that had gone to the Fiscal: but is that just a mistake? - Yes. I certainly never took it to the Procurator Fiscal with my report, although it was discussed.

You said you took this personally to the Procurator Fiscal. Why did you do that? - Because I felt that there was a matter of urgency, obtaining the warrant to secure the items I have referred to in my report, and I was hoping that should the Fiscal issue the warrant I could go and pursue the enquiry shortly thereafter.

Your principal concern was for a warrant to recover these photographs? - And other things relevant to the enquiry.

What other things? - As well as the complaints regarding the children that we have referred to there were also concerns raised by other parents about the running and operation of the club from a financial aspect, and the fact that there was money changing hands.

Yes? - There was a statement suggesting that Mr. Hamilton had purchased £10,000 worth of camera equipment, and I knew he had been unemployed since 1985, and there was a suspicion I had that there may be some sort of embezzlement of funds, and the warrant was for the purpose of obtaining evidence or information if it was going to be/

be there in relation to all these enquiries or complaints.

Is that the embezzlement you referred to in the second paragraph on the fourth page of your memorandum? - Yes, sir, that is correct.

And that was purely based on the suspicions of parents? - It was based on information from parents, yes, but also the fact that it appeared from a statement which had already been submitted that Mr. Hamilton had quite a flow of cash if he was able to brag about purchasing £10,000 of camera equipment, and obviously the suspicion arose in my mind where was the money coming from, and the obvious answer may have been the funds from the sports club.

Did you have any evidence regarding the purchase of £10,000 of camera equipment at that time? - I had the statement attached to this report from the gentleman from Jessops.

LORD CULLEN: Mr. Lake, is that in the file? I have some difficulty in finding it.

MR. LAKE: In the copy I have it is in D3/1.

LORD CULLEN: I have got D3/1, but I don't have anything attached to it; I simply have Mr. Taylor's report.

MR. LAKE: I have a four page report from Mr. Taylor, and following that is the summary of charges.

LORD CULLEN: Thank you. I have been handed a copy of that statement.

MR. LAKE: If the other parties do not have that I will arrange for copies to be made available.

EXAMINATION CONTINUED BY MR. LAKE: In the fourth page of your memo, although you refer to the embezzlement you state that the purpose of seeking the warrant is that you want to recover the photographs, because you are concerned that is what is going to be disposed of; is that correct? - I am/

am sorry; can you repeat that?

On the fourth page of your statement there your principal concern appears to be the recovery of the photographs which might have depicted lewd conduct? - Yes, I would agree that was my principal concern.

You said you took the statement with your memorandum to the Procurator Fiscal? - Yes.

Who was the Procurator Fiscal you spoke to? - Do you want me to name him, sir?

Yes? - Mr. Gallagher.

Where did you go and see him? - At his office.

When did you go to see him? - The memorandum is dated 9th June. It would be either on that day or several days after that: within a few days of the memorandum.

For how long did you speak to Mr. Gallagher? - A considerable period of time. Perhaps half an hour or maybe more; I can't remember really. I certainly did have a lengthy discussion with him.

What was the outcome of that discussion? - The warrant was not issued.

That was the warrant to seek the photographs which might have had the lewd content? - As I have already said, the warrant was for the whole enquiry, and the evidence I had hoped to find should a warrant be issued. It was not just in relation to the photographer, but obviously that was our primary concern.

Did Mr. Gallagher discuss with you why the warrant was not issued? - Yes.

What did he say? - He told me that the content of the report did not amount to any acts of criminality.

Was he referring to any particular parts of the report when he said that? - He was referring/

referring to the whole report.

Is that referring also the question of embezzlement? - Yes.

Are you suggesting from that he was suggesting to you that embezzlement was not a crime? - No. What he was saying was that the information contained in the report and the information we discussed, there was nothing that amounted to an act of criminality involving any of the offences I had suggested in the closing paragraphs of my report.

The request to seek a search warrant not being progressed, what did you do? - I am sorry?

What did you do following the refusal of Mr. Gallagher to seek a search warrant? - I returned to my office and discussed it with Detective Sergeant Moffat.

And what conclusion did you come to? - That as agents of the Procurator Fiscal, if he was telling us there was no act of criminality obviously we could not pursue that from that angle.

What was your understanding of what was meant by "no act of criminality"? - That no crime had been committed.

Did you discuss with him the circumstances in which there might be sufficient information to say that a crime had been committed? - Yes, I did.

And what did he say? - He just said that in his opinion that was the case, and that was the end of it.

Did you make any further enquiries regarding these matters? - At the time there were still some parents to be seen, and I followed up enquiries and spoke to parents. He also told me -- I did explain to Mr. Gallagher that there were still some parents to be seen, and I intended going to see them. I was also told that should the information forthcoming from these interviews be of the same nature contained in this report then there would not be any point referring that to the Procurator/

Procurator Fiscal. I did go, however, and interview other parents in relation to this enquiry, but there was nothing further forthcoming.

To be clear, you told Mr. Gallagher you were going to obtain further statements from parents? - Yes.

Was that in respect of these two complaints? - It was in general terms. There were a number of complaints about the running of the boys club and the funding, and there were one or two parents who still had to be seen.

Yes? - The overall picture had to be finished off. There were two or three people I still had to see.

Of the people you were going to see, was that relating to concerns regarding the running of the club? - Yes.

And it was in relation to that he said that if it was just more of the same there was no need to come back? - That is correct.

Did you uncover anything else in your further enquiries? - No, nothing of a substantive nature.

Did you make a request of the Scout Association? - I did, yes.

When did you make this? - On or about the 20th October, 1993.

That is some months after the original request for a warrant? - Yes.

Why were you speaking to the Scout Association? - I had information that Mr. Hamilton had been previously involved in the Scout Association, and that there had been concerns many years previous. My intention was to go to the Scout Association to see if there was anything on file regarding identities of children on these dates, with a view to the fact these children would now be adults and may be able to say something about the activities of Mr. Hamilton in a clearer fashion than they would have been able to in their childhood./

childhood.

Who did you speak to in the Scout Association? - I think it was a gentleman by the name of Proctor.

What information was he able to give you? - Initially the Scout Association were reluctant to impart any information, and it was by agreement that I had a look at the file.

Did the file give you information? - Yes.

What/

What was the information? - Just that there had been concerns some 20 years previously regarding Mr. Hamilton's activities and unhealthy interest in children and general issues like that.

Did you give any specific instances? - There is a document which I took the notes from and the particular instances that he was displaying irresponsible behaviour because of outdoor activities by taking young favourite Scouts for weekends during the winter and sleeping in his van.

That was information contained within the Scout file? - That was within the Scout file.

Was that all you were able to get from the Scout file? - No, I had a whole list of things.

Can you tell us what they are? - "His personality displays evidence of a persecution complex coupled with rather grandiose delusions of his own abilities".

Did it say in the file whose information that was? - It was a letter from Brian Fairgrieve.

Did you speak to Mr. Fairgrieve? - Yes.

Did he confirm that was his information? - Yes.

Was he able to say on what he had based it? - No, it was some gut feeling.

What else were you able to take from the Scout file? - That he had been.....that Hamilton had been blacklisted, that there was a suspicion of inappropriate behaviour with the boys and a mental imbalance. These comments were made in 1974 and in his records a letter rambles on about having done nothing wrong, he spoke to a gentleman who was the Deputy Commissioner at the time, a summer camp at Oban, alcohol having been involved and older Scouts being intoxicated and Scouts were often being stripped and I understand that the Scouts were tying up one Scout in a canoe and floating him on the water.

I think we have heard some evidence about the fact that there has been complaints made by Hamilton about that Scout Master? - Yes.

Is that correct? - I am not sure, I just have my own notes.

Might it be that these were the complaints that Hamilton had made? - There was a lot of correspondence in the file both from Hamilton.....it was like keeping a run of daily correspondence between themselves and Mr. Hamilton, there were some clips from newspapers, newspaper cuttings, adverts regarding the Rovers I think which was Mr. Hamilton's group that had started out being called Stirling Rovers and a number of letters to and from.....a cutting from the Scotsman, parents backing Hamilton after they stopped and references to the Ombudsman's report and the last correspondence in the file from Hamilton was on the 12th of November, 1986 and he was complaining about not being allowed to answer allegations put against him.

There is no information regarding Hamilton's behaviour between 1986 and 1993 when you made your enquiry? - Not in the file, no.

CROSS-EXAMINED BY MR. CAMPBELL: If you go back to your original investigations in relation to complaints concerning Hamilton's conduct in Denny High School and in Dunblane High School, so far as the Denny incident is concerned am I right in understanding that Hamilton gave a reason for asking a boy to change into trunks based upon going swimming or something to that effect? - Yes, that is correct.

Did you investigate whether swimming facilities were available at the school? - I think so, yes.

What was the outcome of your investigations? - I attended at the school and took possession of a let form; the gymnasium was booked by Mr. Hamilton and also my enquiry was as to whether Mr. Hamilton would be entitled to use the swimming pool and the staff said no, under no circumstances would he be entitled to use the swimming pool; it was purely the gymnasium.

So/

So Hamilton lied to you when he gave you that explanation? - I never actually spoke to Mr. Hamilton.

Who did Hamilton give the explanation to? - That information came from a child who I spoke to, a statement from the child stated that Mr. Hamilton had said he wished them to dress in trunks or short brief trunks in view of the fact that they may have time for swimming later, and I felt that was the reason the boy had the swimming trunks on.

There was no suggestion from the boy that he did go swimming? - No, he did not go swimming.

And, in fact, there were no facilities available to Hamilton to take the boy swimming? - No.

Did Hamilton claim in the literature that other qualified instructors would be present when he was dealing with the boys at Denny and Stirling? - Yes, that is correct.

Did your investigations reveal whether or not that claim was true? - The children that I spoke to who attended at the youth clubs without exception spoke to no other person being there apart from one occasion in Dunblane where I think there had been a female present at some point.

So in general terms again it would appear that that claim in the literature, so far as your investigations are concerned, were shown to be untrue? - That is correct.

In addition to a complaint from parents relating to swimming trunks and photographs and the like were there also complaints relating to Hamilton over-working the boys? - Yes, there was.

Can you elaborate? - The example that was given to me was having a wee boy hanging from wallbars for a considerable period of time while Mr. Hamilton took photographs of this.

Is it fair to say that as a result of your investigations you had some concern about Hamilton? - I did, yes.

Can/

Can you tell us how concerned you were? - It is a difficult question to quantify concern; I was concerned as a Child Protection Officer and as a parent myself regarding the information that was coming from people I spoke to so my concerns were very high.

And can you elaborate upon the nature of your concerns? - My concerns were that young children were being exploited, they were being used for whatever purpose, it may be whatever initially that Hamilton was to take these types of photographs but I felt there was something more but I just didn't know what.

Were you concerned that there was something improper or unhealthy going on? - Yes.

Did your investigations reveal whether or not the parents concerned were alarmed or distressed by what was happening? - Yes, the parents were alarmed and distressed.

I take it you agree that was a natural reaction for a parent in this situation? - Yes.

So far as the report to the Procurator-Fiscal at Stirling is concerned you have explained to us that you requested authorisation for searching Hamilton's premises? - Yes.

And amongst other things would that be with a view to searching for other evidence relating to the possibility of criminal proceedings? - That is correct, yes, that is exactly correct.

Did you find the Fiscal's reason for refusing that authorisation persuasive? - All I would say to that is as a police office I am an agent of the Procurator-Fiscal and if the Fiscal decides.....makes a decision regarding anything I tell him I have to accept that.

Do you agree with his view? - No.

Why not? - My interpretation of the information I had was such that Hamilton may well have committed the offences that were detailed in my report and as you have already said I wanted to secure other evidence if that was available.

You/

You are obviously involved in this kind of thing on a regular basis but did you consider that, just as a matter of generality perhaps, not the details of this case, that evidence of a criminal conduct is always required before a search warrant can be authorised? - Sorry, could you repeat that for me?

I will take the question out and put it another way, it wasn't a very good question. In the generality before a search warrant can be authorised is it necessary to have hard and fast evidence that a crime has been committed? - No.

Would I be right in thinking that so long as there is some reasonable basis for suspicion the purpose of a search warrant is to discover whether or not evidence exists? - Yes.

And were you concerned that Hamilton might become aware of your investigations? - Yes, I detailed that in my report.

So you would be concerned that he might dispose of incriminating material? - Yes.

For example, photographs? - Yes.

We heard some evidence to the effect that no photographs of an obvious link of an indecent or lewd nature was recovered; am I right in thinking that one of your purposes of seeking a search warrant was to find out whether such material existed before Hamilton had an opportunity to dispose of it, assuming it did exist? - Yes.

The explanation that was given to you by Mr. Gallagher, if I understand it correctly, was that the material which you had put before him didn't amount to criminal conduct? - That is correct.

Was there some discussion between you as to whether or not the children involved were distressed? - Yes, there was.

Could you elaborate? - Mr. Gallagher asked me if the children had been distressed or shown any signs of distress or alarm, and in my opinion they didn't during the interviews, and there was/

was no obvious signs of alarm from the children.

Was there then some discussion as to whether or not the parents were alarmed or distressed? - Yes, there was. And what was the nature of that discussion? - Just similar -- I suggested that the parents were obviously alarmed because they had articulated such and would that possibly then amount to a breach of the peace.

What was the reply to that question? - No.

Was there any explanation given by Mr. Gallagher as to why he took the view that that didn't amount to a breach of the peace? - No.

Did you query that decision? - Not as such, no. I put forward the view as to what I thought, that was the discussion that took place.

You put forward your view that this did amount to a breach of the peace? - Yes, that it could amount to a breach of the peace.

Did Mr. Gallagher appear to suggest that in the absence of any suggestion of alarm by the boys then this would not amount to a breach of the peace? - Could you repeat that?

Did Mr. Gallagher suggest that alarm on the part of the boys or distress on the part of the boys would be required? - Yes.

Before conduct would amount to a breach of the peace? - That is correct.

You pointed out to him that, in fact, the parents were alarmed and distressed? - Yes.

Let us just assume for the moment that your view of the law is correct and the view put forward by Mr. Gallagher was wrong. Would you agree that in that situation there are really only two explanations that would happen: that Mr. Gallagher misunderstood or didn't know the law or he was giving you a pretext for a decision which was based on other reasons?

MR. BONOMY: Please don't answer that question./

question. The Inquiry in my submission is perfectly entitled to explore what was actually said between these two persons, that is the present witness and Mr. Gallagher. It would, in my submission, be quite wrong in principle to ask this witness to speculate about what may have been behind the comments made by Mr. Gallagher.

LORD CULLEN: I take your point; do you accept that, Mr. Campbell?

MR. CAMPBELL: I think I am prepared to take that point. Perhaps I could explore the matter in another way.

LORD CULLEN: If it is not objectionable carry on.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: You must have been concerned about the response which you received to what you regarded was an urgent matter about which you were concerned? - Yes, I was concerned about it.

Were you satisfied with the explanation which you were receiving from Mr. Gallagher as to the basis for his decision?

MR. BONOMY: Again please don't answer that question. In my submission it is inappropriate to explore with any witness in this Inquiry the soundness of any decision that may have been taken by the Procurator-Fiscal. I have no objection at all to exploring what actually was decided and indeed in this case the reasons given for this decision, albeit this would also be an issue normally outwith the scope of proper examination, but in my submission it would be quite wrong to try and explore with any witness in the Inquiry the rightness or wrongness of the decision. In my submission the question just asked invites the witness again to express a view about that.

LORD CULLEN: Could you elaborate that a little? What is the basis for that objection?

MR. BONOMY: I wasn't quite anticipating this arising at this stage in the Inquiry, but as you will be aware it has always been the case as a matter of principle and established law that any decisions/

decisions made by the Procurators-Fiscal are not subject to scrutiny by either a Court or any other Tribunal in Scotland; there are a number of reasons and different circumstances behind that principle; the principle has been enunciated in the Court of the High Court of Justiciary. It has also been recognised in the Parliamentary Statements on a number of occasions and in particular in connection with the Tribunal of an Inquiry proceeding on exactly the same Statutory basis as the present Inquiry as a result of resolution of Parliament.

Now,/

Now, I can give your lordship authority for that if I have two minutes to get it, but I suspect, sir, you are already very familiar with it.

LORD CULLEN: I am. I simply wanted you to state the position.

MR. BONOMY: I have so far allowed the questioning to proceed without intervention to a point beyond a point where objection would normally be taken, but I considered that was right in the interests of the Inquiry. However, it is my submission, even though we are over that boundary in this particular case, there are certain limits which it is also proper to recognise, and the limits in my submission that are proper in this case are where the question extends beyond the factual content of what was said between the witness and the Procurator-Fiscal and an endeavour to explore the reasoning and justification behind the decision which was taken with regard to.....

LORD CULLEN: Of course, this witness is not, so to speak, the Procurator-Fiscal. Your position effectively the querying of this or debating of this in evidence is fully objectionable?

MR. BONOMY: I appreciate the distinction, sir. The court has already recognised that any scrutiny of the decision itself would be wrong and that may extend to asking the witness if he himself was satisfied as a police officer with the decision made by the Procurator-Fiscal. I think that was the question asked in this instance.

LORD CULLEN: Now, Mr. Campbell, what is your position in relation to that?

MR. CAMPBELL: Sir, I don't challenge the broad position as set out by my learned friend. I would observe, however, that this matter did arise out of evidence-in-chief when the witnesses asked to explain the reasons given by the Procurator-Fiscal, and it does seem on the basis of that it does seem a little.....

LORD CULLEN: Perhaps, I don't know, correct me if I am wrong -- but the objection is to the evidence, not I suspect in regard to matters of submission.

MR./

MR. BONOMY: Well, sir, yes, the principle being the court or the Tribunal ought not to scrutinise the reasons. There may be objection to any criticism of the reasons that were given and I don't take any exception to any exploring of the stated reasons as a matter of fact in this case, or indeed exploring of the communication of those reasons between the Fiscal and the witness. I have no objection to further exploration of what was actually said between them as a matter of fact but, in my submission, it undermines the whole principle by which the Fiscal Service take decisions in Scotland on behalf of the Lord Advocate if any explanation is allowed of the rational or justification for these.

LORD CULLEN: I appreciate your position on that. I simply wanted to know whether the kind of point that Mr. Campbell wants to develop could be as far as you are concerned developed in closing submissions or whether you would equally take objection to it.

MR. BONOMY: I would equally take objection to that, firstly on the basis of principle and secondly on the basis it really would be inconsistent with not permitting the evidence on the matter but allow submissions to be made when the issue hasn't been fully explored in evidence.

MR. CAMPBELL: Well, perhaps if my learned friend's position goes as far as that I would withdraw the concession in what I last said, and perhaps it is a matter that will require to be debated and argued upon at some stage in the course of this Inquiry. I still don't quite fully understand the Crown's position in introducing the matter in evidence-in-chief in the first place.

LORD CULLEN: I think what the Crown was doing here, as I understand it, is not objecting to evidence of fact as to what was transmitted with regard to the decision and the stated reasons for it, but it takes the position as a matter of principle that the merits of the decision the soundness of the decision and the sufficiency of reasons given are not matters either for evidence or for debate upon evidence. That is the position as I understand it.

MR./

MR. BONOMY: I should also make it clear, sir, if for any reason the position were to change as a result of any submissions that are made that Mr. Campbell has in mind, obviously there can be no objection taken to this witness returning to deal with that point.

LORD CULLEN: Would it be convenient, Mr. Campbell, if we were to allow you to reserve your position meantime and you can address me in due course and Mr. Taylor would be recalled if necessary at that further stage. Would that be the most convenient course?

MR. CAMPBELL: That will be wholly appropriate, sir.

LORD CULLEN: I take it the question you want to explore will not take very long; it will be quite a short passage?

MR. CAMPBELL: That is correct.

LORD CULLEN: So will you do that, you can address me and draw my attention to any arguments you think are pertinent and I can make a decision on that, and in the light of that this witness may or may not be asked to return.

MR. CAMPBELL: Thank you, sir. Perhaps I can just deal with two or three other matters with this witness which hopefully will be less controvesial.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: The result of the meeting between you and Mr. Gallagher was that you were told in quite clear terms that the Fiscal did not want any further reports of this nature? - That is correct.

Effectively he would regard it as a waste of his time? - Basically, yes.

I think you do indicate -- I forget whether it is in your evidence or whether it is in your statement -- that the Fiscal indicated that the material was concerning? - Yes.

Did he elaborate on what he meant by that? - In our conversation he accepted that the conduct of/

of Hamilton was concerning, that it approached the line but did not cross it, the line being that of criminality. It approached the line but did not cross it.

Did he elaborate upon which aspects of the conduct approached the line of criminality? - Particularly the behaviour of Hamilton whereby he caused children to dress in trunks and performing exercise and taking photographs.

Was the Fiscal aware of the fact that Hamilton possessed a Firearms Certificate? - Yes.

Was there any discussion about that? - Yes, there was.

What was the nature of that discussion? - I explained to the Procurator-Fiscal that, as it says in my report, he is indeed a firearms holder, the police did have concerns regarding him having possession of a firearm, and that was the substance of the conversation.

What was the nature of the police concern about him having a firearm? - I would refer to the previous report of Detective Sergeant Hughes -- he was a Detective Sergeant at the time -- regarding Hamilton's behaviour, and obviously Detective Sergeant Hughes had the advantage over me in that he had actually met Hamilton.

In that regard, in your evidence-in-chief you were referred to production D5 in the folder. In my folder there is no D5. Could you help me with what D5 is? - It is a memorandum report from Detective Sergeant Hughes.

Dated 11th November, 1991? - Yes.

So that memorandum, which we have looked at many times in this Inquiry, was appended to your report to the Fiscal? - No, it wasn't.

But you knew of it? - I knew of its existence, yes.

But all that the Fiscal knew was that Hamilton had a Firearms Certificate and the police had concerns about him? - That is correct.

Did/

Did you elaborate upon those concerns to the Fiscal? - I honestly can't remember.

So by that stage did you share Detective Sergeant Hughes' concern about the fact that Hamilton held a Firearms Certificate? - Yes, obviously I did, but although I am repeating, I never actually met Thomas Hamilton and I was going on the opinion of Detective Sergeant Hughes at the time.

If we look at the conclusion of your report D311 it begins with the statement, "Hamilton has undoubtedly sailed very close to the wind for many years as regards the inappropriateness of his methods of alleged tuition of very young, immature and unsuspecting boys of primary school age"? - Yes.

And it was your opinion in view of the evidence available to date that Hamilton may have committed offences of lewd, indecent and libidinous practices and behaviour, particularly giving consideration to the statement of one child we needn't name, contraventions of Section 12 of the Children and Young Persons (Scotland) Act, 1937, breach of the peace and fraud, and perhaps embezzlement, bearing in mind that he boasted in the past of having spent £10,000 on camera equipment. You go on to indicate that Hamilton has been registered unemployed since 1985 and has refused to identify other committee members when requested by parents to do so. Now, did that paragraph summarise the view which you had taken as to the potential criminality of the conduct as revealed by your investigation? - Yes, that is correct.

You go on, "It is worthy of note that Mr. Hamilton has provided parents with photographs of their children fully clothed, in groups and individually. However, none of the photographs taken of the boys wearing only trunks, of which there would appear to be many, have ever been provided. To this end the question remains unanswered as to why they were taken or where they are now"? - That is correct.

At that stage, having received the views of the Fiscal, did you take any action in the light of the concerns which you at that time had about the fact/

fact that Hamilton held a Firearms Certificate? - No sir.

Why not? - Obviously it was discussed with my line manager when I went back regarding the reaction of the Procurator-Fiscal, and we had already had concerns raised regarding Mr. Hamilton having possession of firearms, and there was nothing new basically in the information we had at that time.

Who was the line manager you spoke to? - Detective Sergeant Moffat.

What was the purpose in speaking to Detective Sergeant Moffat? - Just to report back on the discussion I had had with the Procurator-Fiscal and the case in general as would be normal practice for any case.

And also to convey to him your concern about Hamilton having firearms? - Not particularly that, no; it was more about the case itself.

But if you had concern about Hamilton having lawful possession of firearms that is a very serious matter, is it not? - Yes. As I said, it was a concern. These things were already known both to myself and Detective Sergean Moffat. We were both well aware of the concern regarding firearms.

Could you remind me, Detective Sergeant Moffat, was he also in the Child Protection Unit?
- That is correct.

The same unit whose views had been rebuffed in 1991? - How do you mean, sir?

Detective Sergeant Hughes was in the unit in 1991 when he wrote the memo? - Yes, he was.

Was there a feeling that having expressed views clearly, and Detective Sergeant Hughes' memo in 1991, there was really no point in repeating the exercise? - At that stage, yes.

Because it was thought that the Deputy Chief Constable would simply take the same view? - As I said, there was nothing new from the information/

information we had available, it had already been expressed. As I said, I wasn't in a position to comment on Mr. Hamilton never having met him.

Did it occur to you that concern had been expressed in 1991 about Hamilton's conduct and the implications of his behaviour over his suitability as a person to have a Firearms Licence. You were aware in 1993 of further conduct, further complaints, giving police officers that concern. Did it occur to you that there is a cumulative aspect of this, incidents beginning to pile up, and that in itself is a relevant consideration as to whether or not a person was suitable to have a Firearms Licence? - Yes, sir, I believe that.

So it is not entirely accurate, is it, to say there was nothing new. This was something new in that there were more complaints and more concerning conduct in 1993? - Yes, but none of these complaints were substantiated.

Well, I am not quite sure what you mean by "substantiated"? - My enquiry at that stage -- there was no evidence which I had that corroborated the information provided by the witnesses at that stage. There was no act of criminality, as I said, as was explained to me.

Did you have any reason to disbelieve the children? - No.

It was your view that there was criminal conduct involved? - Yes.

And the responsibility for the grant or revocation of a Firearms Certificate lies with the Chief Constable? - Yes, sir.

Not with the Fiscal? - Yes, I know that.

Do/

11 a.m.

Do you know whether Detective Sergeant Moffat took any steps in the light of your report to him? - Just about that time I transferred from the Unit temporarily to Grangemouth CID, and as I understand, Detective Sergeant Moffat carried on the investigation from another angle.

Was it after your conversation with the Detective Sergeant Moffat that you investigated the information held by the Scout Movement? - Yes, it was after that.

Could you have please in front of you file H(iv)? If you go to the yellow insert about quarter of the way through we then have a series of "D" documents? - Yes.

I think in the main these are copies of the Scout Association file on Hamilton? - Yes.

The first document I want to refer you to is D2/H(iv). This is a letter of 24th May, 1974 from the Executive Commissioner, Mr. Jefferies, to the Warrants Department at Scout Headquarters; is that right? - Yes.

It states "The County Commissioner for Stirlingshire has advised that he has requested the return of Hamilton's Warrant as he is suspected of improper behaviour with boys. In addition the County Commissioner, who is a medical man, thinks that Hamilton is mentally unbalanced"; do you see that? - Yes.

"After being asked to leave the Stirlingshire Troop he had approached another Troop in the neighbouring Scout County of Clackmannanshire, but the County Commissioner and District Commissioners of that County had been warned, and refused his offer of services"? - Yes.

Now, I think you told us in the course of your reading out of the notes you had taken on looking through the file that one of the notes you had taken referred to a query over the mental imbalance of Hamilton: so this would at least be one letter within the file which would have flagged that up for you? - Yes, sir.

If you look on a little to D6, this is a letter/

letter from the County Commissioner, Mr. Fairgrieve, dated 29th June, 1974, to Mr. Jefferies; is that right? - Yes.

We can all read this for ourselves, but in the second last paragraph of that letter it states "His personality displays evidence of a persecution complex coupled with rather grandiose delusions of his own abilities. As a doctor, and with my clinical acumen only, I am suspicious of his moral intentions towards boys": do you see that? - Yes.

I think again you took notes regarding some of this letter? - That is correct, yes.

We were told earlier in the Inquiry that you had access to the whole file. Was that your understanding? - Certainly the whole file that was handed to me at the Scout Association, I was left to browse through the file.

Could you look at D29? This is a note which Mr. Fairgrieve made much later, in August of 1986, after Thomas Hamilton had appeared at his door one Sunday afternoon; is that right? - Yes.

About two-thirds of the way down, in the fifth last paragraph we read "From the purely professional point of view I would think that Tom has become even more obsessional than I had previously remembered him and, from the look in his eyes, I would not be too surprised if he was currently on some psychiatric drugs": do you see that? - Yes.

Now, having had the opportunity to read through the file and having taken the notes which you did from it what action if any did you then take? - I then went and spoke to Mr. Fairgrieve.

And anything else? Did you take any other action after that? - In what respect?

Is that it? You spoke to Mr. Fairgrieve, and that was an end of this? - No; then I reported back to Detective Sergeant Moffat.

What did you say to Detective Sergeant Moffat? - I explained to him the content of the file/

file and handed over the notes I had taken and said that Mr. Fairgrieve said he was not in a position to substantiate these comments.

So was that an end of the matter as far as you were concerned? - At that time, yes.

So here we have a man who a doctor has expressed the view which we read in the file about; he is a man who holds a firearms certificate, about whom the police have concerns regarding his holding of a firearms certificate; queries about his mental stability and mental state are recorded, leading to him being withdrawn from the Scout Movement, and so on: yet all this is just filed, and no action is taken? - In relation to the comment about mental imbalance, I specifically spoke to Mr. Fairgrieve about that, and he said he could not substantiate that comment, that it was not in fact a medical thing, it was more a personal opinion, and that he had never medically examined him, that it was only a matter of his personal opinion as opposed to a medical opinion.

So before any action would have been taken am I correct there would require to be uncovered a psychiatric report certifying that Hamilton was mentally ill? - In relation to that point, if we were going to say Mr. Hamilton was mentally imbalanced I couldn't see anyone other than a professional being able to say that, a psychiatrist.

So the next time that Hamilton comes up for renewal of his firearms certificate none of this is of any relevance? - I wouldn't say it was not of any relevance, no.

Well, what is its relevance? - I think it is important that the information is available.

So were you aware of any steps being taken to make sure this information was available to whoever would be responsible for the renewal of Hamilton's certificate? - No, I was not aware of that. The information was given to Detective Sergeant Moffat and placed on file, and was an ongoing enquiry of the Child Protection Unit, or the Family Unit as it was at that time.

Were/

Were you aware of any Standing Orders or instructions that material relevant to firearms certificate holders' suitability should be conveyed to the appropriate department of the police? - There are Standing Orders in relation to firearms certificates, but I am not sure of the exact contents of them.

So if there is a Standing Order which required relevant information to be conveyed to the Firearms Department relating to a firearms holder, you were not aware of that? - No, sir.

Forgive me, but it may be that this is really just a matter of commonsense, that material of this nature should be brought to the attention of the department with responsibility for firearms licences? - Yes, I agree with that, sir.

CROSS-EXAMINED BY MR. GIBB: You obviously felt very strongly about your wish to get a warrant? - Yes.

When Mr. Gallagher indicated he would not support the application did you ask him to refer it to the Fiscal himself, whether he might refer it to the Fiscal for further consideration, as a matter of fact? - No, certainly I did not think that was my place.

CROSS-EXAMINED BY MR. TAYLOR: When you went to see Mr. Fairgrieve was it solely because of the concerns which you felt upon seeing two of the documents which are new and which have been put to you, having gone into the Scout file? - Yes.

Could you have a look at D29 of H(iv)? - Yes.

If you look at the back of it you will see "Where Found. 19 Lyall Crescent, Polmont"; is that correct? - Yes.

It goes on "In possession of witness Fairgrieve"? - Yes, sir.

I think we heard evidence from Mr. Fairgrieve this was recovered from his house and not from the Scout file, so this probably was not the document you saw? - That is correct.

So/

So the two documents you would have sight of from the file are D2/H(iv) and D6/H(iv)? - Yes, sir, that is correct.

And on reading those you felt it necessary to speak to Mr. Fairgrieve personally? - Yes.

Earlier in your evidence you referred to some notes which you made at the time. Were those notes made at the time when you were looking at the documents or notes made at the time you visited Mr. Fairgrieve? - These were notes I made when I looked through the file at Scout Headquarters.

You then went to speak to Mr. Fairgrieve? - Yes, I did.

When you spoke to him what view was he able to express in relation to Mr. Hamilton's character? - He used the term "grandiose".

Now, that is a word which we find in the second last paragraph of D6; is that correct? - Yes, sir, that is correct.

Was he prepared to attribute any other description to Mr. Hamilton's character? - As I recall, sir, he described him as a bully.

And that would be in the context of young boys? - That is correct. But he also did assert to me when I interviewed him that these comments were made some 20 years previously.

Did you put to him that a view had been attributed to him that he considered Hamilton to be mentally unbalanced? - I am sorry; can you repeat that, sir?

Did you put it to him that a view had been attributed to him that Hamilton was mentally unbalanced? - Yes, sir, I did.

Did he confirm that that was his view? - Well, he said that was not his view: he couldn't make that comment.

Did he in fact go on to say anything about requiring a medical examination before he was in/

in a position to form that view? - Yes, he did.

And he disavowed that view at the time you went to him? - Can you explain "disavowed"?

Yes. He disavowed that view at the time you spoke to him, the view that Mr. Hamilton was mentally unbalanced? - Yes, he said that was not his view.

Did you therefore consider that somebody who was described as having grandiose delusions, or words to that effect, in your view would that cast any doubt on a holder's ability to have a firearms certificate?

MR. CAMPBELL: I object to that question, sir. If it is going to be put in these terms it would be more helpful to the Inquiry if it were put in the correct terms, which can be easily found in D6/H(iv).

MR. TAYLOR: Sir, the terms I was seeking to put to the witness were the terms I had understood Mr. Fairgrieve to have made them at the time this witness had made a visit upon him.

LORD CULLEN: I thought you were going to put to the witness the views this witness had elicited in 1993, and so far you are doing that, Mr. Taylor.

MR. TAYLOR: Yes, sir.

LORD CULLEN: Mr. Campbell, is there any problem with that?

MR. CAMPBELL: If the questions are limited to what the witness understood Mr. Fairgrieve to be saying in 1993, that is one thing. I had understood this was mainly what was said around 1972.

LORD CULLEN: Perhaps you could put it to the witness the particular time you are talking about, Mr. Taylor.

MR. TAYLOR: I will, sir.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR:/

TAYLOR: You had a visit to Mr. Fairgrieve in 1993? - I did, yes.

And in the course of that visit he was prepared to discuss with you the two documents we have been looking at for the past few minutes? -

That/

That is correct.

And some of the views that are contained in this document he was not prepared to go along with and some doubts were expressed by him of his views on Mr. Hamilton? - That is correct.

If I have understood you correctly and please interrupt if I have got it wrong, he indicated that Mr. Hamilton was a person who had grandiose ideas or delusions -- did the use the word delusions? - Grandiose delusions of his own ability I think it was.

He was a bully towards young boys? - Yes, that is correct.

Did these two aspects in 1993 cause you to have any concern about Mr. Hamilton having firearms? - No.

I think if I have understood your evidence correctly your view in regard to firearms was based entirely upon what Sergeant Hughes had stated in his memorandum in 1991? - That is correct.

Your view was not formed of anything which you came across in the course of your investigations?

MR. CAMPBELL: Sir, I object to that, these are a series of grossly leading questions to the witness who is effectively Mr. Taylor's own witness.

LORD CULLEN: I know it is cross-examination but he is supposed to be on your side, Mr. Taylor.

MR. TAYLOR: I accept that. Perhaps the evidence would have more weight if I approached it another way.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: You have told us that the contents of this Scout file caused you to have no concern in relation to Mr. Hamilton holding a firearm certificate; was there/

there any conduct which you were made privy to in the course of your investigations of Mr. Hamilton which caused you to have concern in relation to his ability to hold a firearms certificate? - Not during my investigations, no.

BY LORD CULLEN: Can I just ask another question at this point; you told us about your reading Detective Sergeant Hughes' memorandum and the concern he expressed two years before but did you learn anything in 1993 which was in any way relevant to the kind of concerns that he had expressed, was there any cumulative significance to what you were finding out? - At the time I didn't set eyes on the report itself although I did know of its contents through discussion.

You did read it at some point? - Yes, since the incident.

When did you read it? - Just recently.

I thought you read it at the time? - I never saw the report at the time. That certainly was my understanding up to this point.

Just tell me if you would what it is you understood back in 1993 Detective Sergeant Hughes had reported on that and on what basis he was raising the question as to revocation? - I was aware that Detective Sergeant Hughes had investigated an incident at Loch Lomond and put a report to the Procurator-Fiscal; as a result of having met Mr. Hamilton he had interpreted his nature and had put this into the memorandum report, the memorandum being to the Deputy Chief Constable stating that Mr. Hamilton was a firearm certificate holder and he felt in his opinion it was inappropriate that he should be entitled to hold a certificate because, I assume, the type of character he was.

No more than that? - It is difficult to draw on what I knew before and what I found out since but suffice to say I did know there was concern about the character of Hamilton.

You can't elaborate on what you knew at that time more than simply character? - No.

Was/

Was there anything you discovered in 1993 that in any sense at that time reinforced any concern that this officer had expressed about his character relevant to firearms? - When I attended at the Scout Association Headquarters and read the file the comment about mental imbalance did concern me, and that was the main reason I went to speak to Mr. Brian Fairgrieve to see if there was any substance in this, bearing in mind that that was the second thing in the letter I checked, and the outcome of that was that Mr. Fairgrieve couldn't say he made that comment; it was made that Hamilton's character, he was a grandiose type individual.

So having completed that investigation at the Headquarters and having seen Mr. Fairgrieve did any of that add in any way or not to any concern that this officer had expressed relevant to the man's character, suitability? - To my mind, no.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: Earlier in your evidence in cross-examination you agreed with Mr. Campbell that in your view there was criminal conduct on the part of Mr. Hamilton? - Yes.

Do you recall that? - Yes.

I wonder if I could just look at a number of forms of complaint which you thought may be relevant; you referred in your report on page four to embezzlement of £10,000 or thereby, and do you see that? - Yes.

In the second paragraph on page four? - Yes.

What was the factual basis upon which that concern was based? - There was information from a parent that Mr. Hamilton collected money from the children who attended his boys' clubs; Mr. Hamilton, from background checks I did leading up to the investigation, I discovered that Mr. Hamilton was unemployed from 1985, I think it was. There was a statement already been submitted from an individual from a camera shop in which the witness speaks to Mr. Hamilton having boasted of spending £10,000 on camera equipment and I found that very strange that Mr. Hamilton could spend £10,000 on camera equipment having been unemployed since 1985 and/

and presumably if the club was being held there should be documentary records and my suspicion was that the money was being embezzled from the umbrella of the boys' club committee; the possibility was that the money was being embezzled from the committee in order to fund his interest in cameras.

That was no more than a possibility in your view? - Yes, that is correct.

And in relation to the breach of the peace was that a concern being expressed by a parent? - Yes, it was.

You make reference to fraud -- fraud and perhaps embezzlement, that is just one and the same thing perhaps? - No.

What is the fraud you are referring to? - Mr. Hamilton had taken children from Denny and one child in particular from Denny to Stirling on the pretext to the child's parents of playing five-a-side football; in fact, the gymnasium was not booked for five-a-side football, it was booked for gymnastic exercises and on arrival there Mr. Hamilton then took photographs which I interpreted as being in some way to his advantage.

That was the nature of the fraud which you say there? - Yes.

But again what you had available to you by way of evidence was the statement of one child? - Yes, and the parent.

And the parent? - And the parent who had come across the exercises ongoing in the gym.

Let us deal with it in stages; what was the evidence you had in regard to there having been a statement by Hamilton that there was going to be swimming carried out in the course of the evening? - It was actually five-a-side football.

Sorry, five-a-side football? - That the parents who believed their children were going to play five-a-side football and the children themselves.

And the lewd and indecent and libidinous practices/

practices was in relation to the photographs of one of the children, is that right? - That is correct.

That is the one child where he was hanging from bars? - No, this was the incident in Dunblane High School in which one child spoke about a particular exercise which was very very questionable.

And the contravention of the Section 12, was that the one in relation to hanging from the bars? - Yes.

You also told us that none of the children had expressed any concern, it was the parents who had expressed concern? - One child did express concern that when he was hanging from the wall bars it was particularly sore but he didn't like to say.

He didn't like to say? - He didn't say anything, it was painful.

He said to you that he hadn't said to Mr. Hamilton, is that what you are saying? - That is correct.

Apart from the enquiries which were made to the Scout Association did you make any further inquiries as to Mr. Hamilton's activities or character or record? - Not personally, no.

Did you make any contact with anybody in London, with the Metropolitan Police in London? - Yes, I did.

Can you tell us the nature of such enquiries? - The National Criminal Intelligence Service, as I understand it.....you appreciate it is three years ago and I can't remember who I spoke to but it was to do with paedophilia and my enquiries were whether or not there would be a market for this type of photograph and indeed whether Mr. Hamilton was known to them, and the result of that was negative.

RE-EXAMINED BY MR. LAKE: Just one or two things I want to clarify; the first is in respect of Mr. Fairgrieve's opinion. You have said that in the Scout file there is a record of Mr. Fairgrieve's/

Fairgrieve's opinion that Hamilton was mentally unbalanced? - Yes.

When you spoke to Mr. Fairgrieve did he say he could substantiate that or he hadn't said that? - He hadn't said it -- the comment was made in a letter from another person and he said that no, he wouldn't.....his words were not that he had a mental imbalance, it was more he had a grandiose type nature and he was a bully.

If I refer you back to your memorandum dated the 9th of June which is D3, the fourth page of that, there is reference in the third paragraph saying "That Hamilton had provided parents with photographs of their children fully clothed, in groups and individually, however none of the photographs taken with the boys wearing only trunks, of which there would appear to be many, have ever been provided". Do you see that? - Yes.

Do you mean by that that the photographs had not been provided to the parents? - That is correct, photographs of the children wearing trunks were never provided to the parents that I spoke to.

Are you aware that the police had already, as a result of the 1991 investigation, viewed photographs taken by Hamilton of the children wearing only trunks? - Yes.

And also as a result of the 1991 investigations these photographs would have been reported to the Fiscal? - I would assume so.

You make the reference within that memorandum of concern being expressed by the parents in relation to the matters you were investigating; is it fair to say that concern of the parents arose from matters which they speculated may have happened rather than activities that were known to have happened? - Could you ask me that again?

You stated in your memo certain matters which one parent observed and in respect of the second complaint that a child said had happened, is that correct; I think you also note that there was some/

some parental concern; is that correct? - Yes.

Was that parental concern entirely due to the events which you reported or were the parents also concerned because they imagined that other things may have happened that they didn't know about? - I think it was probably both.

When you mentioned your discussion with Mr. Gallagher and all that was discussed was that on the one occasion you spoke to him after preparing the memorandum? - Yes.

And this was the discussion which you said took half an hour? - I don't know how long, that was purely a guess, I don't know how long I was there, I didn't time it.

But the discussions took place some three years ago? - Yes.

Is it not the case that your recollection of what Mr. Gallagher said may be dimmed by the passage of time? - Not on this occasion, no.

Might you not have misunderstood what Mr. Gallagher said to you? - No, I was quite clear what was said to me.

BY LORD CULLEN: Just one question. If you look at D27 in the file before you -- you haven't been referred to that document yet, just turn it over. It is in H(iv) and it is quite close to D29 which you looked earlier; that is a manuscript letter? - What was the document -- 29?

29 was the notes? - Yes.

Apparently taken from Mr. Fairgrieve; it is a few sheets before that? - Could you give me the document number?

That is No. 29 and it is a few sheets before, No. 27? - Yes.

That is a manuscript letter which purports to be dated the 28th of April and appears to be signed by Mr. Hamilton; there was some comments you made earlier in your evidence about reading various things when you were going through the/

the Scout file; do you see there there is a reference in there to an alleged favouritism on the part of somebody else by Mr. Hamilton; is that at all familiar to you? - Yes, it is.

That fits with what you said earlier? - Yes.

ROBERT/

11.40 a.m.

ROBERT MARK URE, (57), Sworn,

EXAMINED BY MR. BONOMY: You stay at 12 Kent Road, Stirling? - Yes -- until the 10th of June, I exchanged houses.

You have moved now? - Yes.

You still stay in Stirling? - Yes.

When did you first move to 12 Kent Road? - December, 1992.

And stayed there until June of this year? - Yes.

Where is 12 Kent Road in relation to Hamilton's house at 7 Kent Road? - It is approximately 10 yards down the road and across.

The other side of the road? - Yes.

And 10 yards down the road? - Yes.

Upstairs or downstairs? - Downstairs.

Were you aware of his existence from the time you moved there? - Yes.

In what connection? - When we moved in I had been in the Indoor Bowling and I won a trophy, and I was in my own garden and he approached us to take a photograph of the trophy and myself. I told him to get lost.

Any particular reason why you told him to get lost? - Well, the old ladies in the street had told me he was an unsavoury character. I was just in the street, I had more to do than talk to the likes of himself.

Can you be more specific about the statement you made about the unsavoury nature of his character? - Yes. One of the old ladies, Mrs. Reilly, had told me while I was cutting her hedge that she had reason to call the ambulance for her husband. The ambulance drew up at Thomas Hamilton's door, he flew into a rage, stuck his face close/

close up to old Mrs. Reilly's face, told her in no uncertain terms "Don't you ever send an ambulance to my door again". I took exception to that and I said -- Mrs. Reilly is 85, and I said, "If he ever done that again, let me know".

Anything else in general terms about the unsavoury nature of his character? - He was a person you could pick out in a crowd. He was a devious -- the sly way of going about this life.

How did you work that out? - Well, it was quite easy for a man, having been in the Forces, you know.

What about him, any other impression? - He was soft spoken, piercing eyes, and he was very
-- well, nobody would really want to know him, quite frankly.

Did you ever see through the window, see what there was on the walls of his house? - Yes.

What did you see? - I seen two rows of photographs.

Showing what? - Photographs of boys, one going along, and there was a further number of photographs on the other side further down.

Were these of individual boys or groups of boys? - What I seen was individual boys.

Which part of the boys did you see in the photographs? - From the waist up.

Wearing anything? - I don't remember for certain.

On any occasion did you see boys around the house? - There were one or two occasions he had them down to do his grass or cut his hedge out the front.

What age were these boys? - Approximately 14 -- 12/14.

Now, after your encounter with him over the hedge did you have any dealings with him? - No, I had no dealings with him personally but.....

Did/

Did you ever speak to him? - Yes, as a neighbour, in the small street Kent Road is, I passed him on the corner and said "Aye", and that was about all I was prepared to.

So you acknowledged him as you passed? - Yes.

Before the incident at Dunblane when was the last time you saw him? - That would be approximately 2nd or 3rd March. My girlfriend Helen Peters and I were walking the pup and.....

We will come on to tell us about this, but just before you do can you confirm that is actually the last time you had seen him? - Prior to Dunblane?

Yes -- the last time you saw him at all? - No, it was after that again.

There were other occasions when you just saw him in passing; is that right? - I don't quite get your meaning.

We will go back to what you were telling us about Mr. Hamilton. Tell us about that? - He came out of the ground more or less. Me and my girlfriend Helen Peters were walking the pup we had just acquired that Christmas, and we were passing along adjacent to Braehead Primary School and he suddenly came out the ground more or less. The path runs along the primary school there and.....

Quite close to the path? - Yes. There is the road from the back of the Braehead Primary School comes down to the gates, and we were going along to these gates to get out, and he appeared at the gates. I turned round -- I was going to get the pup -- and there was Thomas Hamilton standing.

Where do the gates lead to? - In and out the school. They are the main gates of the school.

Were you about to walk in the school grounds or were you going past the gates? - We were passing the gates going home having gone round from the road.

Do you know where he came from? - He just/

just came out the blue, unexpected as I say.

Can you say whether he was in the school grounds or not? - Yes, he was definitely, because had he been any other way, that is to say coming from the back -- there is a road that comes in the back of the school, and we would have seen him coming down that road when we were coming to the gates. He was in the annexe, one of the annexes to the school.

As you walked along the path was the school to your right or your left? - Left.

The gates you are talking about, were they to your right or your left? - Well, they were a'fore us.

In front of you? - Yes.

These gates lead to where? - The gates lead out to Springfield Road, the gates of the school. They come off Springfield Road past the church and into the school playground.

How are you able to tell where Hamilton had actually come from? - Well, I would have seen him had he been in that part of the road from the back of the school.

Because you didn't see him where you would expect to see him if he was walking in the ordinary course like yourself, is the only place he could have come from.....? - The annexe to the school.

Did you speak to him? - Yes.

What did you say to him? - I turned round and said, "Where did you come from?" and he said "I was away to organise another boys' club". I just went to ask a question and -- he seemed agitated as if he had been caught out.

Did you address him by name? - Yes.

What name did you call him? - John.

Why did you call him John? - Well, I wasn't thinking properly at the time. It is actually a little -- I thought his name was John and he/

he brought us up on that and he says, "My name is not John, it is Tom".

This fairly unsavoury character whom you have told us lives across the road from you -- you didn't know his name for sure? - I knew his name, it was just a misinterpretation at the moment.

Are you sure about it now that it was him? - Certainly, definitely. There is no other one in Scotland like him.

I think you were asking him where he had been. Did you ask him anything else in that conversation? - Yes. I asked him what he meant by starting a boys' club at a quarter past 11 at night in the dead of winter, and he suddenly went on -- what I wanted to ask him, I asked him for the name of the Stirling Rifle and Pistol Club's address or the telephone number of it.

Why did you ask him that? - My estranged wife had told us previous to that she had been to the rifle range with him at Dunblane Victoria School and she had been embezzling money which was not to my knowledge, and I was wanting to rectify that with the gun club, I had nothing whatsoever to do with it, and I was wanting to contact them either by phone or by writing to the Secretary to point that out.

So you took this opportunity to ask him for what information? - The Stirling Rifle and Pistol Club's phone number, or the address of that place. He told us it wasn't a static building they had. He informed us that might have been in his mail, that is to say the telephone number or the address.

Now, you told me earlier you had seen him on some other occasion before the 13th March. When was that? - That was the 3rd of March we were talking about.

When was the next time you saw him? - Approximately the 10th of March. We were going down, Helen Peters and I, my girlfriend, were going down to Cecil Street Garage at night to get the morning paper that comes in early, and he stopped me, he wanted to talk about the request I had made of/

of him.

How long after the evening you have told us about was that? - After the 2nd or 3rd March, it would be approximately seven or eight days.

Did you speak to Hamilton on that occasion? - Yes, in Cecil Street.

On the week of the Dunblane incident did you see him? - No. My girlfriend was looking out of the window and she said, "There's Thomas Hamilton away by".

What day was that? - The Monday.

Two days before? - She brought it to my attention it was a different colour of briefcase than he normally had. It was normally black, as if we would get the assumption he was into photography, but I knew otherwise through the estranged wife, he was in the gun club along with her.

This is the Monday -- what time? - Approximately 9 o'clock, half past 9.

What was he carrying? - It was a tan briefcase with insertions for guns.

Where was he going? - Going out the street.

From his house? - Yes.

Did he have any transport there? - No, he was walking.

Describe to me please the briefcase? - It was a tan briefcase, one that I had seen about in the military that officers had shaped for taking the contents of guns.

This is something for transporting guns, is it? - Yes. It is a briefcase.

But specifically for guns? - Yes.

Is that the last time you ever saw him? - Yes.

No cross-examination.

MR./

MR. BONOMY: Sir, the next witness will be Mr. Paton but it may be we could adjourn briefly so that all the necessary arrangements may be made to facilitate his evidence.

LORD CULLEN: How long will that take?

MR. BONOMY: That will be five minutes. I hope we can resume by 12 o'clock or 5 past to be safe.

MR. CAMPBELL: Sir, before we adjourn I wonder if I can try and get some clarification from Mr. Bonomy in relation to the matter which arose during my cross-examination of the witness before last, since plainly this is something that some of us may wish to apply our minds to in a little more detail than we have done to date. Are we in the realms here of public interest indemnity or is there some other basis for the Crown's position?

LORD CULLEN: I wonder, would it be more helpful if I gave the two of you an opportunity to discuss the matter?

MR. BONOMY: Yes. That certainly is satisfactory. I have here the material which explains the position and I will give it to Mr. Campbell just now.

LORD CULLEN: That's the best plan. We will adjourn until 5 past 12 or earlier if possible.

After/

12.05 p.m.

After a short adjournment:

ALISTAIR BUCHANAN PATON (53), Sworn:

EXAMINED BY MR. BONOMY: I think you live in Renfrewshire? - I do.

Can I ask you about your history? I think for a number of years you served as a police officer? - Yes, I served 30 years as a police officer, firstly with the City of Glasgow Police and then with Strathclyde Police.

When did you retire? - In December, 1991.

What rank did you hold when you retired? - An inspector.

Was the bulk of that service with the police in one particular area of police work? - Yes, I served 22 years in the Identification Bureau of both Forces.

Was that specialising in any particular area? - Yes, specialising in the examination of firearms, ammunition and their various subjects.

Was that throughout the 22 years? - Yes.

How much of your time over that period was taken up with the study of firearms and ammunition? - It was in conjunction with other duties. You are looking at 55% or more, especially towards the latter end of my career.

Did that percentage increase latterly? -- Yes.

Was that because it was more specialised or because there were more guns and ammunition to investigate? - Both.

I take it in that capacity you would be the most senior officer in Strathclyde dealing with these matters? - When I was promoted inspector I was.

Were/

Were you at that stage the most senior officer throughout Scotland dealing with that expertise? - Yes.

After 1980 were certain formalities applied to experts in any forensic area, and one could become an authorised forensic scientist, and did you fall into that category? - Yes, with the inception of the 1980 Act I became an authorised firearms examiner.

Since retiring from the police have you continued to use that expertise? - Yes, I am now an independent examiner. I have set up my own business, and I work on behalf of defence agents, insurance companies and anybody else who asks me.

Are you also a registered firearms dealer? - I am.

Why is that? - It is a legal requirement. I don't deal in firearms at all, but by becoming a registered firearms dealer I can legally handle any firearms and ammunition, so I can conduct ballistics examinations without having to get a permit from the local police force.

In this case you have been invited to consider a number of issues. Initially did you prepare a report, which I think you have in front of you? - Yes.

That will be R44. Do you also have your supplementary report with you? - Yes, I do.

We will call that R45. Now, do we find in these two documents the results of your investigation and consideration of the various issues that were posed for the purpose of the Inquiry? - Yes.

In addition to these you were asked to have a look at the firearms which were used in the incident at Dunblane Primary School? - Yes, sir.

Have you also seen a report by Mr. Chisholm, who was the Tayside forensic scientist who was at the scene? - Yes, I read that this morning.

I/

I wonder if you could also have that before you. That is R7? - It is, yes.

Now, that is actually quite a lengthy document, but the bit that matters for present purposes is towards the end. If you could go to the actual report, at page 7 of that -- do you have that? It is away towards the end of the book you have given? - Yes, I have it.

You will see at the bottom of that page and on to the next page -- in fact the next two pages -- there is a description of the four weapons that Hamilton had with him? - That is correct, yes.

Have you seen each of these four weapons? - I have.

Two of them were Smith & Wesson revolvers? - Yes.

How identical were these two weapons? - Mechanically they are identical, really. There are some minor differences to the hammer, the shape of the hammer, and the butts are different. One has a polished wood butt grip and the other has a rubberised butt grip.

In Chisholm's report on the face of it they appear to be identical apart from the hand grips? - Yes, more or less. The normal person would not be able to differentiate the two apart from the grips.

You can see some differences in the mechanisms of the two? - Yes, in small parts.

You are not an expert in target shooting as a sport? - No. I used to shoot a small bore rifle as a sport, but other than that, no.

We will hear in due course from other witnesses the significance of any difference so far as the various sports are concerned. I don't want to ask you about that. In practical terms, however, when it comes to operating these two guns are they more or less identical? - Yes, they are.

They/

They would use the same ammunition? - Yes, they would.

There are also two Browning pistols, and you saw that? - Yes, sir, I did.

Are there significant differences between the two Browning pistols? - Not significant differences. Both operate the same way, and they both started as the same model, but one of them has been modified.

The same manufacturer? - Yes.

The same model? - Yes.

And then one of them has been modified? - Yes.

To achieve what objective? - Externally, it has an extended barrel, with a muzzle weight attached to it.

Why is that? - The longer the barrel of a firearm the more accurate it is likely to be, and the muzzle weight at the end of the barrel would obviously help to stop muzzle flip; in other words, when you fire the weapon the recoil flips the muzzle up, and if you have a weight at the end of the muzzle this counteracts that.

What is a recoil? - It is the reverse action of a cartridge on the weapon itself.

I see? - When a cartridge is fired within a gun the gas propellant forces the bullet out, but by Newton's Third Law of Physics the action is equal and opposite, therefore you get the same amount of force acting on the gun.

Yes? - The recoil is felt according to the weight of the gun. If you have a light gun you will feel the recoil more than you would if you have a heavy gun.

So by adding weight to the barrel it will reduce the recoil? - Yes; and it will also reduce the weight distribution of the weapon and put weight on to the muzzle and avoid muzzle flip.

And/

And you should be able to fire more accurately? - Yes.

Chisholm also identifies a difference in the one with the longer barrel, in that the hammer spur had been removed and the area ground down to a smooth finish? - Yes.

Can you tell us the significance of that? - Obviously the removal of the spur is to allow the firer to pull the hammer back using his thumb. It allows you to pull the hammer back. The end had been ground off in this weapon.

What is the significance of that, and what is the reason for it? - The only reason that I could think of really is if the weapon was being used with a holster.

Why is that? - One of the problems with the holster is that the hammer spur sticks out and can snag on a holster, and removing the hammer spur would prevent that. The reason for doing it in this case I do not know.

Again, it was also noted that the magazine certainly was not engaged within the weapon with the result that the gun could be fired without the magazine being in place? - Yes. This particular model had that built-in safety feature, in that if you removed the magazine and tried to fire the weapon the gun could not be fired: it has to have a magazine in the pistol before you could fire it. However, this causes additional pressure on the trigger mechanism, and it means the trigger mechanism requires more effort for it to be operated. By removing this safety feature you cut down the trigger pressure and make the trigger much more easily used.

Yes? - This is a standard feature for many competition shooters with this particular model weapon.

Is that really done so that the weapon has a lighter trigger? - It is a combination of a lighter trigger and a more positive action. You do not have to overcome the additional safety mechanism.

And/

And the effect of that is that you require less pressure on the trigger? - Yes; and the trigger pull is smoother.

Chisholm also makes the remark that as a result of that the gun could be fired without the magazine being in place? - Yes, it could.

Which meant that if a bullet was inserted into that gun on its own it could be fired? - It could, yes.

Is it only in a situation where the magazine safety device has been removed that you can use a magazine plus an additional cartridge in the breech, or can you get that situation on either of these two Brownings, the one with the modification and the one without? - You can get it on both.

Now, are there any other differences between the two Brownings? - Not that I can remember.

No difference in sights? - No.

Was there something about the grips? - I can't remember a difference in grips from yesterday. They are both rubberised grips.

Now,

12.25 p.m.

Now, we have heard evidence in the Inquiry that Hamilton had a number of magazines with the Browning, which had a capacity of 20 cartridges, is that unusual? - No, the standard Browning Hi-Power has a magazine which contains 13 rounds; however, you can purchase additinal magazines which contain either 15 or 20 rounds.

We have also heard evidence that the magazine was loaded with a variety of different types of ammunition? - Yes.

I will ask you about ammunition later. If you go to page 10 of the Chisholm report you will see that it was loaded with a mixture of round nose semi-wadcutter and hollow point cartridges or bullets but cartridges with bullets in them? - Yes.

Now, you will see also on page 10 they were loaded in a particular sequence? - Yes.

The sentence in the second line of the typewritten part, "The magazines were loaded in two different sequences of loading with the first four cartridges in the bottom of the magazine always being the hollow point type, followed by either 11 or 15 semi-wadcutter types and topped by either five or one round nosed type. This was further emphasised by the partially full magazines". Is this something that is perfectly normal or is it an unusual feature or is it something that you can't say much about? - I have never come across this before, but I can't think of any particular reason why he should have these.

One reason that has arisen is to do with preventing jamming; does that make any sense to you? - Yes, one of the problems is that a semi-automatic weapon is fitted with a magazine into the chamber; there is a well, a shaped well or a ramp on the topmost cartridge so the magazine is pushed up and into the chamber; where you have a round nosed cartridge that fits directly up the well into the chamber; it is well known with hollow point ammunition for it to stick and jam because there is an edge at the front or the cartridge.

What about semi-wadcutter ammunition? - It/

It varies. It depends on the type of semi-wadcutter; the particular type in here is basically what is known as a truncating bullet: the nose has been flattened but it has a rounded part on it and that would fit.

The indication here was it was loaded with semi-wadcutter and had a variety of 14 hollow nosed bullets at the end? - Yes.

The ones that are most likely to jam are last? - I don't know.

I take it in the course of your police service, in particular, you would come across magazines? - Yes, I have.

And these would be loaded magazines? - Yes, I have.

Have you come across examples of magazines loaded with a mixture of bullets like this? - No, certainly different mixtures of manufacturers, different ammunition in one magazine.

But normally the same type? - Usually the same sort of type.

Now, the only other thing I want to ask you about the report at this stage is in relation to the speed of fire; I will look at that perhaps a little more in due course in relation to other individual types of weapons, but if you go to page 13 of the report you will see that in the third last paragraph Chisholm is recording there that "A full magazine of 20 shots was fired off as quickly as possible. The time taken to accomplish this was 5.46 seconds"? - Yes.

I doubt if the Inquiry has an interest in the precise parts of a second that might be taken for this but I take it you haven't had an opportunity to carry out the same exercise with this weapon? - No, I haven't.

But in general terms is it consistent with your experience for a magazine with 20 shots can be fired off in five or six seconds? - Yes.

BY LORD CULLEN: I take it this is assuming/

assuming one is trying to aim at a target rather than just simply firing off? - That is correct, it also depends on how accurate you want to be; if you are trying to hit a quarter inch circle then you would take longer than if you wanted to hit a man-sized target.

But broadly speaking if you are talking about 5.46 seconds one could achieve some degree of accuracy, is that right? - Yes.

Within what, could you give some kind of parameter on it? - The difficulty depends on the expertise of the person that is firing and on his physical make-up. If you are well used to that weapon then you will possibly accept the recoil and possibly mentally re-adjust yourself to the next shot; if you were someone unused to firing a firearm the shot of each individual firearm would put you off and it would take much longer but yes, to a reasonably competent user of a self-loading pistol then that is what I would expect; it is unusual because you don't really need to fire that number of shots at any one time.

EXAMINATION CONTINUED BY MR. BONOMY: Can I take it that if you were trying to fire off as many shots as possible as quickly as possible at one target that would be the quickest way of discharging the magazine? - Yes, it would.

And if you were to repeat that exercise you would be able to achieve more or less the same result each time? - Yes, possibly.

If the gun was working adequately? - Yes.

But there may be some variation when we are talking about points of a second? - Yes.

But can I take it also that if you have to move to aim at some different target that will obviously slow down the speed at which you discharge the whole magazine? - Yes, that will depend on how far the targets are ahead.

Even allowing for that we are talking about a weapon which can discharge 20 cartridges very quickly, in a matter of seconds? - Yes, absolutely.

If/

If I could turn to your own report and ask you first of all about handguns in general; if you could tell me first of all whether this is..... well, I think perhaps the first question is, is there a legally recognised definition of a handgun? - No.

So there is no Statutory provision that tells us what is and what is not a handgun? - That is correct.

Is there a general understanding by an expert such as you, a definition that may assist us? - Basically a handgun is designed to be held and fired with one hand; there may be occasions when you use a second hand to steady it, but it is designed to be fired with the use of one hand only.

Designed to be fired; presumably there are many things you can fire with one hand, particularly if you are strong? - Yes.

I take it it was part of your job in the police in particular to say when something was not a handgun and should be classified as a rifle rather than a handgun? - That was one of the difficulties we had, yes, and came across occasionally because there was no actual definition.

Proceed then now on the basis that a handgun is what we would normally recognise as such, could you categorise a handgun for us? - Yes, there are three basic types of handguns; there are the single shot weapon, a self-loading pistol or a semi-automatic revolver.

Tell us what a single shot weapon is first of all? - A single shot weapon is a handgun, it is normally intended for highly accurate or long range target shooting, into which one cartridge had to be manually loaded each time the weapon is fired. The fired cartridge case similarly requires to be extracted by manual means.

Do you have with you an example of such a weapon? - Yes, I have.

Could you now show us that? - This is a single shot pistol, it consists of a fairly long barrel and the cartridge is loaded into the chamber here/

here and when the barrel is closed the hammer is cocked and the bullet fired and then you break the weapon open and manually extract the cartridge.

Now, is a longer barrel a particular feature of a single shot weapon? - It is a feature of this one; a single shot weapon tends to be for target use, highly accurate target shooting nowadays and the longer the barrel the more accurate the weapon will be but there is a vast number of weapons manufactured in the early part of the 1900s which are short barrel vest or pocket pistols, they were designed for individual protection, self-protection.

They are single shot weapons? - They are single shot weapons.

Do persons such as vets who may have a hangun for their work have a single shot gun in your experience? - Yes, they could.

Do they also use other types? - Vets can use a variety of weapons; the slaughter instrument is one of the main items they use but they also use dart guns to inject tranquillisers.

By a slaughter instrument do you mean a gun or something other? - Both a gun and a cartridge bolt, something that will kill the animals but not actually fire a bullet; if you are talking in terms of, let's say, a vet dealing with a dangerous animal he may have a true firearm.

Your report divides these single shot weapons into two mechanical types; you say that there is a "Break (or hinged) action" type? - Yes.

And there is another type? - It is a bolt action which is similar to a rifle and again it works simply by a bolt, loading a cartridge into a chamber, the bolt pushes it forwards and locks it in place and by returning the bolt you extract the cartridge.

After you have fired it? - Yes, after you have fired it.

So you get handguns that work that way? - Yes, you get handguns that work that way.

Now,/

Now, excuse me for asking a question to which the answer is obvious but I think we ought to highlight the point; it may take far longer to discharge 20 shots using one of these weapons than it does using a semi-automatic Browning that we saw earlier? - Yes, absolutely.

And the exercise you are showing of loading, firing and then extracting the cartridge would take perhaps close to the five or six seconds we are talking about discharging 20 rounds from a semi-automatic weapon? - It would probably take longer, because not only would you have to fire your first shot, you would then come down from the aim, break the weapon open by using the bolt and open the weapon, extract the cartridge case, fish for another round because there is no magazine; you would have to go into your pocket or some other place where you have the ammunition, pick that up, put it in the chamber, close the weapon and make it ready to go back to your aim again and to do that would take longer than five or six seconds.

BY LORD CULLEN: Could you put some value factor on it? - I am sorry; 10, probably 15 seconds. It depends on where your spare ammunition is kept and the possible position.....if you are sitting down here at a table and firing forwards and the ammunition is beside you it would obviously be quicker than standing up with the ammunition in your pocket.

EXAMINATION CONTINUED BY MR. BONOMY: You could do it fairly quickly if you were sitting? - Yes, because you would be able to do it quicker sitting at a table with your reserve ammunition beside you.

Obviously you take the initial aim and then you regain that position after you have re-loaded? - Yes.

Apart from these two methods of operation are there any other mechanical means of operating a single shot weapon which are of any significance? - Not really, there are one or two other ways of breaking the weapon open so that you gain access to the loaded cartridge but that tends to be in the minority; there is one particular one which looks like a revolver but, in fact, instead of having five or/

or six chambers it has only one chamber so you basically fire the revolver, turn it round a quarter turn to extract the cartridge case, put a cartridge back in and back into the firing position; that is one particular weapon I can think of; there are others that break differently but the back of the chamber is what actually prevents the cartridge from falling back out again.

Do single shot weapons allow for a use of a whole series of types of ammunition? - Yes, this is probably the most extensive range of ammunition that you can find for any weapon; the main one is .22 calibre and it goes upwards to very high powered rifle cartridges; you can actually find .308 cartridges which is for a 7.68mm Nato cartridge.

The report says 7.62? - Sorry, my apologies, 7.62.

7.62mm and that is for a high power rifle? - Yes.

We have heard evidence in this case of such cartridges being held by Thomas Hamilton and they would only be capable of use in a high powered pistol or rifle? - Yes.

Now, can these cartridges be used in any form of semi-automatic pistol that you know of? - No.

So/

So would that have to be either a high-powered rifle or a single-shot handgun? - Yes.

I think you were asked to investigate -- I know it is a bit out of your expertise but you know where to go and what to ask -- you were asked to investigate cost? - Yes, I was.

Can you help us at all with the cost of the purchase of a handgun which is a single-shot weapon? - That's actually quite a difficult question because it is a very limited market.

Why is it a limited market? - Not many people use them. Modern single-shot pistols, particularly those using the higher powered cartridges, are expensive. However, the very cheap pistols, the sort of self-defence pocket pistol that I mentioned, they are very cheap, usually between £25 and £50.

Is that second-hand or new? - Second-hand. These weapons were probably manufactured in the late 1800s or early 1900s.

They are not classed as antiques however? - No.

That is because there is readily available ammunition that can be used? - Basically, yes. There is no such definition of an antique pistol. There are recognised guidelines, and the majority of these weapons will be outwith the guidelines therefore they will require a Firearms Licence.

What are the guidelines in general terms? - The Firearms Consultative Board have issued a list of cartridges, and a firearm capable of using those cartridges will normally be considered as antiques if they are kept as curios or as ornaments. The ones that use the old black powder cartridges are basically difficult to obtain.

Is it the non-ready availability of cartridges rather then the age of the weapon which determines whether it would fall into the category known as "antique"? - Very much so. You could have weapons which were built in the 1870s which are not antiques because they can still chamber and fire currently/

currently manufactured ammunition.

Remaining with the question of cost: if a person wanted to buy a new target shooting model which was a single-shot weapon would that be expensive? - It would probably start from £500 upwards. I don't think you would be able to get one for under £500. Some of the much more custom-built ones can go up to £2,000 and more.

Your experience as a police officer would be largely concerned with the use of firearms in criminal activities? - Yes.

Was this kind of weapon currently found in the hands of criminals? - No, it wasn't.

We may just at this stage complete the picture by looking at the question of the immobilisation of weapons such as this. I want to know if you can help us again, and could you tell us whether there is any way of separating the parts of that weapon? - Yes, there are. The actual barrel hinges around this axis pin here, and it would be theoretically possible to unscrew that. I haven't actually tried it with this particular pistol, but it looks as if you unscrew this therefore the two parts will come apart.

You haven't got a screwdriver there? - I do actually (demonstrates). It is as simple as that.

Can it work without the barrel? - No. You need the two parts together. The barrel only contains the ammunition and this part actually fires the ammunition.

BY LORD CULLEN: Is that kind of arrangement you have just demonstrated to us, is that typical or not typical of the type of gun we are looking at here? - It is fairly typical, the difference being here you have an axis pin, and sometimes it is a screw pin and other times it is a press pin and it is held in by friction, and to take it you you need a hammer and a drift.

Does that require a specialist, a gunsmith or not? - Basically you take that out, and the more often you do that the looser it tends to become.

Putting/

Putting it back together again may become more difficult I suppose? - Yes. It also tends to get looser, therefore it would eventually tend to become less safe.

EXAMINATION CONTINUED BY MR. BONOMY: Would regularly separating the one you have there in that way do anything to harm its safety? - It shouldn't really. You might wear the axis pin but I don't think it would be a significant problem because it is screwed down.

Could you put it together just now before we lose any bits? - Yes. If you know what you are doing it is a very simple operation.

Do most people who own and use guns know what they are doing when it comes to taking them apart? - Probably Yes, but I would think a minority wouldn't.

Do you not have to clean it properly? - No, in this particular weapon you don't. You can clean it as this conditions.

Would it be any more difficult to take a simple action which would render a bolt action style single-shop weapon inoperable? - No. You remove the bolt.

Is that just as easy as what you have done with that gun? - More or less.

Could you do it with a rifle? - (Demonstrates). In this particular weapon that's how you do it, but there are other variations of this which require more movement, but not much more than that.

That was two or three seconds? - Literally all you do is that (demonstrates). You unlock it and as you unlock it you pull the trigger and it falls out.

Can the gun be fired without the bolt? - No, it cannot.

What are the main differences between single-shot handguns and self-loading pistols? - Well, the main difference is the fact with the single/

single-shot weapon you have to load it after each time you fire it. With the semi-automatic weapon you have a reserve of magazine of ammunition which is automatically reloaded every time you fire the weapon.

Do you have a self-loading pistol with you? - Yes.

Do you have a magazine for it? - I do.

Could you show us how it operates please? - This is a Browning handgun similar to the one which Hamilton had. Basically the magazine is just a casing in which there is a spring and the cartridges are fitted one at a time into the top of the magazine and held in place by the curved lips of the magazine. When you load the magazine you have to put it in and press it home. The weapon still cannot fire in this condition, it has to be manually charged, you have to pull the slide back. By doing that, i.e., the slide going forward again, it strips the top cartridge out of the magazine and pushes it forward into the chamber and that is the weapon ready to fire.

Hamilton's magazine has got a cartridge in the chamber and you could still have 20 in the magazine? - Yes, you can do that in either of two ways: you could physically pull it back and hold it, load one cartridge into the chamber, or, alternatively, the easiest way to do it is to operate the system and load one cartridge into the chamber, drop the magazine, load another cartridge into the magazine.

Now, would he have been able to do that with one which had no safety mechanism when the magazine was removed? - Yes, that probably would be the safer way of doing it actually.

Do all self-loading pistols work in the same way? - No. There are three different ways in which pistols will work. There is the simple blow-back system; in other words, the recall of the cartridge just blows the whole top of the slide, that part of the pistol, backwards. You then have a delayed blow-back system where the slide is locked on to the main body of the frame for a few milli-seconds until the bullet has left the muzzle. Gases within/

within the barrel itself reduce in pressure and it then unlocks and goes back itself. The third is gas-operated, where when the bullet has reached the muzzle of the weapon the gases, the pressure gases are led into a piston arrangement underneath the barrel and that piston arrangement unlocks the slide and allows the top of the slide to go backwards.

Where does the gas come from? - There is a hole on the other side of the barrel, just behind the muzzle.

Where does the gas come from? How is it created? - When a cartridge is fired the bullet travels up the barrel, there is intense gas pressure in the cartridge behind the bullet, and when the bullet passes the hole some of that gas pressure is leaked through the hole and acts on the cylinder.

You have just told us about the effect of the slide going back. What happens then? - Well, when you fire a weapon the slide recoils to this position here. As it does so an extractor claw grips the rim of the cartridge and pulls the fired cartridge backwards and it hits the ejector post at the back of the gun and that flips the fired cartridge out. In this position the side has cleared the top of the magazine and as it returns it strips the next cartridge out of the magazine and feeds it into the chamber.

You need to pull the trigger each time you fire it? - Yes, you require to pull the trigger once every time you want to fire the weapon.

Can you adapt a weapon so that you just have to more or less fumble with the trigger and it keeps firing? - It depends on the weapon, but there are some which you can alter and it will do that.

On that type of one there? - I have never had any occasion. I have never come across this particular model having been altered to work that way.

Are there large numbers of different manufacturers of similar guns? - Yes. This particular model, the Browning Hi-Power, was designed by John Moses Browning in 1926 and was introduced/

introduced by Fabrique Internationale Belgium from about 1935 onwards throughout the world. This was the standard side-arm of the British Services during the Second World War, the weapon which our Forces carried, which was manufactured by a company called Inglis in Canada. Browning also have somewhere in America and they have a manufacturing plant in Japan, although I can't honestly say whether they manufacture this particular model in Japan.

Has Browning become a type rather the name of a manufacturer? - Because the man Browning actually designed it, the originator. Browning is the name of the type. It is based on a system designed by Browning and it is quite common although, I should say in America, in the States, the have a separate company.

Can a wide range of ammunition also related to single-shot be fired in this? - No.

What is the limit? - It would normally start at .22 rim fire calibre and go up to 50 Magnum calibre.

What is the most common use? - 9 mm parabelum ammunition or 9 mm Luger ammunition.

Luger sounds more like a manufacturer's name as well. Has it become a standard name for that type of ammunition? - Yes. Luger was a person who designed a pistol in 1902, the famous German Luger pistol, and ammunition for that was designed at the same time, designed for that pistol, and it has become accepted practice to call it 9 mm Luger in certain parts of the world. It is more correctly called 9 mm parabelum. It is also even more correctly called 9 mm x 19, the difference being in the length of the cartridge. You can get
9 mm x 17, 9 mm x 19, 9 mm x 22, they are all different.

Could any of that be fired in this weapon? - No, you have got to have 9 mm x 19 only.

Where would this fire? - Any pistol designed for that type of ammunition.

Any similar type? - Similar type of pistol, yes.

It/

It has got a shorter barrel than the single-shot weapon also? - Yes.

Is that a common feature of this weapon? - In self-loading pistols the barrels range normally 4/5 inches, but you can get them longer than that. You can get extended barrels.

The extended barrel that Hamilton had was how much longer than that one? - Can I refer to some notes?

If you go back to Chisholm, either your own notes or Chisholm's report. If you did it yourself it would be better to go to your own notes? - It is a 6-inch barrel.

Can you get longer than 6 inches by adaptation? - Yes, you can. You can in fact buy manufactured self-loading pistols with barrels up to 14 inches long.

Would the magazines for these weapons be detachable? - Certainly. In some pistols, no, there are a few models in which the magazine is an integral part of the pistol.

How do you load it? - From the top. Basically there is a guide channel at the top of the pistol, and you take the slide back to this position <u>there</u> (demonstrates). You have this clip holding a certain number of cartridges and you have a guide and you simply press the whole load into the integral magazine.

Is there a maximum size of magazine for one of that sort? - Yes, 8-10 is the maximum it takes.

Are these weapons any more expensive or less expensive than the single-shot weapon we saw earlier? - The top price is about the same, a bit over £200. The price can go from £200 to £2,000 and second-hand weapons run from £150 to £250.

Is there an average price for a new single-shot weapon? - The most common price is £300-£600. In fact, if it helps, when I knew I was coming to give evidence at this Inquiry I took two of the latest gun magazines and listed 100 samples of second-hand/

hand self-loading pistols and the average price of 100 pistols was £412.

Now, are these self-loading pistols common? - Yes, it terms of handguns they are probably the most common.

The method you demonstrated by using the magazine -- does that require a magazine for this particular weapon or can you simply buy a magazine at random for each weapon? - No, you can have a magazine designed for that specific weapon. There are a few interchangeable magazines in between makes of models but it is not common.

And taking the particular gun you have there, is there only one magazine that will fit that or will any Browning Hi-Power magazine fit that gun? - Any Browning Hi-Power magazine will fit that gun.

So any owner of that gun can have umpteen magazines for it? - Yes. Again for the purposes of this Inquiry I purchased two 20-round magazines by phoning down to an English company on a Tuesday afternoon and it came through the post on a Thursday morning.

What information did you give them? - My credit card number, how many magazines I wanted. In fact, how many magazines I wanted was the only question they really asked me.

They would be disappointed at the answer? - And I also chose the cheapest models.

After/

After an adjournment for lunch:

Just at this stage one final point on semi-automatic weapons. At the foot of page 3 of your report you mention a point relating to magazines of the de-activated weapons. Can you tell us something about that? - Under Section 8 of the Firearms Amendment Act, 1988 it is allowed for a weapon to be de-activated to specified standards. If it has been de-activated and certified as such it is no longer deemed a firearm.

Yes? - Magazines on pistols which have been de-activated to this standard are not altered in any way at all, and therefore the magazine from a de-activated Browning would be capable of use in a genuine Browning.

This is largely a fairly academic point, if you could use your credit card and a phone and acquire any number of magazines in any event? - Yes.

Can I ask you about the third general type of hand gun, which is the revolver? Can you tell us the significant or distinguishing features of the revolver? - This is a weapon which a series of chambers contained in a cylinder revolve as the hammer is cocked and fired. It requires to be manually loaded and fired cartridge cases similarly need to be extracted by hand, albeit simultaneously in most modern crane and hinged action revolvers.

Do you have any revolvers with you? - Yes, I have.

More than one? - Yes.

Can you tell us about them? - The first one I have is what is known as a solid frame revolver, i.e. a weapon which is not able to readily come apart. It is opened by flipping open a gate on the back of the cylinder, and one cartridge needs to be manually loaded into the cylinder: you put one in, then you put another in.

Yes? - When they are all fired, the extraction is the same. You have to line up the chamber/

chamber with an extractor rod and physically push each cartridge case out the back. This takes some time.

In general terms can you fire six shots from a revolver as quickly as six shots from a semi-automatic pistol? - Possibly even faster.

We will come back to that. Obviously the unloading of that one would cause delay in the process of re-loading? - Yes. In the hinged action the weapon breaks open and pivots on a centre point. You load five or six cartridges into the chamber. Closing the weapon makes it ready to fire.

Do you have to revolve the chamber as you load? - No, in this one the chamber is fully open: you have access to all the chambers.

Yes? - When you have all the rounds fired, by breaking it open, there is a star mechanism in the chamber which extracts the fired cartridges, and you flip them out, do it slowly and take them out manually; so you can unload all the fire cartridges in one movement. This makes unloading much faster.

Yes? - There is then a centre cylinder, where the cylinder swings out from the side of the revolver, allowing you to load the chambers.

Yes? - When the cartridges have been fired they can be unloaded simultaneously by pressing the pin in the chamber and extracting the cartridges together.

Is there a quicker way of loading than putting the cartridges in one by one? - There is in the hinged frame, particularly the crane cylinders. You have a device called a speed loader, which holds six unfired cartridges. If you allow me an inert cartridge.....

You have got some cartridges, but they are all inert? - Yes.

Well, I don't think there's any objection to you doing that? - The cartridge is inserted/

inserted in the speed loader in this manner, and then it is turned and locked in place.

Yes? - You obviously put in six cartridges.

Yes? - When you come to reload you literally feed them all in at the one time, and by turning the centre pivot you free the cartridges, and you take the speed loader away, and that is your cartridges loaded.

So it is a sort of magazine for a revolver? - No, it is a feed device for a revolver.

Can you buy that with your credit card and a telephone? - Yes, you can.

Is any of these three revolvers a Smith & Wesson? - Yes, the last one is.

And is that like the Smith & Wessons Hamilton had? - Yes, it is a model 19, basically the same weapon he had.

Are there different mechanisms again whereby these guns fire? - Yes, there are.

What are the various mechanisms? - They can be fired in single action, double action or both.

Yes? - Single action is where you cock the hammer manually with your thumb, and that makes the weapon ready to fire. You then only require light pressure on the trigger to cause the hammer to run forward and fire the cartridge.

Yes? - Alternatively you can do it in double action, where by pulling the trigger you pull the hammer back, and then it fires automatically.

Yes? - This is a gun which is single and double action; this is double action only.

BY LORD CULLEN: For the notes, which one is that? - The hinged frame itself. The model is in fact single only. You can pull the trigger,/

trigger, and nothing happens to it: you have to cock the hammer manually before it will fire, and then pull the trigger.

Every time? - Yes.

EXAMINATION CONTINUED BY MR. BONOMY: We might have thought of that as double action, but that is called single action? - Yes.

And the easier it is to do it is called double action? - Well.....

It is double action of the mechanism and not of the hand? - Yes.

Do revolvers have a limit as to the number of cartridges they can hold? - Yes. That limit is determined by the size of the cylinder.

How big do they go? - 5 or 6 is common, and you can get 7. There is one model brought out by Smith & Wesson which has a 7 shot capacity.

Yes? - In a .22 calibre, a much smaller bullet, you can have more chambers in a cylinder, and up to 12 is not uncommon, or can be found. That is about the largest capacity I have ever heard of in a revolver.

Are they as common as semi-automatic pistols? - I think not. I don't have any figures to establish that, but from the weapons I have seen being used, semi-automatic weapons seem to be the more common.

In terms of price? - Again, price new ranges from £200 to £1000 or more. The secondhand price is £100 to £500. I did a similar exercise by taking the main magazines for 100 secondhand revolvers, and the average price was £248.

That is the same exercise as you did for the semi-automatic ones? - Yes.

To be clear about the various accessory parts that we have looked at, we have looked at magazines? - Yes.

We/

We have looked at a quick loading device? - A speed loader, yes.

We have looked at an extending or a weight that might be put on the end of a barrel? - Yes.

Have we looked at all the other accessories so far? - Other than the extended magazines, the large capacity magazines.

To acquire any of these magazines do you need to hold a firearms certificate? - For an extended barrel, yes, but the weight that fits on the end of the barrel no, or any of the other accessories you don't require any certification whatever.

The Firearms Act of 1968 in Section 57, which defines a firearm, includes with that definition any component part and any accessory to any such weapon designed or adapted to diminish the noise or flash caused by firing a weapon? - Yes.

So talking about accessories, it is only one particular accessory which actually requires a firearms certificate; is that right? - It is actually two: one is a sound moderator, i.e. a silencer, and the second is a flash eliminator: they are different things.

You then go on in your report to compare hand guns with other types of firearm? - Yes.

What I want to ask you about in connection with the Inquiry is the comparison with rifles and the facility with which you can carry these respective weapons around. Can you tell me what views you have expressed on that? - Yes. Hand guns tend on the whole to be comparatively small, and are easily carried. There is a large range of holsters and accessories which allow hand guns to be carried attached to a belt, i.e. the sort of thing you see in cowboy movies, under a jacket -- a shoulder holster -- and even strapped to a leg.

Yes? - This naturally has the added factor of making such carrying much more concealable.

Yes?/

Yes? - Other accessories also allow additional magazines, speed loaders and/or extra cartridges to be carried, but these are usually on a belt.

What about rifles? - Rifles are normally much larger weapons, and do not lend themselves to easy carriage. Even where there is a provision for a detachable magazine it is unusual for additional magazines to be carried.

Yes? - The normal method of carrying, when not in actual use, is in a fastened guncase slung over the shoulder. Occasionally shortened -- that is sawn-off -- easily concealed rifles are encountered in crime, but they are not common.

Are sawn-off shotguns more common than sawn-off rifles? - Yes.

You have said something like shotguns, which makes the point. So far as crime is concerned, taking hand guns, rifles and shotguns, in your experience which weapon was used in crime most commonly? - Inevitably the sawn-off shotgun was the most common one, but there is an increasing use of hand guns.

Now, you mentioned the difficulty at the outset in determining or identifying a pistol in certain circumstances. Are there types of weapon which could almost be said to fall somewhere between what we would easily understand to be a pistol and what we would easily recognise as a rifle? - Yes, there are certain sub-machine guns which have a shoulder stock, i.e. they are designed to be fired from the shoulder, but can be fired without the shoulder stock, i.e. they are a one hand-held weapon, albeit they were originally designed as a shoulder gun.

Are these semi-automatic? - To be legal in this country, yes.

You can get them semi-automatic? - Yes.

They can never be held as automatic weapons by a private individual? - No.

Does/

Does the description of a weapon as a carbine cause any difficulty? - Yes. A carbine is a small rifle. Other than the fact it must have a butt stock -- i.e. it must be a shoulder-held weapon -- the difference between a carbine and a rifle is only in the size.

Can you tell us what a carbine is? - It is a small rifle.

Any small rifle falls within that definition, does it? - Yes.

Now,/

Now, can I turn to the question of ammunition. It would appear from what you have said already that you have brought some inert ammunition with you? - Yes, I have.

Would that be the easiest way of explaining the features of the ammunition, simply to allow you to assemble it there and then tell us about it? - The rounds are all assembled. They are all inert.

I think you start by saying there are two types of cartridge in normal use today? - Yes.

What is the nature of those two types? Just take a moment to assemble them as you wish to refer to them, then we will take it from there? - There is a rim fire cartridge, which is nowadays normally a .22 cartridge, a very small one. The primer compound, which is the initiating compound, is contained within the rim of the base.

Yes? - To fire the cartridge the firing pin or trigger has to hit the rim.

I should have asked you this before. Can you tell us as to what the component parts of a round of ammunition are? - There are in fact four parts to a cartridge. There is the cartridge case, which is a brass casing. In this one, which is centrefire, there is a primer cap in the centre, which is the initiating compound.

Yes? - Within the cartridge case is the main propellant. When the primer cap is struck by the firing pin the flame from that primer ignites the main propellant charge.

What is the propellant, normally? - It is normally a double base smokeless compound, normally nitro-ceullose or nitro-glycerine. You can get black powered or gunpowder which has the same effect, but a different chemical compound.

Yes? - Sealing the front of the cartridge case is the bullet itself.

Could I without a firearm certificate purchase any of these individual parts of a round of ammunition? - You could purchase them all.

Including/

Including the primer? - Including the primer.

Could I without a firearm certificate acquire a completed round of ammunition? - No, you could not.

Could you tell us the difference between a rimfire cartridge and a centrefire cartridge? - A rimfire is where the primer compound is held within the rim of the cartridge which then has to be struck by the firing pin. This then ignites the main charge contained within the body and fires out the bullet.

Yes? - This is normally a .22. The only other calibre readily available in rimfire is 9mm shot ammunition.

What do you mean by "shot ammunition"? - Shotgun cartridge. Other calibres in rimfire are available, but they tend to be much older and usually come into the "antique" category. The ammunition itself is not antique, but the weapons designed to use it are antique.

Yes? - The construction of rimfire cartridges means that they cannot be re-loaded, either commercially or at home.

Once it is fired it is done? - Yes.

None of it can be recovered and readily re-used? - You can use it for scrap metal, but the bullet is lead and the cartridge case is brass.

But you cannot readily re-constitute the ammunition? - No.

What are the features of centrefire? - With centrefire the primer compound is held in a separate cap which fits in to the centre of the base of the cartridge.

The firing pin must strike this cap in the centre to initiate discharge of the cartridge.

Yes? - After it has been fired it is a simple task to punch out this firing primer cap, then a new primer cap can be put into its place, additional/

additional propellant loaded into the cartridge and a new bullet put on top of that.

Yes? - This is done either commercially -- several firms in fact do this on a commercial basis -- or you can do it at home. To do it you would need to buy new primer, powder and bullets? - Yes.

And would you re-use the cartridge case? - Yes; although you cannot re-use it indefinitely. 10 to 12 times is the accepted average.

What is the most expensive of these four components? - It depends what you are buying. Probably the brass cartridge case.

Is the cartridge case always brass? - Normally yes: but no, you can get aluminium ones, but aluminium cartridges are not re-loadable.

On page seven of your report you speak of the method by which the ammunition works. Can I take you to paragraph (b), where you refer to the role of the cartridge case in ensuring that gas is projected forward? Can you explain that? - When the cartridge case is in the chamber and the cartridge is fired, the build-up of gas pressure expands the cartridge tightly into the chamber and immediately seals the outside of the cartridge case against the inner wall of the chamber and stops any gases escaping backwards through the rear of the firearm, and allows the rest of the propellant to discharge the bullet.

Can I take it that if we were to look at one particular calibre of ammunition, say 9mm, we would find that the cartridge cases are uniform? - Yes.

But do we find the same in relation to the other three components? - No. The primer would be identical, but the difference would be in the propellant, the amount and type of propellant, and also the difference in the bullet shape and weight.

Can/

Can you tell me the variables for the propellant? - There are two main types of powder propellant, slow burning and fast burning.

Yes? - This usually revolves around the size of the grains of the powder. If you have a short barrelled weapon you require the propellant to burn very fast so that it has all burned by the time the bullet leaves the barrel; whereas if you have a long barrel you want the powder to burn more slowly, so that the gases are still being manufactured and the pressure is still rising until the moment the bullet leaves the barrel.

BY LORD CULLEN: For a given handgun is it possible to experiment with different grain size? - Yes, that is common for your target shooters. By using different powders you can fine tune the weapon. It is like tuning your car; you can make small adjustments to it that may make it slightly better.

Does that mean that guns which appear to do exactly the same may have slightly different characteristics? - Yes.

Does experimenting with different grains help you to find the combination which fits best? - Yes. It is a combination of both propellant and bullet weight.

EXAMINATION CONTINUED BY MR. BONOMY: Lord Cullen asked you about the difference in weapons. Has this feature, emphasing the different constituencies of a propellant or a bullet, got anything to do with the difference between individual's firing a gun quite apart from the difference in the weapon? - Yes.

So we have a number of variable features here, all coming together? - Yes. The lower the amount of propellant you have the less recoil you have from the gun, therefore it is easier to handle.

Yes? - Similarly, the lower level of powder you may have the lower the bullet velocity.

Your report indicates that the use of a fast or slow burning powder and the quantity thereof can have something to do with the velocity of the bullet?/

bullet? - Yes.

Can you tell us about that? - If you have a faster burning powder and maybe the cartridge case will take four grains, and that would give you a standard velocity for a particular bullet, there is still plenty of room for you to put in five grains of powder, and that will give you greater velocity, but it also increases the pressure within the barrel when the cartridge is fired.

Yes? - If you put in too much powder you will blow the fiream up.

If you have a particularly strong hand and recoil doesn't matter very much -- is that a sensible statement? - Yes, it is.

-- -- could there be an advantage in getting a greater velocity for your round emerging from the gun? Would it possibly improve your accuracy? - This is in the realms of target shooting, which is somewhat outwith my sphere. Theoretically you can, because you would have a higher velocity, and the time it takes for the bullet to travel from leaving the weapon to arriving at the target is less, therefore it is less affected by wind and atmospheric conditions.

You go on to deal with bullet weight and shape. Can you tell us the significance of this? - Although within a particular calibre you have an exact size or diameter of bullet you can have a variety of different shapes or constructions within that.

Yes? - You have the round nosed solid bullet, which is like <u>this</u>, which is a general purpose bullet.

Yes? - Over and above that you have a hollow or soft point nose cartridge, which is primarily used for hunting purposes, which is designed to mushroom or expand on impact, and therefore increasing the "shocking" power on a live target.

Yes? - <u>This</u> is a standard revolver cartridge, a .44 Magnum. It has a soft nose and an exposed lead point to it, but in the centre of the lead/

lead nose is a hollow point; the idea being that when it hits something the front of it expands until you have a mushroom shape travelling forward.

And there was a third type, I think? - Yes, a semi-wadcutter, primarily used for target shooting.

Yes? - You can either have it as a complete flattened nose and then a shoulder further down the cartridge, or a full wadcutter, which has a flat front to the bullet. If you fire it at a target it cuts a clear hole in the target.

It is particularly for target shooting? - Yes.

You have jumped ahead of me a little bit. If you go back to page 7, you were talking about bullet weight and shape? - Yes. Bullet weight and shape are also significant factors in velocity and range: lighter weight bullets will have a higher velocity when compared with a heavy bullet, both being fired by the same make/quantity of propellant. Bullet shape also affects performance, especially over long distances, and in general the flatter the nose shape the more air resistance will slow its progress.

Do you know whether the solid rather than the hollow point bullet you have just described to us is better for certain target shooting purposes, or is that outwith your range of expertise? - Theoretically I cannot think of any difference, but again it is not something I have any experience of.

So the hollow nose you would not expect to have any particular effect on performance? - No.

I take it there may be others who have experience in target shooting who may be able to express a more informed opinion than yourself? - Yes.

Moving on, I think you deal in general terms before we get to the particular types of ammunition with the various types of construction?
- Yes. Bullet construction can range from simple solid lead, through partially copper/nickel- jacketed with lead core, hollow point with and without/

without jacketing, soft point jacketed, to full metal jacket with various core centres.

Yes? - Soft point jacketed bullets tend to be more for rifles, and again it has a metal jacket, but with a soft lead nose to it, and a full metal jacket is this type of ammunition here, where the bullet is contained within a copper jacket.

That is fully coated? - Yes.

If we look perhaps at the ammunition which Hamilton had, we know he had some of the rounded solid nosed type, and it was all full metal jacket. Have you an example of it? - Yes.

I think in particular he used full metal jacket round nosed Norma, and he also had Jarko and Winchester? - These are different makes of ammunition. There would not be much difference other than bullet weight.

He could be experimenting with different types of 9 mm in the way you have indicated a person who makes his own might experiment with different weights of powder and so on? - Yes. It is definitely possible for a person who does not want to reload to experiment with different makes of ammunition which he thinks is best for him.

Could the powder as well as the bullet be different makes? - Yes.

Have you got there a round nosed 9 mm? - Yes.

And that is full metal jacket? - Yes.

He also had full metal jacket semi-wadcutters? - There is a range of semi-wadcutter types within the 9 mm, which has a flattened nose cone and a more distinct aperture in the muzzle of the cartridge.

Is that full metal jacket? - Yes.

Does that cover the top as well? - Yes.

And he also had metal jacket soft nosed hollow band in a number of makes, Federal, Norma and Winchester?/

Winchester? - I don't have an example of that, a 9 mm.

Normally Winchesters were .357? - The nearest thing I have to that is this, a .44 Magnum revolver cartridge, which is exactly the same, although bigger. In this case you have the copper jacket extending most of the way up the bullet, allowing the exposed lead nose cone -- in the centre of that nose cone there is the hollow point.

Now,/

2.30 p.m.

Now, it was described by Mr. Chisholm as a soft nose hollow point; is that the same thing? - That is the saying the same thing.....no, a hollow point means it has an actual cavity in the centre of the point, a soft point means that it has a soft lead exposure on the front so if you have a soft nose hollow point you have both which is what I had here.

Now, if we look at the purpose that each of these is best for or designed for can you help us first of all with the round solid nose, that is the first you defined? - It is a general purpose bullet for any purpose whatsoever, it will adequately take care of any situation.

Would it be appropriate to use for target shooting? - Yes, you could use it for target shooting.

Do you know if it is normally used for target shooting or is that outwith your knowledge? - I think it is outwith my experience.

The second one is hollow or soft point; what is that designed for? - This is primarily for hunting purposes and the idea is to increase the nose cone on impact, therefore to increase the shocking power on live targets.

Shocking power might mean a number of things; what do you mean by increase the shocking power? - The felt impact of the bullet; one of the problems that is encountered within ammunition, particularly against the likes of a human target, is over-penetration; in other words, the bullet hits the body and goes right through and exits the other side and if you are intent on shooting a person any energy, once the bullet is clear of the target it is wasted; you can also cause further damage to somebody else further down the line so the idea of a hollow point soft nose ammunition is to expend all the energy of the bullet within the body and thus prevent it exiting.

Does that mean as the bullet expands in the body the person has a greater resistance to it? - Yes.

It/

It actually perhaps is causing movements of the tissue which is accumulating and resisting the bullet? - Yes.

Is there also a shocking effect on the nervous system quite apart from the physical feeling of shock? - Yes.

Is it right to say that this is not factually understood exactly how this works or do you know? - I have read medical books on gunshot wounds and the shocking effect varies intensely on a person being shot and what their attitude is at that particular time.

Now, there has been some reference in the Inquiry to suggest a comparison between that type of bullet and a bullet known as a dumdum bullet; is there any relationship? - You used dumdum bullets or lead bullets designed for rifles; the manufacturer of the dumdum is in India and what they used to do is cut a cross in the nose cone of the bullet and when the bullet hit a person the cross causes the bullet to fragment more easily and instead of having one bullet hole in you you had one entry hole and several fragments dispersed through your body which made medical help much more difficult. This was banned in 1989 by the NATO convention for military use.

But does that mean that you can't use a hollow or soft point bullet such as you have described for military use? - That is correct.

But you can use it for other use? - Yes, you can.

For example, do the police use them? - They do.

Why do the police use these bullets? - There are three reasons for this -- because they increase the shocking power you have more likelihood of causing an injury which will incapacitate you.

You stop your target as quickly as you can? - Yes, secondly, as I mentioned earlier there is less likelihood of over-penetration, probably more common in America where police would shoot a criminal and it might be in the streets and you/

you don't want the bullet to penetrate and go into somebody further down the road and lastly there is less likelihood that a hollow point ammunition would ricochet, it is more likely to hit a hard surface and break up.

Is it also specifically used for hunting purposes; I think you have already said that? - Yes.

Now, would it be appropriate to describe that as a bullet designed to cause the greatest injury? - Yes, in terms of bullet design that is the one that is probably designed to cause the greatest injury.

Thirdly, you mentioned a semi-wadcutter and you had explained to us already what that is for; that allows a clean mark to be cut on the target? - That is correct, yes.

The last point you make in this section is bullet weights vary substantially, even within the same calibre and you give us an example of the variation; can you explain that to us? - Basically this depends on the bullet construction and also the bullet length; it boils down to the fine tuning, if you want a specific weapon.

Could the variation be as much as almost 100%? - Yes, it can.

BY LORD CULLEN: Are grains always the same size? - Grains?

The bullet weights you are describing are between such and such number of grains? - Yes.

Are grains always the same size? - It is a standard weight.

EXAMINATION CONTINUED BY MR. BONOMY: I think the other way in which to talk about grains is powder? - Yes.

They can be all different? - You have different sizes of grains and powder, that is like fragments of powder whereas I am talking about grains weight.

In/

In relation to powders are we talking about grains which are always the same size and weight or is there a difference? - There is differences -- within particular powders there are differences.

Now, can I take you to the next step which is the re-loading of which we have heard a bit in the Inquiry; can you tell me what you need to re-load your own? - This probably depends how safe you want to be but you need a cartridge case, a primer cap, a propellant of some description and a bullet, that is all you need and you can manufacture your own ammunition.

Do you not need any tools? - No, if it is a fired cartridge case you need a small nail to punch out the fired primer cap at the centre, the rest can be done manually using guesswork and crossed fingers.

If you want to be safe how do you do that? - There is re-loading equipment which you can get and it takes out your primer cap, it will insert a new primer cap, it will weigh out the appropriate amount of powder, the exact amount of powder, load it into the cartridge and seek the bullet on top of that; it is a sort of manual operation.

But do you have to put something in to do something with the machine? - It depends on the class of machine; you can get some that are semi-automatic, you pull handles.

It is a self-loading reloader? - Yes, basically.

Is it expensive to do this or to acquire the equipment for that? - Not really, we are looking at probably £200 or thereabouts.

A significant reduction in cost if you shoot a lot? - Yes, exactly; not only do you have a reduction in the cost but you could even tune your cartridge to the exact specification you want and you can guarantee the accuracy and similarity of each cartridge.

Does this capacity for re-using cartridges cases have any significance in relation to/

to criminal activities? - Yes, I have come across a number of occasions where criminals have re-loaded ammunition, not using necessarily the correct component parts; for instance, there have been a number of occasions that I can think of where they have used shotgun powder to load into a pistol cartridge and it works, not efficiently but it does work.

Have you in your police experience come across much in the way of re-loaded ammunition? - In crime not really; in circumstances where there is maybe technical offences and somebody has been charged with possession of a particular item which he hasn't legal authority for and the police take possession of other firearm items which he has I have come across a number of rounds which have been re-loaded in these circumstances.

On page 9 you give us an indication of the cost price of various pieces to make up a round; can you give us some information on that? - The cost obviously varies depending on what you are actually buying but an unfired bullet will cost between £5 to £10 per 100, the brass cases are £10 to £15 per 100 but if they are previously fired cartridge cases if they are bought in bulk they can be much cheaper; the primers can be bought for £2 per 100 and smokeless powder is £15 to £20 per
16 ozs. and that is enough to load 1000 to 1500 pistol cartridges, depending what the calibre is.

And I think you give us some information on the cost of commercially manufactured ammunition? - It differs according to the grade but between £10 to £30 per 100; it can be more for less common calibres and less for calibres of standard ammunition; if you wanted top grade ammunition it would be a lot more expensive than manufactured commercially.

What is a blank cartridge? - A blank cartridge is one in which you have all the components except the bullet; there are certain blank cartridges which are designed to be more noisy than others but basically it is just a cartridge case, a primer cap and a compound which ignites and gives a bang.

And a spray of powder? - A spray of powder?/

powder?

Smoke? - Yes, smoke -- there is sometimes a sealing cap which might be a bit of plastic or possibly a round card and sometimes the cartridge case is crimped over and it contains an explosive mixture within the cartridge.

The card pops out? - Yes.

It could give somebody a sore.....? - Not really, the card is usually very thin and it is probably burnt or destroyed as it comes up the barrel.

What is the difference between that and what you have done there to make the cartridges inert? - What I have done is I have a synthetic bullet and I have taken a live cartridge and extracted the bullet, taken out the powder and burnt it; I have then that fired primer cap which is in the centre of the cartridge so it is now inert.

So there is no primer? - There is no primer, there is no propellant.

The next section deals with magazines and variations in capacity; we have really dealt with that as we were going along except with the exception of cost; what did you find there? - "The costs of additional large capacity magazines are in the rough area of £10 to £25".

Just to emphasise, no matter how many magazines you acquire you don't need a firearms certificate? - That is correct, the magazine which I bought, I think it is £15.60 that it cost me but I could get it also in stainless steel for slightly more than that.

On page 10 you deal with power and penetration of ammunition; if you look at the second paragraph you say "Factors which affect this are" and if you go down to the second last line you say "The targets expand all their energy" -- should that be "expend"? - Yes, that should be expend.

Subject to that can I take it that this is an accurate reflection over the next two and a half, nearly three pages of your experience and findings/

findings in relation to the power and penetration of various types of ammunition? - That is correct.

Now, you have said that there were various theories in calculation and you have shown the calculations which you have used and you have indicated these on page 11, the various findings you made for types of ammunition; what is it you are telling us there? - The assessments that I have made for power is kinetic energy, that is the moving energy of the projectile; it is not an ideal way of assessing the factors of stopping power because a lot depends on the bullet shape and velocity but it is the only one which is easily calculable and not readily open to question.

Can we draw any conclusions from this about the sort of scale or hierarchy of the power and penetration of certain types of ammunition? - Yes, the higher the kinetic energy the more impact it will have on you, the more energy it will expend on you when it hits you.

So, for example, we find by far the lightest in terms of impact as in relation to .22 ammunition? - That is correct.

And it is far and away lighter in impact than any other type of ammunition you mention there? - Yes, but there are scales within that, there are other calibres, it is for grading upwards.

What do you mean by that? - .22 is the smallest normal calibre you will find, that is the smallest kinetic energy you find but you go up to .22 calibre and then .32 calibre and as you go up in calibre you go up in bullet weight and bullet velocity and each of these affects the kinetic energy left.

So it is almost commonsense in spite of the degrees of scientific calculations, is that right? - It is very simplistic but yes, it is the easiest way of dealing with the subject.

I didn't mean you were using commonsense, what I meant to say was by just exercising commonsense you can expect to come to more or less the conclusions you have reached? - Yes.

You/

You can understand why I am exploring that a bit between the kinetic energy relating to .22 ammunition and the rest? - Yes, that is possibly a fault on my part in that I haven't established a big enough table for you to examine.

It is important that we don't try to strike a conclusion other than what is here so you are saying that the next one up so far as kinetic energy is concerned is .9 millimetres? - That is correct.

Now, in between the 340 foot pounds you find in the 9 millimetre and the 90 foot pounds you find in the .22 are there a number of others? - Yes.

That we should really be paying attention to? - Yes, there are a number of others which are available but not necessarily commonly used.

But/

But there are others which are available but not necessarily commonly used. As I say, above the .22 you have the .25 and then you get the .32 above that. These are the most common calibres between the .22 and the 9mm. But you can also get a 8mm French ammunition which is comparatively weak.

Now, do I take it there would be stages between 90 and 340 relating to ammunition which is not in as common use as .22 and 9mm? - That is correct.

The other one you highlighted which is important for investigation in this Inquiry is the .357 for revolver which has a significantly greater kinetic energy than the 9mm? - That is correct.

Are these again of similar size? - Yes.

Why is the kinetic energy so much greater for the revolver ammunition? - Because of velocity. The calculation of this figure depends heavily on the velocity. The higher the velocity the much greater the kinetic energy.

Is that because of the nature of the round used with the revolver or simply to do with the fact it has come from a revolver? - No, it is due to the size of the cartridge itself. This is a 9mm round which I spoke about earlier and this is a .357 Magnum round. Clearly the cartridge case will hold more powder, and that additional powder will fire the bullet out at a much higher velocity.

I perhaps put the question wrongly earlier. I suggested to you that the 9mm and the .357 were of similar dimension? - That's the bullet.

The bullets are of similar dimension? - Yes.

But you are showing us the .357 is propelled from a larger cartridge because it has a greater volume of powder? - That is correct.

I think the highest one you recorded was the kinetic energy associated with a .303 rifle cartridge?/

cartridge? - Yes.

2,400 ft/lbs? - Yes. I just took that as an example probably because it is the round the majority of people know about.

Is that one related to the 2.67? - It is very similar. The 303 was the British Army rifle up until the 50s, the First and Second World War rifle. The 308 is the successor to that round and it has a comparable kinetic energy level.

You go on to deal with penetration at another point. In addition to the power of the bullet there will be other factors to be taken account of in relation to penetration. Now, what are these? - Basically the target, the bullet profile and its construction, one problem being if you are firing at the human body is what part it actually hits. If it hits a large bone it will tend more often to deform and be deflected and remain within the body. If it doesn't hit bone and only penetrates tissue there is the greater likelihood of it transversing the body and coming out of the other side. Again on the bullet profile, as I mentioned earlier, you have the hollow point which mushrooms, and this is more likely to stop within the body than the solid metal jacketed round.

Are you in a position to tell us anything about the likelihood of more serious injury or death resulting from the use of larger ammunition or again is that simply a matter of commonsense? - There is a lot of argument regarding this as to whether or not the larger heavier bullet is in fact more potent, shall we say, than a smaller bullet. During the 1980s the US Army forces had a large exercise and debate on whether or not the .45 calibre ammunition which they used up to then was in fact the optimum or whether they should reduce that in size to 9mm which is what the rest of the world basically used. In 1988 they decided to reduce the calibre to the 9mm cartridge yet all American gun magazines still complain, you get people taking both sides, and there are a lot of opinions still consider that the larger the bullet the better the impact. It is arguable. To my way of thinking it has more to do with velocity rather than bullet size.

Why/

Why did the Americans reduce the calibre to 9mm? - A it falls into line with the rest of the world. It means you carry a smaller bullet instead of the larger bullet, and this is because in Army service they are looking for somebody having to carry 200 rounds of ammunition or more and therefore it is easier to transport, to carry a smaller cartridge than it is to carry a larger cartridge.

But the suggestion wasn't it would cause more damage to use the smaller kind of ammunition? - No. There is a big argument.

Can you show us the difference between a 9mm round and a .22 round that you have? - (Demonstrates). This is the 9mm round. The .22 is the small fiddly one.

It strikes me as obvious the one in your right hand is going to cause a lot more damage than the one in your left hand, or at least has the potential for much more damage. Is that far too simple and naive? - It is more or less correct, but both will cause fatal injury.

Oh, I appreciate they are equally capable of causing fatality. I am just looking at the likelihood of causing serious injury or death. Isn't the likelihood far greater the bigger the ammunition used? - Not directly.

Assuming you are firing at the same velocity? - If you are firing at the same velocity, yes, the bigger the bullet, yes.

You have given us an example I think of the .22 calibre soft lead bullet passing through the chest without striking anything, killing somebody, and becoming embedded in a door? - Yes.

And a much larger cartridge being shot at somebody and getting trapped in the clothing? - That is correct.

These are extreme examples? - They are, yes.

But they are examples? - They are practical examples, yes.

I/

I think I have asked you enough already about speed of firing which is in fact the next subject and therefore I will take you on to the following subject, accuracy and effective distances. What again are the main component parts of accuracy? - Well, accuracy in firing weapons is more dependent on the user than the actual firing itself. Accuracy is governed by barrel length within limitations and the better shooting position which you have, i.e., with a hand held revolver aimed at a target you have tremours in the hand, variations that can happen with someone; whereas if you have a long barrelled rifle and you are lying down in a shooting position you are in a much better and much more stable base on which to base your accuracy.

Is there a significant difference between the Smith and Wesson revolver and the Browning pistol in weight? In other words, is one easier to hold and fire than the other? - I would say the revolver is slightly heavier than the pistol.

But presumably you can get that the other way round depending on size? - Yes, you can.

We have had it suggested in the Inquiry so far that if you are doing target shooting with a pistol you can shoot at distances up to 100 yards. I think you mentioned the regular or effective distance as being 50 yards with a handgun? - That is a range which I would be happier to accept as the effective range for a handgun, unless you are a proficient target shooter, and if you are proficit at it you can shoot a lot further than that, even a lot further than 100 yards.

We have heard evidence about regular distances at which shooting is done which is less than 100 yards but up to 100 yards has been suggested for handgun target shooting. Can you tell us.....? - That's not within my experience.

What you have told us is the average theoretical maximum length you can fire these various types of ammunition? - That is correct.

And they are very significant distances? - That is a feature of a handgun particularly that most people just don't realise, how far the bullet will actually travel. The .22 rifle cartridge, the small/

small cartridge, will travel 1500 yards. The .357 Magnum cartridge, the bigger heavier cartridge, will travel up to 2,000 yards. The same with the 9mm, it will travel up to 1900 yards.

And with rifles they would travel even further? - The likes of the cartridge for the American one certainly will travel something like well over two miles.

What is that? - The 30/06. I would say to reach these maximum ranges the weapon has to be cocked at an angle upwards. You don't just hold the weapon straight and fire the bullet out horizontally and it will travel that distance; it has to be at roughly a 30 degree angle and upwards to reach that range.

Can I move on. I asked you earlier on to show us how you immobilise the gun that we had at the very beginning? - The single shot pistol.

The single shot pistol. I think you better look at the issue in relation to the self-loading pistol and the revolver, in whichever order you think appropriate. Could you demonstrate again for me with these weapons? - There is a variety of ways in which you can strip a pistol. They are all more or less designed they can actually field strip for cleaning purposes and they can be stripped without the use of specialists.

What does "field strip" mean? - Taking down so that the major parts are available for cleaning. This particular weapon, the Browning, you slide the lock back in this positiion here and take down the latch and pull it out the side of the weapon (demonstrates), and then you can bring down the latch itself.

Can any part be used on its own? - No. In this condition the weapon is totally safe.

That just took two or three seconds again? - That is with that particular weapon which is comparatively easy. But the majority of them will not take much longer than that.

Put that one back together again.....

BY/

BY LORD CULLEN: Before we go further with the reolver, you say others will take more effort, so to speak. How complicated an exercise does it become if you are trying to dismantle the same types of pistol? - The majority would be comparatively easy. I can't tell you exactly. There are so many different ways. I actually have a booklet on the dismantling of firearms and it lists 400 different ways of doing it. There are other specific methods to do it.

This can be done by the user who knows what he is doing? - By the user who knows what he is doing. He would be able to do this.

Is there any risk some of the parts might be -- some of them are quite small. Could they be lost? - Many of these particular parts are quite small and therefore may be lost. Along the top of the slide section there is a recoil spring and if that comes out it will twang up to the roof, so I am not taking it out just now. You have to take it out very carefully. The same, there is a firing pin in this particular model at the back here, and in this one it comes out comparatively easily, but some firing pins require specialised tools to agitate the pin out of the slide itself.

One other point: is there any risk of degradation if the operation has been repeated? - There shouldn't really be, no.

EXAMINATION CONTINUED BY MR. BONOMY: Would constant removal of the firing pin cause degradation? - It shouldn't, no.

Can we move on to the revolver now? - There are three features of a revolver. To start with the solid frame revolver, the cylinder can be broken in this way (demonstrates). The spring latch is pressing up the axis pin and the cylinder then slides out the side of the weapon. In these circumstances the two parts cannot be fired; the weapon is totally safe. This is a simple way of doing it with this particular weapon? - (Demonstrates).

Just for the notes, you have done it again in a matter of a second? - Yes, that is correct. Re-assembly is equally easy. The hinged frame/

frame revolver is slightly more complicated and requires the use of a screwdriver. You have to take out or you have to loosen one screw, press a little lever, and the cylinder is released (demonstrates).

That took a bit longer? - It does, yes.

But not even half a minute? - That is correct.

Can either part be used on its own? - No, they cannot.

Could you put it back again please. Is that going to affect the safety of the weapon or the accuracy of it if you do it regularly? - No, it will not. The frame or swing-out cylinder once again is done with a screwdriver (demonstrates). The cylinder slides out from the front quite simply. It is only one screw that you have to loosen to do that.

Can either part operate independently of the other? - No, it cannot.

That took almost the time of the previous one? - Exactly, yes. In this one you do have a fairly small screw and you obviously have to put it back in again.

But you have still got it? - I have still got it, yes.

You mentioned the firing pin. That was in relation to the pistol. Is there such a thing in a revolver? - Yes, there is. There is a firing pin here on the forward nose of the hammer. There is a small index pin holding that short hammer (demonstrates).

Is that a realistic way to deactivate the weapon? - Practically, no.

Why? - You would require a specialist. You would require a hammer and a drift -- plus the fact you would not necessarily go back in the same way all the time. The removal of the cylinder is a much simpler and easier way of doing it.

On/

3.10 p.m.

On page 15 you mention a concept called barrel blocks? - Yes.

What is a barrel block? - You can get barrel blocks just now for shotguns, particularly 12 bore shotguns and if I use a self-loading pistol what it is actually doing it is like a cartridge that fits into a chamber, it is just locked in place and once it is in place you can't take it out, similarly you can't chamber the ammunition; I couldn't trace anybody who makes that sort of thing for a pistol or for a revolver but I am in no doubt it should be quite simple to manufacture like one part of the rod which fits into the chamber, the chamber closes, the second part of the long rod into the front of the barrel locking the two parts together, that seals the uppermost chamber, it seals the barrel if there is a locking device at the muzzle end, it can't be taken out; to me it is a logical concept but I haven't as yet actually come across somebody actually manufacturing something like that.

This is a form of security which would enable a person to ensure that someone else wouldn't have access to his weapon? - Yes, totally.

It is really not designed to prevent someone who has his weapon or who wants to make use of his own weapon from using it without going to the particular lengths to get the two parts which might be being kept in separate places? - That is correct.

So it is for security and to prevent third party intervention? - Correct.

There are a lot of pistols and revolvers as you have explained to us; if single fire shooting or a single shot weapon was a matter to be considered by the Inquiry would there be any way of converting, if we take first of all the pistol, so that it could only be firing a single shot? - Yes, there are ways of doing this; it would not be able to be done permanently or to be so permanent it couldn't be undone; what I think here is that there are three methods by which I could see that somebody would be able to convert a.....a gunsmith particularly/

particularly would be able to convert a semi-automatic weapon into a single shot weapon; if I use this.

A, B and C? - Yes.

If you just explain that with reference to the weapon? - Well, in this type A the magazine would, in fact, be basically welded in place and this would be that you couldn't remove the magazine; the top of the magazine would also be fixed so it would act purely as a loading plate; you would, in fact, be able to pull the slide back, physically put one cartridge into the chamber or on to the loading platform and then allow it to be chambered and fired, the fired cartridge case will be ejected but since there is no magazine it would be a single shot pistol.

You have worked to some extent in consultation with a gunsmith on how this may be done? - Yes, Mr. Alex Dalgleish of Eaglesham.

He will be able to tell us how it could be done exactly? - Yes, I could tell you theoretically on how it is done but it is his business to adapt or repair firearms.

From your discussions with him did you mean that this is as a means of ensuring that the gun can only for the future ever be used to fire in a single shot? - It will not be permanent because of the features.....the measures I proposed here wouldn't be permanent, they could be overcome comparatively simply particularly because the magazine itself would be destroyed; at present what I am suggesting that this magazine will be welded so the pins are in place; it would be comparatively simple because the magazine has this seal to literally cut it out and file it out and if you have already closed off the magazine you put a clean new magazine back in place.

Would the same apply to Hamilton's gun that had the safety mechanism removed when the magazine was out of place; would you still need to weld the magazine into position? - Yes, you would.

There is no other way of doing it by just/

just making the butt of that gun solid and somehow or other converting the top so you could still have to put in individual bullets? - Well, by doing that all I am doing is actually replacing the magazine with a solid substitute.

Is that any more difficult to take out? - No, not really, you are going to have to weld it in place and the welder would be readily experienced anyway no matter where you are and the pin would be through the hand grip and this is going to be accessible.

You can't envisage some other sort of substance poured or somehow or other put into that where that will adhere it to the inside of the butt so it can't be removed? - I can't see that to be the case because again what you are talking about here is a pistol where the magazine was fixed in place; there are a large number of weapons of which you have to take the magazine out of the weapon to repair them; there are component parts within the butt itself so this is underneath the top of the butt and you would require to have the magazine removed to actually repair the weapon.

I will come to that in a second but if we just remain with this, is it clear that it is not necessary to have the magazine inside the butt as long as something else is inside the butt? - Yes.

Something in the event that prevents a magazine loaded being put into the butt? - Yes.

Now, on the subject then of a weapon which requires the removal of the magazine for certain purposes how would you de-activate.....? - This could be done by literally cutting the magazine into three sections; if you cut out the middle section you leave the loading platform at the top and this could be pinned in place, it must be pinned in place or it be removed by a gunsmith but the basic magazine, this section down here, would be welded and pinned into the position of the plate.

It would have to be removable? - No, the case wouldn't be removable -- there would be cut-outs in the butt grip itself.

Would that be as easily overcome as securing/

securing the whole magazine in place? - I wouldn't say easy but knowing the ingenuity by which criminals exercise their minds there would be no problem.

There is a third one considered? - It is a self-loading pistol which has an integral magazine loaded at the top, you would have to have a blanking plate fitted within that to restrict the magazine case.

Would that be easily overcome like the others? - Probably slightly more difficult but yes, I still think it could be done.

You have said something on page 17 about weapons becoming more dangerous or as a result of doing this to them? - Yes, in this particular weapon here you have what is known as a holding open device; this slide is held back allowing you access to the chamber so you can do this, holding the weapon with one hand and loading the cartridge with your free hand and that would allow you to do it safely but there is a large number of semi-automatic weapons which don't have this device; if you had a weapon without that you would have to hold the slide back which, as I am taking this catch off and holding it back with the fingers of my right hand and I try to load it with my free hand -- there is a lot of sharp edges on this particular weapon and on others and I can well envisage a situation where if you are in the process of loading it your fingers slip off the top and the slide runs forward and it will chamber that round and you are not holding the weapon properly and it would be instinctive to grab whatever you could reach with your free fingers and that may well be the trigger.

There is a device to enable you to do that without your elaborate position of your hand? - It is the holding pin device.

Now, in 1988 when there were restrictions imposed on rifles and shotguns a similar problem arose and means were devised I think at that time to reduce the capacity of weapons? - That is correct.

Were these means different from the type of means that we are looking at in relation to the pistol?/

pistol? - Yes, there were two.....the magazines you find in these weapons are slightly different from that which you find in pistols and it is easier in some ways to actually pin them in place, more so than you can with a pistol but the availability of the magazine part is just not there so you can't destroy the magazine in taking it out or converting a shotgun or converting a rifle.

What do you mean "the availability is not there"? - You can't get the magazine out as easily as you could with the likes of a pistol so you have to retain the magazine in a possibly useful form.

Is it simply because they are no longer made because of the results of what happened in 1988? - Possibly, yes.

Let us assume for the moment that this magazine was outlawed in some way and was not manufactured any more, let's take that out the frame as an issue? - Yes.

And assume that we are in the same position, that it is equally difficult to get a replacement magazine for a pistol as it is for a converted rifle? - Then yes, you would be able to pin or weld the magazine in a self-loading pistol with as much security and permanency as you would with a shotgun or rifle under the 1988 regulations.

Are you saying that to some extent the availability of magazines means that what we are looking at here for converting this to a single shot would make a gun as secure from re-conversion as rifles and shotguns are which have been converted since 1988? - Basically, yes.

Which/

Which means you are being critical as a means to converting a weapon, rifles, shotguns after 1988 in a sense? - Yes.

Can we look at the revolver and can you tell me how one might convert a revolver to a single shot? - Again under the 1988 Regulations there are two ways in which they recommend deactivation which can be amended to restrict revolvers to one shot and that is to weld five rods within five of the chambers and pin these welded rods in place; that would leave you one blank chamber; the other method suggested is that the walls between each chamber be milled out so you have no chamber at all but if you convert this to a single shot you mill out all the walls leaving one chamber, you can additionally put a steel pin into the open space where the chambers used to be; of the two this is the one which I think is the more secure and the less likely to be reconverted but I have some severe reservations regarding this method because of the additional stress that that might put on the single remaining chamber when that is being fired; you would destroy the integral strength of the whole cylinder by milling out some of the wall and whether this is a problem that might occur with repeated firings on that one remaining chamber I am not sure; that would have to be looked at very carefully.

Would reactivation be more difficult with a revolver than a pistol or are we talking about the same degree of difficulty as with a pistol? - I would have a thought a revolver perhaps would be more difficult to reconvert than a pistol.

Mr. Dalgleish would perhaps help us more on that? - Yes.

You said that in relation to revolvers that was following specification for deactivation of rifles following the firearms amendment in 1988? - Yes.

In what circumstances did the rules come in for deactivation of revolvers? - When the 1988 Act was introduced the Home Office produced specifications or guidelines as to what has to be done with a revolver so it would meet the criteria laid down to become within the deactivated scope in Section 8.

Why/

Why did deactivation become statutory in 1988, do you know? - No, that is a policy question.

And was there also provision about deactivating pistols? - Yes.

Have you been following the guidance in relation to deactivation when you gave us the examples you described for deactivation in the sense of making them a single shot? - Yes, I would say that the original specifications which came out in 1989 have not been found to be comprehensive enough and new specifications were issued in October 1995 but these new specifications do not attempt any deactivation of the magazine of a self-loading pistol.

But an additional feature when you are actually deactivating a weapon completely is that it can't fire at all? - Yes.

So all the chambers of the revolver are blocked or cut through? - Yes.

In relation to a pistol something is done so it can't fire at all; now, did that make a difference when it comes to the ease with which it might be reactivated; in other words, reactivated in the sense of converting it back from a single shot to multi shot? - Deactivation procedures take in a lot more than the major component parts of a firearm; for instance, the butt is solid, blocked and welded in place, the firing pins are taken out or ground off, various other parts have to be immobilised or not totally destroyed to ensure that it can't be readily used.

So it is a lot more difficult to get it to fire at all than it is to convert it back from single shot to multi shot? - Yes.

3.30 p.m.

I don't want to spend any material time on rifles but I do want just to ask you about one matter. Self-loading rifles were largely outlawed by the Act of 1988? - The '88 Act, yes.

With the exception perhaps of one type? - With the exception of the .22 rim fire calibre.

And indeed one action type that you have described in your report? - The lever action rifle.

Do you have a lever action rifle there? - Yes, I do.

Can you tell us what lever action means? - Lever action is one in which you have a tubular magazine underneath the barrell and you load the cartridges into that magazine and there is a mechanical operation by flicking a lever, this allows the last cartridge, the loaded cartridge, to be put in position to be chambered by the lever moving forward. It pushes the cartridge into the chamber and at the same time it cocks the hammer and makes the rifle ready to fire.

So it is not the process of firing the trigger that makes that reload it it is the operation of the lever? - That is correct. If I pulled the trigger just now and let the hammer run forward of that it would fire that cartridge. (Demonstrates). This is still safe in that condition, it will not fire out. If there is some rounds in the magazine I would then have to move the lever forward and that would eject the fired round and bring the next live round up ready to be thrust forward into the chamber.

That is different from the mechanism of a self-loading pistol? - Yes.

In the sense it is the pulling of the trigger that operates the self-loading pistol whereas here you have actually to engage each round by moving a lever? - That is correct.

I want to move on to your supplementary report. In this connection I am interested in the question of identifying firearms and magazines. Now,/

Now, does every firearm have a unique registration number, like a motor car? - On the weapon itself, no. No serial number can be considered unique. Individual manufacturers have their own sequence of coding when stamping their serial number on their firearms. It usually takes the form of a series of numbers with or without a letter involved. They generally aren't considered unique to that manufacturer; other manufacturers might use the same sequence if it is only numbers.

By chance? - Just by chance, yes. Unfortunately there is also, there are certain firearms manufacturing businesses is Eastern countries where they will copy a current firearm and they will use the same serial numbers on them all.

And they might come into this country? - Yes, it is feasible. I am not saying it does happen but I don't see any reason, there is nothing to stop it.

At the moment we are relying on a number a manufacturer puts on the gun? - Yes.

And are you aware of any examples where, apart from countries you mentioned, there have been guns found carrying identical numbers? - Yes. This is particularly relatively old firearms, those in the early 1990s, especially in Spain and Belgium. In fact, I can remember examining two Spanish guns, self-loading pistols, identical externally, and there is no manufacturer's make or name on the weapon at all, and they both bore the same serial number.

So, for example, there are weapons like that surfacing in this country? - Yes.

Is there any reason why guns shouldn't be registered in the same way and some mark put on them that makes them uniquely identifiable? - That could be done within the United Kingdom. Each firearm could be stamped with its own number and any imported firearm thereafter would require to be uniquely stamped. There is no reason why it shouldn't be done rather than cost and time.

It is done with all the foreign cars we import -- in fact they are probably all nearly foreign/

foreign -- but they have all got a unique registration number, haven't they? - Yes, they have.

And uniquely identifiable engine numbers and chassis numbers; is that right? - Yes.

Is there anything about the structure and mechanism of a gun that means you can't actually mark anything on it and give it a unique identification? - None whatsoever. I would say in criminal use serial numbers are removed regularly. The current serial numbers have been filed and ground off of them.

I appreciate every little may not take us very far but it may make some progress? - Yes. The other difficulty you may find with unique serial numbers on imported weapons, particularly those from the Eastern Block countries, they may be using the Cyrillic alphabet as well as ordinary numbers, and I am not good at Russian languages.

I take it quite apart from that question of how unique the number is, from what you have said guns usually have numbers? - Yes, the majority of modern weapons have a number. If you go back to the early 1900s you might find cheap ones don't have numbers.

As an example you can have two identical weapons surfacing that had identical numbers but no different manufacturer's name? - They had no name on them at all.

But identical numbers? - Yes, identical numbers and identical features.

Is it likely they were made by the same company? - I would say so, yes.

Is there any other way, apart from giving guns numbers, that one might think of identifying them? Is there any other accumulation of features you might regard which would be unique because of a combination of those is an effective way of retaining a record of the identity of a gun? - I would have to say Yes, there is a possibility of that. Although you might have more than one weapon with the same number it is unlikely that they will all/

all have identical features. If you were to classify first of all by serial number and then sub-divide that serial number by the type of weapon, you might find that if you have a pistol with the serial number 123, you also have a shotgun with the number 123, so there you have a pistol and a shotgun and they are obviously different. You could do that further by country of manufacture -- not necessarily the country of manufacture, but the country which has proofed the weapon since all weapons coming into this country has to be proofed by one of the recognised Proof Houses. You can take it further than the manufacturer's name and model. There are many features. You could actually incorporate that in a system for further sub-classifying the serial number which means you would then be able to identify one particular firearm.

Do magazines have numbers? - No, they do not. There is one exception which is the Luger pistol which again affects the value of the weapon: if that serial number doesn't match the rest of the weapon its value drops considerably.

If we can concentrate on handguns. Do magazines come in different forms or are they all like the ones we have looked at already? - They come in different forms. This is the standard box magazine. You also have what is known as a snail drum magazine. It is a sort of circular magazine that clips over the magazine feed and the contents are arranged round, and you can get up to 50 rounds in some of these magazines.

Do you also get magazines that fit somewhere else like the rifle you showed us, or is that just in the case of the rifle? - The cheaper magazines -- in this rifle here, the ones that fit under the barrel, are as far as I am aware exclusive to shotguns or rifles. You occasionally get a .22 calibre tubular magazine fits up the butt stock here rather than slung underneath the barrel. It is the same idea, it is just a different direction.

Can you imagine having a handgun with a unique magazine since that magazine would only fit that handgun, or is that an unrealistic proposition? - It is unrealistic.

Is there any reason why numbers can't somehow/

somehow or other, can't be put on magazines? - No, that is perfectly acceptable.

I suppose if you do have a Firearms Certificate and have a magazine that could provide effective control on the number of magazines you were allowed to hold? - If the magazine was classed as a component part of the firearm that could then be exhibited within the Firearm Certificate, and you will require when you get magazines, buy more, whatever good reason you have.....

Why is it not regarded as a component part of the firearm? - Because the 1968 Act didn't define what a component part was.

So it is a matter of opinion? - Up until 1988 it was a generally held opinion in Glasgow and Strathclyde that we would go to court for a prosecution on a magazine because we considered it was a component part of the firearm because without the magazine the firearm would not work in the manner it was designed. That was the usable definition which we applied in these days, it was a component part without which the weapon would not operate in the manner it was designed, and it was a component part in terms of Section 57. With the 1988 Act coming in, particularly Section 8 about de-activated weapons, where the magazine has not been altered in any form at all, there is no way we can actually tell that magazine is a component part of a genuine firearm or a de-activated firearm and we can therefore not in all confidence go to court and say it is a component part.

BY LORD CULLEN: The number of magazines in present circulation is presumably very large compared to the number of firearms? - I honestly couldn't quantify that. I would suspect that the majority of target shooters, which is the majority of pistol holders, would have more than one magazine, would have probably several. I think my colleague Mr. Dalglish will be able to give more information, it is more in his line to have that information.

EXAMINATION CONTINUED BY MR. BONOMY: It is no doubt my fault -- perhaps due to a Friday -- but what you were saying to us there about difficuties/

difficulties with the position after 1988.....? - Up to 1988 it was our considered opinion in the police that a magazine was a component part. I cannot think actually of any reported cases or Appeal cases on this subject. But with the introduction of the 1988 Act you are then allowed de-activated weapons in terms of Section 8 of that Act, and the de-activation guidelines specifically do not alter magazines in any firearm whatever. If a magazine was then brought to the police they would be hard pushed to know what it is -- so this is the legal position -- we cannot tell whether that magazine was a component part of a genuine firearm or a de-activated firearm and we then just said right, okay, we cannot -- since we cannot distinguish between the two we will not jump either way.

So you never went to court on it? - I understand that the Lothians and Borders Police in 1975 had a case involving a Sten gun magazine which they got a conviction on, but I haven't been able to trace it yet. I don't think it was ever challenged on Appeal.

What was the whole point of introducing this category of de-activated weapons? - That was a policy decision by the Government. I don't know.

Did it mean that a person could have a weapon without a Firearms Certificate? - Yes. Once a weapon has been de-activated to a certain standard it is then subject to a Proof House or one of the Proof Houses where they certify it and issue a written certificate identifying it by model and number that that weapon has been de-activated to Government standards and it is no longer classed as a firearm after that.

People hold things like Kalashnakov rifles with a de-activation certificate? - Oh, yes, sub-machineguns, machineguns, anything at all, as long as it has been de-activated to standard.

I suppose one problem about serial numbers on magazines might be seen to be guns with integral magazines. Presumably the integral magazines couldn't be removed from the guns? - Yes. The question there will be is it a weapon and therefore is the magazine a firearm.

Although/

Although you mentioned that is a problem when you have unique numbers for guns is it really seen as one? - If you are considering starting unique numbers on all existing weapons then it is not a problem.

You mentioned the other problem is weapons de-activated since 1988 will still have their magazines? - Yes, they have.

So if there was any thought given to numbers for the magazines thought would have to be given to how to deal with them? - Yes.

Adjourned until Monday, 24th June, 1996 at 10 a.m.

.....

NINETEENTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

MONDAY, 24th JUNE, 1996.

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).
C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational
Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

Page.

ALISTAIR PATON,
Cross-examined by Mr. Campbell 3
Cross-examined by Mr. Gibb 12
Re-examined by Mr. Bonomy 14

ALEXANDER WILLIAM DALGLEISH,
Examined by Mr. Bonomy 15
Cross-examined by Mr. Gibb 25

JAMES RICHARDSON,
Examined by Mr. Bonomy 27
Cross-examined by Mr. Gibb 52
Cross-examined by Mr. Taylor 54

MONDAY, 24th JUNE, 1996.

NINETEENTH DAY.

LORD CULLEN: Well, let's begin again. Now, Mr. Campbell, I think you were about to cross-examine?

MR. CAMPBELL: Thank you, sir. Good morning, Mr. Paton.

MR. PATON: Good morning.

CROSS-EXAMINED BY MR. CAMPBELL: Just a few fairly general questions, if I may? I think we know that legislation falls into at least two parts, one dealing with firearms and the other dealing with shotguns. Am I right in understanding that a shotgun is a deadly weapon? - Yes, it is.

So far as the ammunition for shotguns is concerned, namely shotgun cartridges, I take it they can be lethal as well? - Yes, they can; well, they are.

More generally, so far as blank rounds are concerned, which I take it could be used in either a shotgun or a firearm, can blank rounds cause physical injury? - The actual blank round itself could if the muzzle of the weapon firing it was held close to the skin or against somebody's head or face or into the eye, yes, it could cause injury. If you were firing let's say a blank round in a rifle, then that would be much more potent than a blank round in a pistol.

What does a blank round consist of? I know you went through this a little bit the other day, and it will be easier to follow if we see one? - Right -- I have here in my left hand -- this is a blank round, an 8 mm blank designed to be used in replica pistols, blank firing pistols, and basically it's the same as a standard round except it does not have a bullet in it. The amount of propellant in the blank round is considerably less than that in the live ammunition, and it will be slightly different in that the blank ammunition is designed for noise rather than propelling force.

This/

This may be outwith your expertise, but you mentioned the potential for harm if a blank round is used in a rifle? - Yes.

Could a blank round cause a fatal injury? - In a rifle, yes.

But not in any other form of weapon? - All I can say is I think it would be unlikely. I couldn't totally exclude it. It depends on the target, if you want, and where you are aiming at. If you put -- if you fire a blank round into somebody's eye, then you may do sufficient damage and the shot may kill, but I think it unlikely, but that is obviously more a medical question than I can directly answer.

Just so we understand a little bit more about how these things work, why is the use of a blank round in a rifle more harmful? - It will contain more propellant. In addition, it is unusual for civilians to fire blank ammunition in rifles. That is more a military use, and the military use blank rounds to simulate conditions of firing, in which case if it was a fully automatic weapon, blank ammunition will be sufficiently powerful to cause the weapon to recoil and cycle, so it will continually fire blank ammunition. You don't get that with pistols or revolvers.

Turning to another matter altogether, we know that the 1988 legislation did not include handguns in its prohibition of semi-automatic weapons? - That is correct.

Can I explore with you just for a moment some of the characteristics of a semi-automatic handgun, and perhaps more generally, so far as short-barrelled weapons are concerned, are they more easily concealed than longer-barrelled weapons? - Oh yes, yes.

And the shorter the barrel of the weapon, perhaps the less awareness the user might have as to the precise direction in which the barrel is pointing? Would that be fair? - In general terms, the shorter the barrel, the less accurate the weapon will be. Minor movements of the hand with a short barrel will cause greater deviation at a target range, but in very loose terms, yes, what you suggested/

suggested would be accurate.

And in terms of changing the direction in which the barrel is pointing, the shorter the barrel, the less movement would be required to do that? - No; you would still have to move it exactly the same number of degress. If you were moving from left to right, the aim under the barrel would move the same number of degrees. The muzzle of the barrel would move further if you had a longer barrel, but the actual movement of your hand and the weapon would be the same.

It may not matter terribly much for all practical purposes, but in terms of operating at close quarters, is a handgun, a semi-automatic handgun, a more potent weapon or a more deadly weapon than a semi-automatic rifle? - That has to depend on the user, but theoretically, the pistol would be the better weapon to have in a close encounter situation.

BY LORD CULLEN: In what sense? - It would be easier to use single-handed, therefore easier to move from target to target, whereas with a rifle you would be using it with two hands. You would probably have to use it held more securely to absorb the recoil of the rifle firing, and in all probability you would have to move your body as well as your hand when moving from target to target.

Very broadly, how do they compare in weight? - A pistol would normally be about 2 lbs and a rifle could weigh about 8 lbs.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: You were asked some questions last week about the definition of a handgun? - Yes.

And still in the context of semi-automatic weapons, we have the prohibition in the 1988 Act of automatic and semi-automatic rifles. Does it follow from that that there must be some method of establishing when a weapon is or is not a semi-automatic rifle? - Basically, yes. If a weapon has a shoulder stock or is designed to be used with a shoulder stock, i.e. be held against the shoulder when being fired, it would be a rifle or a carbine, and if it does not have that facility, it would/

would be a pistol.

BY LORD CULLEN: Does that apply even though the stock had been removed? - If the facility for a stock was there, it would be a carbine or a rifle.

You mentioned an example of that on Friday? - That is correct, yes.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: I take it it would follow that if there was a prohibition on all automatic and semi-automatic firearms, then these questions of definition would cease to arise? - That is correct.

You gave some evidence last week concerning the separation of working parts from the main body of a firearm, and I think we followed very clearly what you were saying in that connection. Would you see any method in consideration of providing that all working parts -- rather the possession of all working parts should be subject to a Firearms Certificate? - Personally speaking, I would say yes. Providing something is unique to firearms, then it should be a component part of a firearm, irrespective of what part is to be used.

Putting it into context, one of the suggestions which has been put to the Inquiry is that there may be some merit in separate storage of the working parts of a weapon from the main body of the weapon itself, possibly even in different buildings. Now, one concern, or one comment which has been made in that regard is that the unscrupulous owner may possess illicit spare parts? - Under the present situation, he could have a number of spare parts which would not easily be termed component parts. The way that I would differentiate -- there are obviously certain parts which are not unique to firearms like screws or pins or springs, and I would not class them as component parts of a firearm, but other parts such as a trigger or hammer or firing pin or various parts of the mechanism of a semi-automatic pistol, I would consider that to be component parts, and I see no reason why they could not come within the Section 57 definition of a component part, and therefore subject to the Firearms Certificate regulations and conditions./

conditions.

Might there be another additional possibility, not necessarily an alternative possibility, but perhaps an additional possibility, namely that if buying a new part for a weapon, one required to hand in the old part? - I hadn't thought of that question. It may be a possibility, but on the other hand the part may be broken, and if it has fallen out of the weapon, the person may not have it. I'm not sure.

In general terms, would you expect the owner of a firearm to be able to strip his weapon, assuming it is capable of being stripped down? - That is a difficult question to answer. Personally speaking, I would say yes, but I have no doubt there are people who are less mechanically minded than I am who may not be able to do that.

If/

10.20 a.m.

If a person is not able to strip his weapon is he someone who should be entrusted with that weapon? - I don't know. I can't answer that question.

We understand that there are some weapons which may not be capable of being stripped down; is that correct? - All weapons are capable of being stripped down. There might be one or two that would require a gunsmith to do that, or require some technical knowledge of the equipment or skills which might be beyond the normal firearms holder.

Again I take it another possibility would be to render any weapon which could not be stripped down a prohibited weapon? - That is a possibility, yes.

So far as the possibility of a national database of weapons is concerned, do all manufacturers of weapons provide individual serial numbers upon them? - The answer to that is no. The major ones or the more reputable ones do, but I have no doubt there are others which do not.

Presumably however it would be possible to make provision if every weapon required to be stamped? - Yes, that would be possible.

You were asked certain questions relating to the home loading of ammunition? - Yes.

Again please tell me if this is not something of which you have knowledge or experience: but is there any good reason for permitting the home loading of ammunition? - For a firearms owner who is using a lot of ammunition it would be probably cheaper in the long run. Plus he could experiment with different ammunition combinations to produce the most acceptable ammunition for one particular firearm.

Yes? - He could also guarantee the consistency of his particular ammunition. When you are buying commercial-grade ammunition there will be minimal variances in the ammunition. Manufacturers actually produce a batch grade ammunition for use in very/

very high powered or high level target shooting. If you are loading your own you are in a better position to maintain the same consistency, at a cheaper price than with a commercial grade of ammunition.

What it means is that an individual is able to create ammunition without that being known to the police? - That is correct.

You gave evidence concerning various types of ammunition and the different characteristics, and you explained to us the effect on a human body of certain types of ammunition, hollow nosed ammunition and the like? - Yes.

So far as the type of ammunition which does cause maximum damage to the human body is concerned, is such ammunition necessary for the purposes of target shooting? - I do not target shoot, but I cannot think of a viable reason for it, although there may be something technical known to those conversant with this discipline that I am unaware of.

At the outset of your evidence-in-chief you were discussing the four weapons which Hamilton had in his possession on the 13th March? - Yes.

You told us that one of them had a muzzle weight on the weapon? - Yes.

Am I right in understanding that that is a piece of metal on the top of the end of the barrel of the weapon? - It fits round the end of the barrel.

All the way round? - Yes.

Now, obviously if his lordship wishes to look at the weapon he can readily see which weapon possesses that characteristic? - Yes. It is the longer of the two pistols.

You discussed the oddity of one of the magazines which was recovered in that different types of bullets were loaded in the magazine? - Yes.

The bullets which were towards the top of the/

the magazine, in other words the ones which would be fired first: were they more harmful or powerful than the ones below? - These were the round nosed full metal jacket, such as this one here, and these were the ones with the most penetrative power. The middle ones, the semi-wadcutters, were the ones which would penetrate to a medium extent; and the hollow ones would penetrate to the least, but would cause the most damage.

So the most damaging were the last? - Yes.

You described to us some of the differences between a single shot pistol and a semi-automatic handgun, and in particular the need to reload the single shot pistol after each shot? - Yes.

We understand that both single shot and self-loaders are used for target shooting? - Yes, they are.

For the purposes of target shooting would I be correct therefore in understanding that the main difference relates to what might be described as a matter of convenience, in that if you want to fire a number of rounds of ammunition at a target it is more convenient to do so with a self-loader rather than a single shot pistol, to avoid having to reload between each shot? - No, I don't think that is the reason. They are designed for different competitions, or rather different competitions are designed for these particular weapons.

Yes? - To take an analogy in relation to motor racing, you can go motor racing in a normal production car, or you can go up through the Formulae to Formula I, and each one determines its own type of car.

Yes? - It is the same with a pistol. The competition determines what kind of pistol you use in it.

There are some forms of competition which proceed on the understanding that participants will be using a semi-automatic weapon? - Yes.

Because it is of the essence of the competition/

competition that a number of bullets are able to be fired rapidly? - Once you are into the rules of competition you are outwith my sphere; but that is my understanding.

Presumably there are certain types of competition where a single shot is a perfectly satisfactory weapon? - Yes.

Forgive me if you covered this in your evidence-in-chief, but are there a variety of calibres of single shot pistols? - Yes. This is the range which is most extensive, and you go up from an 0.2 to an 0.308 Winchester.

Is it possible to convert a single shot weapon to a multiple shot weapon? - No, not without some very extensive engineering. You would really have to manufacture a new pistol.

CROSS-EXAMINED BY MR. GIBB: You were earlier talking about types of bullet. There is no requirement in the firearms certificate to specify the shape of the bullet, is there? You can buy round nosed, hollow nosed or semi-wadcutter as long as you have permission to hold that type of bullet? - The 1992 Regulations do have a slight restriction on the availability of the hollow nosed type, which they term as expanding ammunition. If you have a firearm certificate to allow you to possess ammunition of that type you are exempt from the terms of that Section.

You are saying the round nosed is most lethal in that it goes through the body? - No, I wouldn't say it is the most lethal. It will penetrate the furthest, which is not the same thing.

Is the hollow nosed most lethal of the three? Does it cause more damage than the other two? - In general terms yes, it would, because the nose cone would mushroom, and you would have a larger diameter nose to the hollow point, therefore you are more liable to get more damage within the body.

Yes? - At the same time, that bullet would expend all its energy within the body and would not penetrate right through, whereas with the full metal jacket round nose it is more likely it will/

will go right through the body, and it will still have energy left, and that energy is wasted, if you like; it is not expended within the body.

You talked about the hollow nosed being used for the likes of deer shooting. I think there is specific provision in the Deer Order, 1984 for that? - The actual wording is "Expanding ammunition".

Is there any reason in your view why hollow nosed bullets should be permitted to be held at all for those who only target shoot? - As I have said, no, I cannot think of a valid reason for that point.

BY LORD CULLEN: On that point, can you distinguish hollow nosed from expanding? - Hollow nosed bullets in this country, where there is not a cavity in the centre of the nose of the bullet -- soft point is one where the nose cone is complete, but the copper jacket does not completely cover the nose cone. You have a soft lead front to the bullet. The content is the same, but the hollow point still tends to mushroom more quickly and easily than the soft nose. Soft nose usually has to travel faster, at a higher velocity, to mushroom as well as this.

Would the use of a rifle have that effect? - Yes.

Presumably that is why it is used in a deer context? - Because it has not a cavity in the centre of it it is more aerodynamically efficient at longer distances, shooting from 400 or 500 yards; it will be better.

You get the best combination of characteristics? - Yes.

CROSS-EXAMINATION CONTINUED BY MR. GIBB: I think we have had evidence of the bullet striking parts of the human body, that there will be a significant difference in relation to the part it strikes: but in your view would a hollow nosed bullet inevitably result in a fatality? - No, it depends where it hits. If you are shot in the foot, unless you bled to death it would not kill you.

You/

You have no logical explanation as to why in 1988 semi-automatic rifles were outlawed but not semi-automatic pistols? - No.

Do they have the same characteristics? - They have the same characteristics, but their efficiency over longer ranges is different. Whereas a pistol is limited to within a 50 to 100 range maximum, really, for the normal person it would be less than that, whereas a rifle will have a usable range of 400 to 600 yards, and much longer by competitive shooters.

It may be Lord Cullen has investigated this, but it may be Hungerford was a situation in which semi-automatic rifles were used as opposed to semi-automatic pistols? - From vague memory, I understand he used both, although the semi-automatic rifle was the most common weapon used.

RE-EXAMINED BY MR. BONOMY: Can you explain more fully how you envisage a fatality resulting from the use of a blank round? - The only way I could really see a blank round causing a fatality is if it was fired into the eye or possibly directly into the ear, where you got a jet of high powered gases going straight into a sensitive part.

How would you envisage gases causing death? - Either by penetrating through the ear into the brain cavity or through the eye possibly the same way, or just the shock of such a thing happening.

You were asked some questions about the requirements of a person who wants another spare part for his weapon to hand in the old part, and you mentioned the possibility of the old one breaking or being lost? - Yes.

In relation to firearms, is that a usual occurrence? - I am sorry, I just can't answer that question. I don't know how common it would be. What I am envisaging here is the likes of a semi-automatic pistol, if the hammer broke in the course of being fired the recoil would still take place, and with the gun slamming back at high speed it may take the hammer right off and throw it yards behind the shooter, where it may not ever be found. There would still be part of it there; there would still be/

be parts of the broken item of the weapon, but the main body of it would be gone.

We are talking of a broken, unusable piece of metal, are we? - Yes.

So we are not in that situation envisaging someone who has removed the working part and gone and bought another one? - No.

You were asked also some questions about the longer barrelled Browning. Can I take it that that is a weapon which has been custom-built with a longer barrel? - Yes, it is.

And not one that Hamilton would have tacked a wee bit on to the end of the barrel? - No.

Would it be custom-built with the muzzle weight, or could that have been added by anyone later? - It could have been added by anyone later.

What is the most likely? - I would say it has been custom-built with that part on it.

We have heard of that weapon already having been sold to Hamilton in that condition, and that would make sense, from what you are saying? - Yes.

You were asked about the relationship of single shot weapons. Do you get large calibre single shot handguns? - Yes, you do.

Up to a .308? - In fact it may even be more than that; that was just an example I was using. Those weapons have a similar range to a rifle, a maximum range.

You were asked a question about the distinction between understanding hollow point ammunition and you described hollow nosed and soft point. I take it you were describing two forms of expanding ammunition when you did that? - Yes.

ALEXANDER WILLIAM DALGLEISH (40) Sworn

EXAMINED BY MR. BONOMY: I am a registered/

registered firearms dealer.

And that is part of your business; is that right? - Yes.

And you conduct business in Eaglesham? - Yes.

What is the overall nature of your business? - We have a retail shop where we sell new and second-hand firearms, rifles, shotguns, pistols. We also have a workshop where we make and repair and renovate guns.

Do you also deal in other sporting equipment, or are you just a gun dealer, basically? - Yes, I'm just a gun dealer.

How long have you been doing this? - 20 odd years. I have served an apprenticeship first, then I worked as a gunsmith with Mr. Brown, and I have been on my own for just over 10 years.

You actually do the repairs and maintenance work yourself, do you? - Yes.

I know this is not why you are here; but there is one thing I might ask you beyond the subject of your report, and that is the extent to which you stock handguns. Do you stock them regularly? - Yes, we have always got mainly second-hand ones for sale. At the moment we have approximately 20 handguns, 20 pistols, for sale.

Is that the sort of average? - For me, yes.

Is there much of a turnover in handguns.....? - No.

.....as contrasted with longer barrelled weapons? - No, it is a very small proportion. The sale of pistols is a very small part of our business.

Now, you have prepared a report, partly in conjunction with work done by the witness Mr. Paton? - Yes.

Could you have your report in front of you,/

you, please? I think it will be given the number R46. Now, you were specifically asked to look at the question of how difficult it might be to convert self-loading or semi-automatic pistols so that they can fire only one shot before being reloaded? - Yes.

Your report sets that out in the first two pages? - Yes.

Then you were asked to look at the same question in relation to revolvers, and you also deal with that on page two; is that right? - Yes.

Could you also have Mr. Paton's first report, which must be R44, before you? - Yes.

If you go to page 16 of that, on pages 16, 17 and 18 you will see comments he has made about old pistols and revolvers being converted in this way? - Yes.

Now, he mentions in relation to pistols three separate matters, because he sees in general terms three separate types of pistol requiring particular action? - Yes.

I/

10.40 a.m.

I think you have concentrated largely on the first of these? - Yes.

So can I ask you now that you have just had a glance at the report to tell us in general terms first of all how a commonly held automatic pistol might be converted so that it would only fire one shot at a time? - The magazine, which is the housing that the bullets go into, would obviously normally hold about ten rounds, up to 15 rounds. There would have to be a spacer or a blockage put into the magazine so that it only has the capacity to accept one round. This spacer would have to be fixed in the magazine and then the magazine would have to be secured into the pistol so that it could not be removed, to avoid using the magazine without the restriction. That operation is very straight-forward. The magazine could be restricted and secured to the gun with these. The only problem arises on the subsequent loading of the magazine which is normally done outwith the pistol and then added to the pistol. If the magazine was secured into the pistol it would have to be loaded in from the top when the slide is in the back position. Many pistols have a hold-open device and the slide would be kept clear and the bullet could then be placed down on top of the magazine, the slide released and the gun would be fired, one shot. A lot of pistols don't have the facility to hold the slide open so that would have to be done manually and that is where I would envisage problems coming where you are holding the pistol and physically holding the slide back and dropping a round to enage it into the top of the magazine. It is not just a case of dropping it into the area. It has to be engaged into the magazine or it will not feed properly.

So accidents might happen in that situation? - I can envisage that happening, yes.

Now, you have set out in the report details of the method for conversion that you have just described in general layman's terms? - Yes.

We don't need to go into that in any more detail, but can you now identify for us how difficult or easy it might be to undo it again? - Well, a replacement magazine would certainly undo any/

any work. The magazine that was altered could be thrown away and a replacement magazine fitted in which which would undo any work.

The question is how securely could you fit to the magazine so that it cannot be removed and replaced by another? - Well, it could be pinned and screwed and/or welded. The magazines themselves are very fine gauge steel and are prone to mal-function if bent, twisted or even dropped so if there was much effort put on to removing the screws or the welding, the chances are it would be distorted and not fit back into the pistol but a bolt or pin could be redrilled out and the base of the magazine removed and removing the blockage.

Does welding not ensure that it is more difficult to do that? - You are very restricted to the amount of welding you can do because the tolerance fit of the magazine back into the pistol is that fine that you would not have the luxury of having a lot of welding. You would have to dress it and trim it. So it is secure but it would not be excessively strong.

Is there any other way of doing that, such as rearranging the area where the round is inserted by manufacturing something that will take it on its own and perhaps then filling the stock and the barrel with something that definitely could not be removed from it? Filling the stock, rather? - Yes, filling the magazine hole.

Yes? - Yes, you could feed a single round straight into the chamber on most semi-automatic pistols which would eliminate feeding. It would eliminate the round having to be placed on the top of the magazine for correct feeding. You could feed it straight into the chamber and then slam forward or release the slide so that would be possible. A total block.

Let's assume you do that. Can you then fill up the handle or the stock of the gun with something that could not be removed? - Yes, the magazine would be altered in such a way that it would just fill up the space or weld it in place. The top of the magazine would have to be relieved because it has to be removed to disassemble the gun but if the magazine is not going to be required to fill or load the gun, the top of the magazine can be removed./

removed. In other words, if you are then loading it by putting a bullet straight into the chamber, the facility for the magazine can be taken away altogether and it is blocked at the bottom of the butt.

Could that be done in a way that could not be undone easily? - You could be much more liberal with your welding as you do not need your magazine to come in and out. So, yes.

Do you know a replica firearm is a firearm if it can be readily reconverted to use? - Yes.

I am talking of a situation where it cannot be readily reconverted. Have we reached that situation in what you are describing at the moment? - Yes.

Now, are there any increased risks or dangers from having to load a round straight into the breach of the weapon? - The immediate one comes if the gun uncocks as the slide goes forward. The firing pin would be in the forward position and therefore would detonate the cartridge the instant the slide came forward.

So is that a significantly increased risk overloading into the magazine? - Yes.

Now, Nos. B and C in Mr. Paton's report are slightly different, is that right? - Yes.

What are the significant differences there? - He is referring to be able to take the gun to bits, disassembly of the weapon. On many guns the magazine needs to be removed.

Now, you have dealt with that part. That is the part you have just dealt with? - Yes, in the previous statement. If we remove the top of the magazine that would eliminate that problem.

That is No. B? - Yes.

And No. C is the situation where it is an integral magazine rather than one you drop into the handle? - Yes.

What differences are there there? - Well, that would actually be simple to block and the magazine/

magazine would never need to come off anyway. A block could be fixed in there and secured so that would be an easier one to restrict.

In a way that could not readily be undone? - Yes.

Now, if we go to page 2 of your report. You have talked about one disadvantage on page 1 which is the ability to undo your work where it is not a fixed magazine and then you talk about a second and more significant disadvantage which would be the operation of the pistol converted in this way and that is the hold open device problem you have mentioned, is that right? - Yes.

Have we now covered all conceivable situations in relation to pistols or is there such a variety of these weapons that you can't really cover all eventualities? - There are many, many hundreds of different types of semi-automatic pistols so for me to say that to take it as read, that is impossible because there are so many variations.

Now, does the method that you are describing of welding an alternative or a magazine in place or something else in place cause any difficulty in the stripping and cleaning or repairing of guns? - Certainly for repairing and extensive stripping. Yes. The main springs are housed in the channel, they are behind the channel in the magazine and also the sear springs so again it will vary from manufacture or type of pistol to type of pistol.

Could it be cleaned without having to undo the whole business? - The term field stripping, which is just rough stripping, perhaps removal of the slides to get in about the striker or the extractor but you would not be able to go right into some of the springs or the trigger mechanism so it would hinder the complete stripping of the gun.

So what would have to be done to get into these parts? - Well, some parts, if you weld a blocker into the magazine capacity you would not be able to get into these parts.

Would that mean the gun would eventually not function as well? - Well, if the springs got tired/

tired and needed to be replaced you would not be able to get to these parts.

Unless you undid what you had already done? - Yes.

And by doing that you could get to them?
- Yes, that is correct.

Now, if for any reason it was decided that this should happen to guns, semi-automatic guns, I take it you would need to have a method of verifying that that had been done properly? - Yes.

Which has happened in the past in relation to rifles? - Yes.

How is that verified? - It was shotguns as well when they were converted from five shot to
three shot. The work was done to restrict in the case of the shotgun down to two shots in the magazine. It was then sent to the Proof House which is a Government run body. There is one in London and one in Birmingham. They check the work, stamp the gun with their proof stamp and also issue a certificate to say that the particular gun with a gun number had been converted.

And in the ordinary situation, just to be clear about this, how many shots can you fire from a shotgun? - In a shotgun, a total of three. This is a semi-automatic or pump action shotgun. The alteration left only room for two cartridges in the magazine and one also in the chamber which makes a total of three.

If these conversions had to be made in semi-automatic or self-loading pistols in the way you have described, what sort of cost is involved? - Again, it will vary but initially, as I read out in my report, welding and restricting of the magazines and the proof charge and postage and carriage, we would not foresee that to be more than £100 per pistol.

You say slightly more for stainless steel guns. Are we now talking about over £100? - Marginally. It is just that the welding has to be different and not every gun shop would have the facility so that would have to be put out to the correct/

correct welding facilities.

If we can turn now to revolvers. Can you tell us how you would envisage restricting the capacity of revolvers so that they could only fire one shot? - Yes, much simpler. The revolver has a cylinder which houses, well normally six shots and there are revolvers with five, some up to even 12 chambers in their cylinder but a standard revolver today with six chambers in the cylinder and it is a relatively easy job to weld in carbon rods into the cylinder with the exception of that chamber so easily eliminating the use of the other five chambers, or whatever number, to leave one free.

To fill in five of the six holes? - Yes.

Now, do you also have to stop the revolver revolving? - No, you would just have five blank chambers and when you open the gun to load it you can index the cylinder to close where you want or would have one prefix before the striker because as you cock the gun it would then index correctly. If you indexed it wrongly you would just fire nothing.

So the gun would still turn as you pulled the trigger, is that right? - Yes, it has to.

And fire that one shot and you would have to open it and reload it and put it back to the place you started it from and do the same again? - Exactly. You would have to index it correctly, yes.

Now, one other method of converting being suggested is to cut out the other five holes? - That is possible but you are going to weaken severely the whole cylinder. There is very severe pressures in there. You could be talking, depending on the calibre, of 18 tonnes per square inch and if you have a five cylinder gun you would blow it. It needs a spring and I believe I made the comment on the welding that tests would have to be done and it would certainly have to be Argon welding because if you weld you would be changing the molecular structure and you could make it very brittle and with the explosion you would blow off the cylinder.

So should we dismiss that as unrealistic? - To cut away the remaining chambers, most certainly, yes.

To/

To go back to the one viable method, that is filling the various parts, the five chambers. If you do that, could you do it in a way which is difficult to undo? - Certainly an engineer with the right facilities could redrill it out. If you had angled high-carbon rods welded into place, a normal hand drill or a Black and Decker drill would go off the harder steel placed in there and tend to follow the softer steel of the cylinder so it would be very difficult for the handyman to take it out but a professional engineer with the right equipment could redrill it out.

Is that a major exercise? - Yes.

Are we talking then about something which is more secure than we were talking of in relation to pistols? - Yes.

Would the cost be significantly different from dealing with pistols? - Very similar.

As a gunsmith, and looking at this from the purely technical and practical point of view and forgetting any views you may have for or against the whole idea? - Certainly.

As a gunsmith, would you be happy that a secure situation had been reached if pistols, self-loading pistols, were converted in the way you have described in your report and to us this morning? - I would be very concerned about the safe loading of the weapons and also the restrictions that there might be in dismantling the guns from a servicing point of view or a renovating point of view but the main worry for me would be the safety of loading a semi-automatic pistol with a single shot without accidentally discharging the gun before you were ready.

What about the question of the facility of reconversion? Would you be satisfied that what you would be expected to do would be secure and would prevent general reconversion of such weapons, bearing in mind that they can get into criminal hands? - Yes, I think that would be very difficult just to say at the moment. Any welding could be ground off. You know, in the criminal element if you wish, not caring about the wellbeing of the gun, just removing the restriction with grinders etc. and undoing/

undoing the welding or files, drilling it out, albeit at the expense of the magazine but at the moment they are very readily available.

Are you talking about something which is fairly easily done then? - It is not easy, no. It would not be easy but it would still be possible.

It would not be a readily convertible weapon in your opinion, is that right? - That is correct.

It would not be readily convertible? - It would not.

Turning then to the revolver. Do you have any anxieties on the safety front about the conversion you have suggested of the revolver? - Only that checks would have to be done. You would have to do it and then check the make-up of the cylinder itself, that the welding did not anneal the cylinder too much but I think with Argon welding etc. the heat is minimal so I would be quite happy with that method.

So far as the prevention of reconversion is concerned, would you be happy that the method you have discussed would prevent reconversion? - Yes.

CROSS-EXAMINED BY MR. GIBB: If I could just ask you something about the buy-back position that I think occurred after the 1988 Act, is that correct.

And I think what happened was that weapons which were outlawed by the 1988 Act were bought back? - Yes.

I think we have also heard that Hamilton tried to get ammunition bought back but that was not part of the scheme? - Yes.

What sort of volume would be involved perhaps in buying back semi-automatic pistols as opposed to revolvers compared to the buy-back of semi-automatic rifles in 1988? - I am sorry.

Just in terms of your customers presumably semi-automatic pistols are a lot more common nowadays than semi-automatic rifles were in 1988? - Yes,/

Yes, I know of thousands of pistols with my customers but some customers have five or six and some of the pistols are only £50 or £100, but I have customers who have pistols that are several thousand pounds.

So perhaps it is unrealistic to have a buy-back position for semi-automatic pistols given the difficulties you have advanced? - Yes.

JAMES/

11.00 a.m.

JAMES RICHARDSON (53), Sworn:

EXAMINED BY MR. BONOMY: Are you James Richardson? - I am.

And are you the Deputy Chief Constable of Strathclyde Police? - I am.

What age are you, Mr. Richardson? - I beg your pardon?

What age are you? - I am 53 years of age.

How long have you been a serving police officer? - Over 30 years.

And how long have you held the rank of Deputy Chief in Strathclyde? - Almost two years.

As a Deputy Chief Constable, you will be a member of the Association of Chief Police Officers in Scotland? - That is correct.

And you are therefore one of a group who have made submissions to the Inquiry? - That is correct.

You are not here to deal with the submissions, but to deal with a matter of fact that you yourself investigated; you appreciate that? - I understand that, yes.

Could you have before you Production R47, and can you confirm to me that that is a report you prepared? - It is. It was prepared on my behalf and under my direction.

And you have signed it as the officer responsible for its final form? - I have.

And that was prepared following instructions you received from the Deputy Crown Agent to look at the procedures and actions followed under these procedures in the Central Police Force, dealing with firearms applications by Thomas Hamilton? - That is correct.

I/

I think the best way to deal with this will be to go through parts of your report with you, and if you feel that I omit something of significance as I ask you questions, please feel free to make comment and to butt in, but what I am trying to do is give a fair representation in your oral evidence of any points of difficulty or criticism you encountered as you went through the papers that were provided to you? - I would appreciate his Lordship's permission to refer to my own report which I have in my case with me?

Is that something different from the report.....? - It is the same report, but I have highlighted parts of it.

MR. BONOMY: There is no objection to you doing that.

LORD CULLEN: Please proceed. That is quite acceptable.

EXAMINATION CONTINUED BY MR. BONOMY: The first thing I want to ask you about is your consideration of the Force Standing Orders which you deal with on Page 3 of the report, and you report there of a difference between Standing Orders in 1977 and Standing Orders as revised in 1990, and there are significant differences; is that right? - There are, yes.

And these are undoubtedly greately improved by 1990? - That is correct.

And can I take it that that is something you would have expected to find? - Yes. Following 1988 and the issue of the new Act, I would have expected that the Force's orders would have reflected the Act and guidance given.

I think if you look at the foot of Page 3, you set out there what the guidance was to officers in the Standing Orders in relation to a firearms application enquiry as at 1977, and you are referring there to Paragraph 2.2 of the Standing Orders, and can you just read that paragraph please? - Yes, beginning Paragraph 2.2 -- "In dealing with such an application (firearm certificate application) the enquiry officer will examine the application form thoroughly and ensure that the information/

information provided is accurate. All necessary enquiries will be carried out and form RL3a (annex 6) completed and submitted through the chain of command to the Firearms Department, Headquarters".

You can take it that the Inquiry has heard direct evidence about how this system worked, and indeed works up to the present time. What I am more concerned about at the moment is what you saw as perhaps the short-comings of that particular direction, and you make comments on Page 4, and can I take it that essentially you are saying there that that is a fairly skeletal direction on how to carry out such an enquiry? - I took the view that all parts of the system must be in place and be equally supportive of the overall purpose of the system, and in respect of the Order and the form which was required to be completed by the officers, I felt that they were not adequate in their form.

Now, the form, the guidance given there is put into effect by an enquiry officer by using the document RL3a? - Yes.

And if you go to your annex 6, is it, we have the RL3a that was then in use; is that right? - That is correct.

Now, you have a number of comments to make about that because obviously the guidance in the Standing Orders has to be viewed in the light of the fact that this additional guidance is clearly given to officers in the form of six questions? - That's right.

What concerned you about the format of the RL3a at that stage? - Principally that it was a yes/no format. It didn't encourage the attachment of any documentary evidence that was adduced from the enquiry made the police officer. It wasn't specific in terms of regulating particulars of a Club where an individual was to be shooting, and overall, from the examination I made of the documents, I felt that it didn't support the police officer in making enquiry, since such enquiries demand some additional knowledge.

When you talk about documents, can you tell me what documents you envisage a form encouraging an officer to attach to it? - There may/

may be documents confirming membership of a Gun Club for example. There may be other documents concerning whether or not there was information in the Scottish Criminal Record Office concerning convictions for example. Another issue with the RL3a is that it doesn't speak of ammunition which, within the Act, permission has to be gained for the firearms and the ammunition.

Can you give us any assistance of what the position was in 1977 about checking on criminal records? - I wouldn't be certain. To be helpful, I would expect an enquiry officer, an enquiry officer who is a police officer, to check criminal convictions when making an enquiry into an individual, but I would expect him to receive the guidance to do that.

Now, I think you do mention towards the foot of Page 4 that, just before the various points that are marked, "In particular, information is not elicited to satisfactorily explain", and one of the items you mentioned there is "Why an applicant has or continues to have 'good reason' for possession or wishing to possess or acquire the firearm or ammunition"? - Yes.

And can I take it that that is because, although no reason is mentioned clearly on the form, it is the yes/no provision for the answer that caused you concern? - That is correct. The answer isn't assisted by the form in defining good reason in terms of for example legitimate and regular opportunity to use the weapons at a Gun Club.

In 1990's Standing Orders dealt with on Page 5, you identify a number of significant additions to what was in 1977? - That is correct.

And can I take it that the most significant ones are the ones that you have identified and set out in the Pages 5 to 7 of your report? - That is correct.

And one of the points that is now specifically mentioned is that a summary of Section 27/1 of the Firearms Act is recorded in the Standing Orders? - That is correct, yes.

And/

And that covers a number of the issues that an officer is supposed to be looking into; is that right? - Yes, that is correct.

And also, you mentioned specifically that there is a direction that an officer is responsible for carrying out a check on the police national computer and Scottish Criminal Record Office computer? - Yes.

And/

11.20 a.m.

And then specifically if we go to the foot of the following page, page six, you mention that there is guidance given where information comes to light in between renewals about a person who holds a firearms certificate? - Yes.

What was that guidance? - Principally at the foot of page six, are you referring to?

Yes, sir? - This is where a Scottish Criminal Records Office check in respect of the person who holds the certificate indicates a new conviction or a pending case which may be serious enough to warrant revocation of a firearms or shotgun certificate, the Division where the person resides will be sent an RL3A, a Central Scotland Police Enquiry form, asking for enquiry to be made into the matter, and whether or not the certificate should be revoked.

So if this renewal has come up and something has happened between the renewal, and that specific matter has shown up, the enquiring officer will be instructed to deal with it when he carries out his RL3A enquiry? - Yes.

On page seven is there a further direction which applies even where there is no application being dealt with by the Force at all? - The last paragraph?

The last marked one? - This is the comment in the Force Standing Order which requires all police officers to bring to the attention of the Chief Constable any information in respect of a firearms or shotgun certificate holder which would suggest that revocation of the certificate would be warranted.

In other words, any officer who is alerted to something that might affect the suitability of an individual who holds a firearms certificate to hold a firearms certificate has a duty to tell the Chief Constable? - Yes.

You do make a note of the material kept in Hamilton's file in that record. What was the note you made? - The note I made, based on paper evidence/

evidence only, was that the firearms file only contained information concerning the firearms applications.

You then refer to one additional Force Memorandum which is of particular significance in relation to these applications, and that is the direction to carry out a Criminal Intelligence check. You can take it we have heard evidence on that already. You then make the point that that firearm form should be amended? - Yes.

Was it amended? - No.

Not to take account of that point, which was the check for Criminal Intelligence, but if we look at Annexe 7 there we have there an MR3a significantly amended from the one which appears in the 1977 Standing Orders? - Yes.

Do you know when the new one came into operation? - I am not certain. I think it was 1990.

Did you discover there was an interim period when there were two forms used? - One was a supplement to the basic RL3a. I understand it was a holding situation which was put in place until the amended RL3a which is referred to in that regard was brought into place.

Now, the amended one is still in operation at Central Scotland Police? - Yes.

Have you looked at similar forms in your own Force? - We have had a look at the form which police officers in Strathclyde are asked to complete when making enquiries into firearms certificate applications, operations and renewals.

Is there any significant difference? - I believe the form used in Strathclyde is more comprehensive, and encourages more enquiry.

Yes? - However, can I just say that I do not believe that the form in a Force should be looked at in isolation. As I said at the start, I do believe that the whole system must work properly, and there must be support for the police officer doing enquiry on firearms certificate holders in local/

local areas.

Yes, I take the point, but what I would like to know from you is the way in which you feel the form we are looking at in this case does not give the support you feel the officer should have in the course of the enquiry? - There is more direction in attaching documentary evidence, there is more direction and encouragement to check gun clubs to confirm membership; there is direction to check the Criminal Intelligence file to determine if anything is known of the applicant.

Yes. The form is obviously quite different from the previous one? - It is quite different. I have a copy here that I would like to glance at, if there is no objection.

That is.....? - The Strathclyde Police form.

Oh, were you speaking just now of the differences you can identify in the one you have there from the Central Scotland one, or were you telling us what the ideal style of form should be? - I was comparing it with the Central Scotland form and pointing out the additions in the Strathclyde form.

Can you tell me these again, please? I had misunderstood what you were doing? - Within the Strathclyde Police enquiry form there is an encouragement to officers to attach documentary productions. Additionally, there is a comment that Divisional Intelligence offices must be checked to determine if the individual is known there: and there is encouragement within the form to check with gun clubs.

Now, if you look at Annexe 7 you will see that certainly with the computer and SCRO checks there is encouragement to attach a print-out? - Yes.

We do know that Intelligence checks are supposed to be made by Central Scotland police officers because of the Force memorandum; is that right? - Yes.

And the third one you mention is attaching/

attaching documentary evidence of club membership? - Any documentary evidence is encouraged to be attached to the report form when it is submitted.

All right? - It may be helpful if I say to you that in relation to the possession of firearms the Strathclyde form does ask the officer to ensure that each firearm has been shown to be needed for good reason, and for example it specifically mentions if the firearm is required for target shooting then membership of a club should be confirmed.

Did you find in your consideration of the papers in this case, though, that the Central Scotland police officers did in fact do something to check on the membership of a club? - I could not confirm that that was done.

Not on every occasion? - Not on every occasion; or that it was not done.

That is because the form does not provide the necessary direction to make the appropriate entries? - That is one reason, yes.

Again we can take it the Inquiry has heard from a number of officers about whether or not they did make checks. I take it part of the difficulty you had was the same one we had, that officers are being asked to speak about events a long time ago, where no specific record was made on the form? - Yes. There was no information we had which could clearly show whether or not checks were made as a matter of course. Some enquiry officers do not recollect making checks, but clearly say in their statement that they thought they probably would have made the necessary checks. I think there is an occasion where an officer remembers making the checks.

Now, I suppose the form becomes important because when we look at page 12 of your report and you refer to the six questions in the form you discovered that they were the process for the investigating process, and there was little deviation from the line of questioning set out on the form? - That is what I am assuming from the paperwork that was examined.

What/

What was discovered of course is that it was an officer in a particular Division who was on duty on the day and available for the purpose who got the enquiry to make? - Yes.

And you would expect such an officer to follow the guidance in the form; is that fair? - I would expect the officer to make the necessary enquiry to be able to answer yes or no. Having said that, the police officer has training and experience to allow them to expand enquiries if they feel it is necessary, and also to bring some assessment to the individual that they are making enquiry of.

Yes? - So although the form is limited insofar as what it asks the police officer to do, I would imagine, depending on the answer, there would have been further enquiry made, for example at gun clubs.

I have taken you slightly out of order there, and I don't want to lose the thread of the report. Could you go back to page 10? You are talking in that section about the actual operation of the Central Scotland Firearms Department, again something about which we have heard direct evidence? - Yes.

You make the comment in the second last paragraph that there is no evidence to suggest that Hamilton's firearms file had been consulted by investigating officers or Divisional Commanders prior to making a recommendation for approval. Did that concern you? - I have to preface this remark by saying this was from written evidence produced to me in terms of statements and so on.

I think you can take it your understanding is accurate? - There is nothing to suggest that anyone did consult the firearms file. Having said that, I would have expected that the whole system would be thorough, that the Firearms Department would be pro-active in that when information came to them by virtue of a police officers enquiry form, application form as a result of the enquiry, they would then pro-actively look at the firearms file, check previous information, history of ammunition purchased and so on, in a pro-active way which supported the system of enquiry.

I/

I think I should also make it clear to you at this stage that the evidence so far before the Inquiry suggests that the man who had to make the decision on these applications is Mr. McMurdo generally, or someone standing in for him on one occasion more recently, and that he was well aware of all the information that you have identified in the report that might have been in the firearms file. Now, that may be something that you did not appreciate, was it? - I was aware Mr. McMurdo in his precognition had said he was aware of all the information relating to Hamilton.

But your concern here was about the system and the place that perhaps material should be noted within the system? - Yes.

And your concern was that the firearms file should have more than simply the applications and the certificates in it? - Yes.

One of the things you observe on page 12 at the foot is that the investigating officer will have possession of or at least viewed the certificate. Was your finding that the old certificate which had been held and was about to be renewed or otherwise was actually passed to the investigating officer? - My understanding of the system is that the investigating officer would take to the individual whose certificate had to be renewed for example an application form for renewal, and the guidance to the police suggests that that should be done by prior appointment; and that at the same time it would be useful if the visit could also incorporate an enquiry.

Yes? - So when the officer went to the house he would be able to hand over the application form, perhaps make enquiry into the security of the guns, and thereafter my understanding is that the individual who was requiring the renewal would hand the form and certificate into the local police office. Could I say that the procedure is just a little confused, when I read the paperwork.

11.45 a.m.

The evidence already has suggested that in some instances the old certificate is handed in either with the application or to the enquiry officer but that is not the universal practice because there is no obligation on a person to hand over his existing certificate. Now, do you see anything that is wrong with that statement? - My understanding is that individual may keep their certificate to allow them for example, as well as the renewal being pursued which may be for four weeks ahead, they may keep their certificate to buy ammunition so that it can be recorded or whatever.

Yes, there is no obligation to hand over the old one and therefore there must be some means of ingathering that information and that can only be done by the enquiry officer? - That is my understanding, yes.

And the enquiry officer, if he has no experience of firearms, would he know from the form, the RL3a Form, to perhaps look at the question of ammunition purchased, just to take an example? - I think that would depend on the experience of the officer and his inquisitiveness but the certificate, when it belongs to someone who has been involved in purchasing ammunition and guns, can be quite complicated, albeit a police officer could go through it and glean information. I took the view that it would be more appropriate if the Firearms Department at Headquarters made sure that that part of the enquiry had been thoroughly done. For example, to check the certificate for ammunition usage, considering that they already had the previous certificate on file which would contain a previous history of ammunition purchased.

It is obviously your opinion that ammunition usage is something that should be checked in the course of one of these enquiries? - Yes, absolutely.

I think it is fair to say it has not previously been identified as a matter that should be clearly investigated but that is your opinion, is it? - It is, yes.

If I can ask you now just to look briefly at page 13. You comment there on the question, in the first full paragraph there, of enquiry to confirm/

confirm membership of an organisation or a club and the making of regular and legitimate use of the weapon? - Yes.

And you comment that the form has no space for recording people who could confirm these factors, is that right? - That is correct, yes.

Is it your view there should be some guidance on the form for the officers to point them to these particular factors? - it would be helpful to the officer to be given guidance either on the form or separately so that he or she understood there was a necessity to make enquiries at gun clubs.

You referred a number of time in your report to that phrase, "regular and legitimate use of weapons in his possession" and your source of that is the Home Office Guidance but when we read the Home Office Guidance carefully we see it refers to "regular and legitimate opportunity for the use of the weapons". Do you see a difference there between these two expressions? - My interpretation is that the opportunity must be taken. Having read that part of the Act which says that an individual must have good reason to possess firearms and ammunition, part of that good reason I believe would be the use of firearms or ammunition else they should not possess it.

I think it also concerns you when you went through the whole system that there may have been an expectation by some of the investigating officers that all the factors that should be taken into account should be looked at by someone further up the tree. Can you tell us what you discovered on that? - I haven't discovered anything concrete but I believe from the reading of the statements that there perhaps has been an impression in the Firearms Department that enquiry was being made at gun clubs to determine for example membership and regular opportunity for use and the possibility is if that has not been done, which I have not been able to confirm as definite, that the enquiry officer may have considered that that work was being done at headquarters, perhaps expecting it to be more proactive than it perhaps was.

I think you can take it from the evidence we/

we have heard that that part of the checking was done by the enquiry officer, whether it be Mr. Lynch in relation to certain renewals or a constable in one of the divisional areas but I was more concerned at the moment at the way in which the system operated. When information was gathered in, were you not concerned about the stages at which officers were looking at it and looking at it in a limited way and I think you deal with that actually on page 14 in the first full paragraph there? - Yes. From the statements that have been read in relation to the police officers, there is no indication that the file was referred to as a means of assessing the applicant. In other words, there was no historical enquiry done in relation to the individual. The enquiry pertained to that application for renewal at that time.

I think in the end of that paragraph you refer to the function following between two stools. Now, what is the function you have referred to? - I am referring to the function of assessing whether he was a suitable person and had good reason and using his membership at gun clubs and so on.

And what would be the two stools that the function was falling between? - I believe that it was falling between the operational officers and the Firearms Department at Headquarters.

I think you say there that each one was assuming the other was doing certain things? - That is my understanding from enquiry that has been done in Strathclyde, yes.

Now, I appreciate the comment you make in the next paragraph that all this centres on the failure to consult the firearms file as a matter of routine if you are an investigating officer. However, you did discover the fireams file did not contain anything that would have impinged on anyone's consideration of Hamilton's application anyway, is that right? - That is correct.

And as I explained to you already, the evidence suggests the man who made the decision was well enough informed, albeit he never had the file in front of him? - My understanding is that, yes.

Now, are you suggesting that nevertheless good/

good practice ought to be to have all the information in the file and the file with each officer who is to either make the enquiry or a recommendation right up the tree? - I am suggesting that the whole system must be sound. For example, that the enquiry officers make good enquiry under guidance and that the Firearms Department are proactive in checking the firearms files so that they can play their part in providing good information as the certificate progresses up the tree as you say. Everyone has to play their proper part in the system.

Is there a need for all the information to be considered by more than one person? - I believe that the Firearms Department or someone in administration should have the skills and the experience to check everything in the firearms file, to check the incoming application, to identify any problems that there may be apparent, for example non-usage of ammunition, so that that can be brought to the attention of the senior officers and especially in this case to the attention of the Deputy Chief Constable.

That suggests that the way the department and system at Central is evolving is the right direction. In other words, using a civilianised Firearms Department to make the investigation and carry out the administration and then refer the matter to one officer at a senior grade to make the decision? - So long as there is a system in place and my understanding is with the system that was in place people worked within that system, albeit the system I believe was not adequate.

Do you consider that the engagement of civilian firearms enquiry officers with a knowledge of firearms and practice in relation to firearms is a good move? - I have no experience of that. If I could give you a gut reaction. I haven't thought about it but if I could give you a gut reaction. There is a soundness about having a police officer making enquiry if he or she is given sound direction because they have a lot of training in assessing individuals, assessing people, in the light of all the other enquiries they do. Nevertheless, set against that, if there are civilian enquiry officers who are well trained and who have a system in place that they have to satisfy which ensures that all things/

things are done properly then there is nothing to say that that would not be a very good system and it would certainly allow certain individuals to build up expertise. There is a hint of that in Strathclyde just now in each Division. There are administration units where there are police officers located and in the urban areas it would generally be the case that that unit would take a close interest in firearms applications for renewal etc. and would make enquiries so they would build up the expertise but, nevertheless, if you then move to rural areas you then have to have another system in place where local officers make enquiries.

I am certainly hesitant to ask you very much about Strathclyde for various reasons, one of which is of course the different size of Force that we are talking about from Central? - Yes.

And I have tried to confine the questioning to things like form for example where you might more easily see some sort of comparison. What you say is very helpful but in Central the development has been towards a civilian enquiry officer and perhaps the addition of another one in due course on the basis that his knowledge of firearms is an important element in securing the type of information you are talking about and paying attention to, things like types of weapons involved and the use of ammunition. Now, are you saying that even in those more technical areas you are better to rely on a policeman? - I am saying that I have not given it a lot of thought. What I am saying is that there are advantages in both.

The real secret is to combine the advantages of both into the one creature? - The real secret I believe is having an efficient system in place.

I take it, though, you would really go beyond that and agree that good training is required also for officers who are investigating matters like that so that they have the necessary knowledge? - There either has to be training specifically directed at those enquiries if the system has to be improved or else the information that they are given to help them make a thorough enquiry is much more comprehensive.

Now,/

12.00 p.m.

Now, you then, from Page 14 onwards, deal with the various applications of which the Inquiry has heard evidence so far, and you do identify certain things that -- at least, you point up certain things we have heard evidence about. I take it that what you were trying to do there was focus the Inquiry's attention on any points of significance that you could derive from a consideration of the various applications themselves and how they appear to have been dealt with? - That is correct. That was one of the requirements placed on me by the letter from the Depute Crown Agent, to look at Hamilton's Firearms Certificate throughout its term.

Could I then take you on to just a few particular issues I want to raise with you in that connection, if I can take you to Page 22, and you are dealing there with an application to vary in October 1984? - Yes.

And at the foot, towards the end of the page, you have highlighted the words "There appears to be no questioning of Hamilton's possession of duplicate calibre weapons". Which duplicate calibres were you referring to there? - Sorry, could you direct me to the paragraph you are referring to again?

Do you have Page 22? - I have, yes.

And if you go to the bottom section, "Observations"? - Yes.

And if you go halfway through the thick black writing, "There appears to be no questioning of Hamilton's possession of duplicate calibre weapons". Now, do you know which duplicate calibres that refers to? - I'm sorry I can't be certain there. I was just checking the annex, which is helpful, but I believe it was a .22 rifle, but.....

You have got an annex which summarises these various applications? - Yes.

And on Page 6 of that annex, you have got the reference to the one of the 27th October 1984?/

1984? - Yes, that is correct.

And it seems to have been an application where he held a .22 rifle and a .357 Smith and Wesson, and was wanting a .223 rifle and a 9 mm pistol. That is when Hamilton begins to move further -- 1994 generally is when he moves into 9 mm or larger calibre revolver? - Uh-huh.

Are you referring there though to the possible similarity between the .22 Anschutz rifle and the .223 rifle? - Yes; that is the reference, yes.

It is simply to be clear what the particular point is in the Report? - Reading in the annex at Page 6, if it is helpful, it shows that he holds a .22 Anschutz rifle, a .357 Smith and Wesson revolver, and was requesting permission to purchase or acquire a .223 rifle.

If you just give a moment, there is one thing I want to check to make sure of the facts of this. Yes, I think that is the factual position -- I think a number of times going through the individual applications, you had expressed concern about the extent to which his good reason for continuing to hold weapons was considered by the enquiring officers? - That is correct.

And that is a theme of the Report. However, you do, if you go to Page 24, you do there identify one occasion where a particular query was raised about Hamilton's request for a duplicate calibre weapon, and you refer to that in the middle of the page? - That is correct.

And a specific further enquiry was instructed and carried out by the officer enquiring into the application; is that right? - That is correct.

And further justification was provided? - That is correct. It says that I understand from the paperwork that Hamilton gave the explanation that it was an advanced design incorporating a weighted handle for greater accuracy.

I think it may also have provided that he was active in target shooting and competitions. Is/

Is that the one that said he was active all over the country in competitions? - There is a reference. I don't think it is particularly that one which says that he was active all over the country, and that was his explanation for requiring another gun, but there was no confirmation of that found. That remark is in fact at the top of Page 25, and I should say that there is no evidence that he was engaged in competition shooting throughout the country.

At least, you haven't seen it? - That's right.

Nothing has been provided to you? - There is nothing been provided to me.

You also mention on Page 26 something which has again emerged in the course of the other evidence, that for a number of years, he had authority to have a 7.62 rifle which he never bought, and he also held ammunition without ever having a weapon that would fire that ammunition? - That is correct, yes.

Again, just to clear the factual position as best I can, if you go to Page 27, you refer there to an incident in August 1988 where Doreen Haggar claimed Hamilton had been at her home making veiled threats and was alleged to have adopted a body stance with one hand in his jacket pocket as if he had a weapon, and you go on to say the matter was allegedly reported to Lothian & Borders Police. In fact, there is no evidence before the Inquiry or indeed, I think, in the statements, that it actually was reported. There is no claim even. I think Mrs. Haggar was unsure whether she had reported it or not; is that right? - That is correct.

And indeed, nothing was said in her evidence to indicate she had reported that particular one, but that was a different one where she claimed Hamilton actually had a gun which had been pointed in her direction; is that correct? - Yes; I think that is the one where he arrived in a vehicle.

Can I now take you to Page 31 where you have identified something which may, you may wish to say/

say something else about -- right in the middle of that page, one of the observations you make is that "There is no notification as to whether Crime Intelligence staff were aware that Hamilton was indeed the holder of a firearms certificate". If you have Criminal Intelligence Officers, should they know who have firearms certificates? - If they raise a file in respect of an individual, from a check of the SCRO computer, you would be able to determine whether or not that individual was a firearms certificate holder, yes.

And are you saying that that information was missing from Criminal Intelligence records at Central? - I could find no evidence that it was available in Criminal Intelligence. I would have been happy to have made further enquiry in Central Scotland, had time allowed, but I had to restrict myself to the papers that were delivered to me.

You are looking at this matter really from the point of view of an officer investigating who is carrying out a police investigation without a particular expertise himself in firearms? - That is correct, yes.

Did you make use of Strathclyde Police Firearms Officers to assist you at all in your enquiry? - No, I didn't. I chose not to do that deliberately other than at the end of the enquiry.

And for what purpose did you do that at the end of the enquiry? - Because I was asked on Friday to make some enquiry into Strathclyde Police procedure so that I could be helpful in this Inquiry.

Now, one of the matters you have mentioned already, but you highlight on Page 37 at the foot, is that a check of Gun Club would have verified membership and may also have provided evidence that Hamilton was not a regular shooter -- may have provided evidence.

12.20 p.m.

As an enquiring officer with the task you were given in this case, does it strike you as something that could be done in relation to each application for the grant, renewal or variation of a firearms certificate that the club at which the handgun holder claims to be a member should be asked to confirm his membership and the regularity of his shooting? - Absolutely. If my interpretation of "Regular and legitimate opportunity to use" is correct, to satisfy good reason that must be part of the enquiry.

That would no doubt be a lot of work? - Well, it seems to me that if gun clubs set themselves up to provide facilities for recreation with firearms then the responsibility must fall on them to properly run their clubs and ensure that the people who use the clubs satisfy the law, and the law does require good reason.

Did you establish whether or not there was a recognised maximum amount of ammunition that a person should be permitted to hold at home? - I have read the guidance which was issued in 1969, and.....

That was from the Home Office? - That was the Home Office guidance to the police. You will see that there are maximum amounts recommended of 1500 rounds to be possessed at any one time and 1,000 rounds to be purchased at any one time.

Yes? - When the guidance was issued in 1989 these maximum amounts were not transported to the 1989 guidance.

What is the 1989 guidance? - The new guidance that was issued?

What guidance was given about quantity? - My recollection is that it says that no arbitrary limit should be set in relation to the amount of ammunition that a certificate holder should have.

Can I take it the 1969 guidance was talking about maxima applicable to each calibre? - That is my understanding. There was a qualification that people who shoot internationally may require those/

those amounts. But it didn't appear to be a guidance that anyone should have that amount of ammunition in their possession.

We have heard evidence of people in the Central area who hold certificates allowing 1500 of individual calibres to be held at any given time. Is that the only guidance you have discovered which refers to that quantity? - This is the only guidance I have found referring to 1500 rounds and 1,000 rounds of ammunition, yes.

Can I ask you to look at your concluding remarks on page 39? Again I do not intend to go through any of this with you, but to clarify certain points. In the second paragraph you say "Chief Constables have an unfettered discretion in deciding to authorise the grant or renewal of a firearms certificate"? - Yes.

What do you mean by "unfettered"? - I believe the Chief Constable is the person and the only person who can apply the requirements of the law in determining whether or not an individual should have a firearm certificate. Perhaps it is unfettered, but yet if an individual does fulfil the requirements of the law of being of sound mind and of temperate habits, not prohibited by the Act, having good reason, then the Chief Constable shall issue a certificate. So it is his responsibility to take the decision as to whether or not the certificate should be issued.

Obviously a decision against an applicant is subject to appeal? - Yes.

And to that extent the Chief Constables are fettered by the intervention of the Court if necessary? - In exercising his discretion I am sure he would be required to show if he appeared before the Sheriff to justify an appeal against revocation, refusal to renew or refusal to grant: I would imagine he would have to show he had acted in a reasonable way.

In the next paragraph you say "Public safety is therefore a factor of paramount importance in any decision to grant a firearms certificate", and to emphasise in furtherance of that point that that places a duty on Chief Constables/

Constables to put in place administrative procedures which will ensure that precise and accurate records are held, as the keeping of such records facilitates the collection of information and provide ready access to enquiry officers on the history of the certification process insofar as each applicant is concerned? - Yes.

Now, this is part of what you have been saying to us about the system today, that is precise and accurate records? - Yes.

You then go on to deal with the other part of what you have been saying about the system. Could you read the next point? - Perhaps, Mr. Bonomy, you should allow me to say that I say on page 39 is that there must be efficient procedures.

Yes. Could you read the sentence saying "Moreover....."? - "Moreover, the keeping of records will apply to each firearm, allied to the concomitant amount of ammunition the applicant may possess or purchase at any one time".

And then the next page? - "A number of main issues have emerged from the review of procedures in place within Central Scotland police. Insofar as instruction and in guidance or administrative procedures is provided to officers, the source is found in Force Standing Orders, and a related pro forma report (form RL3a)".

You then give details of the Standing Orders, and you have told us something about that? - Yes.

And the things that were missing in 1977; is that right? - Yes.

And you summarised the position in 1990, and you relate both of these to the terms of the pro forma RL3a? - Yes.

If you look at page 42, you make various points about the changes between the 1977 and the 1990 forms; is that right? - Yes, that is correct.

Now, could you just summarise these improvements for us? - In relation to the RL3a form?

Yes?/

Yes? - The RL3a form which is in one of the annexes, the new one, did give instructions to check SCRO and PNC, if I recollect correctly. It did ask the officer to list the firearms held. There was a place provided for comments, as was the case previously.

I think you also mention there that any trace brought out on one of these searches had to be attached? - That is correct.

And that there was a specific question added dealing with the details of the reason given by the applicant as to why he held or sought to hold a duplicate calibre firearm; is that right? - Yes.

So these are all changes obviously for the good; is that correct? - Yes.

You then mention certain shortcomings? - Yes.

Can you deal with these? - "It is of significance, however, that apart from requiring the enquiry officer to attach a computer print-out in circumstances where the applicant was traced on the PNC/SCRO computer, the administrative procedures do not require or encourage the enquiry officer to attach with the report any written confirmation he may have obtained in respect of the good reason the applicant had for requiring the firearm or ammunition."

Allied to that you make a point about ammunition levels? - Yes. The form does not require information about ammunition levels.

Or indeed any reason the applicant has to seek to increase the number of rounds held; is that right? - That is part of it.

Now, on page 43 you deal with the Headquarters Firearms Department? - Yes.

I think your position is best summed up in the third paragraph of that section. Could you read that out? - Yes. "It is essential that Divisional Enquiry Officers are in possession of sufficient information to enable them to carry out a proper and thorough enquiry into all the circumstances/

circumstances surrounding the application. In Central Scotland police, it would appear that the information held at the Firearms Department on such matters as ammunition purchase, ammunition usage, the date permission was sought to purchase/acquire additional firearms was not routinely transmitted for the benefit of Divisional officers in conducting their enquiries. There are a number of specific examples where no record is maintained in the firearms file in respect of issues that required to be the subject of enquiry. It may be that such enquiry was carried out by Divisional officers, but nonetheless there is no record maintained on the file".

Then you give examples? - Yes.

I think it is fair to say that in some instances we have heard a little more about the application than you have gleaned from reading the paperwork. You are dealing with it on the basis of what you can read? - Yes.

BY LORD CULLEN: When you talk about Divisional officers conducting enquiries are you talking about the officer who goes round making the enquiries or someone else? - I am speaking about those officers who go round making enquiries.

EXAMINATION CONTINUED BY MR. BONOMY: That means officers in a Division rather than the officer in charge of the Division? - That is correct.

I think after thee various examples you deal at the foot of page 46 with the processing of certificate applications? - Yes.

I'm sorry, I think I have missed one section. You deal with a number of examples, then you deal at the foot of page 46 with the processing of certificate applications? - Yes.

And you make the point that the form RL3a does not require a Divisional officer to carry out a Criminal Intelligence check, although the memorandum does? - Yes.

And again you are summarising various matters we have been over in evidence; is that right?/

right? - Yes.

So can I take it that that report in your understanding of 48 pages, with the various annexes, is an accurate account of the independent enquiry into the operation of the firearms licensing procedures in respect of Thomas Hamilton carried out by Central Scotland police? - That is correct. I have to say in response to that that thorough and professional enquiry would also have entailed interviews, valuations, visits and so on. However, as you are aware, the time did not allow for that. This is the best report I could produce in the time available from the information made available to me.

I am sure the Inquiry is grateful to you for carrying it out at such short notice. You are also aware that the Inquiry has heard direct evidence from many witnesses, and your report will be taken along with the direct material that we have heard? - Yes, sir.

CROSS-EXAMINED BY MR. GIBB: You talked about the ability of police officers to carry out the enquiries, and you stated that you had not formed any view as to whether it should be civilianised or not. In this case while it is true Mr. McMurdo was aware of all the facts, Anne Anderson, the enquiry officer, was not aware, but had a gut feeling, and if she had known all the facts she might have qualified her report upwards. Is there not something to be said for some degree of specialisation of police officers carrying out these enquiries, so that some of them know how to open a gun and check guns properly? - I think if a police officer is properly supported by good guidance then there is no reason why a police officer should not carry out a thorough and satisfactory enquiry.

Yes? - As I said also there is this great benefit to be gained by having the same people doing it continually, so that they build up a greater level of expertise.

Yes? - I think if you provided the police officer when he makes the enquiry with some memorandum of guidance, each time you give him the information to allow him to check guns you produce serial numbers and so on, and he can do the enquiry equally well, provided the individual who is requiring/

requiring the certificate is able to point out to him the serial number on the gun.

We have heard evidence that in relation to gun clubs there is a Range officer when shooting takes place, and presumably members of a gun club can simply keep a personal record of their use of ammunition. That would not be very difficult? - I believe if an individual gets ammunition and purchases it, whether at a gun club or a shop, an ammunition record should be maintained, because it does help to show whether or not regular and legitimate opportunity is being taken, and it allows us to find out about the ammunition being used by an individual who was using it regularly.

But of course home made ammunition would create a problem, and that appears to be quite common? - That is correct. That would have to be dealt with within any new procedures if it was not acceptable.

BY LORD CULLEN: On that last point, as I understand it what you are saying is that an officer who goes round should be supported in the first instance by general guidance; is that right? - That is correct.

And you have also indicated he or she should be supported by information of the particular case? - Yes. I believe that if there is any difficulty at all with that particular case then the Firearms Department should be able to support him or her. Nevertheless, in addition to that I do believe that an officer should have -- it may only be a sheet of paper or two sheets of paper printed out every time an enquiry is being undertaken regarding the grant, renewal or variation of a firearms certificate, on that form to allow the officer the fullest of information or direction, so that further enquiry is made at gun clubs and so on to satisfy that.

I suppose up to a point a certain amount of direct guidance about the particular case might be given if there was something in the firearms file which merited enquiries; is that right? - That is correct.

But when the officer sets out he won't yet/

yet have seen the current certificate? - Yes, that is correct.

And I suppose that when he sees that, looking at it might provoke him to further questions? - It may do, but it may also be very difficult to interpret, because they can become complex documents.

Yes? - I think what I was trying to convey earlier was the real need for a Firearms Department which pays particular attention to an examination of all the information previous and current in relation to a certificate being held, and carried out each time.

How is the officer who carries out the enquiry going round to be assisted by reading the existing certificate? Is he going to be given enough instructions to enable him to ask questions, or should he in some way have referred back to the Firearms Department for further consideration? - I think both are equally relevant. I think the Firearms Department should be instigating further enquiry if the officer does have particular difficulty.

That might mean he might have to go out a second time for a follow-up visit? - Yes; or alternatively the Firearms Department could start to undertake the enquiries centrally, for example there was nothing to hinder the Firearms Department at Headquarters telephoning the secretary of a gun club and asking specific questions, or writing for specific answers to questions.

CROSS-EXAMINED BY MR. TAYLOR: I wonder if you could clear up one point. You have made your criticisms of the procedures adopted by Central Scotland police as you perceive them to be very clear. But what I would like to know is the standard against which the judgements are being made? - As I have said earlier, I did not use an officer from our Licensing Department as part of the team assisting me in making the report, and that was deliberate. I set up a team which comprised a Chief Superintendent who was a Divisional Commander, a Chief Superintendent who was a member of Complaints and Discipline, a Detective Superintendent and an officer who had a law degree and who had had some experience/

experience in our Legal Services Department. What I tried to achieve, combining all of that, was satisfying the law and satisfying good police procedures and the need for public safety to be paramount.

So could these be thought to be the ideal procedures against which the judgement has been made, as opposed to any current set of procedures? - I don't think within my report I laid down procedures that should be put in place. What I took the opportunity to do was, as required by the Lord Advocate's instruction, to identify whether procedures have perhaps been inadequate.

Yes? - If the report was to be extended by making a recommendation, on new procedures in relation to the administration, enquiry and guidance in relation to firearms, I think that is a much more onerous task, and I have not been able to do that, unfortunately.

I understand exactly what you say there, and the difficulties in relation to the timescale: but if one is going to say that something is inadequate it follows one must first of all have a definition of what is adequate, and what I want to get from you is whether or not the adequate standard which you have set is a standard which is adhered to in Strathclyde or if it is a standard you have come up with in the course of the past two weeks. If I have understood your evidence correctly, it is the latter, although please tell me if that is so? - No, the comments I have made are based solely on the evidence that has been produced over the last two weeks when we were making our enquiries.

Yes,/

12.40 p.m.

Yes, I understand you have judged Central Scotland Police according to what you have seen on the documentation and we will look at that in a minute but the adequacy of what is done or otherwise has to be tested against something, doesn't it? - I think it has to be tested against the requirements of the Act and it has to be tested against the requirement for an efficient procedure which satisfies the requirements of the Act.

Well, may be we should return to that one in a minute. Mr. Bonomy touched upon one aspect in his examination-in-chief in relation to the difference in size between Strathclyde and Central Scotland Police Force. I wonder if we could just put a little bit of flesh on to these bones. As I understand it, the population of Central Scotland Police Force area is in the order of 273,000. Does that ring true to you as roughly what you would expect Central Scotland to be? - I would accept your assessment.

Do you know how many people come within the Strathclyde Police area? - Approximately 2.3 million.

My understanding is that Central Scotland Police Force have some 658 officers in total. Again is that the order of magnitude you would expect? - Yes.

Do you know how many officers there are in Strathclyde Police Force? - We have an authorised establishment of 7,212 and an authorised civilian establishment of 1,800 or thereby, support officers.

So there is really quite a dramatic difference between the Forces? - Yes, very much so.

Am I right in thinking that Strathclyde is the largest Force in Scotland on these figures? - It is, yes.

And would it follow that the culture which there would require to be in one Force would differ quite significantly perhaps from the culture which there might be in another Force? - What do you mean by culture?

The/

The environment in which the officers have to operate. The general environment in which they work? - Okay. Thank you. I think that Strathclyde contains all environments that are apparent anywhere else in Scotland because it polices the rural areas of Argyll, Ayrshire and Lanarkshire as well as having to police the urban mass in the West of Scotland of Glasgow, Motherwell, Wishaw, Paisley and so on and throughout the spectrum of population and so on in Strathclyde, probably we mirror more or less every other culture in some way or another that is in Scotland.

Yes, that is using culture in the sense of geographical spread. I was meaning culture within the Force itself which impinges upon how an officer goes about his function. It might be different in smaller Forces than in larger Forces? - No, I think the same observation applies. If you look at for example officers in Argyll, they police places like Oban, Lochgilphead, Campbeltown and so on, Rothesay and Dunoon and perhaps a parallel could be drawn there with smaller Force areas and the type of rural aspects that have to be policed in smaller Force areas so the officers would develop perhaps, depending on the training they received and how that would be compared, a similar type of policing skills to be able to work with the local community in the best way to ensure that a high quality of service is delivered to them.

As I understand it, Strathclyde has a centralised Licensing Department, is that correct? - That is correct, yes.

And they look after both liquor licences and firearms licences? - Yes, that is correct.

And am I correct in thinking that all of the firearms files for Strathclyde are contained in that one Department? - Yes, that is correct.

Now, when a police constable goes out to make enquiry upon an application for a grant or an application for a renewal, he might be in an area quite distant from where the files are kept which I assume is in Pitt Street, is it? - Yes, that is correct.

What is it that that constable will have with/

with him or her when the enquiry is being made? - He will have with him or her the application form submitted by the individual and he would have his notebook. I don't know whether or not he would, but he may, take a copy of the report form that he is required to submit and he should have.....

That would be the Strathclyde equivalent of the RL3a? - Yes, that is correct.

Sorry, I interrupted you? - Yes, and if the individual who was applying for the renewal of a certificate had also handed in the certificate that would be with him but that would be unlikely. You would probably find that at the home of the person in the application.

And he would be able to check the certificate upon making the visit? - Yes.

And you would expect him normally to do so? - Yes, I would.

But he would not have the firearms file as such, would he? - No.

And would the constable require to make a visit on renewal or has Strathclyde gone over to the system of postal renewal? - Strathclyde has not and won't go on to the system of postal renewal.

You made some comment in relation to criminal intelligence? - Yes.

I wonder if you would be able to tell us a little bit about the criminal intelligence system which operates within Strathclyde Police Force? - I will try to be helpful. There is a Central Criminal Intelligence Unit at Headquarters and in every Division there is also a Criminal Intelligence Unit. It is staffed normally and run by a detective sergeant who is also assisted probably it will be by a constable and they are field intelligence officers as well as office intelligence officers. They will be assisted by a crime intelligence analyist and there is a system in place where by the officers in the Force are encouraged to continually submit information which may be useful in helping the Force to solve crime and to prevent crime. The information is graded when it goes into the/

the criminal intelligence system to show that intelligence which can be based on evidence or full information as against information which appears in the system which is not backed up in any way. So that intelligence is graded dependent upon its quality.

Is there any attempt made in Strathclyde to concentrate their intelligence gathering efforts in relation to particular individuals? - Yes.

And is that something which has come into being in recent times or has it always been such that you know of? - It has always been the case that police officers have gathered intelligence on the individuals who are most likely to harm society by criminal acts, violence or whatever.

Following the events of the 13th of March, did Strathclyde do anything in relation to reviewing its own procedures? - I am not aware if the Assistant Chief Constable, who has the function of dealing with licensing, has instigated a review. I have certainly found information in the Central Scotland enquiry which will be helpful to apply to all procedures in Strathclyde to ensure we meet the standard. I think, though, what will happen is that Forces will generally look to see if there are any short-term changes that had to be made in the light of the events of the 13th of March but I would expect them to wait until such times as Lord Cullen has reported to help them to form a system which meets all the evidence and investigation that is carried on at this Inquiry.

You made reference to the form which was used by Strathclyde as being equivalent to the RL3a? - Yes.

Do you know if that is the same form as has been used prior to the 13th of March? - It is, yes. As far as I am aware it is.

You were asked to look at the terms of Section 27 in relation to the issuing of Firearms Certificates and the need for good reason. I think it is fair to say that good reason is also required in respect of a shotgun, is that correct? - As far as I am aware, yes, it is.

Can you indicate what constitutes good reason/

reason for requiring a Firearms Certificate? - Without an in-depth knowledge, my assessment would be for clay pigeon shooting, for husbandry of land and for the control of vermin as examples.

Perhaps sporting purposes on land? - I'm not aware other than clay pigeon shooting of sporting purposes on land.

When I was referring to sporting purposes I was meaning grouse shooting and suchlike? - Yes, game shooting.

Yes, game shooting? - Yes, that of course would be a sport.

If I was a farmer and wished to acquire a shotgun for controlling vermin for example, that would constitute good reason, would it not, to have a shotgun? - No, not solely that. Your character, your habits would all have to be conducive to you being able to have a shotgun without danger to public safety or the peace. You would not have to be a prohibited person by virtue of convictions. You would not have to be of unsound mind or intemperate habits and the shotgun would have to be able to be used on that land without danger to the public. For example, if it was a parcel of land which bordered a road and it was so small that there would be a danger to the public then you would not have good reason.

Well, does it not come down to two things; the good reason established by the intended use to which I seek to put the weapon? - Yes.

And after that there has to be some assessment as to the individual's stability but the good reason is really just in relation to the use to which the gun is to be put, is that not so? - Yes.

And so the good reason would be constituted or could be constituted by shooting vermin or similar? - Yes, in fact I think I am correct in saying that the guidance in the Act when it speaks about smooth bore guns, which are shotguns, refers to the fact that no one should require to have a gun, a smooth bore gun, other than one which only has a maximum of two shot capacity. The guidance then goes on to say of course there are instances/

instances where you could have more than two shot capacity and the reasons given are for vermin control and pest control. So, yes, obviously.

And if I did acquire such a certificate and subsequently acquired an appropriate shotgun, I would not normally keep a record of the occasions on which I have shot, would I? - No, not at all.

And I would not keep a record of the number of rats or rabbits which I had managed to kill in a particular period, would that be correct? - That is correct.

And when my certificate came up for renewal, what sort of enquiry would you expect to be made? Would I have a visit as for a Firearms Certificate? - I have to say I have not made enquiry into the procedures for shotguns so, therefore, I can't be helpful. I'm sorry.

Now, would it be fair to say that the inspection which you have carried out has focused on the main procedures which were adopted by Central Scotland Police in relation to the granting and the renewal of Firearms Certificates? - That is correct.

If a Police Force in Scotland was to ascertain what was good practice in a particular area of policing, where would you expect them to go to ascertain good practice. If they wanted guidance? - I would probably expect them to make enquiries with other forces to see where they were with their development in any area of policing. I would expect them to be reading publications, perhaps from the Research and Development Branch. I would expect them to look internally within their own Force for good practice to try and help it be mirrored throughout the Force and I would expect that if the Inspectorate of Constabulary carried out a thematic inspection in relation to any issue that a Police Force has to deal with then that too would provide some information concerning recommended good practice.

Would it be fair to say that the report which you have provided has been reasonably critical of Central Scotland Police in a number of areas to do with their procedures? - I have to say that I believe/

believe the report is as accurate as I could make it as a professional police officer and in that there are criticisms of the adequacy of procedure and the systems in place in the Force.

Now, I don't know if you have had a chance to look at the transcripts of any of the evidence. Have you had a chance to look at any of the transcripts? - I haven't read the transcripts other than Mr. McMurdo's transcript.

And apart from Mr. McMurdo's transcript, am I right in thinking you have based your opinion on the statements which were circulated in advance of the Inquiry? - Yes, the report is based on the statements and it is also based on the team that was working with me reading the transcripts, relevant transcripts, to determine whether or not those transcripts would mean that the report would have to be altered but having read the transcripts we decided there was no need to alter the report.

So whilst you have only read Mr. McMurdo's transcript, other members of the team who were assisting you have read transcripts from other witnesses? - Yes, that is correct.

In having read Mr. McMurdo's transcript, I think you would have ascertained that he was quite open in indicating that certain information ought to have been in the firearms file which was not there. Is that fair to say? - Yes, I read it very briefly yesterday when it was made available to me.

But save for that I don't think he admitted to too many other deficiencies in the procedures? Would that be so? - Well, I think he answered the questions as best he could. I cannot recollect all that is in the transcript but he had views in relation to certain procedures.

MR. TAYLOR: Sir, this may be an opportune time to break.

LORD CULLEN: Yes, very well. We will resume at 2 o'clock.

After an adjournment for lunch.

CROSS/

2.00 p.m.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: Mr. Richardson, I wonder if you could have Chapter L in Volume 7 before you? At the beginning of that file which you have before you, Mr. Richardson, you should see a letter addressed to Mr. Wilson from Mr. Boyd, Her Majesty's Chief Inspector of Constabulary; is that right? - Yes.

And if you move in to the document, we see that there is the thematic inspection and the administration of the firearms licensing system. Is that what you have? - Yes; I have the letter from Mr. Boyd to Mr. Wilson.

And if you turn over a few pages, I think you then get to the actual thematic inspection which I referred you to a minute ago? - Yes.

If we look first of all please at Paragraph 1.9, that is under the heading "Methodology", do you see that? - Yes, I do.

And we see in the final sentence that the inspection focused on the main procedures in relation to the granting and renewal of firearm and shotgun certificates, and it then goes on to deal with matters which are not of such primary concern to us. Now, it would appear therefore, would it not, that the inspection which you carried out mirrored to some extent the inspection carried out by Her Majesty's Inspector of Constabulary? - I don't know the criteria of the terms of reference under which their enquiry was conducted. Their enquiry, I would imagine, would look at the practices across Forces, and from those practices and other knowledge that they had, make an assessment of what was good practice of the Forces in the Scottish Police Service. My enquiry specifically was based on paper information that was provided in respect of the Central Scotland Police Licensing system, and statements of individual police officers.

I appreciate that, but the same forms would have been used, or would have been seen by both yourself and the Inspectorate carrying out the report? - I would assume that the Inspectorate would see the forms that have been available to me.

And/

And the same procedures would have been followed, assuming that the procedures adopted in relation to Mr. Hamilton were fairly typical of the procedures adopted in other files? - I would imagine they would examine procedures, but I can't speak directly to that.

If we then turn and look at the letter which we referred to a few moments ago, that is the letter of the 22nd November, we see in the first paragraph and the final sentence there that the purpose of the letter is to briefly highlight some of the main issues raised by the scrutiny of your own Force? - Yes.

I take it you won't have had an opportunity to see this letter until just a few minutes ago; is that right? - That is correct.

The principal points which the Inspectorate make in relation to this scrutiny of the Central Scotland Police Force files and procedures centres principally upon the lack of permanent clerical support, which we see in the second paragraph. Do you see that in the second paragraph in the final sentence of the letter? - Yes, I do.

If we go on to the third paragraph, there is comment made about the role of the firearms examiner, and it being unfortunate that his role is restricted to renewals and not to initial grants, and they go on at the end of the third paragraph to indicate that there hasn't been a suitable means of communication available for the firearms examiner. Is that roughly what is said there? - Yes, it is.

In the next paragraph, the author of the letter talks about the level of technology which has to be made available, and then in the next paragraph there is discussion about a national package being prepared to assist applicants in the certification procedure; is that right? - That is correct, yes.

The next paragraph deals with the practice in Central Scotland Police whereby, if there be a refusal to renew or to grant, the statutory fee is not returned; that is so -- yes? - Yes.

And then in the next paragraph, which is the/

the fourth complete paragraph in the page, the comment is made that an examination of a random sample of files revealed that the recorded details of security arrangements were excellent overall. The next paragraph relates to target times for completion of application for grant and renewal -- yes? - Yes, it is.

The final paragraph on the page then deals with postal renewals, and then encouragement to adopt that; is that so? - That is correct.

And the final paragraph in the third page concludes by commending the Force on its development towards a fully civilianised unit, and an assurance is given that the Inspectorate will support the provision of a further firearms examiner and appropriate clerical support, and then it is signed by Mr. John Boyd, who is Her Majesty's Chief Inspector of Constabulary; is that right? - Yes, that is correct.

And we saw there that there was a sample of files taken that, if they had been at all like the files that you saw, would have contained RL3a -- yes? - Probably.

But yet the Inspectorate doesn't seem to make any comment upon the use of the form or its format. Do you find that at all surprising? - I had to make comment after examining the procedures in relation to Thomas Hamilton's certificate, and my conclusions are based on examining those procedures.

But if those procedures were the same as the procedures which had been adopted in the other files, and if the Inspectorate had seen these other files, as it would appear he did, do you not think that if he found the RL3a to be deficient, he would have made reference to it in his report? - I would have expected him to have made reference to it in the letter to Mr. Wilson at least, if he found it deficient.

Would it be a reasonable conclusion to draw that the didn't find it deficient? - That is a reasonable conclusion, yes. Also the Inspector could have discussed one or two issues of some detail with a Chief Officer in the Force following an inspection.

There/

There is of course one difference in that the Inspector's report was prepared before the 13th March whilst yours has been prepared after the 13th March. Do you think that there is any possibility that in the preparation of your report, you have been to some extent influenced by the events of the 13th March? - My mind has been greatly influenced by the events of the 13th March because now there is hindsight available. However, I must say that I would have been greatly disappointed if my professional judgment hadn't drawn similar conclusions if I had examined the situation pre the 13th March.

You told us of the manner in which you interpreted Section 27 of the Act in relation to the definition of "good reason", and did you have occasion to address that issue prior to having done so on this occasion for the preparation of this report? - Do you mean in my professional capacity as a police officer previously?

Yes? - I did, yes.

How long ago would that have been? - In 1981.

And did the interpretation which you have given to "good reason" today conform with the interpretation which you gave then, or can you not remember? - I can't remember well the circumstances of 1980/81. I can clearly remember that the good reason was insufficient, and that the other problem was in relation to public safety at that time.

So that is a particular situation? - It is a particular case, yes.

I wonder if at that stage you could have a look at the Guidance which was issued to Chief Officers of Police, and that, I think, is contained in L2, and the particular passage which I would wish to look at with you is Paragraph 6.8E. It is on Page 69. Do you have it there? - Yes. I am just wondering if I am looking at the correct document?

It should be the very first document in that folder? - Okay; thank you.

And/

And this is what it is said should be borne in mind when considering applications, and it is said in 6.8E that "A certificate for a handgun with ammunition should not be granted (except in very rare cases) unless the applicant has regular and legitimate opportunity of using the weapon e.g. for target practice as a member of a pistol shooting Club". Now, you have taken that passage and interpreted it as being that he must establish that he is a regular user of the Club; is that correct? - That is correct, yes.

And we see that in your report, because we find at Page 4 in your report at the first bullet point on the report, it says "For example, whether the applicant has regular and legitimate opportunity to use firearms", so you have mirrored the wording contained in the Guidance note there; is that correct? - That is correct, yes.

But if we move on in the report to Page 44, and in the second whole paragraph on that page, "Thus, giving rise to question his 'regular and legitimate use' and 'good reason'". You have used the words 'regular and legitimate use' and put them in parenthesis. Is there any source from which that phrase has been taken? - There is no particular source. It is the interpretation of regular and legitimate opportunity.

You see, opportunity to me connotes a chance to do something. It goes beyond that for you, does it? - It does in this instance, because without that interpretation and with the limited information I have just now, in my mind it would probably mean that someone could have many guns for many years and much ammunition for many years without ever using it, so long as they were a member of a Gun Club, and I'm not sure that the spirit of the Act would wish that to happen when the circumstances surround public safety and security of firearms, and it is based on that scenario that my interpretation founds.

I wonder if you could have a document which has been submitted to Lord Cullen on behalf of the Secretary of State for Scotland and the Home Secretary, before you, and the particular page which I want to look at is Page 11, and I think copies are being made available? - Yes.

2.20 p.m.

Page 11 should contain a passage under the heading "Good Reason for Possessing a Firearm or Ammunition"; is that correct? - Yes.

In paragraph 54 we find the terms of the guidance set out, which we looked at earlier? - Yes.

Can you read paragraph 55 to us? - "This makes it clear to the police that membership of a target shooting club at which the applicant can use a particular pistol or revolver, can be regarded as a good reason for the issue of a firearm certificate to possess it, and the ammunition for it. We understand all police Forces in Great Britain adhere to this advice, and will issue firearm certificates to members of clubs in these circumstances, provided they are otherwise thought to be suitable".

In the first sentence you find again the used of the word "issue" is used. Would you disagree with that? - Not at all. This is directed I think at the granting of a certificate, from my reading of it. There may not be regular and legitimate use of before the grant, but once the certificate is in place and he is a member of a club I would expect him to have regular and legitimate opportunity to use it and take advantage of that opportunity to justify his possession of both firearms and ammunition.

I am not sure that the interpretation that you seek to put on it is necessarily correct, because the Statute refers to the possession of a firearm? - Yes, I see that.

But the possessing of a firearm would be dependent on a grant and a subsequent renewal? - I understand, but it says in paragraph 58 that it can be regarded as a good reason for the issue of a firearm certificate to possess it, and it is perhaps on the word "issue" that I make my remarks.

You do not consider renewal could also be encompassed by the "issuing" description? - Perhaps re-issuing, but not "issuing".

In/

In your view, if we take it for the moment that your interpretation of "opportunity" is correct, that would constitute sufficient use to entitle a user to renewal of the certificate? - The guidance is not clear in relation to "regular and legitimate opportunity to use", and that is perhaps why you are asking me these questions.

Yes? - The guidance is not helpful in defining "regular and legitimate opportunity to use", the number of times you have to use per year or whatever.

Does the guidance say anything at all about requiring to use the firearm? - I don't know the guidance in any great depth, but I would expect someone to use the firearm and ammunition at a range reasonably frequently. To put a figure on it I am not sure I would be able to do that, but if I was pushed I would be expecting them to be using a firearm regularly, perhaps at the very least once a month, once every two months.

Yes? - If I was involved in sport regularly, that would suggest more than once or twice a year.

In your analysis of events, what steps is the enquiry officer supposed to take upon learning of the use of the applicant, what he will be doing with the gun? - I would expect the enquiry officer to ask the question "What use is being made of the weapons?"

I apologise for interrupting you. That is dependent on "opportunity" being interpreted in the manner in which you seek to interpret it; is that correct? - I would expect that the form that the applicant would provide to the police officer could help him with him with his enquiries, would help drive him towards making such enquiries.

Yes? - I think too the form should require the officer to make enquiry at a gun club.

Yes? - I think added to that there is the possibility that if the previous certificate was examined and the current certificate at the Firearms Department or for that matter by the officer, if there was no purchase of ammunition recorded, I think/

think it gives a reason for asking the question "Have you been using the firearm?" Thereafter, further enquiry would be dependent on the answer as to whether or not opportunity was taken to make ammunition or whether the contention was that ammunition was regularly purchased at a gun club which did not record the purchase for the certificate. Both of these answers would allow further enquiry.

You mentioned that the form would direct the enquiring officer to make enquiry at the gun club. Is that what you have in mind? - That would be an option for a form if it was to be re-drafted, so that the officer would be able to determine if the individual's practice at that club was acceptable, if he regularly used the firearm at the club.

Are you suggesting that that is what should be done just now in accordance with standard practice just now? - Yes, I am suggesting that Forces should require to put in place efficient systems and procedures to meet the requirements of the Act. Part of those procedures surrounds regular and legitimate use, surrounds membership in a gun club, which means that enquiry has to be conducted to confirm matters in relation to those issues.

You mentioned before lunch time that you had one of the Strathclyde forms with you, which is the equivalent of the RL3a? - Yes.

Can you say if in that form there is any suggestion made to enquiring officers that they should make enquiries of the applicant's club as to whether he is using his firearm? - There is no direct instruction in the form to require the officer to do that, but he has to identify the club at which the firearm was used, and the form requires that. It also asks "Has membership of the club been confirmed?": so firstly he has to confirm membership, and secondly name the club on the form.

Yes? - Thereafter I would expect either the Administration Unit at Division or the Firearms Section, or both, if there was a difficulty or if there was evidence of non-purchase of ammunition, would cause further enquiry to be made or to make that enquiry ourselves. All parts of the system must/

must operate together for efficient procedures to be in place.

In your view one should go beyond simply identifying with the club that the applicant is a member of that club? - I have to say that post-13th March my mind is clear: enquiry must be made to ensure that regular and legitimate opportunity is being made and the firearm is being used.

Yes? - As I said earlier, I would hope that would be the view I would have taken prior to that date.

You see, we have heard from Mr. Norman Lynch: perhaps that name has cropped up in your investigations? - Yes.

Would it surprise you to learn that Mr. Lynch is a firearms holder and lives in the Strathclyde area? - It would surprise me to know he lives in the Strathclyde area. It doesn't surprise me to know that he is a firearms certificate holder or that he has some expertise in firearms. I have read his statement.

Would it surprise you to learn, if it was the case, that when Mr. Lynch made application for his renewal the only check which was made by the enquiring officer was to telephone his gun club in which he is a member asking if he was a paid-up member of the club? - It doesn't surprise me, no.

Why wouldn't it surprise you if your view of "opportunity" involves making use of the weapon as well? - The fact of the matter is if it was at a renewal he would be re-establishing the information that the individual was a member of a gun club. Thereafter to complement that information there would be examination of purchase of firearms which have been authorised by the certificate, and usage of ammunition.

Yes? - If that is not done locally, because the enquiry officer is not directed to do it or does not do it, other parts of the system have got to combine with that part of the enquiry to ensure that the system is effective and thorough.

Yes? - Therefore I would expect if there/

there is a note that would be carried out at Headquarters and the Firearms Section, where the file would be drawn for each renewal of the firearms certificate.

Would it not be a lot simpler if usage was an essential element to retaining the entitlement to possess a firearm that there be as part of the certificate some form which could be stamped every time the holder of that certificate shot at a gun club? - I agree with you, yes. I think the ammunition should certainly be marked on the certificate, but it would be helpful if gun clubs kept records of when their membership took opportunity to shoot, which would satisfy the "good reason".

And the fact that no such record is put on the certificate might suggest that the interpretation which you are putting on "opportunity" is in fact not the correct interpretation, would it not? - I have to say that I am not of a mind to change my mind in relation to "opportunity" no matter what was in a certificate. I would not want to seem intransigent, but to specify "good reason" someone has to use the guns that they have, that they have applied for, otherwise they have no good reason to have them, other than to look at them.

BY LORD CULLEN: So if stamping was to be used it would have to be stamping such as to show up that particular guns were used, other than simply attendance at a club; otherwise stamping would have to apply to all weapons? - Yes: but if ammunition purchase could be purchased, because the certificate had to be completed in respect of all ammunition purchased at the club or other commercial premises, this would mean that all purchases of ammunition would be known from the certificate: so there would be no excuse able to be levied that someone bought ammunition at a club, therefore there is nothing on the certificate to suggest he has purchased ammunition.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: That would also mean one would have to put some prohibition on the making of one's own ammunition? - Yes.

At/

At the present moment it may be thought that the record of ammunition which is retained on the certificate does not really tell very much about the whole picture, does it, as things presently stand? - It doesn't, because an individual could purchase thousands of rounds of ammunition at a gun club without the certificate being stamped, and you could make thousands and thousands of rounds of ammunition without the number of rounds he made being known.

Yes? - But still within the certificate he could purchase ammunition beyond that which he is authorised to possess at any one time. There is no check made on the quantity of ammunition processed.

Yes? - There has to be some expectation that the individual is going to be truthful about his completion of the enquiry form and the information he provides.

Yes? - There are many loopholes in this system in respect of ammunition, purchase and retention.

You gave some evidence on your view of the RL3a form, and you were fairly critical of it in its unamended state: but if I have understood your evidence correctly, the criticisms carry forward to it even in its state of now being adopted? - There was an improvement in the RL3a in its issue probably in 1989 and 1990, the amended RL3a.

What I would like to know at this stage is whether the view which you are expressing in relation to the RL3a is one which you have formulated yourself and set your own standard by or whether the standard you have adopted is the Strathclyde form? - I have deliberately not adopted the Strathclyde approach. I did not make any enquiries about Strathclyde until after the report was written.

Yes? - My enquiries about the form were whether the form was sufficient to assist the officer making further enquiry, sufficient to allow the officer to ask the questions and make the enquiries that provided without the "good reason" test and the "regular and legitimate opportunity" test and also the character test, assisted by SCRO, DVLA/

DVLA and of course Criminal Intelligence.

It could of course be the case that proper enquiry is carried out notwithstanding the comments you made about the RL3a; is that correct? - I accept that, yes.

At one stage if I have understood your evidence so far correctly you want the RL3a to actually record the names of the persons who can speak to certain facts within the document. I think page 13 of your report is what I had in mind for that? - Which part of that?

The first complete paragraph, where you have a comment "Form RL3a does not accommodate the recording of persons who can speak to these facts", the facts referred to being the use of the weapons and the certificate? - Yes.

You envisage a form going even beyond recording the fact that a particular club is one which the applicant is a member of and going beyond the fact that the officer is enquiring as to the level of usage: you would have the form saying who the witnesses to these facts would be? - I think that would be helpful in doing the overall checks, yes. If the RL3a is going to provide for example information to allow Headquarters Department, which would be taking the overview, helpful information to help them make further enquiry the yes, absolutely: because in the memorandum that guidance does say it will be good practice to provide documentary evidence as part of the procedure, and I suppose providing that information would also be helpful.

Does the Strathclyde form require such enquiry to be made at clubs? - As I said earlier, it requires enquiry which is limited to ensuring that he is a member of a club and also providing the name of the club.

But that is as far as it goes? - Yes.

It doesn't go on to suggest that the membership of the club should be attached to the document or that there should be a letter obtained from the club secretary, or there is no space on the form for recording the usage which there might be at the club; is that correct? - That is correct. But as/

as I said at the start, this form is only part of an integrated procedure, and all parts of the system have to work: so to support the operational officer there is a Firearms Department, who from my limited enquiries withdraws the file when the renewal application comes in, takes the form, looks at the previous certificate for ammunition usage against the current certificate. So it is part of an overall procedure which does not stand on its own. Nevertheless, I am sure there will be improvements which will be able to be incorporated in another revised form.

You/

2.40 p.m.

You talked a few moments ago about ammunition and the difficulties which there were for a number of factors which you gave. Would I be right in thinking that one of the principal concerns in relation to the entitlement to hold ammunition has been the security arrangements in place by the applicant? - My recollection is that the security arrangements relate to the firearms. Whether they relate to ammunition or not in terms of the guidance, I don't know, but it would seem to me that both have to be kept securely and, on reflection, if good practice was to be adopted both would be kept separately.

I can follow that, yes. I wonder if we could look at the guidance again if you still have it before you. That is D1L and this time if we look at page 71 at 6.8(j) and we find there the guidance saying "It is not possible to give firm guidance on the amount of ammunition which may be authorised by a certificate. Each case should be dealt with on its merits. While account should be taken of the fact that it is normal practice to purchase ammunition by batches for consistency of performance and that reloading or buying ammunition in bulk is cheaper, Chief Officers will wish to pay regard to the risks attendant upon unnecessarily large quantities of ammunition being held on private premises. Where large quantities are authorised, particular attention must also be given to the security arrangements". Is that not suggesting that the risk which has been addressed in the guidance is the risk of inadequate security when large volumes of ammunition are held in any one hand? - Yes, there are two elements I see from having heard you read that. One is that the Chief Officers are not discouraged from allowing any large amounts of ammunition. In other words, there are reasons in there why they should allow large amounts of ammunition. So the guidance is taking into account the interests of the people who have firearms but then the guidance, from reading it, is covering an issue where there are large amounts of ammunition, unnecessarily large amounts which is undefined because as I said earlier, the limits which were defined in the guidance, in the 1969 guidance, of 1500 rounds and a thousand rounds are not transported to this guidance and yes, they are saying that there should be special consideration taken/

taken concerning security of the ammunition.

Would it therefore be important that the security provisions are properly recorded on the RL3a Form? - Yes, if public safety is the concern and the fact that no one would wish firearms or ammunition to fall into criminal hands, then it would be an additional check to record the method of security if that was thought appropriate, yes.

Presumably that would be of considerable assistance to those who had to take decisions further up the chain of command? - It would. It may be helpful if you know that in Strathclyde in circumstances like that, where there are large amounts of ammunition or a large number of guns, that the security enquiry is directed to Crime Prevention Officers who have special knowledge of security arrangements.

And just taking up that point, how is a decision made as to whether or not the particular circumstances warrant the specialist knowledge of the Crime Prevention team? - There is no definition in our Force procedures to determine what unusually large amounts are or the numbers of guns, but as I said, there is a Firearms Department at Headquarters where an over-view would be taken and to ensure a consistency across enquiries they would be able to determine whether or not professional advice of the Crime Prevention Officer should be brought into play and whether he or she should in fact undertake the enquiry. I am sorry I am unable to be more helpful.

So that would be a decision made not by the enquiry officer but by the Firearms Department? - They would provide a consistency in interpretation across the Force.

Would it be fair to say that if the interpretation of the good reason aspect was other than that which you are suggesting and more the one which I am urging upon you, that many of the criticisms which are contained within your report would actually fly off? - Is that in respect of regular and legitimate opportunity?

Yes? - No. My report has been based on professional judgment which incorporates the requirements/

requirements for public safety to be addressed. Therefore I, especially with hindsight, would continue to advocate those criticisms. Having said that I understand that the Force acted within a climate where the guidance was very much in place.

I understand what you are saying but if for the moment you accept the interpretation which I seek to put upon the guidance as opposed to the interpretation which you give to the guidance, and I appreciate you don't accept my analysis of it but for this hypothesis accept I am correct. Would it then be fair to say that many of the criticisms which are made of Central Scotland Police in your report actually fly off? - I suppose then police officers would not require to make investigation into whether or not a gun is regularly used. Therefore there would be no criticism about regular and legitimate opportunity. It is fair to say that.

And when one takes that out, am I right in thinking that what one is left with is a criticism of the Form RL3a and a criticism of what one finds on the firearms file and upon which one finds in criminal intelligence? - What would be defined is an inadequacy in the overall system which still failed to satisfy the requirements of the law in terms of good reason.

Yes, but that is again going back to good reason as being judged or being taken as your analysis as opposed to the analysis I am urging? - Yes.

Now, for this little passage of the evidence, if you might indulge me by accepting
my interpretation of it, <u>it</u> being good reason,
would I be right in thinking that what one is left with is a criticism of the form and a criticism of what is contained in the firearms file and a criticism of what does not find its way on to criminal intelligence? - More or less, yes.

Well, is there anything else left? - There is the sufficiency of the form as you have said. There is the support for enquiry officers so that they can do a thorough job.

Is that not the same thing, the form as well? - Well, they also would have support from their/

their supervisors and they would have support from an over-view being taken by the Firearms Department.

Now, we have heard in evidence that the Firearms Department scrutinises each of the files. Is that not your understanding of the evidence? - I understand that was the point they were making. However, my evidence is that in relation to Hamilton the file was not scrutinised. There is no evidence to suggest it was scrutinised. That was the point I was making.

And how would that evidence have manifested itself? - By the officer, the civilian Mr. Lynch or Miss Johnston outlining any statements that were to be scrutinised with the file because if the file had been scrutinised along with the certificate and with the element of the whole system operating properly the non-use or non-purchase of ammunition for at least six years would have been spotted. The non-purchase of two guns over a period of nine years and eight years would have been spotted because these combine to question good reason and show a demand for further enquiry.

But again that is dependent entirely upon your interpretation of good reason, isn't it? - It is, yes.

So you draw your conclusion on that basis and if the interpretation of good reason is other than what you are suggesting and more what I am suggesting then scrutiny of the file may have been carried out and these items might not have warranted any special mention? - It is difficult to determine what I would have done if my interpretation had been different or the law had suggested to me something different but certainly regular and legitimate use would not have been a factor in the individual's possession of firearms or ammunition. The requirement would solely have been to have been a member of a gun club and so long then if the enquiry satisfied that aspect and confirmed Hamilton's membership and continuing membership of a gun club, that would have been the law satisfied. My report would have commented on that. It may also have said that there was a need and that I didn't agree with it, I hope.

One final point. A relatively minor point./

point. We have discussed what ought to be on the firearms file and I think you have seen from Mr. McMurdo's evidence that he acknowledges certain things ought to have been on the file. Do you consider that it is necessary for there to be duplication of what is contained on the file and also on criminal intelligence or would it be fair if everything was on criminal intelligence and a check made on criminal intelligence at each renewal or variation? - Each item would have to be looked at individually. Any item which referred to possession, use or whatever of a firearm, I would expect that at least to be in the firearms file because at the end of the day that is the source document for any individual thereafter to base decisions on.

And so far as the enquiry is concerned, does it not at the end of the day come down to having a degree of trust in the officer who is carrying out that enquiry and confidence in that officer to do his or her job properly? - That is part of it but that officer deserves and should have a system which helps him with an enquiry which he won't undertake regularly. In addition, it's not ony about trust. It is about, as I have said and continually say, it is about the whole system being sound so that thorough enquiry is made and albeit we trust the officer to make enquiry, there are certain aspects of the law which have to be satisfied by that enquiry, hence the reason for pro forma and hence the reason I believe that the officer should receive good guidance.

No re-examination.

MR. BONOMY: Sir, in such an Inquiry where it is becoming increasingly difficult to forecast exactly when it will be appropriate to call witnesses with professional commitments, as a result of that there is no further oral evidence to be led today.

There is one matter I hope to perhaps deal with at this stage and that does involve giving certain further information to the Inquiry. However, before doing that I would be grateful if you, sir, would allow me another short adjournment. I undertake this one will not extend in the way the one in the morning did and will not be any more than 10 minutes.

LORD CULLEN: Very well.

MR. BONOMY: I am obliged.

After/

3.00 p.m.

After a short adjournment.

MR. BONOMY: Thank you, sir. Crown Counsel have now considered the report prepared by the Regional Procurator Fiscal at Aberdeen, Mr. Vannet. That report has now been circulated to parties in order that they can consider it. I wish to now make the Lord Advocate's position in relation to that evidence and to the question of enquiring into decisions taken by Procurators Fiscal clear to the Inquiry.

It is a fundamental principle that prosecution decisions are taken independently of Government and that prosecutors, who act in a quasi-judicial capacity, are accountable for the decisions only to the Lord Advocate. The principle applies throughout the United Kingdom. It is recognise in the establishment of the Parliamentary Commissioner for Administration, or Ombudsman, and of House of Commons Select Committees.

Accordingly, the prosecuting departments and matters relating to the commencement of conduct of criminal proceedings are not subject to investigation by the Parliamentary Commissioner for Administration, in terms of Sections 4 and 5 and Schedules 2 and 3, Paragraph 6 to the Parliamentary Commissioner Act, 1967.

Similarly, the scrutiny of the Lord Advocate's Departments by the Select Committee of the House of Commons on Scottish Affairs it specifically excludes "Consideration of individual cases", in terms of a House of Commons Standing Order.

The rationale for the principle is the importance of finality and fairness to a potential accused, to victims and to witnesses.

The principle was clearly stated by Lord Justice General Clyde in McBain v. Crichton 1961 JC 25, 29: "The basic principle of our system of criminal administration in Scotland is to submit the question of whether there is to be a public prosecution to the impartial and skilled investigation of the Lord Advocate and his Department,/

Department, and the decision whether or not to prosecute is exclusively within his discretion". His lordship went on "It is utterly inconsistent with such a system that the Courts should examine, as it was suggested that it would be proper or competent for us to do so, the reasons which have affected the Lord Advocate in deciding how to exercise his discretion, and it would be still more absurd for this Court to proceed to review that soundness".

The principle does not prevent an examination of the conduct of prosecutors. In the "Meehan" Inquiry Lord Hunter was able to examine the actions of prosecutors, although his remit excluded both firstly "The guilt or innocence of Mr. Patrick Meehan or Mr. Ian Waddle of the charges contained in the respective Indictments against them", and secondly "The reasons for and justification of any decision taken by the Lord Advocate whether or not to institute, or concur in, any criminal proceedings".

Equally, the Report of the Inquiry into an Allegation of a Conspiracy to Pervert the Course of Justice in Scotland by Messrs. W.A. Nimmo Smith, Q.C., and J.D. Friel made it clear that, although they had been instructed to investigate whether decisions were taken by prosectors for improper reasons, "There can be no question of our reporting on prosecution decisions in such a way as would facilitate public debate about their correctness".

The principle was reflected in the establishment and operation of the Waters Tribunal of Inquiry, the last Tribunal of Inquiry to be held in Scotland, in 1959. In that case there was a motion before the House of Commons that a Select Committee should inquire into the case of John Waters and advise, inter alia, in what circumstances it was decided that no prosecution should be instituted. The Government of the day brought forward a motion for appointment of a Tribunal of Inquiry into, inter alia, the action taken by Caithness Police. In explaining why it was inappropriate to examine the decisions of the prosecutor, the then Prime Minister, Mr. Harold McMillan, stated:

"It is an established principle of Government/

Government in this country, and a tradition long supported by all political parties, that the decision as to whether any citizen should be prosecuted, or whether any prosecution should be discontinued, should be a matter where a public as opposed to a private prosecution is concerned, for the prosecuting authorities to decide on the merits of the case without political or other pressure.

"It would be a most dangerous deviation from this sound principle if a prosecution were to be instituted or abandoned as a result of political pressure or popular clamour. In this case, my right honourable and learned Friend the Lord Advocate decided, after considering the evidence before him, that criminal proceedings would not be justified.

"In reaching his decisions the Lord Advocate's duty in Scotland, like the Attorney-General's in England, is to act in a quasi-judicial capacity, whether the person involved is a public functionary or a private citizen": that is a quotation from Hansard.

Finally, in the North Wales Child Abuse Inquiry, which was announced in Parliament on 17th June, 1996, the terms of reference, which are very specific, include examination of "The response of the relevant authorities and agencies to allegations and complaints of abuse made either by children in care, children formerly in care or any other persons, excluding scrutiny of decisions whether to prosecute named individuals", and that is a quotation from the Hansard report of the debate.

Although the considerations underlying the principle against subjecting to critical scrutiny prosecution decisions apply most obviously to the interests of potential accused persons, they also affect victims and witnesses. Prosecutors are required to make judgments on their credibility and on the weight to attach to individual pieces of their evidence. Prosecutors are also entitled to take account of other information placed before them, which may be confidential. There are also related considerations applying to the integrity of the decision-making process itself. If decisions on criminal cases are not take privately, without the pressure of public scrutiny and on the basis of an/

an independent assessment of the quality of evidence and credibility of witnesses, prosecutors could be inhibited from taking difficult decisions, which they must take in the exercise of an independent discretion.

The Lord Advocate has considered the exceptional circumstances of this case, including the death of Thomas Hamilton, who was the principal subject of reports to the Procurator Fiscal. He has also borne in mind the fact that other persons named in these reports, as suspects, victims and witnesses, are still alive.

In the exceptional circumstances which apply, the Lord Advocate has concluded that it is entirely appropriate that evidence should be put before the Inquiry as to the investigation of the individual cases and that it was appropriate that the actual police reports -- which would normally be wholly confidential to the Crown -- should be made available to the Tribunal. He has also concluded that it is appropriate that the Tribunal should have a detailed account of the inquiries made by the relevant Procurators Fiscal.

He has considered that, in the exceptional circumstances of this case, it is also appropriate that the reasons for the decisions taken by Procurators Fiscal should be placed before the Tribunal, so that it is as fully informed as possible as to the facts surrounding Hamilton.

After Lord Cullen had been appointed to conduct the Inquiry, the Lord Advocate arranged for an independent senior member of the Procurator Fiscal Service -- Mr. Alfred Vannet, the Regional Procurator Fiscal for Grampian, Highlands and Islands -- to examine all the relevant case papers and to interview the members of the Procurator Fiscal Service who were responsible for taking decisions in the cases. Mr. Vannet has never worked in the Procurator Fiscal's Offices at Dumbarton and Stirling. Mr. Vannet had no prior involvement in any of the cases. He has produced a full review, which he had completed under the direction of Crown Counsel, setting out in detail the history of the dealings of members of the Procurator Fiscal Service with these cases and including the reasons for the decisions which were taken./

taken.

The Lord Advocate considers that presentation of this report to the Tribunal should enable the Tribunal to have a full account of the history of these cases and the reasons why decisions were taken.

The Lord Advocate trusts that Mr. Vannet's account will be sufficiently complete for the Tribunal's purposes. If the Tribunal so wishes, the individual members or former members of the Procurator Fiscal Service who dealt with enquiries concerning Hamilton are available as witnesses as to the facts set out in Mr. Vannet's review. It would, however, be incompatible with principle and the practice to which detailed reference has been made for the Tribunal to subject the soundness of the decisions made in relation to Hamilton to detailed examination in evidence or submissions at the Inquiry. For that reason the Lord Advocate's position is that evidence should not extend, so far as decisions are concerned, beyond informing the Tribunal what decisions were taken and what the stated reasons for these decisions were.

The Lord Advocate trusts that the Tribunal and parties appearing before it will understand and respect the position which he has adopted in the exceptional circumstances to enable the Inquiry to have a detailed account of the involvement of members of the Procurator-Fiscal Service with Thomas Hamilton.

Now, sir, that completes the statement of the Lord Advocate's position. It is accompanied by an 18 page report prepared by Mr. Vannet, which I do not propose to read at this stage, since in view of its length parties ought to have some time to consider its contents.

Now, sir, subject to what is said to you by other parties what I have in mind is to read this tomorrow morning, and then parties can make any comment on it they wish.

LORD CULLEN: Thank you for that statement, Mr. Bonomy. That certainly makes clear what the position of the Lord Advocate is.

Now,/

Now, I would not propose to pass any observations on what you have just said, nor would I expect any of the parties at this point to make any response to it. I think the correct course would be to reserve any discussion on this matter till tomorrow morning, and to allow parties to read the statement, look over Mr. Vannet's report, and they can then decide on what their future course of action should be.

MR. BONOMY: In the light of that ruling, sir, I regret that I have no further evidence to put before the Inquiry today.

LORD CULLEN: That is not altogether surprising, in view of what you said earlier. In these circumstances we will have to adjourn till 10 o'clock tomorrow morning.

The Inquiry was adjourned until 10.00 a.m. tomorrow morning.

TWENTIETH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

TUESDAY, 25th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).
C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
BRIAN WILLIAM PILL,	
Examined by Mr. Lake.....	3
Cross-examined by Mr. Gibb.....	13
ALLAN DICKSON,	
Examined by Mr. Bonomy.....	16
WILLIAM ALEXANDER HOUSTON,	
Examined by Mr. Bonomy.....	26
Cross-examined by Mr. Jones.....	35
ROBERT BALL, (Recalled),	
Examined by Mr. Bonomy.....	36
JAMES CARDLE,	
Examined by Mr. Bonomy.....	88
Cross-examined by Mr. Campbell.....	96
WILLIAM GALLAGHER,	
Examined by Mr. Bonomy.....	100
Cross-examined by Mr. Campbell.....	108
Re-examined by Mr. Bonomy.....	110

TUESDAY, 25th JUNE, 1996.
TWENTIETH DAY.

BRIAN WILLIAM PILL, (55), Sworn,

EXAMINED BY MR. LAKE: I understand you live in Greenloaning? - That is correct.

What is your present employment? - Stirling Council Health and Safety Adviser.

Prior to working for Stirling Health Board, what was your employment? - I was a Central Regional Council Health and Safety Officer.

I understand in connection with the field of health and safety you hold a number of qualifications and affiliations? - Yes.

What are they? - It is a Member of the Institution of Occupational Safety and Health and I am a Registered Safety Person with those.

In your post as Health and Safety Adviser with Stirling Council are you involved in considering compliance by the Council with various Health and Safety Statutes? - That is correct.

And on that basis do you consider the application of such Statutes to schools within the Stirling Council area? - That is correct.

Which Statutes do you take into account as being applicable to schools? - The Health and Safety at Work Act, 1974 initially and then we would do now the Management of Health and Safety that came out in 1992.

And in broad terms, what steps are taken by the Council to comply with their obligations under the Health and Safety at Work Act, 1974? - The Region at that time had their own health and safety policy. The Council had their own statement and then the policy went on and explained what should be done in places of work. It was then left to the heads of service or department or they were in those days to get on, with our assistance, in carrying/

carrying out health and safety in the workplace.

Can I ask you to have in front of you a bundle of Productions numbering I think R48 to R56. Do you recognise those? - Yes, I do.

Dealing with the first item which is R48, is that a statement by you or is that a health and safety policy? - No, that is a statement by myself taken on Friday morning of last week.

Well, look at the second item within that bundle which is R49. What is that? - That is the health and safety policy that was for Central Regional Council. The part you have here is the section at the front of the education health and safety policy.

When was that introduced? - That was introduced prior to my starting with the Council. It would be 1978. Round about 1978.

Without going into the details of what is contained in that policy, I understand it contains a general part at the front and then a number of annexes dealing with specific parts of the health and safety policy? - That is correct.

As part of that health and safety policy was consideration given to the dangers that might arise to employees as a result of persons entering school premises with a view to criminal assaults?
- I have to say that that is something which has never ever crossed our minds.

So it does not form part of this particular policy? - No.

I understand that that policy might be supplemented by a number of safety guidance notes?
- Yes.

How are they prepared? - When regulations actually come out we look at the regulations and we come up with guidelines and put it to the Council.

And how are these issued? - They are issued.....they used to be issued through the Personnel Department to all other Departments.

And/

And in so far as the safety guidance notes might relate to schools, to whom are they issued? - They are issued out to all head teachers.

So there would be a copy in every school? - There should be a copy in every school, yes.

And again without going into any detail, I would like to refer you to some of the documents which provide some safety guidance notes. Firstly, R50. Is that regarding general safety in classrooms? - Yes.

And R51 is a safety guidance note relating to janitorial staff? - That is correct.

R54 provides safety guidance in relation to physical education? - That is correct.

R53 provides details of safety guidance relating to the youth and community service? - That is correct.

And is it fair to say also that none of these safety guidance notes are intended to take account of the situation of deliberate assault upon a member of the Council staff? - That is correct.

Did the Council require to consider the dangers of assault in their staff in any other context? - Yes, they did.

Which context is that? - Once where there was the collection of money, it was looked at some years ago where janitors were taking finance to the bank.

Are there any other contexts? - Not that comes to mind.

Does the Council require to consider the issue of the security of schools with a view to health and safety? - Yes, there is a security aspect but we also have to consider access and egress and the safety of our personnel from that point of view.

What do you mean the safety of the.....? - That is actually from the gates, actually getting into the building, whatever we are doing in the/

the building until we actually leave the grounds.

And what dangers are concerned there? - That is from the structure of the building or car parking or whatever it may be or access to it.

Does the Council require to consider dealing with in any context unauthorised access in schools? - As far as I am aware it has not in the past because we have not had a situation like that other than people bringing their cars or vehicles into our properties when they should not have done so.

Does any difficulty arise with unauthorised access to school resulting in property damage rather than personal injury? - Only vandalism at night times or weekends as far as I'm aware.

Does the Council take any measures to deal with that? - The property maintenance section certainly do have some systems but I'm afraid I can't help you with that.

I think you say in your statement that consideration has been given at some points to providing a ring fence around certain schools, is that correct? - It was certainly considered and the way that it was done at the time was in discussions with the police. The police were asked to go in and help us secure certain schools but there is no way with such large areas that we have that they could be fenced.

What would the difficulties be in fencing schools in that way? - Finance and then continued vandalism of that fencing.

You made reference also to the fact that the Management of Health and Safety at Work Regulations now apply to schools. What does that require of the Council? - The biggest section is Section 3 which is risk assessment.

And what do the Council have to carry out to comply with that? - To risk assess the actual risks or hazards within the place and what risks there are to our employees and that would come on to the children within that school.

And/

And has the Council carried out risk assessments of school premises? - Over the past few years we have been carrying out training and periods of risk assessment and we have been giving advice on risk assessment. I moved into education just over a year ago in my final year with Central Region whereby I made up risk assessment guidelines to actually put out to educational establishments.

Can I refer you to document R55 please. Is that a copy of the risk assessment guidelines which you have formulated? - That is the ones which went out, yes.

I think you say there in the second paragraph "The purpose of the risk assessment as defined by Regulation 3 of MHSWR is to identify the measures that employers or self-employed persons must take in order to comply with their duties under all applicable health and safety legislation"? - That is correct.

And then in the fourth paragraph you identify two components of the risk assessment as identifying the hazards present and then evaluating the extent of the risks involved? - That is correct.

I think on the second page of that you indicate that the risk assessment should enable the employer to prioritise remedial measures by considering what are the most necessary measures to avoid in the Department? - Yes.

What particular risks are present priorities for the Council in relation to school premises? - If we go back prior to the incident, the biggest problem that I found in the first four months of going into education and looking at it was in the field of care to our children and by that I mean the issue of medication in schools and the control of asthma. There was the epi-pen, that is for allergy, and the other one was first-aid. That was the four we found to start with that we were really lacking a policy on and that is when we started that.

So is that a risk assessment that was not strictly within the terms of the health and safety requirements and which applied to the children? - That/

That was one that I felt there was a great need for when I started to go out to visit schools. I found the biggest need in schools was in this area for our pupils.

Do you consider that the health and safety legislation applies to protect the children in the schools or purely the employees? - It is for the employees but we have to cascade it down to our pupils within our properties because in other words if it is not safe for the children it is not going to be safe for the employees with that school.

Since the events of March of this year has consideration been given to the issue of intruders within school premises and the dangers which follow from that? - No, it has not. I have thought long and deep about it but I am going to wait until this Inquiry is over although it is discussed in the properties I drop into now and it is discussed how people feel they need to discuss it in the workplace but we are waiting to hear from this Inquiry.

Just some final matters. I understand there was a revision to the general policy for health and safety at the end of last year, is that correct? - That is correct. There was a legal requirement to do so because of the changeover of our Director so I updated the leading page to the Depute Director at the time to cover us from the legal point of view.

And if I can refer you to document R54. Is that the updated policy for health and safety? - That was the one I brought out just before Christmas to see us through until the end of Central Regional Council, yes.

And you will see that is dated December, 1995 and signed by Dr. Young? - That is correct.

I think the final matter within the documents produced is R56. What is that? - I felt we had to go to all our employees in the workplace within education so this is a leaflet that we designed within our own section to flood properties, educational properties and schools, with to try and give some advice to entice people to take more of an interest in health and safety and it was just to start the system rolling.

A/

A number of these documents, including that last one, were issued by Central Regional Council. Have any health and safety policies been formulated by the new Stirling Council? - Yes, prior to the new Council coming together, because there were more than five staff I made up an interim health and safety policy for them to work to. On the 1st of April we came in with a new health and safety policy. It is interim because in fact it has now been to the Management Team and Resources and we are going to start doing presentations to the unions and employees on our new policy.

You say there that was interim. Is that policy still in interim form? - It is still interim until it has been discussed with the employees and the new unions but we are working to it.

If/

10.20 a.m.

If I could refer you to R57, what is that? - That is Stirling Council's new Health, interim Health & Safety policy.

Is that a record of a meeting of the Resources Committee approving this? - Yes.

I think you see attached to that the interim policy itself? - Yes.

Within that policy in the general statements on the first page at item c(v) there is reference to the provision and maintenance of a working environment for employees that is, so far as is reasonably practicable, safe? - Yes.

Is that broad enough in your view to cover all considerations? - This is a straight take-off from the Health & Safety at Work Act, 1974, and we felt at times like this we should not change a good Act, as the Health & Safety at Work Act is, so we have copied that in, so our managers know of it.

Do you consider that is broad enough to consider dangers arising from intruders to the premises? - No. That would come out under risk assessment, if we considered there to be such a risk.

Am I correct in understanding that the danger of intruders is one that would be evaluated in the form of a risk assessment to schools? - Yes.

Is that risk assessment to be carried out on a broad basis whereby there would be one assessment that would cover all Council schools, or is on a school by school basis? - I firmly believe it would need to be done school by school, with someone like myself doing it, or advising the head teacher or any other staff available to do that.

In the course of this Inquiry we have heard some evidence relating to increases in security measures being carried out at certain schools. Is that risk assessment in any way linked to the increase in security measures? - The two will have to go hand in hand, because of the Fire Regulations/

Regulations as well.

CROSS-EXAMINED BY MR. GIBB: Are you aware that in 1990 the Health & Safety Commission produced a guidance form relating to violence to staff in the education sector? - Yes.

I am concerned to note there is no reference to that in the draft document for Stirling Council? - That is correct.

Can I ask you to confirm that that particular guidance will be considered as part of the final draft to be prepared? - I don't know if it should go in in the initial policy, because the policy will need to be short and sharp: but certainly there will need to be a section on that topic.

Will this be considered? - Yes.

LORD CULLEN: Perhaps you would be good enough to let me see that document.

MR. GIBB: I cannot let you see the document, sir, but I can certainly give more detail of this in my submissions.

LORD CULLEN: Thank you.

BY LORD CULLEN: With regard to school security you appreciate I will be considering whether and to what extent I should recommend any changes in the law, therefore I need to know what is the existing situation under the present law. As I understand your evidence, you accept the school security and the normal and personal safety of staff lies within the conditions covered by the 1974 Act and the 1992 Regulations; is that right? - Yes.

Therefore whatever may be the position after the 13th March requires to be covered by risk assessment; is that right? - Yes.

From the point of view of achieving that result as rapidly and as efficiently as possible do you think it sufficient simply to let matters take their course, with the various Authorities preparing their risk assessments, giving them an amount of priority they think is appropriate, or do you think that/

that some further measures may be required? - I think we have now got to start looking at risk assessments. I know our Property Section are looking at particular properties, and they will include the hazards which you are discussing here: but I don't know that they will put anything in place until they have heard from yourself.

I dare say; but I want to know whether I can simply draw attention to the law or whether there is something further that is desirable for me to say. That is why I am giving you an opportunity, if there is something you think ought to be considered by me; in that event I would be happy to deal with it? - In an ideal world our properties would be suitably fenced with gates which can close. That is something which is very difficult.

That is the nuts and bolts end of it. It is really a question whether the system is satisfactory for the moment to give sufficient impetus to any moves towards risk assessment which may be required in the area of school security? - It would all go back to design of our schools for security and safety. At the moment some schools are well spread out, and for security there is some difficulty.

There are two aspects: there will be the design of new schools and there will be looking at existing ones. I take the point that in relation to physical or organisational dangers you should take all reasonably practical steps, but there is no such measure in the sense of regulations or change in the law you have in mind for this purpose? - No, not really. The Health & Safety at Work Act and the management of Health & Safety is very clear, and there is very good guidance in law. It is actually getting it in place: finance is the difficult part.

If you look at the first page of your statement, in the first part of the text there is some bits obscured off the page. In the second line of the second paragraph it says "Whilst section", and then there is a blank, and something is missing there, I think. Can you give me the number? - Section 4 of the Health & Safety at Work Act imposes further duties in relation to all premises.

So "4" should appear at the end of the third/

third line; is that right? - Yes.

Then your statement says about Section 4 "So far as the latter is concerned I understand the ambit of the Section as governing non-employees working or using plant or substances on the premises. Consequently school children as such are not encompassed, but when in the course of schooling they use plant or substances, thus for example woodworking equipment, I would consider the Act has application"? - That is correct.

Is that a complete statement of the protection which the Act gives to people like school children? - We have always treated and the Act always treats them -- we have to treat them basically as an employee to give them the safety within our property.

Section 3 of the Act extends protection, does it not, to anybody who may be affected by the activity in question? - Yes.

Were you thinking of Section 3 in writing this? - Yes.

As far as I know, these sections do not limit protection to school children, to what happens when they are using plant and substances? - That is a general statement. Whatever they do on our property we have a responsibility for them.

It says "Consequently school children as such are not encompassed"; they just happen to be on the premises? - If they are on the premises they are covered by whatever.

You have been shown this morning a copy of the Regional policy, and it refers to visitors, so it could be anybody, a parent, a child, or someone coming in to do a job of work; is that right? - Yes.

Is the protection limited to those who are physically on the premises? - No. We have to protect those who are off our premises if we are going to put anything, emissions, into the air or whatever.

So whatever comes out your chimney....? - That/

That is our responsibility.

So as far as that is concerned, if there is any risk associated with the activity, people are protected whether they are on the premises or not or whether they are working on the premises or not? - Yes.

So that would have to be taken into account in any form of risk assessment? - Yes.

Is it right that under the 1992 Regulations this risk assessment is done in relation to not only the safety of employees but also any person who is affected by the provisions of the Act? - Yes; anyone who walks into our property at any time.

Can you make a statement about what the intentions of your Council are in relation to risk assessments insofar as they affect schools? - We are going to be carrying out training sessions for risk management, and head teachers hopefully will be attending these courses.

Can you tell me how long it might be until we reach the point where the risk assessment has been carried out with regard to school security? - It is certainly going to be between now and Christmas.

So you expect the process to be completed this year? - I would say within the next financial year would be safer to say.

When does your financial year run to? - April: by next April.

No re-examination.

ALLAN DICKSON (40) Sworn

EXAMINED BY MR. BONOMY: I work in Community Education.

What Authority do you now work for? - I work for East Dunbartonshire.

I think until the winding up of Strathclyde/

Strathclyde Region you worked as an area Community Education Officer with Strathclyde? - Yes.

Where was your office? - Kirkintilloch.

I think you dealt with an application by Thomas Hamilton to use premises in your area? - That is correct.

Which were the premises he was interested in? - He was interested in Thomas Muir High School and Kirkintilloch High School.

Could you look at a Production BSRC ES18? Can you confirm to me that that is a letter from Hamilton to the Community Education Service dated 27th July, 1995? - Yes.

You can see he has already been in touch with you, and this is him formally applying for permission to use your premises; is that right? - That is correct, yes.

Now, what was your response to that enquiry? - As I recall, I wrote back to him saying there was no accommodation available at that time.

At one stage Mr. Hamilton also applied for recognition as a youth organisation; is that right? - That is correct, yes.

Could you also look at the form ES2? Is that the application he submitted? - Yes, that is correct.

Do you know when you actually received that? - I think it was some time in July, late July.

It is not referred to in the letter, the letter I just asked you to look at, which is the 27th July? - No. The first original letter was an enquiry, and because we didn't have accommodation for him we didn't invite him to apply for the accommodation.

On this day, 24th, opposite his signature at the foot and on the top it is described as an application for recognition as an approved Community Education Services organisation? - Yes.

What/

What is involved in such recognition? - This is not the actual let application, that is the ES4 form. That is the form that would give him recognition as an approved organisation. It means he would be eligible to get a subsidised rate rather than paying the full rate for paying the accommodation.

What does he need to satisfy you about before you approve him? - Basically that he has a constitution, there is some form of qualification, and most importantly that he can provide two references in support of his application, who know him and who support his organisation.

Is that the most important element? - Yes, most important is the referees.

You then refer to "A copy of the constitution must be enclosed"? - Yes.

I think you then confirm you did get a copy of the constitution? - Yes.

He described his committee as 12 adults who are predominantly parents of members; is that right? - Yes.

I think he gave you the name of his secretary, Ian Boal; is that correct? - Ian Boal was the second leader.

Did he not also name him in this application as the secretary? - Possibly.

Well, could you look at the form to see if he is named as secretary, more or less in the middle of the page? - Yes.

He also has named various people whom he claims are committee members; is that right? - Yes.

D. McDonald, Mr. and Mrs. Woods, Mr. and Mrs. Hogan, Mr. Munro, Mr. K. Barker, Mr. and Mrs. Hill, Mr. T.W. Hamilton, that is himself, and Mrs. A Watt, who was his mother. You may not know that, but these are the names; is that correct? - That is correct.

I/

I think he also gave details of a bank account by saying "We do not operate a bank account. We did have a bank account with TSB, which is closed"? - Yes.

And the treasurer is named as Mrs. Watt? - Yes.

And his accountant's name is Mr. W. Freer, CA? - Yes.

You say the most important part in this is the bit on the next page? - Yes.

Why is that the most important part? - There are some organisations that we are not aware of within our area, and so we generally ask for references from people who know them. These people should be fairly prominent members of the local community who have some contact with and can support the application.

In the letter we looked at a moment ago Mr. Hamilton said he was not from your area, but there was a demand for his services coming from your area, and that is why he wanted to put his clubs into local schools? - Yes.

In a situation like that, who are you looking for references from? - I think we would be looking for references from his own area, in terms of support.

Yes? - We certainly knew there was a need within the area he was asking for, but because we did not know him it would be helpful for references to be given from his own area, from people who knew him.

There are two signatures you are looking for, people who can certify that "The leaders are known to be and worthy of support"? - Yes.

You are asking that the form in that part should be signed by two prominent persons from within the community, for example Regional and/or District Councillor, Minister of Religion, headmaster, JP, bank manager? - Yes.

On this form there is only one signature?/

signature? - Yes.

That is from Robert Campbell, JP? - Yes.

In Stirling? - Yes.

Because of that what did you do? - I sent the form back to him and asked him to complete it properly.

Was there some delay in getting a second signature? - Yes. The second signatory he said was on holiday, and he couldn't contact him, but he would contact him when he returned from holiday.

Could you look at ES9? Is that a letter of the 26th July to Mrs. Carr in your office from Hamilton? - That is correct, yes.

And he is actually sending a completed let application form; is that right? - Yes.

Does he say "Tried to contact my Regional Councillor, Rob Ball, Chairman of Education Committee, Central Regional Council, to sign for me. He seems to be on holiday all week"? - That is correct.

"If you return the form I will get his signature after holiday period"? - Yes.

Now,did you then return the form? - Yes.

Did he get the signature? - Yes.

And he returned the form to you? - Yes.

Could you look at ES3 now, please? Is that the same form as ES2, which was probably a copy of it, and now completed in full? - Yes.

What is the additional signature? - That is Dr. Robert Ball, the Education Convener of Central Regional Council.

On what date has he signed that? - August 5th, 1995.

And that is certifying "The leaders are known/

known to me and worthy of support"? - Yes.

Now, when you got that form back in what did you do with it? - We basically would have approved the organisation, and Thomas Hamilton would become eligible for the reduced rate. We held it on file.

How did you go about approving the organisation? - I think a week or two after we got the form a games hall became available in Thomas Muir High School, and we phoned Thomas Hamilton to say it was available, was he still interested, and he said he was interested.

Yes? - Subsequent to that I then discovered that publicity had gone out via the local schools in the Bishopbriggs area without my authorisation, and at that point I became slightly perturbed that such a quick response had gone out, as a group should not publicise activities until they got confirmation in writing.

Yes? - At that point I thought I would look into this slightly further to see basically how valid the organisation was, and I contacted Central Regional Council and I spoke to William Houston, the Divisional Community Education Manager there, and he confirmed -- he basically advised me that Central Regional Council had had some difficulties with this organisation, and although there was nothing preventing him having lets he advised me that he needed to be monitored.

Yes? - At that point I discussed with Mr. Houston -- I asked if he could check the signatures for me to ensure they were valid before I processed the let in writing to Mr. Hamilton.

Yes? - Mr. Houston did do that. I faxed the signatures to him, and he confirmed that both of the signatures seemed valid, but he followed up Dr. Robert Ball's signature and in discussion, William Houston in discussion with Robert Ball, he approached him and asked him did he sign the application form. He said Dr. Ball said yes, he was in support of the organisation.

Yes? - William Houston phoned me back to say the signatures were valid, and Dr. Ball had confirmed his support of the organisation. On that basis I then approved the let of Thomas Muir in writing.

Did/

10.40 a.m.

Did Houston actually say to you that Dr. Ball was approving the Organisation? - Yes.

Were these the words he used? - Mr. Houston approached Dr. Ball and said -- this was all done by telephone, and my telephone call to Mr. Houston -- I don't know if Mr. Houston -- well, I believe Mr. Houston saw Dr. Ball in person, but again I can't substantiate that, but basically Dr. Ball said yes, he was supporting this Organisation, and I think Mr. Houston said "After all we've been through", and Dr. Ball said "Well, he's one of our constituents, isn't he", and that's the way it was.

What then was the attitude of you and your Authority to allowing him then to take the let of premises? - Well, there was nothing actually to prevent him taking the let of premises. He met all the requirements of our letting procedures, so in that sense, at that stage I didn't know -- as far as I was concerned, it was an approved Organisation, although there was a question mark. The main advice I was given was not to allow Thomas Hamilton more or less exclusive access to the games hall, so prior to confirming the let in writing to him, I actually made a decision not to give him the games hall in Thomas Muir, because if he had access to the games hall, he would have more or less access to the games complex. I then offered the large gym in Thomas Muir, and offered the games hall to another Organisation called Rosevale Boys' Club, which is a local Boys' Club in Bishopbriggs which attracts quite a significant number of boys. I felt by doing that that if there was any doubt about safety of local children, then that would ensure there would be a minimal risk attached to that. However, having contacted Thomas Hamilton to say he wasn't going to get the games hall, but the large gym, he took exception to that and actually wrote to the local Regional Council for that area complaining in terms of our administration.

Could you look at ES4 now please? Is that a letter from a Councillor Tom Rae, who would be a Strathclyde Regional Councillor, to Mrs. Carr, letting officer? - That is correct, yes.

Dated 2nd October 1995? - Yes.

Was/

Was Mrs. Carr working in the same office as you? - Yes, she's my senior clerical assistant who acts on my behalf.

And that letter enclosed a letter from Thomas Hamilton to Mr. Rae dated 27th September 1995? - Yes, that is correct.

And what was the nature of the complaint? - Basically that Thomas Hamilton felt that he should be allocated the games hall because that was promised to him, and he basically felt it was unfair and he couldn't understand why this other Organisation were being given it when he was first in line for the hall as he saw it.

Did that problem become more difficult or less difficult to resolve after that? - It placed slightly more pressure on our local office, the fact that there was now a Councillor involved with the situation.

Did Hamilton actually take up the let? - Yes, eventually he accepted the large games hall.

In the intervening period, was there any problem about someone cancelling part of the let? - Yes.

What was the problem? - One of the remaining -- there was one remaining group within Thomas Muir. The Thomas Muir complex, there is a games hall, a large gym and a small gym, and one of the small gyms was being used for a keep-fit group, and they cancelled, which effectively meant there were no Organisations using the Thomas Muir games complex at that time, and it wasn't the policy of the Regional Council to let accommodation where there was only one group because it wasn't good use of Council money to open up premises for one group, so we tried to get basically two or three groups in the building, so this other group cancelled, so effectively we were unable to let the halls, so that further delayed the process, and that's when Rosevale Boys' Club, who were on the waiting list and were looking for more accommodation, we approached them and they were happy to take the games hall, therefore allowing Thomas Hamilton the large gym.

Now,/

Now, thereafter, I think you had a number of other dealings with Hamilton. First of all, did you resolve the problem that had been raised by the Councillor and give him the games hall at any stage? - No.

So he just accepted the gym eventually, did he? - Yes, eventually, yes.

Did you have occasion to deal with damage? - Yes.

And did Hamilton accept responsibility for some damage caused by some of the activity? - Yes, he accepted full liability for it.

Were there any other problems after that? - The only complaint which I received was to do with the issue of medals. Basically six boys within the Club did not receive medals whereas the rest of the boys in the Club received medals, so effectively six boys as far as I could see were being discriminated against, and I raised that issue with him and said that that wasn't -- I didn't expect Organisations to operate in that fashion where it could be perceived as individuals being discriminated against, and he put that right and he basically sent medals to the six boys.

Did one other parent raise an issue over the safety of transporting the children? - Yes. That was another question in terms of the insurance regarding the mini-bus trips which was actually taking place outwith the terms of the let. This was something he was organising really off his own back.

So the boys were being transported somewhere else? - Yes, on a Thursday evening.

Now, a parent asked about that, did she? - Yes.

And were you able to check up on the position? - I checked with Mr. Houston in Central Regional Council regarding the insurance because I discovered that the bus he was using was a bus from Central Region garaged at Bridge of Allan, and it was confirmed by Mr. Houston that the bus was covered third party, fire and theft, and that Hamilton/

Hamilton was a registered driver.

Did you get the chance to inspect the bus? - Yes.

And what was it like? - It was first class. It met all our regulations. It had seatbelts and it had a proper log, a log-book.

How many times did you actually meet Hamilton? - Twice.

Did either of these meetings cause you to be concerned about him? - I think when I first -- the first contact I had was on the phone, and I felt -- his tone of voice was really a monotone and I thought that was slightly strange. However, when I did meet him, I thought he was a bit shy and maybe a bit repressed in some way, but he didn't lead me to believe that what was to transpire, that he had that within him, but he was quite a plausible character, I would say. He was believable to some degree.

I think at one stage you sought some evidence of his membership of the British Amateur Dramatics Association? - Yes, I asked him to present that at the office, which he did, and we photocopied. He was a current member.

I think you sought a CV for his assistant, who was Mr. Boal? - Yes, I asked him for that to ensure there was proper training going on, and he produced that also.

So each time you asked him to vouch something, he was able to do so? - Yes, he cooperated at all times.

No cross-examination.

WILLIAM ALEXANDER HOUSTON (43), Sworn:

EXAMINED BY MR. BONOMY: Are you William Alexander Houston? - That is correct.

What age are you, Mr. Houston? - I am 43.

And I think you are a staff development officer with Stirling Council? - That is correct.

Or staff development training officer; is that more accurate? - That is correct.

In July, August, September and October 1995, did you work for Central Regional Council? - That is correct.

Which post did you hold? - I was the Divisional Manager with the Stirling and Clackmannan area community education.

And/

11.00 a.m.

And was part of your responsibility the letting of community education property? - Yes.

Now, we have had some evidence in the Inquiry about various different arrangements for the letting of property depending on the premises in question. It might be a School Board or it might be a head teacher acting through an Area Officer and so on. There were different arrangements? - Yes, there were.

Where did you fit into these schemes for letting property? - Historically..... initially the task of school letting was the responsibility of the Area Officer and Legal and Admin. Services. In the early 1970s community education began to establish Councils which were representatives of the local community. Local community groups and local music groups and the community sections and latterly the community wings in secondary schools became involved in decision-making locally and they were technically a sub-committee of the Education Committee formed under the same Education Act which formed the college councils and they would decide on letting matters. The duty of community education was (a) to form such councils and (b) to support such councils. That ran up until the formation of the School Boards in 1989 and thereafter you had really three separate people who could grant lets of educational premises.

Who were they? - You had the Area Officers from Legal and Admin. You had the School Boards who dealt with the school parts and you had the centre councils. In the case of Dunblane it was the centre council and the wing council in Dunblane High School.

If it was the Area Officer, was he actually doing the work that was the responsibility of the head teacher of the school? - I don't quite understand the question. The Area Officer would be from the Legal and Admin. Department who had the responsibility for administering lets.

Yes, but we have seen Area Officers' signatures on lets. We have been given the impression by at least one witness that that was simply giving effect to what was in theory at least the/

the decision of the head teacher to let the premises. Is that wrong? - I don't think that is correct, no.

So the Area Officer had the responsibility of dealing with the let itself? - The Area Officer had responsibility to deal with the let in the absence of a School Board or in the absence of a centre council.

Now, is it possible in some instances there might have been a School Board but they simply left it to the Area Officer to deal with? - Yes, that is certainly possible. Yes, that happened on a number of occasions.

Did you know much about the operation of the Dunblane High School wing council? - Yes.

Can you confirm whether Thomas Hamilton was on it? - Latterly he joined the wing council following difficulties over an application for let in 1993. He attended I think three meetings because the Council was open to any group within the area to join.

And what were the difficulties about the let in 1993? Very briefly? - The difficulties briefly? After the event I looked over the papers and I spent about three days trying to figure that one out. It would appear that previously Mr. Hamilton had applied to the Area Officer for let to hold a summer camp. On the occasion in 1993, we are not sure who he applied to because the School Board didn't sanction it. The community wing didn't sanction it. It would appear the signature to sanction on the let form was the janitor's and we don't know on what authority that let was sanctioned. The let itself was conflicting because the wing council or the centre council if we could call it that had already agreed a let for the Quakers at the same time as Mr. Hamilton had requested a let for his summer camp.

And did that mean that they would be in part of the premises at least during part of the time he was supposed to have or at least thought he had the whole let? - That is correct.

And that was eventually resolved after a lot/

lot of correspondence and meetings, is that right?
- Yes.

Apart from that, did your Department receive any communications from Hamilton? - Yes.

Were they always letters directly to you? - No.

What were they? - What I received were copies of letters to everybody else from him.

For what purpose? - I suspect to enlighten me to his views. He certainly sent me copies of letters to the Ombudsman, copies of letters to Michael Forsyth and copies of letters to whoever he happened to be writing to.

Now, I think that during the period I asked you about, that is July to October, 1995, you had some communication with Mr. Dickson from Strathclyde Region? - That is correct.

And he was the one to contact you? - Yes.

Did you know each other before then? - We didn't know each other but I previously held the position he was in. I worked as Area Officer in the Strathkelvin area before coming to Central Region and when Mr. Hamilton approached Strathkelvin for a let, they were unsure of him and telephoned me because they knew me and I was in the Stirling Council or Central Regional Council area.

Now, when he contacted you, what was the state of play between the Community Education Department in Central and Hamilton? - The community education staff were under an instruction and the instruction was that any dealings with Mr. Hamilton had to be directed through Legal and Admin., through Mr. Flett in Legal and Admin. We were not permitted, unusually, to approach Mr. Hamilton for any purpose and we were to refer all conversations and all correspondence to Legal and Admin. That was unusual.

Was it actually exceptional, so that he was the only one? - He was the only person that this kind of arrangement happened for.

And/

And by that period in 1995, had that direction applied to every application for let that Hamilton made? - No, that is separate from let applications. When he applied for a let application, my staff were instructed to contact Legal and Admin. and advise them of the fact that Mr. Hamilton had applied for a let and to proceed with the let in the normal way but other correspondence and all other meetings with Hamilton was to be noted and reported to Legal and Admin.

So what was it you were initially telling me had to be referred to the Legal and Admin. through Mr. Flett? - Any correspondence from Mr. Hamilton and leaflets he was putting out into the community. Any interface with Mr. Hamilton at all.

Was there any policy, and I use that in the broadest sense, to either encourage or discourage Hamilton from making use of Central Region's premises? - There was a practice of discouraging Mr. Hamilton, a widespread practice.

One way of course is by making it difficult for him by re-routing applications and so on but that didn't happen? - No, we didn't re-route applications as such. What we encouraged staff to do and Alva would be an example of that, where Mr. Hamilton applied for a let we couldn't prevent the let because of the way in which we operated so we allowed the let to run for a period of six weeks to the summer holidays and then I instructed members of staff to ensure that we had a more deserving group utilising that let after the summer holidays.

And did that actually happen? - That actually happened, yes.

And it happened where in particular? - It happened in Alva.

And was that within your area? - That was within my area, yes.

Were you only dealing with part of the Central Region area? - I was dealing with Stirling and Clackmannan.

And I take it that throughout the Education/

Education Department it would be known that Hamilton was to be discouraged if possible? - Yes.

And obstacles were to be put in his way, albeit this could not be done officially? - Yes. obstacles in the sense that if Mr. Hamilton applied for a let we encouraged our staff to ensure that somebody else was utilising that let but any other kind of discouragement we couldn't do.

Do you remember when it was Mr. Dickson phoned you? - I would have to look at my notes.

Roughly? - 1994 but I can't.....

Well perhaps you could check your notes just to be clear if you have got them with you? - Yes. It would be August of 1995.

And what did he want to know? - In the first instance it was his secretary, Cath, who I knew who had previously worked for me.

What is her second name? - Cath Carr. She phoned and said "I've just had Mr. Hamilton in the office and I feel uncomfortable about it. He has applied for a let here. Do you know anything about the man?" and I explained what I knew of him and she just said "You'll need to speak to Mr. Dickson" so I spoke to Mr. Dickson at length.

And what did you tell him about Hamilton? - I told him what the working practices in Stirling Regional Council were and that we would attempt to prevent him from gaining access to school premises and to young people. I told him that a number of officers within the Council had been looking at various photographs that I hadn't seen but I had heard of. I told him that a meeting of senior officers had taken place and my understanding of the situation was that they were making a decision about whether or not they would attempt to exclude Hamilton completely from Central Region and we were awaiting the result from that. I told him that I would not let my kids go to a club that Hamilton was responsible for and I would advise him to try and put obstacles in his course to prevent him from gaining access. A few days later he phoned me again and then told me that he had received a form back, a sponsorship form, and told me/

me who the signatures were on the form and asked me if I could authenticate the signatures, did I know who they were.

And did you authenticate them? - Well, I only contacted one person. I contacted Councillor Robert Ball.

Now, authenticating a signature might mean just saying that it looks like his signature? - No.

It sounds as if you were going to do more than that? - I telephoned Robert Ball. I got him at his office in the University. I explained why I was phoning and I explained the background and Robert Ball advised me yes, that he had signed the form.

Was there any more to your discussion than that? - Well, Councillor Ball explained to me why.....I mean, I had said to him that my understanding of the practice within the Council was that we were trying to prevent Hamilton getting access but Councillor Ball advised me that he had seen photographs and that there was nothing illegal about taking photographs of young people and until there was hard evidence against him he felt he had a duty to sign it. He was one of his.....I think the word he used was one of his "punters". I think what he meant by that was that he was one of his constituents.

At that stage was Councillor Ball one of the meeting you have just told us about among Legal and Admin. and other Departments discussing the question of Hamilton? - I don't know. I didn't discuss that with Councillor Ball. Councillor Ball told me why he had signed it and I just left it at that.

In your statement which you gave to the police you indicated that he had actually attended a meeting with Legal and Admin. and other Departments to discuss the question of Hamilton having access to community education property. Is that not right? - I had been told that by my own line managers, that he was involved or had attended. I am really not sure whether he attended or not because I didn't attend.

Did/

Did you phone Mr. Dickson again after you spoke to Mr. Ball? - Yes.

And what did you tell Mr. Dickson? - I telephoned Mr. Dickson and advised him that the signature was authentic and that he had the Chair of the Education Committee of Central Region's signature on the form and it was very difficult for us to say any more.

CROSS-EXAMINED BY MR. JONES: Can you look please at a document D3H(v). You were asked some questions about the scheme for letting and I wonder if you could explain to us what this is. It is headed "Central Regional Council: Education Services. Scheme for the Letting of Educational Premises". Is that something you have seen before? - It is something I have seen before, yes.

And it was a Central Regional Council policy document I think, is that right? - It is a Central Regional Council policy document.

Can you describe to us what it is and what its purpose was? - I mean, it is just an outline of what you must do when you take a let of educational premises.

I think it sets out the general principles firstly, is that right? - Yes.

And within that set of general principles it establishes priorities for letting of Council premises, is that right? - That is correct.

And there are priorities allocated according to the type of premises and the timing, is that correct? - That is correct, yes.

And if we go on to the second page, the conditions of let are then set out, is that right? - That is correct.

And they continue through I think to the end of the document? - Yes.

Now, was that the only policy document that existed in relation to lets up until the time when Central Regional Council ceased to exist? - There was another document which I remember seeing. I/

I certainly don't have it with me but there was another document which laid out the priorities that these lets will be free and these lets will cost so much and it was lists and lists and lists of various types of group. There was that kind of document and that was a kind of working document that we used for everyday letting because it allowed us to say that youth groups were a priority and as Mr. Hamilton was working with children's groups, not youth groups, because children were defined as under 12 and youths were defined as broadly secondary school and over, we were able to utilise that part of it to prevent him getting access because we could put a youth group into a gap in the programme.

An essential feature of the document you have in front of you is an encouragement for use of Council premises by the community, is that right? - Yes, that is correct.

No re-examination.

MR. BONOMY: In the light of that evidence, sir, I would propose to recall Robert Ball who has already given evidence.

LORD CULLEN: Yes.

ROBERT BALL, (Recalled),

LORD CULLEN: You are still on oath.

EXAMINED BY MR. BONOMY: There is one matter I should have asked you about when you were here before which I would like to ask you about now. Can you please have in front of you a document which is DSRC-ES3 and if you could go to the second page of that. Can you confirm your signature there dated the 5th of August, 1995? - Yes, that is correct.

And you will see that that is a signature to the effect inter alia "Leaders are known to me and worthy of support"? - Yes.

Now, you gave us some information the last time about the state of play between Hamilton and the Regional Council early in 1995 when you yourself were anxious to be told about any matters of concern affecting/

affecting Hamilton? - Yes.

Can you clarify for me whether at the time you signed this document you did consider that he was still worthy of support? - I think the questions that were looked into in 1995 had perhaps been resolved and no further action taken. This was basically an application for a hall let and I found it was difficult to refuse to sign it given the number of hall lets he has had for the period of time he had with Central Region although I did have misgivings about signing it at the time. I did not feel happy about it.

If you look at the front page you will see this one is not actually for a let. It is for recommendation as an approved Community Education Service organisation which one might think is a bit more formal than a let? - Yes.

Well,

Well, I thought it was a late application.

Did you not give much attention to the form? - I perhaps didn't give it as much attention as I should have done.

Do you think if you had read this carefully you would have signed it? - It is very difficult to say what you would have done in other situations. If it had been a bit more formal I might have had further reservations.

Do you mean if you had looked at it more formally you might have had further reservations? - Possibly.

We have also had evidence that one of your staff, Mr. Houston, raised with you the question whether it was appropriate for you to sign this form; is that possible? Do you remember that conversation? - No, I don't, but I am sure he said he rang me up about it.....

No, he indicated you told him you had looked at the photographs yourself, and there was nothing overtly indecent and nothing you could say was improper. Do you remember that conversation? - I don't remember any of that conversation, but I am sure if he said that, that conversation took place. We were in a busy time, remember, with Local Government reorganisation.

Do you remember signing the form? - Yes. I can remember very well Mr. Hamilton arrived on the doorstep asking me to sign the form.

Was it just done on the doorstep? - Yes. He arrived and knocked on the door just as I was about to leave to go to a meeting.

So that means you didn't actually read this form? - I briefly looked through it. Perhaps I didn't read it as carefully as I might have done.

No cross-examination.

MR. BONOMY: Sir, that completes the oral evidence available this morning. You did indicate/

indicate yesterday evening that further consideration should be given to the matters arising out of the statement I made and it may be this is the appropriate time to deal with it.

LORD CULLEN: Earlier this morning I granted Mr. Campbell an opportunity to prepare some remarks. Perhaps he is ready now?

MR. BONOMY: I would welcome five minutes on another separate matter, which is linked to this, which I propose to deal with at the same time after you have resolved the issues arising from yesterday's statement, sir.

LORD CULLEN: Would five minutes suffice, Miss Dunlop?

MISS DUNLOP: Yes, sir, five minutes would suffice.

LORD CULLEN: Very well.

After a short adjournment.

LORD CULLEN: Yesterday I deferred consideration of the statement made on behalf of the Lord Advocate to give parties an opportunity to consider the position. I of course have taken the opportunity of looking at what was put before me yesterday and studying the statement made. Now, Mr. Campbell, do you wish to address me?

MR. CAMPBELL: Thank you, sir, yes. Can I say at the outset that what I have to say in this regard is said purely with a view to assisting you, sir, on a matter which has arisen, though I am confident that those whom I represent would wish the fullest scrutiny of the whole background to the Dunblane tragedy as can properly take place.

Sir, you are well aware that you are a Tribunal set up by both Houses of Parliament under the 1921 Act, with the function of reporting to Parliament on the issues arising from the events on the 13th March. So far as the submissions made yesterday are concerned, the Lord Advocate is a Minister of the Crown, and accountable to Parliament for the conduct of the Public Prosecution Service in Scotland, including the Procurator-Fiscal Service.

Sir,/

Sir, in this context I would refer you to an article written in the Law Quarterly Review for 1938 by the then Lord Justice General, Lord Normand, set out at page 345, particularly the passage at the foot of page 353. This article is entitled "The Public Prosecutor in Scotland", and at the foot of page 353 his lordship says "Since at least the middle of the sixteenth century the Lord Advocate has held an important position in the political hierarchy of Scotland. He is not only the public prosecutor; he is also the chief law officer or legal adviser of the Government in Scotland. Before the union of the English and Scottish Parliaments in 1707 he was an important member of the Scottish Government, and since the Union he has always been a member of the British Government, almost invariably with a seat in the House of Commons. It is essential that the conduct of so important an official as the public prosecutor should be subject to the criticism of Parliament, and it is manifestly advantageous that the public prosecutor should himself be in Parliament and able to answer in person any attack made upon him there. The vital importance of the responsibility of the Lord Advocate to Parliament for his official conduct is obvious, for there is now no other effective check upon his powers. But it is equally important, if the administration of justice is not to be corrupted by political and party considerations, that the public prosecutor should exercise his powers judicially and that he should not be interfered with in his duties by the executive government for political reasons", and the learned author goes on to discuss matters in that general context.

My lord, I note the passage where the view is expressed that the conduct of so important an official should be subject to the criticism of Parliament and to the manifest advantage of the accountability of the Minister to Parliament: so in that context this is in a sense a Parliamentary Tribunal.

Sir, there is therefore an identifiable tension or potential conflict between on the one hand the public prosecutor's independent, impartial role and on the other hand the accountability of the law officer to Parliament.

Reference was made by my learned friend yesterday/

yesterday to the statement to the House of Commons by the then Prime Minister Harold McMillan in relation to the WATERS case; and it is plain in my submission from what was said there that the emphasis is upon the need to avoid pressure or influence on the independent decisions of the public prosecutor.

In my submission it is plainly right that the Courts and Parliament and indeed everyone else should be careful not to interfere with or influence the independent and impartial exercise of the public prosecutor's quasi-judicial discretion as to whether or not to institute a prosecution or to abandon a prosecution once commenced. Most if not all of what might be regarded as restrictive comments made in either Court proceedings by judges or in Parliament arise in this particular context, and in my submission should be so understood.

However, my lord, it is one thing to leave it to the Lord Advocate or to the Procurator-Fiscal to decide whether or not a prosecution should take place in particular circumstances: it is however another matter altogether whether in appropriate circumstances and in the public interest it is proper to examine decisions already taken. Thus, to elaborate for a moment, it does not follow in my submission from the Lord Advocate's role as an independent public prosecutor that he has an absolute veto on all scrutiny or comment on the acts or omissions of public prosecutors in Scotland. Indeed, it may be considered that the essence of Parliamentary accountability is not only that full explanations can be required but also that conclusions can be drawn and lessons learned for the future.

As I understood it, underlying the statement read out yesterday is a submission that there exists a rule of law which inhibits your lordship and others from scrutinising the merits of decisions taken. As I will elaborate it in a moment, with your lordship's permission, it is in my submission notable that the case law referring to for example, the scope for a private prosecution does not provide support for any such absolute rule of law.

The case law does not indicate that the Court/

Court can never call upon the Lord Advocate to explain his reasons, nor in my submission does it indicate that the Court should never scrutinise the merits of decisions made either by or on behalf of the Lord Advocate or by members of the Procurator-Fiscal's Service. What however is quite clear is that the Court will not act with a view to influencing the public prosecutor's conduct, but rather in limited circumstances it will permit a private prosecution in the absence of the Lord Advocate's concurrence. In other words, my lord, the Courts along with other organs of our constitution are jealous to guard the independence of the public prosecutor, and it is no part of what I have to say that that independence should be threatened by outside influence or interference.

However, as I indicated at the outset, this Inquiry is in the context of a Tribunal constituted by resolution of both Houses of Parliament under the 1921 Act, set up to examine as a matter of urgent and public importance the issues arising from the Dunblane tragedy.

LORD CULLEN: That is a separate consideration from what you say are the limitations of the rule. In other words, what I think you are saying is that there is a limit to what the Court would feel itself inhibited from doing, but you are also I think referring to the origins of this particular Inquiry?

MR. CAMPBELL: Indeed.

LORD CULLEN: Now, is that not a separate argument?

MR. CAMPBELL: I am not sure it is a separate argument.

LORD CULLEN: If you can satisfy me that the rule had limits of the sort you are indicating would it matter whether it was set up in the way it has been set up or not? The fact that it is set up in this way might provide you with an additional argument, even if the first argument is not valid; I don't know. I want to know where you are seeking to go.

MR. CAMPBELL: The relevance as I understand/

understand it of the origin of this Inquiry is that it is rooted in Parliament, in that there has been a decision of both Houses of Parliament that this Tribunal should carry out the investigation and report back to Parliament: so there is a clear link in my submission between what is happening here and accountability of the public prosecutor to Parliament to answer for the conduct of the public prosecution system. Whether that is a separate or additional point I confess I am uncertain about.

What I am anxious to establish, my lord, or to submit is that there is nothing in the Minister's Parliamentary accountability which infringes his undoubted privilege to independent and impartial decision-making.

LORD CULLEN: And of course, as you stated earlier, quite correctly, there is a tension there.

MR. CAMPBELL: Yes.

LORD CULLEN: And that tension might emerge if the Lord Advocate was taken to task before Parliament in regard to what decisions he made. I am not sure how that would be resolved before the House of Parliament, or even the House of Lords. That is where the two points come into collision with each other.

MR. CAMPBELL: It would be resolved in this way, as I understand it: that if what Parliament is seeking to do in criticising or questioning the Lord Advocate's decision was to interfere or influence his independent, impartial decision-making process then that would be improper conduct by Parliament or by any other body.

LORD CULLEN: I see that. That rather suggests, therefore, that we come back to the first point, which is that the position of the Courts may essentially be the same as the position of Parliament ought to be.

MR. CAMPBELL: Yes.

LORD CULLEN: I wondered whether there was any magic in the fact this happened to be set up consequent on a decision of Parliament.

MR./

MR. CAMPBELL: No. I do not see any magic. I can now understand my lord's point.

My lord, on that same face, this Tribunal's purpose is not to influence a public prosecutor's decision or decisions in this or any other cases, but rather to assist Parliament in considering the full circumstances of what has happened, and more importantly than that, to assist Parliament in learning any necessary lessons and making any necessary reformation, all in the public interest.

One can note the obvious fact that there will never now be a prosecution of Thomas Hamilton.

Sir, before turning to the cases, dealing for a moment with the statement which was read out yesterday, if I may, certain reasons are given in the statement, particularly at pages three and four, for the position which has been adopted. If I may deal with one or two of those at this stage.

At the foot of page three it is said "Although the considerations underlying the principle against subjecting to critical scrutiny prosecution decisions apply most obviously to the interests of potential accused persons, they also affect victims and witnesses". I take it that emphasis is placed there on victims and witnesses for the reason that there can no be no prejudice to the interests of the potential accused person, who is now deceased.

Sir, in my submission it is not easy to see how in the present circumstances the interests of victims and witnesses arises as a practical problem or issue, and no explanation has been provided as to why this is a difficultly.

LORD CULLEN: That illustrates a point that is of some concern to me, and it is this. We are discussing on the one hand this scopeable role and what its limits are, but we are also at some point concerned with the ability of freedom of the Lord Advocate to waive his insistence on some sort of privilege that he has. If you touch on a point that there is no indication of how the interests of potential victims or witnesses are involved, we may be in an area where we are not talking about the role,/

role, we are talking about whether or not it may be waived.

It is one thing to say -- I can follow your submissions as far as the rule is concerned, but that is a different thing from saying I should embark on some sort of examination of the Lord Advocate's discretion, over which I have no control. Do you understand what I mean? If the rule applies to a certain matter, the waiving of it is for him and not for me; is that right?

MR. CAMPBELL: If the rule applies.

LORD CULLEN: So we come back to the scope of the rule.

MR. CAMPBELL: Yes, I accept that. There may be circumstances -- I will come on to this later -- where even if the rule does apply the Lord Advocate may nonetheless have discretion whether or not to waive it, and your lordship may or may not invite the Lord Advocate to reconsider his position.

LORD/

12.00 p.m.

LORD CULLEN: But of course, that will be as far as it goes.

MR. CAMPBELL: That could be as far as it goes. On the other hand, if your lordship is with me on the limitations of the rule, it does not necessarily follow that your lordship would then ignore the Lord Advocate's position, because if one assumes that "Your lordship has freedom if he so wishes to listen to submissions as to the soundness
or otherwise of decisions, and if indeed your lordship has freedom in his report to pass comment upon those decisions rather than simply record the facts of what they were, your lordship may nonetheless in the exercise of his discretion as the master of these proceedings, decide not to do so for whatever reason, and therefore considerations such as this may again be relevant.

It is no part of my submission that your lordship is bound to act contrary to the position which has been taken by the Lord Advocate because your lordship will always be in charge of the procedure in this Inquiry in the same way as your lordship would be on other perhaps less controversial matters, so on the assumption that this issue may arise in either or both of those contexts, as well as the absence of any explanation for the relevance and the reference to victims and witnesses, in any event in my submission, any consideration of the interests of victims and witnesses would at first sight in any event appear to provide a justification for providing no information upon the matter at all rather than an embargo upon scrutiny of the information once all the other details in relation to information etc. has been produced.

Secondly, my lord, at the top of Page 4, perhaps a slightly different point is taken -- "If decisions on criminal cases are not taken privately, without the pressure of public scrutiny and on the basis of an independent assessment of the quality of evidence and credibility of witnesses, prosecutors could be inhibited from taking difficult decisions, which they must take in the exercise of an independent discretion". It is not difficult to see the potential force in that remark, but it is a very/

very extreme opposition. It would mean that there could never be any scrutiny of decisions taken by public prosecutors, and the logical result there would be that the Lord Advocate is accountable to no one, so it may be that there is a matter of balance to be exercised, assuming of course that the matter is not tramelled by a binding rule of law, and if it is helpful in this context, it may be thought that the public interest in the independence and impartiality of the public prosecutor in this context is satisfied both by what I have said so far and the immunity from civil suit which is given to the Lord Advocate and all acting in his name. That would include Crown Counsel and Procurators Fiscal in a solemn procedure. I needn't go to it, but the relevant authority on that is the case of Hester v. McDonald 1961 Session Cases at 370, decision of the first Division, and so far as the decision of Procurators Fiscal raising proceedings in their own name in the Sheriff Court in Summary Procedure, this particular matter is governed by Section 456 of the Criminal Procedure (Scotland) Act 1975, and I can provide my lord in due course with a copy of the relevant Section in Renton and Brown dealing with that, but in summary, the Section provides that "No judge, clerk of court or prosecutor in the public interest shall be found liable by any court in damages for or in respect of any proceedings taken, act done, or judgment, decree or sentence pronounced under this Part of this Act", unless certain criteria are satisfied, firstly, there has been imprisonment, that the judgment or whatever has been quashed, and most important in this context, that "the person suing shall specifically aver and prove that such proceeding, act, judgment, decree or sentence was taken, done or pronounced maliciously and without probable cause". I note the reference there to the probable cause, so that is a distinction between the immunity given to the Lord Advocate and those acting in his name on the one hand, an absolute uninhibited immunity, and on the other hand a more limited, but nonetheless extensive immunity given to judges and Procurators Fiscal acting in their own name rather than in the name of the Lord Advocate, and one notes that the Statutory Provision expressly recognises that in any civil suit, one issue which may be ventilated is whether or not a decision was taken with or without probable cause, which one might imagine necessarily involves consideration of similar issues to those which we have/

have been discussing in this Inquiry in this context.

Sir, it does occur to me that although time has not permitted a concluded view on the matter, that in this whole area, there may be relevant differences between the Lord Advocate on the one hand and the Procurators Fiscal Service, which is now, as I understand it, seen as a branch of the Civil Service, but I don't make any specific submission based upon any such distinction.

LORD CULLEN: Are you drawing a distinction here between summary and solemn procedure?

MR. CAMPBELL: There is a clear distinction drawn in the context of immunity from civil suit.

LORD CULLEN: Quite so, but as far as the present problem is concerned, are you drawing a distinction?

MR. CAMPBELL: No, my lord. More generally, sir, in the context of the Lord Advocate's statement, in my submission it is not easy to understand the rationale or purpose of providing a full explanation, or a full account perhaps more accurately, a full account of what happened, giving full disclosure of all relevant documentation, and indeed evidence, albeit to a limited extent, from the Fiscals themselves, as to the facts of what happened, but then to deny the Tribunal and Parliament the opportunity to consider the merits of what was done.

Reference is made to Mr. Vannet's review, but as the Tribunal will have seen if it has looked at that, the document is strictly speaking not a review as such. It is the nature of an account or a summarised compilation of what I might term Precognitions, and again just generally speaking, it is not easy to understand why Mr. Vannet was asked to do this if the intention was not to provide a review in a proper sense of the conduct of the Fiscals involved.

Sir, I am about to turn to the cases, but before I do so, for the avoidance of doubt, I should/

should make it clear that while in my submission serious questions do arise as to the soundness of the decisions taken by the various Fiscals involved, I am not in a position to assert that there is not or can be no justification for the decisions which were taken, or no good justification for the decisions which were taken, and it may be thought unfortunate that the Crown should lead evidence which raises these serious questions, but then refuse to explain them or to permit these decisions to be the subject of comment or scrutiny. This situation creates a risk that persons will draw quite reasonable and natural conclusions from the evidence presented without the benefit of a satisfactory explanation, always assuming that such a satisfactory explanation does in fact exist, so we seem to be in the realms of a half-way house which on the one hand might be regarded from one point of view as the best of all worlds for the Crown, but on the other hand may in fact be the worst of all worlds for everybody involved, so turning to a consideration of the rules of law as it has been presented by and on behalf of the Crown, my lord has my submission that the law, putting it at its lowest, as to the scope for comment by this Tribunal on the extent of the actions and the omissions of the Procurator Fiscal Service is not as clear-cut as my learned friend might suggest.

LORD CULLEN: Your position is that the rule applies only to those cases there there is a risk of a decision yet to be taken being influenced by some improper consideration.

MR. CAMPBELL: Or perhaps more generally, that on-going proceedings might be influenced.

LORD CULLEN: And I suppose one might include other cases where the decision had been taken, but it wasn't too late to extract from that, in other words no commitment had been given which would mean that the matter was completely foreclosed.

MR. CAMPBELL: Indeed; whereas in my submission, my lord, any submission by Parties at this Inquiry, and more importantly, any comments by the Tribunal in its report to Parliament as to the conduct of the Procurators Fiscal involved, would not/

not amount to a challenge upon the independence of the Lord Advocate or others acting as public prosecutors in Scotland. Such would not amount to an attempt to bring about a prosecution which the public prosecutor had decided should not take place. Such would not amount to an attempt to over-turn or reverse a decision already taken. In summary, it would not prejudice the impartial and exclusive jurisdiction of the Lord Advocate or other public prosecutor in this or in other cases. Similarly, it would not be an invitation to Parliament to influence any decisions in this particular case or to put pressure upon the future conduct of the public prosecution system in Scotland.

My lord, the first case that I want to refer to is the case of J & P Coats Ltd. v. David Brown, a decision of the full bench of the High Court, reported at 1909 Justiciary Cases at Page 29.

My/

12.15 p.m.

My lord will see from the rubric that the case involves circumstances in which a full Bench, with Lord McLaren dissenting, to authorised a private party to institute prosecution by way of Criminal Letters in the High Court of Justiciary without the concurrence of the Lord Advocate which had been refused. It is perhaps unnecessary to deal with the details of the specific case which involved an alleged fraud.

Turning to the opinion of the Lord Justice Clerk, Lord MacDonald, at page 33 he says "The prosecution of crime in Scotland has for so long a period been practically in the hands of the King's Advocate, and of subordinate public prosecutors acting under his control, and this procedure has been attended with such satisfactory results to the administration of the criminal law, that private prosecutions for serious crime is practically unknown, the public being well satisfied that as a general rule the interests of justice are well guarded by the Lord Advocate's Department. The question now arises for the first time for very many years whether a private prosecution shall be allowed to proceed, seeing that the Lord Advocate declines to take up the case or to give his concurrence to a prosecution at the instance of the party who alleges that a criminal wrong has been done to his injury.

A citizen desiring to institute a prosecution at common law for crime requires by law to be in the position - (1) that he as applied to the Lord Advocate to obtain his concurrence to the prosecution and (2) that the crime alleged be a wrong towards himself. By these rules the accused citizen is safeguarded from malicious or vindictive prosecution by private individuals, the Lord Advocate, or those who represent the public interests under him in the inferior Courts, being responsible for the proper exercise of their office in any question relating to the granting of concurrence to a private prosecutor's action.

But there is not vested in the public prosecutor an absolute right of veto. It is the right of the citizen to complain to the High Court of Justiciary against a refusal by the public prosecutor to grant his concurrence to a private prosecutor where he has declined to take up the prosecution on behalf of the Crown. The Lord Advocate/

Advocate frankly conceded this at discussion. He must, if called on, shew cause for his declinature, and the Court can consider the question whether the withholding of the concurrence in the circumstances may involve a wrong to the citizen complaining, and a failure of public justice. For the citizen desiring to prosecute is seeking to invoke the law not for reparation to himself, but ad vindictam publicam, and this is clearly expressed in the Criminal Letters granted to him. If he desires personal reparation he must seek that in a Civil Court. It is only for the purpose of preventing the right to prosecute being used for vindictive or malicious ends that he must ask for the Lord Advocate's concurrence.

It is in that state of the law that in the present case the complainer presents to this court a complaint and form of charge by Criminal Letters, and asks that a private prosecution shall be sanctioned by the court, either without the concurrence of the Lord Advocate, or by the Court ordaining the Lord Advocate to grant his concurrence. At the debate the Lord Advocate said that if in the end either of these courses commended itself to the court, he would act as the court might order.

It seems to me not to be a question of serious importance which of these courses is to be adopted, if the ultimate decision of this case should be that a prosecution is to be allowed. In either case the prosecution would proceed in exactly the same manner".

His lordship goes on to deal with this question of procedure and the result is that if the court is so minded it would not require the Lord Advocate to concur contrary to his will. It would rather simply sanction a private prosecution.

At the foot of page 34, "Upon the question whether, on the papers and the arguments which are before the court, the complainers should be allowed to obtain the Criminal Letters they asked for, I have come to be decidedly of opinion that the case is one in which the Court ought to allow the case to proceed."

His lordship then goes on to deal with specific/

specific circumstances of the case.

"I can have no doubt that the charge so made is a relevant charge" and then there is a discussion about the case of Alexander Bannatyne about fraud and then in the middle of page 35, "No doubt it may be said that there may be many cases in which a thing is done where the criminality would be small and perhaps such that the public prosecutor might in his discretion not think it necessary that the act done should be followed by a criminal prosecution. Further, it might be said that explanations might be given which would give a complexion to the case that might justify holding back from public prosecution. But in this case I do not think that there is ground for giving weight to such considerations".

His lordship goes on to explain why he comes to that view but it is plain, in my submission, that the Court is embarking upon a consideration of the merits of the case or at least the merits of whether or not there should be a prosecution.

At the foot of the page, "The Lord Advocate told the court that if the complainers would proceed to endeavour to obtain reparation by a civil action, he would consider the proceedings in such a case, and if he saw ground for a criminal prosecution in them, would reconsider his determination. I confess I was not able to follow the line of thought indicated by such statements".

His lordship explains why he is unimpressed by that proposal. "It is quite contrary to the order of procedure in criminal law administration that the whole circumstances of a case should first be thrashed out in a Civil Court, with possibly a succession of proceedings of review, ending, it may be, in the House of Lords after a litigation extending over years, and that then the question of criminal prosecution should be finally determined".

My lord, the judgment of the Lord Justice Clerk was that subject to the concurrence, my lord can see at page 39, Lord Kinnear, Lord Low and Lord Pearson, the only dissenting judgment is that of Lord McLaren.

I/

I dwell on this case just for a moment because it is a most authoritative decision in this area of the law, being a decision of the full Bench and it may be interesting to note the basis upon which Lord McLaren dissented. It was not on a matter of principle but was rather on the particular facts of the case.

At the foot of page 37, "No case was cited by the Complainers' counsel, and I know of no case, in which the Court has granted the prayer of a Bill for Criminal Letters without the concurrence of His Majesty's Advocate. But the absence of direct authority does not in any way militate against the power of the court, which is undoubted. It only proves that this is an extraordinary remedy for an extraordinary and unprecedented occurrence, viz the undue and arbitrary exercise by an Officer of the Crown of a power entrusted to him for public purposes."

LORD CULLEN: Is that the test?

MR. CAMPBELL: I would not accept that is the test, my lord, no.

LORD CULLEN: He does rather come out with it as if it is the test.

MR. CAMPBELL: Yes, he does. At the top of page 38, "That I may not be supposed to suggest a doubt as to the powers of the court, I note that the power has been very distinctly recognised in two modern cases, in one of which I was present as a Judge, but in neither case was the party complainer successful in challenging the Lord Advocate's decision to refuse his concurrence to the desired prosecution.

I will make one other general observation. Hume is a very high authority, but personally I should be disposed to go further than the dictum of Hume. If the Lord Advocate should state as his reason for not giving his concurrence to a Bill that the statements contained in the Bill did not in his judgment disclose a crime according to the law of Scotland, and if we were of opinion that the Bill did disclose a prima facie relevant charge of crime, I think we might sustain the Bill, leaving the relevancy of the charge to be further considered at the/

the trial, I say this, because I think that in the case of a pure question of law the Supreme Court of Criminal Jurisdiction may act on its own judgment, and is not bound by the Lord Advocate's opinion. In such a case I do not doubt that the Lord Advocate would give his concurrence, if desired by the court". And that is a theme which emerges again in some of the later cases, the potential distinction between on the one hand the issue of law pure and simple and on the other hand the question of whether or not the courts will review or repeat an examination of the evidence or witnesses carried out by the public prosecutor and I will elaborate, if I may, upon my submission on the distinction when I come to the relevant cases.

Then the dissenting judgment. At the foot of page 38, "In such circumstances I am confronted with the question, how am I to form an independent opinion on the fact as to whether there are or are not grounds for a criminal prosecution? It is one thing to say that we may give redress against an abritrary refusal of the Lord Advocate's concurrence or a refusal on legal grounds which are disclosed to us; and it is quite a different proposition that we are to review the Lord Advocate's decision that the facts do not warrant a prosecution. If it were intended by the Constitution of the country that this court should undertake such a review, we should either have the power of calling for the Crown precognition, or of employing an agent to institute an independent enquiry and to report to us. Nothing of the kind has ever been done, and your lordships are not proposing to make such an enquiry.

It was argued for the complainers that the charge of fraud depended on documentary evidence, which he says discloses a prima facie case.

In my opinion the documents prove nothing." And that is essentially where his lordship dissented. "I do not doubt that the Defender made use of a colliery certificate that was untrue in fact, but we have only the complainers' statement in the Bill for the all-important point that the document was uttered knowing it to be false, and with intent to defraud. Now, I may be altogether wrong, but I must frankly say that on the question whether there is a prima facie case for prosecution,/

prosecution, I prefer the dispassionate meaning of the Lord Advocate who has studied the case, to the unsupported statements of Messrs. Coats, who no doubt honestly believed that they have been defrauded, but who are not the best judges in their own case."

Towards the very end of his opinion, his lordship says "I may add with utmost deference to the opinions of other members of the court, that personally I should deprecate very strongly the notion that this Court is to be a Court of review of the work of the Lord Advocate's Department, a task for which, by its constitution and means of informing itself, the Court is alike unfitted; and my opinion is that the Bill should be refused."

Now, if my lord will allow me, the final judgment in the case is the opinion of the then Lord Justice General, Lord Dunedin. It is plain that this was a very strong Court and your lordship may gain some assistance from this relatively short opinion. "Your lordships have already decided this case by a majority, and as, according to the Constitution of this Court, I have no deliberative vote, no opinion of mine can have an operative effect upon the fate of the case. But it is in accordance with precedent that I should state my opinion, and I therefore do state my opinion that I concur with the result at which the majority of your lordships have arrived.

The gravamen of the case seems to me entirely to turn upon this use of the certificate. Lord McLaren has said, quoting from the speech of the Lord Advocate, that the line was a difficult and narrow one which separated the province of civil and criminal responsibility, and that he had come to the conclusion that this case was one where criminal responsibility was not involved. Seeing that there can be no doubt whatsoever as to the relevancy of the statements as to there being a crime -- for I think it would be a very unfortunate thing if it should go out in a commercial country that there was any doubt whatsoever entertained here that the issuing of a certificate known to be false, to be used for the purpose of getting a payment which otherwise would not have been got, was anything less than a crime -- seeing that is so, I must say that I think what the Lord Advocate said then was not altogether/

altogether consistent with what he said immediately or soon afterwards, namely that if this case was tried civily he would then reconsider the position. But the chief reason which has influenced my brother Lord McLaren in his dissent from the majority of your lordships has been his extreme repugnance of the idea that this Court should sit as a Court of review of the discretion of the Lord Advocate. I do not think there is any difference of opinion upon this matter. It is no light matter to interfere with the discretion of the Lord Advocate, and I can conceive very few cases in which we would so interfere.

But we are bound, nonetheless, to direct our minds to the particular case that has been brought before us, and I agree with the Lord Justice Clerk in thinking that the actual written documents that are here brought before us go very far to establish the case. Of course I do not wish to say too much on that matter, because I am not going to prejudice the defence which may be finally brought forward. But when my brother Lord McLaren went on to say that he thought that the whole matter would turn upon whether it was shewn that the party charged here really knew or did not know that this certificate was false, I am compelled to observe, first of all, that the complainer says so most distinctly, and that, if the Lord Advocate in the exercise of his discretion chooses to maintain a more than usual reticence, I am afraid he must take the consequence of that reticence. It seems to me nothing would have been easier than for the Lord Advocate to have said -- if he could say it -- that upon a consideration of the whole circumstance, he had come to the conclusion that the party charged here was under the belief that the certificate was true. If the Lord Advocate had said he was satisfied of that, or even if he had gone so far as this, that he had not brought before him any evidence which would lead to the conclusion that the party charged knew that the certificate was false, I imagine -- at least speaking for myself -- that I would not have interfered with the discretion of the Lord Advocate. The Lord Advocate says none of those things, and he leaves us -- and that is a matter for him to judge -- completely in the dark as to what the form of defence is to be. Under these circumstances the disagreeable necessity -- as I think I must call it -- is laid upon us of affirming that/

that this is a case where a subject has seemingly been wronged and no real reason has been laid before us why a prosecution should not be allowed".

So, my lord, one sees a line of approach there which first of all recognises the competence or the scope of the court to review a decision by the Lord Advocate or if review is perhaps not the correct word, at least to consider the merits of what happened but also a recognition that their Court will be reluctant to alter or to do anything which interferes with..... again, that is not the right word, which produces a different result than the decision of the Lord Advocate but there is no absolute veto on the sanctity of the Lord Advocate's decision-making process which elevates it above the jurisdiction of the court.

LORD CULLEN: How does that assist us in looking at the present problem?

MR. CAMPBELL: Well, it assists us, my lord, in this way; in that as I understood at least the main basis for the Lord Advocate's position, it is by reference to a rule of law propounded it is said in the case of McBain v. Crichton which I am coming to next and the fact that the court cannot review the merits or soundness of the Lord Advocate's discretionary decisions and as I understand it it is submitted that by parity of reason this Tribunal cannot do likewise.

LORD CULLEN: But in the case we have just been looking at what you have got is the court looking at certain material and expressing a view in regard to that material and as against that the knowledge that the Lord Advocate has not elected to prosecute and as the Lord Justice General said, it was not a light matter to interfere in the sense of insisting that there should be a prosecution despite the Lord Advocate's decision but this case does not show us the feelings of the court, so to speak, looking behind the door to find out in detail what was the process of reasoning or even indeed in demanding to know what the process of reasoning was that led to the actual result. Do you see what I mean? It is exercising its own judgment, knowing of course that it won't lightly interfere with the decision reached but I am looking to see whether the court looked as it were and demanded an explanation to/

to know what the inner thinking was and then looked at that.

MR. CAMPBELL: Well, I take my lord's observation. What the court seems to be saying is that it is a matter for the Lord Advocate as to how much information he is prepared to disclose and the Lord Advocate may take the risk if he feels fit to fully explain what has happened but that he may take the consequences.

LORD/

12.35 p.m.

LORD CULLEN: It might lead to the fact the Court might reach a decision it might not otherwise have done.

MR. CAMPBELL: Absolutely. On the other hand, I do not understand the Court to be saying that the mere provision of an explanation will itself necessarily prevent the Court coming to a different view.

In a broad sense, we may be in a similar situation in the present case, where the Lord Advocate has chosen to present a considerable body of evidence as to what happened, and factual evidence as to the decisions which were taken, but is apparently not proposing to explain or justify those decisions. So we might be in a similar situation here, where the Lord Advocate takes the consequence of that policy. That is a possibility, depending on the view of the Tribunal.

LORD CULLEN: You might be asking this Tribunal not to enquire into what the Procurator-Fiscal thought about to reach his own judgement as to whether or not Mr. Hamilton should have been prosecuted, assuming of course I impose on myself the very high test THE Court applied, that it was a quasi situation. Does that advance your argument about wanting to know exactly what went on in the minds of the Procurators-Fiscal?

MR. CAMPBELL: I for my part am not proposing to make any application, but if the Crown choose not to lead the Procurators-Fiscal I invite the Court to call them to give evidence.

LORD CULLEN: What do you want to achieve?

MR. CAMPBELL: My principal concern -- although I am bound to say it is a matter for the Crown whether or to lead the Fiscals; I am essentially neutral on that. My principal concern is not so much that but that there should be no inhibition in my submissions to the Tribunal, and the Tribunal should not be inhibited in its report to Parliament from commenting on the evidence it has heard.

LORD/

LORD CULLEN: So you want to be free to make submissions, and likewise you want me to be free to comment on the decisions reached in the light of the evidence, whatever it might be, we have heard?

MR. CAMPBELL: That is correct. I am bound to say -- although it is not a matter for me -- that it is a pity I feel that if the Fiscals do
have good justification or explanations that the Tribunal should not hear it.

LORD CULLEN: I simply want to know whether you are appealing past me to the Lord Advocate or whether you are asking me to make any ruling on the matter. As I understand it, what your position is is you are saying you want freedom to submit on the basis of the evidence already adduced?

MR. CAMPBELL: That is the essence of my position. There may be a distinction between on the one hand freedom to make submissions on the evidence and on the other hand the idea of putting a Fiscal in the witness box and cross-examining him on his line of thinking.

LORD CULLEN: Take this case we are looking at as an example. There does not seem to have been any question of the Court having the right to know or thinking they had the right to know what went on in the inner councils of the Crown Office or the Procurator-Fiscal's Office. There is no evidence on that. On the other hand, it felt free in the context of that particular case to express the view that there should be a private prosecution, which involves passing some form of judgement on the information available to the Court. It is that aspect of the case you are interested in?

MR. CAMPBELL: Indeed. Turning to the case of McBAIN V. CRICHTON 1961 JC25, my lord will see from the rubric that this was a case involving the DH Lawrence's book "Lady Chatterly's Lover" and an attempt was made by a private individual to obtain the sanction of the Court for a private prosecution, based upon the alleged indecency and obscenity of that book. From the rubric my lord will see it was held that it was not the function of the Court to view the Lord Advocate's exercise of his discretion in refusing to concur in a private prosecution,/

prosecution, nor to examine the reasons which had affected that exercise; and that the only wrong alleged by the complainer was of a general and public nature, and that he had failed to show that peculiar and special personal interest in the alleged wrong which was necessary to sustain a private prosecution. That is the case which is particularly founded upon by the Lord Advocate in his statement to the Tribunal.

If one turns to the judgement of the Lord Justice General, Lord Clyde, at page 28, "This Bill for criminal letters has been presented to the High Court of Justiciary by Mr. A.G. McBain, chartered accountant, Glasgow, asking for criminal letters to enable him to initiate a prosecution against a certain bookseller in Glasgow for exposing for sale and selling in his place of business a book called Lady Chatterly's Lover, by D.H. Lawrence, which he alleges is lewd, impure, gross and obscene, and contains passages contrived and intended to corrupt the morals of the lieges, and particularly of the youth of both sexes.

"Since the Lord Advocate has refused his concurrence to the proposed prosecution, this Court ordered intimation of the Bill to be made to the Lord Advocate, as is the custom, and appointed a day for the Hearing of the Bill. The Lord Advocate has appeared in person at this Hearing and has informed the Court that he has fully investigated the matter more than once and, in the exercise of that wide discretion which is invested in the Lord Advocate, he has come to the conclusion that a prosecution would not be justified in connection with this matter. He has therefore decided not to prosecute at his own instance and not to give his concurrence to the private prosecution which the present complainer desires to raise.

"The Lord Advocate is quite entitled to take up this position. In this country he is the recognised prosecutor in the public interest. It is for him, in the exercise of his responsible office, to decide whether he will prosecute in the public interest and at the public expense, and under our constitutional practice this decision is a matter for him, and for him alone. No one can compel him to give his reasons, nor order him to concur in a private prosecution. The basic principle of our system of criminal administration in Scotland is to submit/

submit the question of whether there is to be a public prosecution to the impartial and skilled investigation of the Lord Advocate and his Department, and the decision whether or not to prosecute is exclusively within his discretion. This system has operated in Scotland for centuries, and -- see Alison on Criminal Law, Volume ii page 88 -- the result has completely proved the justice of these principles, for such has become the public confidence in the decision of the Lord Advocate and his Deputes on the grounds of prosecution, that private prosecutions have almost gone into disuse. It is utterly inconsistent with such a system that the Courts should examine, as it was suggested it would be proper or competent for us to do, the reasons which have affected the Lord Advocate in deciding how to exercise his discretion, and it would be still more absurd for this Court to proceed to review their soundness. Any dicta indicating that such a course is open to any Court are, in my view, quite unsound".

Now, the decision of the Court is explained not so much in that passage but in what follows, based upon the lack of title of the complainer to raise the matter in the criminal Courts, it being a purely public matter. That decision relates to the argument presented by the Lord Advocate, which is to be found at page 27. I won't take up the Tribunal's time by reading through the decision of the Lord Justice General on that matter; but what it does mean is that the comments at the top of page 29, however they are to be interpreted or in what context they are to be placed, are obiter dicta rather than part of the ratio of the decision.

LORD CULLEN: But in any event, take the second passage that you referred to, the second passage it is founded upon. That seems to be directed to an internal examination of how the Lord Advocate reached his decision, or those acting on his behalf reached their decisions, and secondly it is concerned with the absurdity of a Court reviewing their soundness. Now, as you have pointed out, it is well established that the Court does not review, in the sense of being the next Court one goes to after the Lord Advocate has finished with the case, but there may be certain circumstances where the Court will step in.

MR./

MR. CAMPBELL: Yes.

LORD CULLEN: So there are certain circumstances where the Court will pronounce on the matter whether or not there should be a prosecution, without going into the internals of what went on in the Lord Advocate's Office or in his name.

MR. CAMPBELL: Indeed. In other words, this passage should be seen in the context of the reluctance of the Court to interfere with the impartiality and independence of the prosecution decision itself. It does not mean that there may be no comment upon the decision itself, as opposed to a review of, as my lord has put it, the internal workings.

LORD CULLEN: That brings me to a point of some concern to me, and I think I will know how you will answer it, and it is this. If we have comment from you and comment from me, which may reflect on the individuals who took the decisions, and if they are not giving evidence, at least not giving evidence in regard to the justification of the decision they have reached, could that be said to be illogical or unfair? What is your position?

MR. CAMPBELL: There could be many occasions where unfairness in that general sense can arise from particular decisions taken.

LORD CULLEN: You see the point concerning me, that we have if you like something happening for our purposes we will assume behind closed doors. You say we know enough about the decision and we know enough about the statement of the particular reasons you say to comment on that. Now, that is supposed to be a one-sided comment, because the person who is involved has not given evidence, or if he does give evidence won't be asked about that. What do you say to that?

MR. CAMPBELL: If there is unfairness, the unfairness may be more than outweighed by the public benefit which may be derived from the comment.

As my lord has observed, if I am right in indicating there is no absolute veto on these matters being explored, then the remedy for the unfairness/

unfairness or potential unfairness lies in the hands of the Crown.

LORD CULLEN: This is rather an odd case, because as you have pointed out already, we have already received, heard evidence as to the stated reasons, and there appears to be no problem as far as the evidence relating to the stated reasons is concerned: that is made clear in the statements.

LORD CULLEN: Yes. So, my lord, any discretion which may on the face of it appear to arise from what is said by the Lord Justice General in McBAIN may disappear.

If this passage is considered in what I would submit is its proper context, as set out at the beginning of the passage, mainly that the Court will not interfere with the impartial and skilled investigation of the Lord Advocate and his Department in matters which are exclusively within his discretion, again one has an emphasis on "Don't interfere with the independent and impartial discretionary powers of the Lord Advocate". But it doesn't follow that there can never be any comment upon the outcome of that discretionary power.

I must say that the bald statement that the Lord Advocate can never be called upon to provide reasons for his decision is not supported by subsequent authority. It may not matter a great deal.

The only other member of the Court to express a view was Lord Guthrie: Lord Carmont simply concurred in the judgement of the Lord Justice Clerk. I don't think Lord Guthrie's judgement provides any direct support for what might be said to be a more extreme interpretation of the dicta of the Lord Justice General.

Sir, the next case is MEEHAN V. INGLES AND OTHERS 1975 JC page 9. The facts of this whole matter are somewhat difficult to summarise, and indeed obviously they are complicated, and it is perhaps not necessary for me to go into them. The case however involved an attempt by a complainer to obtain the exercise of the Court's discretion to grant a Bill of criminal letters where the Lord Advocate/

Advocate had refused to provide the necessary concurrence.

Perhaps just to summarise the position, my lord, I could go through the rubric. "One, serving a term of life imprisonment in respect of his conviction upon a charge of murder in October, 1969, presented on his own behalf two identical Bills for criminal letters, by which each in turn, he sought the Court's authority to raise a private prosecution against three police officers, alleged by him to have committed perjury as Crown witnesses at his trial, and in relation thereto to have conspired to pervert the course of justice. The Lord Advocate had refused to prosecute the officers for the offences alleged, and had further refused to concur in a private prosecution directed to that same end. On the first Bill the complainer contended (1) that he as a private individual had a right to initiate a criminal prosecution, since the Lord Advocate had not the exclusive right to do so; (2) that he could qualify an interest by showing that he had suffered injury of a substantial, particular, special and peculiarly personal nature beyond all others, as a result of the alleged criminal acts of the three police officer respondents; and (3) that ex facie of the Bill he has made out a prima facie case of the commission of a crime or crimes by the said respondents. On the second Bill the complainer further contended, having been unsuccessful in respect of his contentions under the first Bill, that the Court had proceeded upon the view, and wrongly, that the Lord Advocate was not obliged to give the Court his reasons for refusing to concur in the desired private prosecution.

"Held (1) that only in very special circumstances would the Court sanction a private prosecution; that the crimes which it was sought so to prosecute, viz. perjury and perverting the course of justice, were crimes pre-eminently suited to impartial rather than to ex-parte investigation and to such upon all the available evidence rather than upon what might be the choice of an interested party; and that plainly the very special circumstances before desiderated had not been made out; (2) that while it was undoubtedly the law that where the Court is considering a Bill for criminal letters the Lord Advocate is expected to state his reasons/

reasons for not concurring therein, the Lord Advocate, through his Depute, had in fact stated very fully to the Court his reasons for refusing to concur in the prosecution sought; and that the Bills must be refused".

My lord, I do not think it is necessary to go through the detail of their lordship's judgements on the matter. Curiously, exactly the same Bill, for reasons that were stated, came up a second time in the Court of Appeal with the Lord Justice General in the chair, exactly the same Bill, for reasons that were explained by the Lord Justice General at pages 13 and 14. It may be of help briefly to look at the Lord Justice General Lord Emslie's opinion on this matter.

LORD CULLEN: We better do that after lunch. We will adjourn until ten minutes to two.

After an adjournment for lunch.

LORD/

1.50 p.m.

LORD CULLEN: Yes, Mr. Campbell. When you are ready?

MR. CAMPBELL: Thank you, sir. Over lunch I was reminded that before lunch I referred you, sir, to repealed legislation in the form of the Criminal Procedure (Scotland) Act 1975 rather than the modern version. I dare say I could attempt to justify that on the basis that was the provision in force at the time.

LORD CULLEN: Is it to the same effect today?

MR. CAMPBELL: I am assuming so, sir, but I will certainly check that by tomorrow but I would anticipate that that provision, Section 456, which I think did mention predecessors will have been repeated in the new Act but I will certainly check it. I would be very surprised if there was any material change.

Sir, I was referring to Meehan v. Inglis in 1975 JC Cases. The only passage that I would be dwelling upon is in the opinion of the Court delivered by the Lord Justice General, Lord Emslie, at Page 14, halfway down the page. "In our opinion Mr. Meehan's proposition is without substance. It is undoubtedly the law that where the Court is considering a Bill for Criminal Letters, the Lord Advocate is expected to state his reasons for refusing to give his concurrence. One corollary is that a private party will not be permitted to proceed unless some very special cause is shown for interference by the Court, where the Lord Advocate has refused his concurrence and has stated his reasons for that refusal. Another corollary is that where the Lord Advocate offers no reasons to the Court it may be presumed that he has none. Contrary to Mr. Meehan's assertion, however, the Court on 11th October 1974 laboured under no error on this matter and, indeed, as the opinion itself disclosed the Court proceeded to judgment only after the Lord Advocate by his Depute had stated very fully to the Court his reasons for refusing to concur in the prosecution sought by Mr. Meehan. Further the dictum of the Lord Justice General (Clyde) in McBain is not to the effect contended for by/

by Mr. Meehan. Lord Clyde did not say that the Lord Advocate was not obliged to give his reasons for refusing to concur in a private prosecution. What he said was that it is utterly inconsistent with our system which is essentially one of prosecution in the public interest that 'the quotes should examine.....the reasons which have affected the Lord Advocate in deciding how to exercise his discretion and it would be still more absurd for this Court to review their soundness.' we see no reason to differ from that expression of opinion in so far as it is directed to cases where the Lord Advocate's reasons for refusing concurrence are derived from an exercise of his impartial judgment after exhaustive investigation of all sources of evidence. The position would, of course, be otherwise if the reasons turned upon a question of law or relevancy or, as in J. & P. Coats Ltd., upon the construction of documents".

Sir, in my submission that passage has to be read in the context of the case in which it is stated, namely an expression of the approach when considering whether or not to scrutinise the soundness of an impartial exhaustive investigation of all sources of evidence in the context of in effect bringing in a positive result in the nature of a fresh prosecution.

I can derive some comfort from the qualifications upon it which are stated at the foot of the page but, in any event, in my submission it should not be read beyond its context as for example whether the scope or the potential for improper influence or interference with an impartial investigation is past, it doesn't prevent for example this Tribunal or Parliament looking to the past and seeking to learn lessons for the future. So I invite my lord to treat this passage as indeed others to similar effect, as simply examples of situations where the Court may be reluctant to sanction a private prosecution rather than necessarily an example where it would be improper to comment upon past events where any risk of prejudice to the impartial position by a public prosecutor arises.

In any event, again I note that it is in a sense simply a reluctance to embark upon corridors and passages of the decision making process itself rather/

rather than necessarily any reluctance to comment upon the decision itself.

Some support for that approach can perhaps be gained on Page 15, towards the end of the first paragraph. "The Lord Advocate's refusal to support private prosecution was based upon the exercise of his impartial judgment after this exhaustive investigation and we were reminded, further, that quite apart from this careful review of the matter raised by Mr. Meehan on this occasion, the Lord Advocate and two of his predecessors had previously fully examined the allegations now made and had decided against public prosecution". So, my lord, in my submission it may be one thing in those circumstances for the Court not to sanction a private prosecution. It doesn't follow that in subsequent years it would then be improper for Parliament to scrutinise what happened and to comment upon it if that was thought appropriate in the public interest.

Sir, there is the well known case of X v. Sweeney in 1983 SLT48, the Glasgow rape case, but I don't think it advances matters for present purposes. The issues which were discussed at length in that case don't arise at all in the present context but I can provide my lord with a copy of that decision for consideration if that would be helpful.

The only other case that I wish to mention in any detail is a case in which my lord was involved in Court. It is McDonald v. HMA reported in 1988 SLT at Page 713. My lord can see what seems on the face of it to be a somewhat unusual case where not only was the person attempting to seek the sanction of a private prosecution but the prosecution was to be against both the Lord Advocate and, if my lord looks halfway down the first column of Page 174, a particular Procurator Fiscal who may now be doubting the common wisdom about lightening not striking twice.

If my lord looks at the rubric. "The complainer was convicted after trial in the High Court and appealed against conviction on the ground inter alia that in the course of the evidence of a Crown witness who was giving evidence exculpatory of the complainer (but in conflict with the witness's earlier/

earlier statements to the police), the Advocate Depute instructed

that the witness be charged with attempting to pervert the course of justice by having earlier given the police a false statement which was different from his evidence in Court, and thereby rendering the complainer liable to suspicion and arrest. Neither the complainer and his representatives nor the trial judge were advised that the witness had been charged, and the Crown case was presented to the jury on the basis that the earlier statement was in fact the truth. The appeal was refused. The complainer thereafter brought a Bill craving the High Court to issue Criminal Letters to permit him to institute a private prosecution of the Lord Advocate and the Procurator Fiscal at Stirling for subornation or perjury at the original trial and perjury by misleading the Appeal Court. The Lord Advocate's concurrence in the Bill was sought but refused. Held, (1) that since the Lord Advocate's concurrence had been refused, the Court had to consider the facts alleged in the Bill to decide whether the circumstances therein set forth were such an exceptional remedy should be allowed to the complainer; (2) that the action which was taken during the trial in relation to the witness was not an attempt to induce him to give perjured evidence but an attempt to persuade him to tell what the Crown believed with every justification to be the truth and accordingly the action did not amount to attempted subornation of perjury; (3) that since the crime of perjury was the judicial affirmation of falsehood upon oath and neither of the respondents gave evidence upon oath, the allegation of perjury was irrelevant and misconceived; and Bill refused".

Sir, I need not take up a lot of time on this. I refer to it principally because it would appear to be an example of cases in this general context with particular relevance to the judgment of the Lord Justice Clerk, Lord Ross, at Page 718, an example where the Court did in fact enter into the merits of the decision not to concur in the prosecution rather than simply proceeding simply upon the basis that the Lord Advocate had decided not to concur in the prosecution. Plainly, this is a somewhat special case given the identity of the proposed accused.

Sir,/

Sir, those are all the cases that I wish to refer to. Some reference was made in the Lord Advocate's statement to the statement to Parliament by the then Prime Minister, Harold McMillan, on the 16th of February, 1959 in connection with the Tribunal of Inquiry set up to investigate the John Waters case. I have a copy of that passage from Hansard which I can make available to my lord if that would be helpful.

LORD CULLEN: I think I have that already. I have been given a copy in that context. Yes, I have it.

MR. CAMPBELL: I'm obliged. All I would say with reference to the passage in Hansard is that one sees towards the foot for example of the first column that emphasis is placed upon the dictum of Lord Simon in an English case in a similar context, that the Attorney General in England should absolutely decline to receive orders from the Prime Minister or the Cabinet or anybody else that he should prosecute.

LORD CULLEN: What column is that?

MR. CAMPBELL: I'm sorry, it is the bottom of the first column. Column 31 towards the foot. "In reaching his decisions the Lord Advocate's duty in Scotland, like the Attorney General's in England, is to act in a quasi-judicial capacity, whether the person involved is a public functionary or a private citizen. In the words of Lord Simon he should 'absolutely declined to receive orders from the Prime Minister or Cabinet or anybody else that he should prosecute'." That passage and indeed the opening paragraph in the Prime Minister's submissions emphasises that the Prime Minister's main concern, namely to avoid improper influence on the decision-making powers of the Lord Advocate of the day and, my lord, in my submission there is no risk of such in the context of the immediate matter at hand.

So, sir, in conclusion, my submission is neither this Tribunal nor Parliament are inhibited by any rule of our law that prevents scrutiny and comment upon the conduct and decisions taken by the Public Prosecutor in respect of Thomas Hamilton and to/

to embark upon this exercise would, in my submission, do no harm to the underlying rationale of such restrictions which have been enunciated in the past, namely the importance of preserving the Constitutional position of Public Prosecutors as both independent and impartial.

Sir, it is not in dispute that the circumstances of the Dunblane tragedy are exceptional and the public concern and public interest and scrutiny of all relevant circumstances leading to the awful events needs no emphasis by me and unless I can assist you, sir, on any further subject that is all I wish to say.

LORD CULLEN: Thank you, Mr. Campbell. Does any other party wish to speak on this matter? Mr. Bonomy, do you wish to respond?

MR. BONOMY: I think I ought to respond, sir. Obviously I subscribe wholeheartedly to the concluding remarks of Mr. Campbell about the exceptional nature of the events we are investigating here. However, I do not consider that anything else that has been said in his submission can, sir, alter the approach that the Lord Advocate has decided to take and which I invite you to endorse.

I have already advanced the authority I consider appropriate to support the principle. The principle either exists or it doesn't exist. It is impossible to define strategic limits to such a principle depending on the circumstances of the individual case. In my submission, there is no distinction between leaving a decision to a Procurator-Fiscal and not interfering with it and what has been sought to be shown to be a separate issue of later examining that decision critically. The two in my submission are identical. That is illustrated by the way in which a number of points have been made in the course of Mr. Campbell's submissions. For example, he has I think upon a couple of occasions today said things similar to assuming a satisfactory explanation exists in a Procurator-Fiscal's decision or words like "We will possibly never hear whether they have good explanations for their decisions". These, in my submission, are clearly examples of what would be the result of infringing the principle that every decision/

decision made would be made under the threat of being called upon to account at a later date. So it matters not whether a question can only be posed or pressure placed before the decision is taken, the very threat of questioning later imposes exactly the same pressure in my submission on a Fiscal and that is most clearly highlighted in the very question on Friday which gave rise to my intervention. You may remember, sir, that the question posed was "Let us just assume for the moment that your view of the law is correct and the view put forward by Mr. Gallagher was wrong. Would you agree that in that situation there are really only two explanations that would happen, that Mr. Gallagher misunderstood or didn't know the law or he was giving you a pretext for a decision which was based on other reasons?" Now, that that should be raised later imposes exactly the same pressure on the Procurator-Fiscal before he makes his decision.

LORD CULLEN: Sorry, I don't quite understand that. We're talking about an examination when the matter is so to speak dead.

MR. BONOMY: Yes.

LORD CULLEN: What Mr. Campbell is doing is saying that this is a situation where there will be no current pressure and we may have something to learn, he says, from going at least some distance into the subject.

MR. BONOMY: But it means, sir, that every decision hereinafter made, if there is no such principle recognised, will be made under the threat of that pressure being brought to bear at a later stage.

LORD CULLEN: But he says I think that one can compare the threat, if that is the right word, which could arise if somebody elected to try to apply for a private prosecution.

MR. BONOMY: Well, I'm about to deal with that and in my submission there is a clear distinction between investigating a decision and what is behind a decision and in the circumstances to which reference has been made this morning and this afternoon to granting authority to bring a private prosecution, in my submission the decision to/

to grant a Bill for Criminal Letters is quite a separate issue from the issue which arises in the present case. It is coincidental that it is in the case of McBain v. Crichton which involves a private prosecution that the principle was declared by the High Court so specifically. It does not follow that the principle is something which is inherent to the question of whether or not a private prosecution should be brought only. In each of the cases which have been referred to it is, in my submission, clear that the court has refused to examine the reasons which have been given and indeed it is recognised that it was open to the Lord Advocate to give no reasons for refusing to concur. If, however, the reasons given, that is stated reasons do not on the face of them justify a decision, that is on the face of the stated reasons or if no stated reason was given at all then the court has taken the view that that does not prevent it from making its own judgment about the law that ought to apply to the facts before them and the relevancy of any charge that might be brought in deciding whether or not to authorise a private prosecution. Now, it would in my submission be impossible for the court to do otherwise. The court could never sanction a private prosecution without being satisfied that there was a relevant charge to be brought and, in my submission, the opinions that have been referred to today go no further than that. In Meehan v. Inglis, 1975 at page 14, we are at the foot of the page, as Mr. Campbell directed your attention, it says "The position would, of course, be otherwise if the reasons turned upon a question of law or relevancy or, as in J. & P. Coats Ltd. upon the construction of documents. What we have said so far is sufficient to dispose of the proposition....." In other words the court has to be satisfied in a case of a private prosecution that there is a relevant charge to be brought or there is on the face of the document evidence to support a charge.

LORD CULLEN: Yes, but these are cases where the court is exercising its own judgment, knowing the decision that has been taken and the stated reasons and not going beyond the stated reasons.

MR. BONOMY: And what it has not done, in my submission, is said the Lord Advocate or the Procurator-Fiscal erred in some way in the exercise of/

of the discretion he had. All that the cases say is that there may be situations where we decide as a matter of law that there could be a relevant charge brought and in these circumstances that will be one factor to be taken account of by the court in arriving at the decision on a Bill for Criminal Letters.

LORD CULLEN: So could Mr. Campbell invite me on the basis of the evidence to decide whether a relevant charge could have been brought?

MR. BONOMY: That in my submission would be one area that your lordship may be invited to make a decision on if there was sufficient material available on the basis of what has already been presented to the Inquiry.

LORD CULLEN: Yes, I am not talking about anything other than what has already been disclosed in evidence.

MR. BONOMY: Yes, and the way in which you, sir, phrased the question was whether a relevant charge could have been brought.

LORD CULLEN: Yes.

MR. BONOMY: Now, that is a matter of fact in my submission on which findings could be made.

LORD CULLEN: You see, we are getting to the point where you come very close to what Mr. Campbell is wanting to make submissions about.

MR. BONOMY: Yes, that may be one point on which he does want to make submissions, in which case the position is clear and it is not making any inroads, in my submission, in this case, into the principle which has been stated, whether or not the facts could have supported a charge.

LORD CULLEN: So what by contrast would represent an inroad?

MR. BONOMY: Whether or not a charge ought to have been brought.

LORD CULLEN: And is that because it involves factors beyond strictly the matter of relevancy?

MR./

2.20 p.m.

MR. BONOMY: Yes. What the Lord Advocate has chosen to do in this case, and the exceptional nature of the course taken cannot be emphasised enough, has been to present material which is normally confidential, such as police reports into an investigation, the investigations carried out by them, and that of course presents the Inquiry with material which may enable the Inquiry to draw certain factual conclusions, but it would be wrong in my submission for the Inquiry to review the decisions made in this case on reviewing the exercise of discretion that was undertaken by the Procurators Fiscal, or for the Inquiry to actually endeavour to do the job of the Procurator Fiscal and decide what course of action would have been appropriate in the circumstances, and you, sir, will have noticed in particular that I have not endeavoured at any stage to interrupt evidence which related to the communition of material from the Procurator Fiscal to third parties, including police officers, again material which would normally be regarded as confidential and which you, sir, have seen witnesses themselves giving evidence, asked carefully whether they ought to answer the question before proceeding to answer it because they know very well the confidential way in which that material was conveyed to them.

Now, having got that far, in my submission it is appropriate for the Tribunal to draw conclusions that are appropriate from all the material, and I appreciate that it presents certain difficulties in deciding in what areas it is wrong, into what areas it is wrong to transgress, but I think that it will be possible to distinguish clearly between conclusions that may be drawn as matters of fact from the material presented, and by that, in that category, I include deciding whether the evidence was sufficient for example to constitute a relevant charge, and distinguish between these conclusions and conclusions about the way in which decisions were arrived at, which in my submission it would be wrong for the Inquiry to enter into.

Now, sir, in my submission there is a distinction, therefore, demonstrated in the cases we have been looking at between reviewing the decisions made/

made and deciding what the substance of the evidence before the Court amounts to.

LORD CULLEN: But in cases in which the Court has decided to sanction a fresh prosecution, it must have reached the point at which they were satisfied that a relevant charge could be brought on the basis of the information before it; is that right?

MR. BONOMY: They would have to do that, sir.

LORD CULLEN: But what happened to the rest of it, the discretion which the public prosecutor exercised?

MR. BONOMY: Well, the test is entirely different in relation to bringing a private prosecution. The Court has also got to be satisfied that there are exceptional circumstances which justify authorising the prosecution, and within exceptional circumstances are a whole host of considerations, and it is because of the application of that particular criterion that there have only been two private prosecutions in the course of this century. The most recent case.....

LORD CULLEN: But does a consideration of those exceptional circumstances mean that the Court eventually comes into the same position as the public prosecutor was or would have been?

MR. BONOMY: Well, we are now looking at a particular subject which in my submission doesn't assist the determination of the issue for the Inquiry. The Court would obviously have to be satisfied that it was appropriate to proceed before deciding to proceed, but generally speaking, that issues has been approached as a combination of the clarity of the material before the Court supporting the proposed charge, and the exceptional circumstances justifying an individual being authorised by the Court to bring his own prosecution.

Now, we have seen the circumstances of J. & P. Coats where the Court was particularly impressed by the strength of the case, and the clarity of the case, and the lack of any explanation for/

for not proceeding. The only other example, which has also been referred to in passing, is the case of X v. Sweeney, which involved, as your lordship is aware, very clear evidence in respect of the circumstances, and quite independent issues which led to the failure to prosecute, and a very significant change in circumstances which gave rise to the exceptional circumstances which led to the prosecution, so in both of these cases, which are the only two that really provide any guidance on this, the strength of the evidence to support the case was such that there probably would have been very little question of discretion involved. Certainly there was no question of discretion significantly involved in the Courts deciding to authorise the private prosecution.

LORD CULLEN: It would obviously be very difficult in a case in which it was obvious that there was a number of discretionary factors available to the prosecutor, I suppose the Court in those circumstances might be very slow indeed to interfere.

MR. BONOMY: That of course is particularly true in relation to summary proceedings. The matter may be easier to determine in relation to the more serious cases, but in the present circumstances, it may be just, I think, helpful to say, to state the obvious, but to remind everyone of the obvious factor that before a prosecution can result in a conviction, there has to be proof of guilt beyond all reasonable doubt, and that therefore the fact that there is sufficient evidence to bring a charge is far from being the only material consideration in the mind of a Procurator Fiscal in deciding whether or not to proceed.

There are very important additional considerations to be borne in mind, and that of course means that so far as the two examples in this Inquiry are concerned of decisions not to prosecute, there would be a very significant element of discretion to be exercised by the Fiscal, even if he accepted there was sufficient evidence to proceed.

Now, sir, in my submission there is a clear distinction, therefore, to be drawn between inquiring into what is behind the decisions and the Court/

Court itself drawing conclusion from the material which the Lord Advocate has authorised to be presented to the Tribunal.

I invite you, sir, to accept the statement of principle which was made yesterday, and also in the course of the further procedure at the Inquiry, to apply that principle. That of course means either deciding to accept the presentation of the evidence in the form proposed, that is in the statement which has been made available to you, or, and this is not necessarily an alternative of course, but it is the obvious additional way at least of doing it, or calling for some evidence from Procurators Fiscal who were directly involved if you, sir, feel that that would aid the investigation that you have been appointed to carry out. I have ensured that such witnesses as are available are here in case your lordship should decide that that evidence -- some evidence is required to be given orally by them.

LORD CULLEN: Thank you very much. One other matter, Mr. Campbell -- perhaps I should have asked you what your position was in the light of your submissions this morning, what is your position about the recall or non-recall of Detective Constable Taylor, because you made it quite clear to me, I think, that your main concern is with regard to making submissions.

MR. CAMPBELL: I think it is highly unlikely that I would ask for him to be recalled, sir, but something may depend upon the terms of your decision.

LORD CULLEN: Yes, well, I am going to rise for a period. It will be a relatively short period, in order to consider the submissions that I have received, and when I come back, I shall deal with the matters that I have been asked to deal with.

After/

2.40 p.m.

After a short adjournment.

LORD CULLEN: Can I say first of all that I am most grateful to Counsel for their very clear submissions to me in regard to the problem which has arisen at this comparatively late stage in the Inquiry.

In considering the dispute which arises today, it seems to me in the background there are two main considerations. The first is the consideration that in exercising his independent quasi judicial role he should not be subject to pressure or influence from outside sources. The locus classicus for that rule can be found in the speech of the Prime Minister, Harold McMillan, in the passage to which I was referred.

Mr. Campbell has submitted to me, however, that this is not a case in which that arises, because we are not considering here a case in which a decision has not yet been taken or a case in which a decision is still open to re-consideration, nor are we dealing with pending proceedings.

The second consideration which seems to arise is the question of confidentiality. It is I think well settled that information which becomes available to the prosecutor in the course of the performance of his work is and should remain normally confidential to him. That is referred to in the statement made by the Lord Advocate at the foot of page three, where he says "Prosecutors are required to make judgements on their credibility and on the weight to attach to individual pieces of their evidence. Prosecutors are also entitled to take account of other information placed before them, which may be confidential", and so on.

Now, in this particular case Mr. Campbell did not seek to have the inward thinking of the prosecutors explored in this case, no doubt for perfectly good reasons. His submission was that he should be entitled to make comment on the decisions not to prosecute or in the case of one of the Procurators-Fiscal the decision not to grant a warrant.

Now,/

Now, Mr. Campbell drew my attention to a number of cases dealing with this, dealing with these very special circumstances in which the Supreme Court has decided whether or not to allow a private prosecution to proceed; and he pointed out that in these cases the Court was able to reach its own view as to whether prosecutions should take place, in order to secure that justice was carried out. By implication I think he was suggesting that this was a comment on the Lord Advocate's decision to decline to prosecute. On the other hand, Mr. Bonomy has pointed out that in cases of that sort, while it was expected that the Lord Advocate should explain his reasons, he was not required to do so, and he pointed out that there was no question in these cases of the Court seeking to usurp the position of a prosecutor by reviewing his decision. He accepted on the other hand that it would be open to the Court, and certainly open in this case, to consider what could be done on the basis of the material available. So in this case he accepted as I understood him that it would be open to this Inquiry to entertain submissions as to whether there was material on which a relevant charge could have been brought.

Now, it is plain that the material which is available to the Procurator-Fiscal covers a considerable wide range, from at the one end matters of law, matters of available evidence, to at the other end various considerations where his discretion has wide room for play.

I am satisfied that it would not on the one hand be proper for this Inquiry to require the prosecutors to justify their decisions, or to entertain submissions as to the sufficiency of what was put forward in justification of those decisions. On the other hand, I see no good reason why this Inquiry should not entertain submissions based on the available evidence. I am not going at this stage to draw any hard and fast line as to what can and cannot be submitted on the basis of the available evidence. It would certainly include on the basis of the possibility of sufficiency as to whether a relevant charge could have been granted or whether some other decision in the circumstances could have been taken. That is as far as I go. I merely illustrate what might be the subject of submissions.

I consider that in this case, as in any other case, where a submission can properly be made on the available evidence, there is no reason whatever why that should not be made. This is after all a free country. For that reason, therefore, I would not wish to inhibit submissions. But of course it has to be clearly understood that these submissions must be based on the available evidence and do not enter into a review in one form or another of the decisions reached by the prosecutors.

Turning to the invitation the Lord Advocate extended in his note, as far as I am concerned I am content that this Inquiry should not require the soundness of the decisions to be subject to detailed examination in submissions, but I do wish to hear submissions based on the available evidence insofar as submissions can properly be made on the basis of that evidence. Whether that can be described as a matter of fact, as Mr. Bonomy said, or whether it is not a matter of fact is of no consequence to me. I wish to hear what can properly be submitted on the evidence available.

That brings me to another matter. It is of course in a case of this sort for the Lord Advocate to decide to what extent he should adhere to any rule or principle against the disclosure of information available to or information about the prosecution system. That is a decision over which I have no right of control. In the present case, I note that the Lord Advocate's position is that it is appropriate that evidence should be available as to the information provided to and the inquiries made by the Procurators-Fiscal and the decisions taken by the Procurators-Fiscal and the stated reasons for these decisions.

I have seen Mr. Vannet's report, and with his usual thoroughness he has set out a considerable amount of detail as to these matters, and I am certain that that report will be of significant assistance to this Inquiry. At the same time, in his note which Mr. Bonomy read yesterday the Lord Advocate has given me an opportunity to invite individual members of the Procurator-Fiscal's Service who were concerned with these events to give evidence as to the facts set out in Mr. Vannet's report. I consider that in general it is not necessary, but I consider it would be desirable to have/

have evidence from two members of this Service who were apparently able to give evidence in regard to certain matters which have already been explored at this Inquiry. These two persons are Mr. Cardle -- I am thinking in particular of his evidence in regard to the linking of a report which Mr. Vannet refers to as report 1A -- and secondly Mr. Gallagher, as to the communications between him and Detective Constable Taylor in regard to report No. 4.

I hope this is sufficient to enable the Crown to identify the matters about which I am interested, but I leave it entirely to Mr. Bonomy to decide what further evidence in fact might usefully be taken from those two witnesses when they enter the witness box.

MR. BONOMY: Thank you, sir. Shortly I will ask you to adjourn briefly while I take stock of the direction you have now issued for these two witnesses to give evidence, and to organise events accordingly. It should be possible to deal with them this afternoon, possibly completely, but if necessary it may extend into tomorrow.

May I however now that this issue has been resolved say something about one matter connected with it, which is causing me concern. Yesterday afternoon I explained the position in relation to the review carried out by Mr. Vannet to which you have just referred. It has been suggested in the Press that Mr. Vannet's review had not been known of, apart from by the Crown, at all before recent enquiries appeared in the Press, and that it would never have come to light had it not been for recent publicity.

You will appreciate the great detail into which that report goes, sir, and the time which would be taken to compile it and the period of time which must have been covered to provide so much detail.

I wish to make it clear for the record that the fact that this was being undertaken was made known to all parties to the Inquiry at an early stage, and that the Tribunal and all parties to the Inquiry were informed in writing by me at the time of first issue of paperwork to parties that Mr. Vannet was carrying out this review, he was named in the/

the notice to parties, and that any material relevant to the investigation would be issued. That notice was sent out in the middle of May.

It has also been suggested in the Press that important witnesses have not been called to give evidence to the Inquiry. Now, I would like now yet again to repeat the invitation which was given by the Lord Advocate at the Preliminary Hearing, that any people who consider that they know of witnesses or other evidence relevant to the issues to be considered by the Inquiry which has not been led should contact the Procurator-Fiscal forthwith so that action can be taken to ensure that that evidence is led.

Could I now have a brief adjournment, sir, to organise matters?

LORD CULLEN: One other matter. Mr. Campbell, you said you might be able to tell me whether you wanted to have the witness Mr. Taylor back once you heard what I had to say. Do you wish to have him called?

MR. CAMPBELL: No, sir.

LORD CULLEN: Very well. How long are you likely to take, Mr. Bonomy?

MR. BONOMY: 10 minutes.

LORD CULLEN: Very well. 10 minutes.

After a short adjournment.

MR./

3.20 p.m.

MR. BONOMY: Sir, the course of action I propose to follow now is to lead the two witnesses that were mentioned in your decision, and thereafter to have the report read. I expect it will be necessary to read the report in full. That depends a little on the evidence we hear, but I suspect it will still be necessary to give the complete context to read it in full. The first witness I propose now to lead is James Cardle.

JAMES CARDLE (62), Sworn:

EXAMINED BY MR. BONOMY: Are you James Cardle? - I am.

Do you live in Cardross? - I do.

Are you 62 now? - Yes.

And you are retired, retired from the post of Procurator Fiscal at Dumbarton? - That is correct.

When did you retire? - August 1994.

How long were you the Fiscal at Dumbarton? - From February 1980, so that was 14 years.

How long in total were you a member of the Procurator Fiscal's Service? - From August 1967.

And when were you first legally qualified? - 1956.

You have already been asked, I think, by Mr. Vannet, a number of questions about the involvement of your office in cases, a case reported against Thomas Hamilton? - Yes, I was.

I want to ask you about one particular part of that Inquiry, but I think to give it proper context, I should invite you to have two sets of papers before you, which are R59 and R60. Now, if we/

we take first of all R59, do you recognise these as papers relating to the report of a case against Thomas W. Hamilton, 7 Kent Road, Stirling? Do you recognise these papers as papers from the Dumbarton, or copies of papers from the Dumbarton Fiscal's Office relating to a complaint against Thomas W. Hamilton? - Yes, they are.

And does that case have a Fiscal's case number? - Yes -- 0359/88. It's on the backing.

Now, you took a decision about whether or not to prosecute that case. Can you tell us what your decision was? - The decision eventually was "No proceedings".

At some stage, the papers came back to you; is that right? - Sorry, I don't understand the question?

Well, perhaps if you look at the other Production, R60? - Yes.

And you take the two together, can we deduce from both that at some stage this case in some form was re-reported to your office? - No.

Well, did it come back into your office? - Depending which number you are talking about. R59 never left my office. R59 was kept in my office and filed away. In the fullness of time, this other report, R60, arrived in my office on its own.

Now, can you tell me whether someone brought it to your office or it was sent in? - I personally did not receive it. It's possible that a police officer came and left it in my office personally, but he did not speak to me. Are you talking about R60?

Yes? - Yes.

Can we tell from the papers when it was brought, or when it came into your office? - There's no stamp on this because as soon as it arrived on my desk, I realised it should not have come to me. I see there is a stamp on Page 19 of the report which has the Deputy Chief Constable of Strathclyde Police, and the date on that is the 16th June/

June 1989, so it must have been some time after the 16th June 1989, but I can't say when it actually arrived in my office.

What was it about that report that made you think you ought not to deal with it? - It was a complaint against the police.

And why should you not deal with a complaint against the police? - Because complaints against the police are not dealt with by the District Procurator Fiscal. They are dealt with by the Regional Procurator Fiscal.

Is he a Fiscal that has responsibility for a number of Courts? - Yes.

And yours was one of those within a particular Region? - North Strathclyde.

And who was the Regional Procurator Fiscal for North Strathclyde? - Robert Lees at Paisley.

So a complaint against the police goes to him? - It does.

That complaint was instigated by Thomas Hamilton? - It would appear to be.

Against, can you tell from these papers, which police officers? - I would -- well, if you look at Page 1 of the report, it's against Constable George Gunn and Constable Donna Duncan, both of the police office, Balfron, which would of course be Central Scotland Police.

I think you have there actually the complete police report, which I wasn't referring to at the moment? - This is the one which has R60 on the face of it. These are the papers that were presented to me, the entire matter.

Well, what I was wanting you to look at exclusively was the Procurator Fiscal's papers. Now, perhaps I can have that re-organised just now? You should have two separate bundles, R59 and R60? - I have.

And the R60 -- it seems to consist of a police/

police report as well as correspondence? - It does indeed, yes.

And is it more or less there in the bulk and form in which it came into your office? - It would come in like so.

What did you do with it? - I had a quick glance at it, immediately realised it was a complaint against the police, and as such, fell to be dealt with by the Regional Procurator Fiscal, and there are good reasons why the Regional Procurator Fiscal deals with these matters and not the District Procurator Fiscal.

So/

3.40 p.m.

So what did you do with it? - I looked at page 19 of the report.

If you look at it, you will see handwriting beside "Deputy Chief Constable, Strathclyde Police", a datestamp, and there is a handwritten note, which is "Chief Superintendent Discipline. Please have a senior officer take this report to P.F. Dumbarton and for any further enquiry necessary to be carried out".

MR. BONOMY: The witness is referring to D2K which is the original version of the report of investigation into Hamilton's complaint, then he has the additional material. I think for present purposes he is referring to the part copied in D2K.

EXAMINATION CONTINUED BY MR. BONOMY: You have a reference there to a note by a police officer? - Yes. It was addressed from the Chief Superintendent, Discipline. "Please have a senior officer take this report to P.F. Dumbarton and have any further enquiry necessary carried out", and it is initialled.

So he took it to the right place by the sound of it, as far as his instructions were concerned? - Yes, that was in accordance with the note.

What did you do? - I phoned up Strathclyde Police Headquarters and asked for Complaints and Discipline. In fact I asked for the Chief Superintendent, Complaints and Discipline.

Yes? When the phone was answered it was a Chief Inspector Brockie who answered the phone. Now, I knew Chief Inspector Brockie from his days as a police officer in Dumbarton. I asked to speak to the Chief Superintendent, who was not apparently available, and Mr. Brockie said "Can I help you?". I said "I have received a set of papers which appear to be a complaint against the police from Central Scotland Police, and there is a note to the effect that a senior officer from Discipline should take this to me, the P.F., Dumbarton. This should not have come to me, Mr. Brockie", and his words were "It should have gone to Mr. Lees, Mr. Cardle", and I said "That is my feeling as well", and he said "Don't/

"Don't worry, I will arrange to have it uplifted".

Yes? - As far as I remember, I phoned Mr. Lees and told him about it, because it should not have come to me. It was uplifted and taken from my office to Mr. Lees in Paisley, and thereafter was dealt with by Mr. Lees in Paisley.

Was that the end of your involement with that report? - With that report, yes.

Now, the problem with this is that in that report there are statements from witnesses who had not been interviewed at the time of the original report against Hamilton, which you did consider and marked "No Proceedings"; is that right? - Yes.

Is it possible it was the police intention that you should reconsider the case against Hamilton in the light of this additional material? Would a Procurator-Fiscal normally do that? - No.

Why? - For two reasons. The first reason is that I had already marked this case "No Proceedings". This decision was not intimated direct to Mr. Hamilton, but was made known to the police, and I believed had got through the various Departments in the local authority, Social Work Department and that sort of thing, that I was taking no proceedings.

Yes? - That being so, that was the end of the matter. No proceedings could be taken against Mr. Hamilton. It was therefore a futile exercise to consider any further evidence, because the decision had already been taken that no proceedings should be taken against him.

Yes? - That is the first reason. The second reason is that it is quite clearly laid down and has been approved by the Appeal Court the procedure whereby the Regional Procurator-Fiscal investigates complaints against the police, because under no circumstances should information which has become available arising out of investigations into complaints against the police, these results should not be made known to the person who is dealing with any criminal case against a complainer in a complaint against the police. They are kept completely separate.

Yes?/

Yes? - The Regional Procurator-Fiscal should not be aware of any information which has come to light as a result of police enquiries into complaints against the police.

Can we be clear about the extent of that? Let us assume that in connection with some complaint against the police involving minor conduct, a minor assault by the police, and the complainer himself is the subject of investigation for a minor assault, but in the course of the investigation into the complaint against the police someone confesses to murder unconnected with that investigation. Are you saying that that would never get back to the Procurator-Fiscal? - That is an entirely different matter.

Why is it different? - This complaint against the police we are dealing with here arises out of the same set of circumstances as a criminal case involving Thomas Hamilton.

So that is the limit of that rule, that if you get material in an investigation of a complaint against the police that relates to the same set of circumstances it cannot be used against the complainer? - Yes.

Going back to R59 for a minute, the top item on it is a note typewritten with your initials at the bottom dated 20th March, 1990? - Yes.

Can you tell us the import of that note? - What happened was that on the 19th March, 1990 a letter was received at my office from the Director of Education of Lothian Regional Council, and that is in the correspondence there, attached to R59, a letter dated 13th March, 1990, when he specifically asked what happened.

Yes? - Now, in the letter he refers in the last paragraph, which starts "You will see that, according to Mr. McMaster", of Strathclyde Police, "a report by Inspector Keenan of the Central Scotland Police was submitted to the Procurator-Fiscal, 3 High Street, Dumbarton. The report was submitted by Strathclyde Police, as far as I am aware. I understand that this took place at some point between May and July, 1989".

Yes?/

Yes? - Now, as far as I could see from the Director of Education's letter, he was enquiring as to an outstanding case involving Thomas Hamilton.

Yes? - My office had no note of any report received in May, 1989, and that is why there is a note with that letter which says "No report submitted J.R. 19/3/90" -- "J.R." is the office manager in Dumbarton.

Yes? - She checked and ascertained that in fact there was no report received here in 1989.

Yes? - She showed it to me, and I recollected from looking at this it was clear it was a Central Scotland Police matter, and I recollected that that report was now in regarding a complaint against the police, R60: I remembered that.

Yes? - I phoned up Paisley, and I wrote beside the last paragraph on the letter of 19th March, 1990 "O8.89RDF/DH/89/10748" in my hand-writing. I had obviously phoned up Paisley and ascertained that that was the matter referred to in May and July? - Yes.

Now, I had not had anything to do with that, but I wrote a letter dated 20th March, 1990 to the Director of Education, and I did point out that I had received.....

I think you should read that letter? - "I refer to your letter of 13th March, 1990 and to my subsequent telephone conversation with your Mr. John Perry" -- I must have phoned Mr. Perry up.

Yes? - "I understand that you wish to know the position regarding any criminal proceedings which may have arisen out of a summer camp run by Mr. Hamilton on Inchmoan Island, Loch Lomond in July, 1988".

Yes? - "I would confirm that I did receive a report from Strathclyde Police arising out of this camp and, after considering this, I decided <u>not</u> to take any criminal proceedings against Mr. Hamilton in respect of that camp."

Yes? - "I trust that this information is sufficient/

sufficient for your purposes".

Yes? - Now, I had no response to that. Thereafter, for the sake of having something to file, I dictated that note, which is also on the file, which is headed "Thomas W. Hamilton, 7 Kent Road, Stirling".

Could we determine when it was roughly that the decision to take no proceedings against Hamilton was actually taken in relation to the first report you received? - It would be towards the end of 1988.

And for the reason you have explained, it was never reconsidered? - Yes.

CROSS-EXAMINED BY MR. CAMPBELL: Just a few questions, if I may. So far as the matter of the material coming back to you, the bundle.....? - Is this R59?

No, this is R60, the material on your right? - That is the complaint against the police?

Yes. Can you remind me what was said by the document addressed to you when the material came to you? - There was no correspondence, no letter with this. It arrived in this form, which is a folder with blue ends on it, and that is it.

Yes? - It came in, as any police report would normally come in. It just arrived. It was put on my desk, I looked at it and immediately saw it was a complaint against the police. I looked at it, it rang a bell, and I had a closer look at it, but I didn't read it in its entirety, I skimmed through it, because the idea it was a complaint against the police, which included Inchmoan Island, I knew what had happened on Inchmoan Island with Thomas Hamilton, I saw this note at page 19, someone asking a senior officer to take this report to the P.F., Dumbarton to have any further enquiry carried out.

Is this the note of 16th June, 1989? - It has got a datestamp opposite it with "Deputy Chief Constable, Strathclyde Police" round it.

Can I look at it? - Yes.

So/

So having read that, what action did you take? - My view was that it should not have come to me. It was a complaint against the police, and should have gone to the Regional Procurator-Fiscal.

So you simply sent it to the Regional Procurator-Fiscal, and that was it? - Yes. I took no further part in it.

You made reference in your evidence-in-chief to certain considerations relating to how you had already marked "No Proceedings" anyway? - Yes.

Was that a factor which came into your thought processes at that time? - In relation to this?

Yes? - No, not really. I looked at it basically as a complaint against the police, and it should not have come to me. The fact it may have contained further information about Hamilton arising out of this was entirely irrelevant.

I am just trying to get at the facts of this. If you look again please at the handwritten note, can you tell us what the document says? - "I'm aware that he still wishes to see me to fully discuss his complaint and answer any questions I may have. I seek your advice and guidance on this matter, and it may be that criminal charges are a possibility against the complainer, and I do not wish to prejudice any enquiry Strathclyde Police may wish to investigate".

Yes? - "I submit this report and attached papers for your information and attention. I would also add that the attached documentary file has been collated from a number of sources and contains additional information not held on Headquarter's file".

Did you get that? - Quite possibly I did. As far as I was concerned this case had been marked "No Proceedings", and there was no question of further enquiry into that matter. I can't remember consciously doing so, but if I did look at it that would be my attitude.

Did this question of having already marked it "No Proceedings" arise at that time or not? - I don't/

don't know.

As a matter of your best recollection of events, is the position simply this, that you received this material, saw it was relating on the face of it to a complaint against the police and decided it was not a matter which you should look at, that it should be sent to the Regional Procurator-Fiscal at Paisley? - I may have applied my mind to the fact of that second-last paragraph, but if I did I would just take the view that the previous case was finished and done with, nothing else could happen at that time, we had marked it "No Proceedings", and that point was irrelevant. That being so, the whole matter was a complaint against the police, and a matter for the Regional Procurator-Fiscal. I cannot now remember to what extent I did do so, but that would be my thought processes.

Well, this is all somewhat speculative, isn't it? - I have already said I can't remember.

You see, the difficulty is that we have had evidence from Mr. Keenan, who gave evidence in the Inquiry on Day 7 at page 781 and page 782 to the effect that not only was there some material in this bundle which was new but that it related, some of it related, to different boys on a different week of this same summer camp? - I cannot comment on that. I was not here.

If you had contacted Mr. Keenan he might have told you that? - As far as I was concerned this matter referred to Strathclyde Police. My contact was with Strathclyde Police, and that was it.

Did you at any time know that Thomas Hamilton possessed a Firearms Certificate? - No, never: not until the day of the disaster.

In general terms, would you consider it relevant for a Fiscal to be made aware of the fact that the subject matter of the police report held a Firearms Certificate? - It all depends on what case you are talking about. In some cases it could be completely irrelevant.

In what case might it be relevant? - In cases/

cases involving violence; that type of thing.

Assault? - Perhaps, depending on the severity of the assault.

Any other kinds of case? - I can't think offhand, to be perfectly honest.

No further cross-examination.

No re-examination.

WILLIAM/

4.00 p.m.

WILLIAM GALLAGHER, (37), Sworn,

EXAMINED BY MR. BONOMY: Are you William Gallagher? - I am, yes.

And are you 37 years of age? - Yes.

And are you an assistant solicitor in Crown Office, Edinburgh? - That is correct.

And how long have you been in the Procurator-Fiscal's Service, Mr. Gallagher? - Since 1980.

And how long have you been legally qualified? - Since that time.

I think between August, 1991 and July, 1994, you worked in the Fiscal's Office in Stirling? - Yes.

What was the position you held there? - I was Procurator-Fiscal Depute.

I want to ask you about one matter you dealt with during your period there, and to do that, it would be helpful if you could have R61 in front of you. Now, you will see that that is a bundle of papers, the top one of which is a ADZA, a police report, or at least an inter-police memo? - Yes.

Which has certain enclosures or attachments after the signature of Detective Constable Taylor? - Yes.

And it also has a backing? - Yes.

On the backing, do we see your hand-writing? - That is correct, yes.

And on the right-hand side of the backing as we look at it, is all the writing yours? - Yes.

And just to be clear about that, on the left there is a case number and the name of Hamilton, and the word "Information". That is not your writing? - No, that's not mine.

And the writing consists of two entries; is/

is that correct? - My entries, yes.

What is the first one? - The first one reads "Warrant refused meantime", and the next entry is "BU 3 months", and my initials and the date, which is the 11th of June, 1993.

You have written both these things at the same time? - Yes.

What does "BU 3 months" mean? - It means to bring the papers back to me in three months, so that would be taken from me into the general filing system in the office, and there would then be a system whereby the papers would then be brought back to me in three months.

And do we see the next entry indicating that that appears to have happened? - That is correct.

And what is the next entry? - It is dated the 10th of September, 1993 and it has a marking of "No Pro.", no proceedings, and again my initials.

To what proceedings do these papers relate? - You mean the marking?

Yes? - The marking relates to the police information which is the initial document that you have referred to, the so-called AD2A prepared by Detective Constable Taylor, and it is dated the 9th of June, 1993 as well.

Do you remember that form being brought to your office? - Yes.

And do you remember who actually brought it to your office? - Yes, it was Detective Constable Taylor.

And do you remember discussing the terms of it with him? - Yes.

What was the purpose of his visit to the office? - His purpose was to bring the report with him and to discuss what was contained in it in order to pursue what is being sought by the report, namely that a warrant to search premises should be sought/

sought from the court.

Now, whose premises were these? - These were premises, if I recall the detail of the report, Mr. Hamilton's house I think was being the area or the premises that the police wanted to search.

And we see the heading of the AD2A is Hamilton's name? - Yes.

And his address? - Yes.

So I take it all these papers apart from the backing would be brought in by Taylor? - Yes.

And all brought in at the one time? - Yes.

Was that a lengthy discussion? - Yes, I think it was. I think he was with me for perhaps 30 to 40 minutes, something of that order.

And was he concerned about one criminal subject only, and by that I mean criminal type of charge, or was he concerned about the possibility of more than one criminal charge? - No. You will see from page 4 of the original document that he has highlighted a number of potential criminal offences which were, if I recall it, discussed to a greater or lesser extent.

And these included crimes of dishonesty? - Yes.

As well as breach of the peace and lewd, indecent and libidinous practices and behaviour? - Yes, and a Contravention of the Children and Young Persons Act.

Now, what did you understand from Mr. Taylor was the purpose proposed for the search? - The purpose was to seek, as I understood it, to obtain photographs which the police thought were likely to be in Mr. Hamilton's possession.

Was there any indication given to you that any other documents might be sought to be included in such a search warrant? - No. There is mentioned in the report, and there was, as I recall it, some brief discussion in relation to the question/

question of some offence of dishonesty, or offences of dishonesty, and if I remember correctly, there was perhaps some mention of some other document in that area, but I have no clear detailed recollection of him looking for anything other than photographs.

In the past, have you seen photographs that Hamilton had taken? - Yes.

When was that? - I think it was perhaps several months or perhaps even a year or two prior to that when I had seen a number of photographs, a substantial number of photographs.

So you knew the nature of the type of photographs that Hamilton took, at least some types of photograph that Hamilton took? - Yes; I had had some previous experience, and there was some suggestion in the report itself as to the sort of material that was likely to be shown in the photographs.

Now, when you have to decide whether or not to apply to the court for a warrant, can you help us with the general test that you would apply, legal test? - You would normally begin with the question as to whether or not there was constituted a criminal offence, and if you didn't get over that hurdle, then there is no pursuit that I would take beyond that. There would then be a number of other features that may be considered, depending upon the individual type of warrant which is being sought. You will be aware clearly that warrants can be obtained for a variety of areas, whether in relation to common law matters or in relation to specific statutory offences, and the consideration may vary according to what particular offence is under consideration.

In relation to photographs in the context of this case, what other considerations would you have to apply, or other tests would you have to apply, assuming there is evidence of a criminal act? - I would need to have clearer indication as to where the property was likely to be recovered, what basis there was for reaching that conclusion as to where the property was so that could be properly specified to the court when I sought to obtain the warrant, and an indication of the basis on which I was seeking to obtain the recovery of the warrant.

Would/

Would that relate to the nature of the witness? - Yes; it would normally contain a specification as to what I would understand the photographs would contain as a means to going towards establishing the offence that I was seeking to pursue.

After you had discussed the matter with Mr. Taylor, did you there and then reach a conclusion about whether or not an application should be made for a warrant? - At that stage, yes.

And what conclusion did you reach? - The answer was that it shouldn't.

Did you tell him why? - Yes.

And what indication did you give to him? - I indicated to him that I didn't consider that we had before us information to establish that a crime or crimes had been committed, and I should emphasise probable crime because while the question of dishonesty was mentioned, it wasn't pursued particularly seriously in my recollection.

Did that view of yours surface early in this discussion or only at the end of it? - It would be difficult to give an estimation of that because the time involved in reading the report would be four or five minutes in any event, so to that extent, before I formed any view, I would have to have gone through the report, and as I recall the way matters were discussed, Mr. Taylor brought the report, I was reading through it, and he was amplifying it as we went, so to that extent it wouldn't be immediate. It would be in the middle part of the discussion.

Was there a debate in which you were explaining your view and he was perhaps trying to persuade you to the contrary? - I don't recall him seeking particularly to pursue a view that I was saying that I said "No, I don't accept that". The position might have been that I would be saying "Well, is this the situation", and he would give an amplification of what was contained in the report, and we would then form a view, or I would form a view based upon that developed information.

Do/

Do you remember saying anything to him about the nature of the conduct as you saw it, and why it didn't amount to a crime on the face of his evidence? - Not in detail. I was discussing the number of offences and indicating to him my view that while this was clearly behaviour that was potentially the cause of concern, would be a cause of concern, it didn't cross the boundary into a criminal offence.

And when you say behaviour that was the cause of concern, what behaviour did you have in mind? - The behaviour that was described in the report, the conduct that was ascribed to Mr. Hamilton in relation to the particular boy or boys that were mentioned in the report, commented in relation to the earlier information which Detective Constable Taylor attached to the report, which was an earlier report which had been submitted by another officer.

That was Mr. Hughes, I think? - Yes.

Have you any recollection of discussing with Mr. Taylor the question of who it was being suggested was either alarmed, distressed or annoyed by the conduct which was described in his report? - I have some recollection of discussing with him what the perspective of the boy or boys was, and what the nature of their reaction was to it, yes, and I would clearly be interested in relation to that in relation to what was going on and how the boys perceived it and what was happening, yes.

Was there any discussion that you can recollect about the effect of the conduct on the adults or the parents? - I have a vague recollection -- it's not in any strong detail -- of some discussion about how the information came to light and what the view of the parents was in bringing this matter to their attention, and what their position was in relation to that, yes, to that extent, but no, if you are meaning in relation to at the time when the information may have been given to them by their children, no, I don't recall a discussion of that nature.

For example, do you remember a discussion about whether it was a crime to behave in the way that was described in the report, not to distress the/

the children, but to distress the parents as a result? - No.

Now, do you say that that didn't happen or you don't remember it happening? - I don't remember it happening.

Were you aware that Hamilton had a Firearms Certificate by this time? - It is mentioned in the report, yes, so to that extent, I would have been aware of it.

Do you remember if that was discussed between you and Mr. Taylor? - No, I have no recollection of that being discussed at all.

Do you remember very clearly at all how this discussion actually ended? - I remember that, and it is based upon what I have written in the marking as well, that my indication to Mr. Taylor was that I wasn't prepared to go to the court on the basis of the information we had to seek applying for a warrant, but that was not to be seen to be the final end of the matter, and if there were other matters that could be brought back, then that would be something that we could potentially review in the light of other information, and that was the period that I had given, the three month period, and I would have some discussion with him to that effect as well, to say I would take the papers back again at some indeterminate time in the future, and if there was something he wanted to bring to me, to bring it back.

Was there anything beyond the three months? - I don't recall seeing him again and I don't recall having discussed it, but I suspect I would have made some other effort before the mark of "No Pro." through someone else finally, to ensure there were no further matters Mr. Taylor wanted to bring back to me.

Do you remember whether there was any discussion with him about the circumstances in which he either ought or ought not to bring further reports back to you? - No.

For example, whether there would have to be some material change in circumstances before he should report back to you? - It may have been that he/

he would suggest, and I think it is contained in the report, that there were other potential witnesses who might have been going to be seen at that stage, and other information, and it may have been we had some disussion on saying "Look, if that's the information and it's all of an identical description and there's no additional information or there's no clearer character of a criminal offence, then I would not be giving a different decision", but that if there was something different, then I would be prepared to look at that again.

Do/

Do you remember if that happened? - I can't remember in detail that a discussion of that nature took place, but it would have been something that I would have normally discussed with an officer who was clearly concerned, a report, saying "I am saying no just now, but by all means come back to me if there is something else".

CROSS-EXAMINED BY MR. CAMPBELL: Did Mr. Taylor explain his purpose in appending to the report information relating to the 1991 investigation by Detective Sergeant Hughes? - As I recall it, I think he explained that this was a concern in relation to a person that the police had already had some dealings with, and in order that I could understand as fully as possible the background I think he brought the additional information with him.

Did he explain why he considered it relevant to make sure you had that additional background available to you, or did you appreciate why he was doing that? - The understanding, I think -- I don't recall any detailed discussion about it -- would have been in terms of saying "This is a complete picture which you should have. This is an earlier report that another officer in this area had previously reported".

Did you read that earlier report? - Inasmuch as it was contained within this report, yes.

For example, at page four of the earlier report we see halfway down the page "In view of the concerns expressed by the witness Emslie, the accused was asked at this stage to hand over all photographic equipment that he had with him at the camp for inspection purposes. Whilst he handed over a video camera and a number of other cameras, he maintained that no still photographs had been taken during the course of the camp to date and handed over no photographs or undeveloped film at that time to the witness Kirk"? - Yes.

Am I right in understanding that subsequent investigation showed that indeed photographs had been taken and turned up later? - Yes,/

Yes, I think that is correct, in relation to the earlier report.

So we have a history of obstruction in the police investigation in that regard? - Well, you have a history which indicates that the person has not previously been as forthcoming or as demonstrative in relation to material that they had, yes.

Is it common for police officers to attend personally upon the Procurator-Fiscal when sending a report in? - It varies according to the area of the country. In Stirling it was not that uncommon.

What does that mean? Can you give us some indication? - I would expect a police officer to bring a report directly in a smaller area generally, where it is a more manageable area. Stirling is fortunate in having Police Headquarters and the police offices in close proximity to the Procurator-Fiscal's Office.

Yes? - It is difficult to give you an estimate of a figure, because it would not be a run- of-the-mill case, it would not be a general type of report case, it would be something specific.

Yes? - There may well be a police officer choosing to come down and discuss something like that once, twice a month, maybe something like that; whereas in a bigger area it might be more difficult for the officer concerned to come and report to a particular Fiscal.

Would that tend to tell you anything about the officer's approach to the matter in hand? - It would indicate clearly he was interested in the report or wanted to obtain an urgent decision about the matter, or it was a particular area he wanted to explain. Perhaps there was an urgency to it, or perhaps the report has not been typed fully or the officer might want to give further information.

In your evidence-in-chief you say the officer was clearly concerned about the report? - Yes.

So/

So that would tend to indicate concern by the officer about the report? - The fact he did go through the process of bringing the report down and also the fact we had a lengthy discussion on it --

We have had the benefit of a report which has been prepared by Mr. Vannet, who I take it you would meet at some earlier stage in connection with this? - Yes.

I'm not going to take you through the details of that report, but amongst other things we are told that "Mr. Gallagher does not now recollect details of the discussion with the reporting officer"; is that true? - Yes. I don't remember the detail word for word, what was said.

We are told that "Mr. Gallagher's recollection is that he was concentrating on whether some form of indecency was going on"? - Yes.

Is that true? - Yes.

MR. CAMPBELL: Sir, I am unable to frame any further question without transgressing your lordship's ruling.

LORD CULLEN: I also bear in mind what you said earlier about what your intentions were.

No further cross-examination.

RE-EXAMINED BY MR. BONOMY: The 1991 circumstances would be well-known to you? - Yes.

You indeed marked the 1991 case? - Yes. I think the 1991 case had initially been considered by another Procurator-Fiscal, but when the final marking was put on it I think it was myself who marked it.

And at that stage had you also seen the document attached to this AD2a? - Yes, because it formed part of this original report.

MR. BONOMY: Sir, I am conscious of the hour. However, in my submission it would be unfortunate to leave matters today, and it would be rather inconsistent. What I propose is at this stage Mr. Lake should read Mr. Vannet's report. On reflection,/

reflection, I think it should be read in its entirety, subject to the omission of references to specific named complainers or witnesses or indeed potential accused who are named in the report.

LORD CULLEN: Do parties have any views about that? Carry on, Mr. Lake.

MR. LAKE: "Introduction. General. On 22nd April, 1996 I was directed by the Crown Agent on behalf of the Lord Advocate to review the various reports concerning Thomas Hamilton made by Police to Procurators-Fiscal and to report thereon.

"I ascertained that reports and subject sheets had been submitted by Strathclyde Police and Central Scotland Police to the Procurators-Fiscal at Dumbarton and Stirling. I have been furnished with copies of these reports which have been recovered and have had access to the originals of two of them. In the course of my enquiries I have recovered from the Regional Procurator-Fiscal of North Strathclyde at Paisley a Report prepared by Inspector Keenan of Central Scotland Police in connection with a complaint against the police by Thomas Watt Hamilton. That Report was submitted to the Regional Procurator-Fiscal by the Deputy Chief Constable of Strathclyde Police in June, 1989 and concerned the investigation of complaints by Hamilton in relation to the police enquiries the previous summer into the camp at Inchmoan Island, Loch Lomond.

"I have interviewed Mr. James Cardle, formerly the Procurator-Fiscal at Dumbarton and now retired, Mr. Keith Valentine, formerly Procurator-Fiscal at Stirling and also now retired, Mr. William Gallagher, formerly Procurator-Fiscal Depute at Stirling and now Assistant Solicitor, Crown Office and Mr. Robert Lees, formerly Regional Procurator-Fiscal of North Strathclyde at Paisley and now of Lothian and Borders at Edinburgh. I am grateful to them for the information which they were able to provide. It is of note that they all remembered the particular reports they dealt with and that without resort to the papers at the outset of the interviews had a good recollection of them. All had been concerned at the subject matters of the report, and had given them anxious consideration.

"In the course of my enquiries no further reports/

reports have come to light, been drawn to my attention or been referred to by those to whom I have spoken. Further, on enquiring, I have been advised by the Crown Office that no trace can be found of any reports to or correspondence with that office concerning Thomas Hamilton.

"The reports. I have considered the following four reports or subject sheets which have been recovered, namely:-

Report 1. Strathclyde Police -- Subject Sheet dated 30th August, 1988 by Detective Sergeant Ian McBain submitted to the Procurator-Fiscal, Dumbarton and headed:- 'Complaints received by Police in relation to summer camp held on Island of Inchmoan on Loch Lomond';

Report 2. Central Scotland Police -- Copy Police Report against Thomas Watt Hamilton submitted to the Procurator-Fiscal, Stirling in September, 1991 by Detective Sergeant Paul Hughes;

Report 3. Central Scotland Police -- Copy Subject Sheet dated 3rd July, 1992 from Sergeant J. Fleming, Dunblane to the Chief Superintendent, A Division (copied to the Procurator-Fiscal, Stirling and Reporter to the Children's Panel) and headed:- 'Youth Camp at Dunblane High School run by Thomas Hamilton';

Report 4. Central Scotland Police -- Subject Sheet dated 9th June, 1993 from Detective Constable Taylor CPU Bannockburn to Detective Superintendent, Crime Management Services and subsequently submitted to the Procurator-Fiscal, Stirling and headed: 'Thomas Watt Hamilton (39) born 10.5.52 at Glasgow, unemployed 7 Kent Road, Stirling'.

"I have also had regard to the very full Central Scotland Police report dated 22nd May, 1989 into Hamilton's complaint against the police arising from police enquiries into the 1988 Inchmoan Island camp. The Report was prepared by Inspector Keenan and submitted to the Deputy Chief Constable of Strathclyde Police. I shall refer to it as Report 1A.

"Report 1. Description. This takes the format of a police Subject Sheet rather than a crime report,/

report, although the Subject Sheet was submitted together with full statements from 16 of the boys attending the camp, statements from some of the parents and statements from persons, both parents and police officers, who had visited the camp. Also included were copies of circular letters to parents from Hamilton and a copy of a letter to him from Luss Estates Company.

"The police involvement commenced on 17th July, 1988 after police at Alexandria received a complaint about the running of the camp. Initial enquiries were made and expressions of concern were received from several parents. On 21st July the police contacted 10 sets of parents of boys at the camp and put in place arrangements for them to meet their sons at Dumbarton Police Office and ascertain from them direct whether there were grounds for concern or complaint. Six out of the 10 sets of parents took advantage of this arrangement. None of the boys made any complaint at this time. Four refused to leave the camp. Several felt homesick and were taken home, in some cases reluctantly, by their parents. Hamilton was present, and spoke with all the parents. None was prepared to make complaint, and indeed some praised him.

"The Subject Sheet does not summarise the contents of the statements. However, it does record Hamilton's position in the matter. He informed the police of the 'qualifications' to run such a camp and his lengthy experience in doing so -- this being, according to him, his 55th camp in 15 years. He expressed some concern about the complaints, but maintained he was not acting improperly. He appears to have been quite frank with Detective Sergeant McBain, admitting that he had struck some of the children, but maintaining that this had been done in the course of disciplining the boys. He indicated that a number of the boys were bullies, disruptive and cheeky. So far as arrangements in relation to the camp were concerned, he admitted that there was no telephone on the island and that he had not made any contingency arrangements with any local doctors or hospitals in the event of a medical emergency on the island.

"There is no reference anywhere in these papers to Hamilton being the holder of a firearms licence or, indeed, any reference to firearms at all./

all.

"Brief reference is made in paragraph 6 to allegations that two 'helpers' at the camp, a Stephen Williams and a Kyle Zielenski, had exposed their private parts to some of the boys and rubbed their private parts in the boys' presence. The comment was made that these allegations are uncorroborated.

"The two concluding paragraphs are of particular note. Detective Sergeant McBain pointed out that although many of the complaints were non-criminal in themselves it did seem that the camp conditions were extremely privative with the lack of ease of access and communication being a prime concern. He expressed the view that 'In this respect it could be argued there is serious concern for the boys' moral and physical wellbeing'. He concludes the penultimate paragraph by stating clearly that 'As yet no charges have been preferred'.

"In the last paragraph he requests that the Sub-Divisional Officer, a Chief Inspector Campbell, forwards the report together with the attached statements and accompanying leaflets in connection with the summer camp to the Procurator-Fiscal, Dumbarton and the Reporter to the Children's Panel, Dumbarton for their information and any further action they may deem necessary.

"Involvement of Procurator-Fiscal. The papers recovered from the Procurator-Fiscal's Office, Dumbarton bear a 'backing' sheet with a reference number 0/359/88. The front of the Subject Sheet is date stamped 1st September, 1988, which I take as the date of receipt. The paper are described on the backing sheet as referring to 'Holiday Camp on Island of Inchmoan'.

"The only other marking on the backing sheet is "No Pro JC". Mr. Cardle, then Procurator-Fiscal at Dumbarton, confirmed this to be in his handwriting and to indicate his decision of No Proceedings. Unfortunately this marking is undated.

"Mr. Cardle recollects this matter and the nature of the complaints. Although at the end of the day he decided not to institute criminal proceedings/

proceedings against Hamilton he was concerned about the matters revealed in the report. He took the view that the Local Authority, Social Work Department and Reporter had an interest in these matters, and so advised the police.

"However, Mr. Cardle's recollection of events includes two episodes not disclosed from the papers which have been recovered.

"His first recollection of this matter is of a meeting in his office with a CID officer some time before receipt of the Subject Sheet of 30th August. While it may have been DS McBain, Mr. Cardle's recollection is that it was a DS Harry Bell. The officer came to see Mr. Cardle 'out of the blue' not long after Mr. Cardle had returned to the office after a period of illness. This puts the meeting as occurring, by Mr. Cardle's estimate, some time in the week of 18th July, 1988. The officer was looking for guidance and assistance from the Fiscal in connection with complaints about the camp, and had with him a Subject Sheet seeking a Warrant for police to go on to the island and search for and 'take possession' of the children. Needless to say, this was a most unusual application, and Mr. Cardle had a clear recollection of it. Mr. Cardle remembers the Subject Sheet as being in a similar format to and of a similar length to the one dated 30th August. The contents were similar and referred to the unease and concern about the running of the camp on Inchmoan Island. Following complaints from parents the police wanted authority to go on to the island, look for the children then taking part in the camp and remove them.

"Having discussed the matter with the officer, he advised him that on the basis of the information then available he did not consider there to be grounds for seeking a Warrant.

However,/

However, he was troubled by the circumstances surrounding the running of the camp and suggested to the officer that the matter was more appropriate for the Social Work Department and Reporter to the Children's Panel. He understood that the police were either already in touch with these agencies or would be drawing the matter to their attention. Mr. Cardle advised the officer to take statements from the boys when they came off the island and thereafter let him have a further report.

"As Mr. Cardle was quite definite in his recollection of this earlier subject sheet I asked the current Procurator-Fiscal at Dumbarton to make a further search in his office to see if any further papers relative to this matter and Hamilton could be found. A further search has been carried out and I am informed that no further papers relating to this matter can be found. Mr. Cardle himself has recently gone into the Dumbarton Office and searched but has been unable to locate the subject sheet. Mr. Cardle was of the view that the subject sheet would have been given a miscellaneous reference number and filed in the office. It may be that as the officer brought it straight in to Mr. Cardle it was not booked in in the normal way and given Mr. Cardle's decision the officer took the subject sheet away with him. That is speculation on my part but this view is shared by Mr. Cardle. I understand that the police have made a search of the Central Registry at Dumbarton Police Office, but no record of an earlier subject sheet can be found.

"Having received on or about first September 1988 the subject sheet from D.S. McBain dated 30th August and having considered it in detail, Mr. Cardle decided to have some of the witnesses, from whom statements had been submitted, precognosed before reaching a decision. No crime report had been submitted against Hamilton and he had not been charged with any crime or offence by the police. Nonetheless Mr. Cardle considered the matter worthy of further Inquiry. His purpose in having the witness precognosed related to obtaining full information about the alleged "assaults" by Hamilton and endeavouring to see if some of the discrepancies between some of their accounts could be reconciled. Virtually all the boys spoke to being/

being struck by Hamilton and/or seeing other boys being struck. In a number of statements some of the boys were unable to name the boys they had seen being struck. Some boys described events happening to other boys which these boys did not refer to themselves. Mr. Cardle decided to send out for precognition, the statements of boys who had been at the camp and also the statements of the adults who had visited the camp. He saw no need to precognose the police witnesses.

"Mr. Cardle sent the witness statements out to the Procurators Fiscal in whose jurisdictions they resided with requests that they be precognosed on his behalf. This involved principally the Fiscals at Dunfermline and Stirling. Without seeing the papers Mr. Cardle recollected that he had also sent a statement or statements to the Fiscal at Linlithgow. The only witness in that area appears to me to have been a parent who had visited the camp and who had been highly critical of Hamilton. Her son had attended the camp but either no statement had been taken from him or it had not been included with those submitted to Dumbarton.

"In due course Mr. Cardle received back the precognitions of the witnesses. His recollection is that after precognition the discrepancies between some of the boys' accounts were even greater. Assault were either not corroborated or there were discrepancies between accounts, i.e. boy A would speak to boy B being slapped in his presence but boy B would not recall this, and vice versa. Not all the boys spoke up to their police statements and some of the accounts at precognition were vague.

"Having considered all the papers carefully Mr. Cardle reached the decision that he would not institute criminal proceedings against Hamilton arising out of the events disclosed in the subject sheet of 30th August. He remained concerned at the situation which had been revealed in the papers but was aware it had been drawn to the attention of other agencies who would have a direct interest in these matters and the power to take action themselves, if so advised. He remembers indicating to the police that they should take these matters up particularly with the Social Work Department, the Reporter to the Children's Panel and also/

also the Education authorities who were involved in the letting of the school premises for the Clubs. His recollection is being informed by these other agencies were already aware of the matters. He was aware of the Reporter's powers to institute his own proceedings in connection with the care and protection of children.

"His recollection is that while after precognition there may have been one or two incidents for which there was corroborated evidence there were many others where accounts were vague or inconsistent. He did not consider it appropriate to select from the whole picture one or two incidents where there was on paper an apparent sufficiency of evidence. In any event, his recollection is that the one or two incidents for which there was corroborated and consistent evidence were very minor indeed and did not merit criminal prosecution.

"As previously indicated, a further search of the Dumbarton Office has failed to find the precognitions of the witnesses or any correspondence in that connection. During his recent visit to the Dumbarton Office Mr. Cardle found that the papers remaining in the office from that period had been "weeded" in accordance with office practice. Time has not permitted inquiry being made with the Dunfermline, Falkirk and Linlithgow Offices but with the passage of time it is doubtful in my experience whether these offices would still retain any paperwork in connection with precognitions undertaken for another office.

"2.3 Report 1A.

With the papers comprising report 1 was an exchange of correspondence in March 1990 between the Director of Education, Lothian Regional Council, Edinburgh and Mr. Cardle.

"On 13th March 1990 the Director of Education wrote to the Procurator Fiscal, Dumbarton, explaining that in 1989 the Regional Council had suspended Hamilton's let of accommodation at Linlithgow Academy for a boys' Club he was running there in the evenings. The let had been suspended because/

because of concern arising from reports that the police were investigating Hamilton's conduct of a camp on Inchmoan island. The Regional Council wished to ascertain whether the investigation had concluded and whether there were to be any proceedings arising from it. They have written to both Central Scotland Police and Strathclyde Police. The reply from an Assistant Chief Constable of Strathclyde Police dated 4th August 1989 started the confusion by referring to a report submitted to the Procurator-Fiscal, Dumbarton, by an Inspector Keenan of Central Scotland Police. The Director of Education understood that report to have been submitted between May and July 1989. In light of that the Regional Council had decided to take no further action pending a decision on proceedings. In the meantime Hamilton had contacted the Ombudsman. The Regional Council wished to know if there were to be proceedings against Hamilton. The decision on the Inchmoan island report had of course been taken by Mr. Cardle in the autumn of 1988. The report referred to by the ACC of Strathclyde Police was in fact the report on Hamilton's complaints against police officers arising out of the enquiries into the Inchmoan island camp.

There/

There is a handwritten note on the Director of Education's letter -- "No report submitted JR 19/3/90". Mr. Cardle tells me that the note is in the handwriting of the then office manager at Dumbarton and that the initials are hers. There is also a pencil note in the margin -- "17th October '89 RPF/PH.89.10748". This is the Regional Procurator-Fiscal's reference in connection with Inspector Keenan's report on Hamilton's complaints against the police.

On 20th March 1990 Mr. Cardle wrote to the Director of Education confirming that he had received a report from Strathclyde Police arising out of the camp and had decided not to take any criminal proceedings against Hamilton in respect of that camp. Mr. Cardle was of course referring to DS McBain's report of 30th August 1988.

There is also with the papers a typed file note dated 20th March 1990 -- the same date as Mr. Cardle's letter to the Director of Education. The note bears Mr. Cardle's initials (typed) and indicates that the report by Central Scotland Police referred to in the letter, although initially brought to the Dumbarton office, had been uplifted by Chief Inspector Brockie of Discipline Branch (Strathclyde Police) and taken to the Regional Procurator-Fiscal at Paisley (Mr. Lees) as the whole tenor of the report related to complaints against the police by Hamilton. The note recorded Mr. Cardle's understanding that Mr. Lees had written to Strathclyde Police on 17th October 1989 advising that he did not consider that the report contained any allegations of a criminal nature involving Strathclyde Police. A report concerning an investigation into a complaint against police officers falls to be considered by a Regional Procurator-Fiscal and not a local District Procurator-Fiscal.

As previously indicated I recovered that report from the Regional Procurator-Fiscal's Office at Paisley and have spoken to Mr. Lees about it. It is a very full and comprehensive report of the investigations into various complaints made by Hamilton against the police officers who were involved in the enquiries into the summer 1988 camp at Inchmoan Island.

There/

There is one matter worthy of comment in relation to Report 1A. On page 19 at the end of his summary Inspector Keenan discusses whether he should meet with Hamilton and interview him about his complaint. It appears that Hamilton had earlier given a very lengthy statement to another officer about his complaint but it had strayed a great deal from the substance of the complaints. Inspector Keenan wrote in his report which was addressed to the Deputy Chief Constable -- "I seek your advice and guidance on this matter as it may be that criminal charges are a possibility against the complainer (Hamilton) and I do not wish to prejudice any enquiry Strathclyde Police may wish to instigate. The page bears a date stamp -- "Deputy Chief Constable Strathclyde Police 16 JUN 1989" and a handwritten note -- "C/Supt Discipline Pse have a senior officer take this report to PF Dumbarton and have any further enquiry necessary carried out". The initials are indecipherable but do not appear to be the initials of the then Deputy Chief Constable Peter Mitchell. While Mr. Lees could not identify the initials he believed them to be those of one of the Assistant Chief Constables who presumably had been standing in for the DCC.

The reading of the note is that the author is particularly directing the report to the Procurator-Fiscal Dumbarton rather than the Regional Fiscal because of Inspector Keenan's reference to the possibility of criminal charges against the complainer, Hamilton. If that be so then the report was not dealt with or treated in that way either by the senior officer or by the District or Regional Fiscal.

It appears that when the report arrived with Mr. Cardle -- and he has no recollection of it being personally delivered to him by a senior officer -- he saw at once that it concerned complaints against police officers, a matter which would not be dealt with by him but by the Regional Fiscal. He looked no further but contacted the Discipline Branch of Strathclyde Police and asked them to uplift the report and deliver it to Mr. Lees in Paisley. He also thinks that he phoned Mr. Lees to advise him of what had happened and to expect the report. Chief Inspector Brockie referred to in Mr. Cardle's note of 20th March 1990 worked previously in the Dumbarton area and was known to Mr. Cardle.

Mr./

Mr. Lees recollects receiving the report and that Mr. Cardle may have phoned him in advance about it. Having considered the report he reached the view that there was nothing of a criminal nature
brought out in it so far as the conduct and actings of the police were concerned and marked the papers "No proceedings". He appears to have intimated his decision to the Discipline Branch by phone. Subsequently at their request he wrote to the Discipline Branch on 17th October 1989 confirming his decision. The letter was addressed to Chief Inspector Brockie. If the handwritten note of 16th June 1989 intended that further consideration be given to proceedings against Hamilton in relation to the Inchmoan Island camp then the report was not dealt with in that way either by the Chief Superintendent Discipline to whom the note was addressed, any senior officer tasked to deliver the report, or the Fiscal, Dumbarton, or Regional Fiscal, Paisley.

Mr. Cardle had long since taken his decision not to prosecute. In any event, standing the strict separation of criminal enquiries and enquiries into complaints of criminal conduct by police officers, any information gained in the investigation of Hamilton's complaints by Inspector Keenan could not have been used to further a criminal case against Hamilton. Complaints of criminal conduct against police officers are investigated in Scotland by the Regional Fiscals. As a matter of long standing practice, information elicited in the course of the investigation of a complaint against a police officer or officers remains confidential to the Regional Fiscal's enquiries and is not disclosed to a District Procurator-Fiscal or his staff who may be considering a report against the person making the complaint arising out of the same incident or indeed conducting the prosecution of the complainer. The Procurator-Fiscal Service Regulations, practice and procedures in this area were approved by the High Court of Justiciary in the Opinions in MacLeod v. Tiffney, NORMAND V. RAMAGE, and McINTOSH V. NORMAND.

3. REPORT 2.

3.1 Description.

This report is a Central Scotland Police Crime Report against Hamilton, the reporting police officer being a Detective Sergeant Paul Hughes. The report lists ten proposed charges against Hamilton arising out of incidents at a summer camp run by Hamilton at Millarochy Caravan Park, Balmaha, Loch Lomond. The charges are described as 'proposed' as Hamilton had not been cautioned and charged with them by the police. The report includes full statements from some of the boys at the camp. It appears the report was submitted to the Procurator-Fiscal at Stirling around the beginning of September, 1991.

The police enquiries followed a complaint made to the Stirling Police Office on 23rd July, 1991 by a parent on behalf of her 11 year old son who had attended the camp. The parent had been led to believe, like other parents, that the camp would be supervised by some four to six adults. In the event it appears that Hamilton was the only adult supervising this group of boys.

The parent complained inter alia that her son had been slapped/struck by Hamilton in the course of the camp.

As in 1988 Hamilton had insisted that the boys wore small black swimming trunks during the camp. He had taken a large number of photographs of the boys and indeed of one boy in particular. He had also attempted to make a video film of the boys acting out a "boys shipwrecked on deserted island" story. This had been attempted on an inclement day and the boys who were wearing only the small black swimming trunks issued to them by Hamilton complained of being cold and wet. One boy in particular had been made to lie in cold water while Hamilton filmed him.

Apart from the complaints of assault the police were concerned about the number of photographs taken of the boys by Hamilton. Two photographic shops had contacted the police to express concern about the large number of photographs of small boys lodged with them for processing by Hamilton. Many were recovered by the police including a large number of photographs and/

and slides from Hamilton himself. While none of these is described as being indecent there was obvious concern about Hamilton's motives in amassing such a large collection.

There were no complaint of indecent conduct or behaviour by Hamilton to the boys.

In relation to the complaints of assault on the boy, whose mother had complained, Hamilton when interviewed by police on 23rd July at the campsite admitted he had slapped the boy on the face and then on the backs of his legs. He maintained he had been disciplining the boy for an accumulation of bad behaviour.

On page 1 of the summary part of the report in the second paragraph of the introduction reference is made in the following terms to previous investigations -- "There have been previous police investigations into concerns of parents which resulted in a report being submitted to the Procurator-Fiscal at Dumbarton".

3.2 Involvement of Procurator Fiscal

As previously indicated the report was submitted with Hamilton being interviewed about all the allegations or cautioned and charged with offences. At the end of August, 1991 having completed most of his enquiries, DS Hughes went into the Fiscal's Office at Stirling to discuss the stage his enquiries had reached and seek advice and guidance on whether he should interview Hamilton. He appears to have been concerned about interviewing Hamilton given the picture he had built up of him and the fact that Hamilton had apparently complained about Hughes' handling of the case. DS Hughes does not remember who he saw but Mr. Valentine has a recollection of meeting him on this matter. In any event, the advice given was that Hughes should approach Hamilton and invite him to attend voluntarily for interview.

The police report records that such an approach was made to Hamilton but he flatly refused to be interviewed.

DS Hughes then submitted his full report to the Procurator-Fiscal's Office. Mr. Valentine remembers/

remembers the report coming in and of having a meeting with Hughes about it. It is likely that Hughes took the report in personally. There is no datestamp on the papers but Mr. Valentine accepts DS Hughes' statement that it was brought in on 6th September, 1991.

By that time Mr. Valentine had received a letter from Hamilton about the enquiries into the camp, that letter being dated 26th August, 1991. It is with the papers. Hamilton expresses his concern that any police report submitted "Will be misleading and inaccurate". He appears to have enclosed copy correspondence about the matter which he had sent to parents. The Procurator-Fiscal replied on 29th August acknowleding the letter, advising that a report had not yet been received and that accordingly the photographs could not be returned at that time.

Mr. Valentine discussed the report with DS Hughes and considered the papers fully. He had doubts whether the report revealed sufficient evidence of criminality to merit court proceedings. However, he decided to have further enquiry made and to have the boys precognosed before reaching a final decision. As with Mr. Cardle in 1988, Mr. Valentine was troubled by the contents of the report and the situation that was revealed. He was concerned to know that the situation had been drawn to the attention of other agencies that might have an interest, namely the Social Work Department, the Reporter to the Children's Panel and the local authority Education Department.

The report was passed to his Depute, Mr. Gallagher, to deal with, and towards the end of September Mr. Gallagher wrote to the Procurator-Fiscal at Dunfermline with copies of the statements asking that certain of the boys be precognosed on his behalf. Mr. Gallagher had discussed the matter with Mr. Valentine and it was agreed that only the witnesses speaking to significant matters required to be precognosed.

At this stage mention should be made of a note in the papers from another Depute in the Stirling Office, Mr. Coyne. Mr. Coyne is now retired and I have not interviewed him. Mr. Gallagher's recollection is that before the papers went/

went to Dunfermline, Mr. Coyne was asked to consider them and prepare a note. Mr. Coyne reached the view that there was not a great deal to substantiate many of the charges proposed by the police, with the exception, perhaps, of the charges of assault on the boy previously referred to and a breach of the peace charge relating to Hamilton shouting and swearing at the boys.

On 25th September Mr. Gallagher wrote to the Procurator-Fiscal at Dunfermline enclosing a copy of the police summary, the charges proposed by the police and copies of the statements of eight of the boys. He asked that the boys be precognosed stating 'As I indicated, the circumstances are far from clear and I would wish to have precognitions obtained before any other proceedings are instituted. Given the ages of the children, it may be that you will be arranging to have them precognosed in the presence of their parent and it might be useful to obtain any additional information that the parents are able to give in relation to the background to these incidents.' He also enclosed a copy of a letter which Hamilton had sent to his Member of Parliament and which he had copied to the Fiscal. The witnesses to be precognosed were carefully selected.

The precognitions were returned to the Stirling Office on 14th November. The precognition officer, Mr. Burns, who had interviewed the boys, commented that none of the parents had anything to add to their statements and some had shown concern at the thought of Hamilton being suspected of anything untoward. They had not stopped their children going to Hamilton's clubs. He felt that there were no real grounds for a charge against Hamilton in relation to an assault on the boy. Further, he had difficulty in seeing what charge could lie against Hamilton in connection with the taking of photographs of the boys. These comments were of course only by way of assistance to the Stirling Office whose responsibility it was to assess the whole matter in light of all the information available including the precognitions and reach a decision thereon. It was not considered necessary to precognose or have precognosed any other witnesses.

On 18th November, 1991 having considered all/

all the material Mr. Gallagher decided to take no criminal proceedings against Hamilton and marked the papers 'No Pro., No Crime Libelled, Not in the Public Interest'. On the same date he wrote to Hamilton advising him of the decision and that the police had been instructed to return to him his photographs.

Mr. Gallagher's marking reflected his view that in relation to some of the allegations he did not consider that the evidence available indicated criminality and that where criminality was indicated the circumstances -- taken at their highest -- were not such as to require prosecution in the public interest.

The backing sheet of the papers also bears a note "Accd has made a comp v Police. Please phone Ch. Inspector Ferguson at Falkirk. B/U to me please 19/3/1992, WG9/3/92'. The first part of the note is in the handwriting of the Office Manager and the second part -- from B/U -- in Mr. Gallagher's writing. His recollection of this is that some time after his decision in the matter his attention was drawn to the fact that Hamilton had made a complaint against the police. He recollects seeing an officer concerned with a disciplinary enquiry -- probably Chief Inspector Ferguson. His marking on the papers would indicate his request on 9th March, 1992 for the papers to be brought to him on 19th March for a meeting.

Both Mr. Valentine and Mr. Gallagher had a good recollection of this report which had been discussed between them on several occasions and also considered by Mr. Coyne.

Both indicated that while the contents of the report had troubled them they were of the view that the conduct revealed had approached but not crossed the border of criminality.

Both were certain that the decision not to institute proceedings against Hamilton had been communicated to the police but could not remember who had done this or how it had been accomplished. Both were prepared to accept DS Hughes' account that the decision had been conveyed by Mr. Coyne.

4. REPORT 3

4.1 Description.

This/

This Central Scotland subject sheet dated 3rd July, 1992 was sent by Sergeant J. Fleming, Dunblane to the Chief Superintendent, A Division. It concerned a youth camp run by Hamilton at Dunblane High School and in particular the fact that three young boys had been found by police at 10.15 p.m. on 29th June dressed only in pyjamas and sitting on the pavement in Old Doune Road, Dunblane. It transpired that they had run away from Hamilton's camp and had phoned their parents asking them to come and collect them. The police waited with the boys until their parents arrived.

Sergeant Fleming had called at the school the next day and spoken to Hamilton. No further action was taken in connection with this matter. On 2nd July an officer of the Child Unit at Dunfermline had received a complaint from a parent regarding her 10 year old son who had been at the camp. She had complained about the regimentation and lack of supervision at the camp. The officer had been informed of the incident involving the three boys and was arranging to take statements from them. The Child Protection Unit at Bannockburn had been informed and were in contact with their counterparts in Fife.

"The/

"The Subject Sheet bears date stamps of 6th July, 1992 (Callander Police Office) and 9th July, 1992 (Detective Superintendent Headquarters). There is a handwritten note instructing that the Subject Sheet be copied to the Detective Superintendent and to the Deputy Chief Constable for information. DS Hughes has also written a note on page two -- copy to Mr. Valentine P.F. Stirling -- dated 28th July.

"The first copy which I saw bears a stamp at the top of the first page -- Copy To Reporter for information. I have also seen a copy which bears the date stamp of the Regional Reporter Fife Region of 10th August, 1992. It bears a handwritten note apparently in DS Hughes' writing -- Copy to PF.

"Involvement of Procurator-Fiscal. Mr. Valentine recollects the report and deciding it required no action by him. On this occasion the report was dealt with solely by Mr. Valentine and was not seen by Mr. Gallagher. Given the previous report about Hamilton, Mr. Valentine may have mentioned it to him.

"The report was submitted to him for information only. He marked on it 'No Pro. Not a crime'.

"The statements shed light not only on the camp at the High School but also on the clubs run by Hamilton. However, Mr. Valentine took the view that nothing of a criminal nature was indicated.

"Mr. Valentine knew that the matter had also been reported to the Reporter for his information, and recollects advising the police that it appeared to him to be a matter more appropriate to the Reporter's Office and also for the school to consider in connection with the let of its facilities to Hamilton.

"Report 4. Description. The last report is a Central Scotland Police Subject Sheet dated 9th June, 1993 from Detective Constable Taylor CPU (Child Protection Unit) Bannockburn to Detective Superintendent, Crime Management Services.

"It/

"It refers to a number of complaints having been received about Hamilton's Clubs and the operation of them. Complaints also concerned the activities in which the boys were required to participate and in particular the fact that they were made to wear small, ill-fitting trunks which Hamilton provided for them. Concern had also been expressed about Hamilton photographing the boys when they were participating in activities at the clubs.

"The report provided background information about Hamilton and referred to reports previously submitted to the Procurators-Fiscal at Dumbarton and Stirling. A copy of DS Hughes' report to the Stirling office (Report 2) was included.

"This is the only one of the four reports or Subject Sheets which makes reference to Hamilton being the holder of a firearms certificate.

"The Subject Sheet concluded with a request that it be submitted to the Procurator-Fiscal at Stirling for consideration to be given to obtaining a Warrant to search Hamilton's house for photographs, photographing equipment, documentation and other items which might be relevant to police enquiries.

"Concern had been expressed particularly about a situation where a parent found Hamilton alone in the gymnasium at Stirling High School with a nine-year-old boy. The boy was dressed only in swimming trunks and was being photographed performing press-ups. The boy was supposed to be attending five-a-side football, but it transpired that that had never taken place, and the gymnasium had not been booked by Hamilton for that activity.

"A further complaint concerned a nine-year-old boy being photographed at a club at Dunblane High School performing exercises with another boy.

"Involvement of Procurator-Fiscal. This Subject Sheet was considered by Mr. Gallagher. Mr. Valentine had no recollection of having seen it before and said he was not aware of it. On seeing the date of it, Mr. Valentine realised that he had been absent from the office at that time due to a personal tragedy.

"Mr./

"Mr. Gallagher considered the contents of the Subject Sheet and the request for a Search Warrant.

"Detective Constable Taylor had brought the Subject Sheet to the Fiscal's office personally and had the opportunity of discussing it with Mr. Gallagher. Having considered the information provided and having discussed it with the officer Mr. Gallagher reached the view that there was insufficient material to justify an application for a Warrant to search Hamilton's house. He remained of the view that while the conduct was of concern it did not yet cross the border into criminality. However, he expressed the view that the police should continue their enquiries and report further to him if any more evidence came to light.

"Mr. Gallagher marked the Subject Sheet 'Warrant refused meantime. B/U three months'. This marking is dated 11/6/93, which according to Mr. Gallagher was the date of the submission of the Subject Sheet to him. He intended to review the matter in three months to ascertain if matters had progressed. If the police discovered additional evidence or evidence of indecent or grossly improper conduct towards the boys then the matter would be reconsidered.

"Mr. Gallagher advised the reporting officer that he did not consider that the circumstances surrounding the taking of photographs revealed the commission of a crime by Hamilton. However, the matter would be reviewed if additional evidence was reported indicating a change in the character of the circumstances such as to merit their description as criminal. Meantime, the police were advised that they need not report further instances of the same conduct unless there was a change in the character of the circumstances, indicating criminality. Mr. Gallagher does not now recall the details of the discussions with the reporting officer. His recollection is that he was concentrating on whether some form of indecency was going on. I made Mr. Gallagher aware of the account of the meeting given by DS Gordon Taylor in his statement. While Mr. Gallagher could not say for certain that there had been no discussion about whether the crime of breach of the peace might be applicable, he indicated that he would frankly be surprised/

surprised if he had said that a breach of the peace could not be constituted where alarm had been caused to a third party.

"It is of note that as at this time no indecent photographs of boys had been recovered or seen in connection with this or previous enquiries. There was no doubt that Hamilton took an unusually large number of photographs of boys, but while the circumstances in which they were taken and the manner of the boys' dress were troubling, the photographs could not be described as indecent.

"According to the papers, Mr. Gallagher reviewed them again on 10th September, 1993, when he added the marking 'No Pro'. His recollection is that no further information had come to light by that time. He cannot remember whether he contacted the police at this time, but considers it probable that he would have".

LORD CULLEN: Thank you, Mr. Lake. That concludes matters for this afternoon. We will resume at 10 o'clock tomorrow morning.

Adjourned until tomorrow at 10 a.m.

TWENTY-FIRST DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

WEDNESDAY, 26th JUNE, 1996.

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
Statement read by Mr. Lake.....	4
ROY CAMERON,	
Examined by Mr. Bonomy.....	6
Cross-examined by Mr. Campbell.....	47
Cross-examined by Mr. Taylor.....	57
Re-examined by Mr. Bonomy.....	63
GRAHAM BENNETT,	
Examined by Mr. Bonomy.....	63
Cross-examined by Mr. Campbell.....	80
Cross-examined by Mr. Gibb.....	81
Cross-examined by Mr. Taylor.....	83
Re-examined by Mr. Bonomy.....	90
TERENCE McCARTHEY,	
Examined by Mr. Bonomy.....	90
Cross-examined by Mr. Taylor.....	111
Re-examined by Mr. Bonomy.....	112

WEDNESDAY, 26th JUNE, 1996.

TWENTY-FIRST DAY.

LORD CULLEN: Mr. Bonomy, I think we are without Mr. Jones today, so you can proceed.

MR. BONOMY: Thank you, sir. I have had brought to my attention a witness who claims to have been abused by Hamilton. This is the first such evidence that has come to light. He is unwilling to be identified. I have given anxious consideration to the question whether an anonymous written statement of his evidence should be read to the Inquiry. The view I have formed, with some hesitation, is that that is the appropriate course in the circumstances, albeit it is not an ideal course. I also consider it appropriate to advise the Inquiry that there are certain matters mentioned in the statement peripheral to the meat of the statement that one might expect would be corroborated by independent evidence. Efforts have been made to try to corroborate that without any success.

You should also be advised, sir, that the witness has in the past been convicted of a serious crime of dishonesty.

That is a full account of the background, and with your leave, sir, I propose to invite Mr. Lake to read the statement.

LORD CULLEN: Yes -- Mr. Lake?

MR. LAKE: This is the anonymous statement -- "When I was about 12 and living at home I attended a Boys' Club called the Rovers Group at Bannockburn High School, which was run by Thomas Hamilton. I think I got to know about it through certain leaflets that came through the letter box. I attended that for about four weeks. I remember that on two occasions we got to shoot guns at the Club in Dunblane. This Club wasn't at the school but in a hut on the other side of the dual carriageway. We shot with real rifles with bullets, not pellets. Hamilton picked us up and took us to Dunblane. We once went to the High School/

School in Dunblane and joined in with that Club. It was a gymnastics Club.

"When the summer came, a trip was organised to go and stay on a boat. I got permission to go to it and Hamilton sent a letter home setting out the details of the camp trip, boat, how much money we needed etc.

"The holiday was to last for about a week or a week and a half and we were staying on a cabin cruiser on Loch Lomond. There were about eight boys of my age involved. The only boy I remember being there was my sister's boyfriend. I don't know who the other boys were but we were all specially chosen from the Bannockburn Club.

"One day I remember that I was particularly frightened because Hamilton was tying a rope round us, one at a time, and throwing us off the side of the boat and then pulling us back in. I cannot now remember what the purpose of this manoeuvre was, but I remember being very frightened and I refused to take part and pretended that I was ill and stayed in the cabin.

"That night I was told to report to his cabin. The boys all slept together at the back of the boat and Hamilton slept in his own cabin. I eventually went in. I only had on my underpants. He had a sort of telescopic pointer device which you would use to point to a map or a chart and he was pointing this at me and he told me that I had better behave. He began to touch me between my legs and my private parts and I was very scared. I started to cry.

"He told me to stop crying or I would be hit with the pointer. While all this was going on he was only dressed in shorts. I was then told to lie down on his bed and I was lying facedown. He started to push his fingers into my backside. By this time he had his shorts off and his penis was erect. He was rubbing it. He was also stroking my back and asked if I liked it. At one point I was crying and he banged this pointed device down at the side of my face. It didn't actually touch me, but hit the pillow. I lay there frozen stiff with fear. He then told me to stand up and face the wall and again he ran his hand up and down my back and/

and he was breathing heavily.

"I was then allowed to go. I was terrified, and then the next day I phoned my mother and asked if I could come home. All I did was to tell her I was homesick. I couldn't tell her what took place. I came home at the same time as everyone else. It was too far away for me to come home early. He didn't touch me again during the period of this holiday although I was very frightened of him.

"I can't be more specific about the year this happened. I do remember though that the boat blew up about a week after the trip.

"I do agree, however, that what he did to me should be known about. It has affected me badly and has always troubled me."

ROY CAMERON (49), Sworn:

EXAMINED BY MR. BONOMY: Are you Roy Cameron? - I am, sir.

And are you presently the Chief Constable of Dumfries and Galloway Police? - That is correct, sir.

I think you are also Chief Constable designate of another Force? - That is correct -- Lothian & Borders Police, sir.

When do you take up that post? - The 6th September this year.

What age are you? - I am 49 years of age.

How long have you been a police officer? - 30 years' service.

Can you take us through your service, please? - Yes; I started as a cadet in Dumbartonshire; followed that with beat duties in Dumbartonshire Constabulary; was promoted sergeant fairly/

fairly early in service and covered a range of patrol and administration duties. I had a secondment to the University about that point, returning to a range of operational duties in Strathclyde Police in 1975. In that capacity, I served various roles as a sub-divisional commander, a divisional commander, through all the ranks to Chief Superintendent. In 1990 I was appointed Assistant Chief Constable. At that time I was responsible for personnel and training, and also an operational role on a regular basis as the Assistant Chief Constable. I changed course within Strathclyde in 1992, and in that capacity was responsible for management services which embraced research and development administration, and continued operational duties. Within that range of experience, I have had on occasions direct line management of firearms administration and enforcement as a Chief Superintendent and Assistant Chief Superintendent. Since the 1st May, I have been Chief Constable of Dumfries & Galloway Constabulary, and in that capacity have a general over-sight for firearms regulation and control within the Force, including direct involvement in decisions on revocations and refusal.

The 1st May which year? - The 1st May 1994.

You are also the Chairman of a body known as ACPO S; can you tell us what that body is? - Yes, I can. I am Chairman, but the titular designation is National President of the Association of Chief Police Officers in Scotland, and that is a professional and consultative body that represents the eight Scottish Police Forces, and has a role in relation to policy formation and deliberation across a wide range of operational and other issues affecting the police in Scotland, and we have close links with the other Staff Associations, the Scottish Police Federation, representing the federated ranks, and Superintendents Association, and close involvement with like national bodies in England and Wales.

What ranks in the police are members of your body? - The ranks as such are Chief Constables and Assistant Chief Constables, and those Assistant Chief Constables who are designated as deputies. Prior to the 1st of April 1995, they had the/

the rank and title of Deputy, but the rank itself was abolished as a result of police reforms that year, although the job title still remains and the post still remains.

And which ranks are members of the Scottish Police Federation? - The Scottish Police Federation covers those ranks from Constable to Chief Inspector.

And I take it in the middle of the sandwich we have the members of the Association of Scottish Police Superintendents? - That is correct.

A submission has been made to the Inquiry jointly by these three bodies; is that right? - Indeed.

And it is a very full submission. It is accompanied by a very helpful summary and some annexes. I am not going to ask you to tell us what is in your submission which is available for all to see. I just want to get the frame-work of this submission clear first of all. Did all three bodies agree on everything in the submission? - Yes; this is the shared view, the consensual view of the three Staff Associations of Scotland, representing all the ranks of the Scottish Police Service within the hierarchy earlier described. The Federation, Superintendents Association and ACPO S jointly agreed the submission. There is total support for the recommendations therein. Readers of the evidence will have noted slight nuances where different opinions were expressed about how certain recommendations might be achieved, primarily in relation to the area of appeals but in terms of the care recommendations and the consensual view, that is the unanimous view of the three Staff Associations.

What I do want to ask you about is some practical issues that arise not just from your submission, but from other submissions in relation to the administration of the firearms licensing system, and I think the best place to start that exercise is by looking at another document we have had some evidence about called the Report on a Thematic Inspection of Police Forces. Do you have a copy of that? - If I could just clarify we are speaking/

speaking to the same document -- this is Her Majesty's Inspector of Constabulary Draft Thematic Inspection and Administration of the Firearms Licensing System 1995 draft dated April 1996?

What the Inquiry has seen is a draft dated 8th February 1996, and what you are confirming is something that we have had a hint of already, that there have been certain amendments made to that? - If I could comment, there was, as I recall, an earlier draft, and it would be my understanding that comments would be made on that earlier draft, and that may be reflected in the second draft. It has had no formal route through the ACPO S consultative process I described earlier, but certainly there was a previous draft, and this is an amended version.

Can/

Can you confirm that there are no significant amendments to it? - The only amendment I would call to attention as significant would be really in relation to the counter-signatures or counter-signatories, rather. My recollection, sir, is that there was a view that in the original draft, those who have read it might remember that the counter-signatories it was suggested should be discontinued. In the present, April draft it mentions it should be reviewed. Such view I would add is consistent with the views expressed elsewhere about the perceived current value of counter-signatories in terms of current practice. The only significance is in relation to the change in words. I cannot comment on what the intention might be behind the change.

MR. BONOMY: Sir, I have had some enquiry made into the status of the draft before the Inquiry in view of what Mr. Taylor said at the time about thinking it was at the printers. You, sir, now have a copy of a police memo dated 19th June, 1996.

LORD CULLEN: Yes, I have that.

MR. BONOMY: That is as a result of that enquiry. Detective Chief Inspector Robertson gave evidence to the Inquiry about the investigation he was in overall charge of in relation to firearms and licensing of firearms to Hamilton. He was asked to take a position on this, and he has reported that there are certain amendments in an updated draft. These are all spelled out. The one Mr. Cameron is referring to is particularly mentioned on page two of this report. At the top of the page you will see in italics the two separate recommendations highlighted.

Now, sir, I also have the fresh draft of April, 1996, which you may not yet have, and I can give that to the Bar Officer. I am advised that your report covers all the amendments.

LORD CULLEN: Thank you.

EXAMINATION CONTINUED BY MR. BONOMY: Now, there are three matters arising out of the thematic/

thematic inspection report I want to ask you about, and I want to ask you about the practical issues or difficulties concerning matters: do you understand? - Yes.

One is the encouragement towards civilianisation of the Firearms Administration Department, the second is the encouragement towards postal renewal of firearms certificates and the third one is the idea in the original draft now modified of initially abandoning and now reviewing the position of counter-signatories: do you understand? - Yes.

Taken together, these suggest a sort of slackening of the overall approach to licensing of firearms throughout the country. Now, is that a fair summary of the attitude that was prevailing prior to the incident at Dunblane? - If I could comment, sir, I think it would be fair to set both these drafts in a broader context. The thematic inspection as I interpret it is in fact a good practice review of Firearms Administration against previous good practice recommendations dating from a Home Office circular of 1991, which is in fact listed in our appendix of evidence. We identify that document there. I am not aware, sir, that in fact the Tribunal is privy to this first submission, but if it is helpful, it is the report of the Working Group on the administration of firearms licensing system, issued by the Home Office in November, 1991. I think that sets a climate of good administration practice which Forces have been encouraged to pursue since that time. Now, in my own experience I have had criticism from certificate holders and those with interests in firearms for failing to implement certain of these good practice recommendations vis-a-vis the proposal and renewal: but I think you have to set it in that climate, and if there is a perception of a removal away from more rigorous regulation then that pre-judges the report from HM Chief Inspector of Constabulary.

What you are suggesting I think is that if that is perceived as a sort of slackening of the system then what we should bear in mind is that the police are simply following the guidance they got from the Home Office? - I think that is the encouragement. It would be fair to say in this instance in relation to one of the things you wish to/

to focus upon, postal renewal, that within the Scottish Forces there has been some reluctance to pursue that innovation, especially in regard to the renewal of firearms certificates.

The Inquiry has heard so far references to the Home Office, a policy in relation to the administration of the firearms licensing system, and that was updated in 1989? - Yes.

Can I take it that is guidance that applies throughout the UK, and that there is no separate Scottish guidance? - There is no separate Scottish guidance, no.

So in that document and the one you have referred to we are looking at guidance which is expected to be followed throughout the UK? - Yes, that is correct.

BY LORD CULLEN: I think the 1991 document you have just referred to is the one referred to in 1.3 of the thematic report, in paragraph (ii)? - Yes, sir.

LORD CULLEN: I think probably by now I have accumulated all of the documents refereed to in the annexe. Perhaps I can say at this point that it is my intention to make known to parties a total list of documents that have become available to me. When it is published you can know exactly what my library is.

MR. BONOMY: Thank you, sir.

EXAMINATION CONTINUED BY MR. BONOMY: Let's take the one you have identified yourself as not meeting with full support in Scotland, and that was the idea of postal renewal. Can you tell me first of all what you perceive as the disadvantages of postal renewal? - Again, it is not the case that there is a recommendation that there should be a blanket approach to postal renewal. The question is, where there is no change in individual circumstances in terms of the reason or the firearms held then there was a feeling it was unnecessary to have a home visit unless something was revealed in the application form or in our knowledge at that time: so it is not an absolute blanket. Having said that, whilst several Forces have progressed, as the/

the law stands in relation to shotguns most of us have been reluctant to pursue it in regard to firearms, because we think it is essential to continue to have as many home visits as are possible in order to complement the quality of the enquiry we were making. Of course, it will perhaps be known to the Tribunal that there is no distinct power of entry for a home visit or to examine shop premises. I think there is an assumption this power exists, whereas it does not. We feel in short, sir, that it has a potential to reduce the quality of the enquiry you would make in the interests of public safety, and in the interests of applying the regulatory aspects as opposed to the administrative aspects of firearms law.

We are likely to hear in due course that attempting as a psychiatrist or as a psychologist to forecast violence or forecast mental disorder is if not impossible almost impossible. These things can happen, changes in personality and in mental condition can happen, at very short notice. Do you think it is a good idea to take such opportunities as are available to make contact with holders of firearms certificates? - That I think would be not only my view but a widely-shared view within the Association of Chief Police Officers.

Now, if you reduce the opportunities for this to occur by extending the life of firearms certificates from three years to five years, as has occurred, does that not make it even more important that when the renewal does come up contact should remain with the individual applicant? - Yes. I think that is fair comment. It is difficult to reconcile the notion of regulation with a time span of renewal of five years allied to postal renewals. Even if there is the odd sampling type visit, that is quality control. Conceivably, then, in the extreme case someone could go through a lifetime of firearms possession without any form of physical check of the home. So our view, from looking at the current state of the law on administration, we would argue we should be resuming a yearly cycle of renewals.

Do you see any advantage in extending the life of a certificate from three to five years? - I see a disadvantage, if we regard the primacy of public safety, and that is, to refer back to the initial/

initial point, it is reducing an opportunity for contact, it is reducing an opportunity for inspection and enforcement.

Do you have a view on whether it would be a good idea to reduce the life again from five years to some shorter period? - I believe in terms of our recommendations we should be reverting to three years, and I think in any review of firearms there may be scope for some consideration in particular instances as to whether it needs to be less. Certainly our basic recommendation would be to revert to three years.

Do you still adhere to the view that postal renewals might be okay for shotguns, which we have heard some evidence can be just as lethal as firearms, depending on the circumstances? - I think it is anomalous. I think within the terms of the law as it stands there are differences in standards with regard to good reason, even in regard to the basic qualifications.

We would bring shotguns on to the same standard as firearms. We would see there being one certificate and unification of the law in regard to both categories of weapon, so that there would be a firearms certificate, and the administration regulations would be standardised throughout. Ergo we would be saying postal renewals and five year renewals would be inappropriate at the moment.

Let us assume this could be a bit beyond the issues arising at this Inquiry, and there were still two separate types of certificate. Would you be of the view that postal renewals should not apply to either? - That would be our view as an Association, and indeed the unanimous view of the three Associations.

The second item of the three in the thematic inspection report I would like to deal with was the question of counter-signatures, where the recommendation was obviously towards abandoning counter-signatures. Do you think the alteration in the stance of Her Majesty's Chief Inspector is anything to do with the incident at Dunblane? - I don't think I can comment, sir, as to what was in the mind of the Inspectorate.

So/

So it is not as if it was discussed in any discussion that you were privy to? - As I stated at the outset, sir, the document is a draft, it has had no formal consultative line at all within the Association at this stage.

Now, counter-signatories are supposed to be people that one might place some reliance on; is that fair? - I think, sir, that that was the intent, but I think we would argue that by extending the definition to include -- I think I would quote correctly "Persons of similar standing" then that leaves the issue open perhaps to a wide interpretation and perhaps a degradation of the....

I take it there is some advantage in having counter-signatories to a form? - There could be, but as practice had emerged, for many years it has been recognised that the counter-signatory system needed to be reviewed.

Now, do you consider that there should be counter-signatories? Let's leave the quality aside for the moment? - Yes, I think as a principle the fact that an individual is applying for possession of a weapon, there ought to be a reference system for that individual, including some form of counter-signatory.

Does that help the police in checking up on the character of the individual who is applying? - If a counter-signatory has a proper and full role in the process of vouching for them that can be a much closer reference than has been the case hitherto, and a clearer reference.

Does that mean we have to have some sort of formula defining the qualification of counter-signatories? - Yes. We have suggested it has to be someone well-known to the individual and someone who has known them for a minimum of five years; and we think in that way if there were appropriate guidelines in relation to their role and duty in relation to the process it would be a helpful measure.

What about the standing of the individual? - I think it has to be someone who is of good character in the community, so I think we need to look at the criteria, and how that is defined./

defined. I think as I have described earlier, it certainly has fallen into some disrepute.

BY LORD CULLEN: What do you see as the general objective of counter-signatories? - The objective would be to perhaps allow another line for behaviour in an individual in relation to their wider character. It would be another check, another balance within the system at the point of grant and renewal that would be of assistance to us as part of that enquiry. The individual is coming to the service as potentially an anonymous applicant. There can be records checked. It might be that in having a properly constructed reference process involving medical information, involving character references, in the same way as you would validate someone for an occupation or for some other form of serious licensing that would be a better reference.

Leaving medical matters to one side, what you are talking about is some form of collateral check on a person who is of himself of good standing but can be rather more positive in his approval or support than is presently required? - Absolutely, sir.

Would you favour that such a person should have himself or herself no firearm certificate? - I have no view on that. I think that is a point to look at, but I think the overall character of the individual, the fact they have a good knowledge of the applicant and can actually fulfil the role of reference, hopefully, is an important criterion.

That is looking at someone who is so to speak outside the shooting scene. That is not why he has been chosen. It has also been suggested to me, however, that perhaps there should be two counter-signatories, one of whom might be able to stick strictly to, if you like, the characteristics or character of the applicant, or who know the applicant from a shooting point of view. Have you any ideas about that? - I am sure that would be helpful. It may be helpful in the sense of giving a little weight to the information available to someone who is a member of a club, for example. I can see the possibilities of that. It would give a professional, informed view of that individual's general safety, perhaps.

EXAMINATION/

EXAMINATION CONTINUED BY MR. BONOMY: Can you help a little more on how you define the qualifications of that person? "Good character" is in itself a very vague expression. It doesn't pin down the qualification very well? - At this point frankly I am not sure I could be of much more help than that. I think this is a point we have raised, and I think it is one that calls for careful reflection, in the light of cumulative experience. We have made specific recommendations in principle, someone who is known to the applicant for at least five years and can vouch for them, someone of good standing within the community. I know that raises all sorts of problems with definition. I wouldn't pretend at this point to elaborate greatly on that, other than to make the point I think it is a valid suggestion.

In practice do the police officers check on the counter-signatories? - According to the good practice guidelines at present there is no encouragement to check up on counter-signatories other than in exceptional circumstances. Most Forces will have some kind of check on the counter-signatories, but the advice given in the good practice note does not in fact indicate that it is necessary in every case.

You would have a problem if you had a plausible applicant supported by a plausible counter-signatory, neither of whom shows up on any of your record checks, who are both very articulate and persuasive people, would you not? - That is a problem. That is a fact of any licensing system we could design.

I am thinking of this present case at the moment when I pose that question? - Yes, there is a practical difficulty, if there is no tangible, transparent, verifiable evidence then there is a grave difficulty in taking any form of regulatory control.

I suppose that is why we have at the present time categories in Scotland such as a JP or a minister, on the basis that perhaps because you could not keep checking up on counter-signatures you need some sort of touchstone for the counter-signatory to start with? - Yes, I wouldn't dispute that. I think the question is how genuine a role such/

such people although of good standing can actually fulfil in relation to the applicant.

Now, the third of these issues you mentioned in regard to the report is the matter of civilianisation. Has that so far as it has occurred to date been a good thing? - I think there are benefits in civilianisation. If I could focus on the thematic experience, that urged Forces to progress civilianisation of firearms registering and as much enquiry work as possible, but there are caveats in relation to who would be responsible for supervision, etc. I think civilianisation has brought expertise and consistency to this process. I would strongly argue that in my own experience in my own Force that the acquisition of experienced firearms field officers has brought a level of experience and expertise to the process that we did not have before. That has to be balanced against a context where there is some adequate police line management, in my view, with powers of supervision and decision-making in some of the more complex issues that might arise with regard to the suitability of an individual.

I/

I will come to that line management issue in a moment. One difficulty or one perhaps weakness that was identified by one witness earlier was that civilian firearms officers might not have the enquiring technique of a police officer and perhaps not get essential information from the applicant. Now, do you see a disadvantage there in engaging civilian firearms officers? - I think, sir, if I can first make a comment. I think there is a counter argument that it is easier to be duped by an individual applicant if you have no knowledge of firearms. I think that is an issue. If you send someone untrained and unaware, who may have investigative abilities but who has no technical knowledge of firearms, then that person I think is at a disadvantage in dealing with the information he receives and being able to evaluate it. I therefore believe that provided someone is given sufficient training, the process I do not think is a complicated one. I think there are issues that need to be resolved within it but so far as firearms are concerned, the categories of person who should not be getting one are fairly clear cut. The difficulty arises always where that person is outwith that particular loop and you have no collateral and I would say it would be problematic for a police officer to have any greater skill in eliciting that if it cannot be substantiated.

So you see advantages in having civilians that outweigh any possible disadvantages? - I think, sir, there are advantages in engaging civilians giving a balanced approach to the administration and enforcement issues.

Now, looking at the question then of the line management. Assuming for the moment that the investigation carried out by the Department and the day-to-day administration of the Department is in the hands of civilians, what supervision do you see as necessary for these civilians? - My personal belief, sir, is that given that it is the Chief Officer of the police who has responsibility for the Act, there will still be very clear line management at senior level over the firearms function and that can vary from Force to Force depending on the scale of operations. In my situation, I have a Superintendent who has over action control of the firearms function with a sergeant and direct line management/

management of the group who deal with the matter and if there are problems then there is joint discussion on the issues up to Chief Officer level. That is how I do it and I am not saying that is an ideal but it is a method we use.

Do you have a civilian firearms examiner? - Yes, we have two, sir.

So your own structure envisages investigation by civilians but supervision by police officers? - Yes, and if that civilian has a difficulty.....they are mature people and if they have suspicions aroused or if there is something they are uncomfortable with then they would liaise with their police officer counterparts and further enquiries would be made.

What about the suggestion that unless there is a difficulty identified the civilian firearms officer should have the power to make the decision? In other words, grant the renewal? - I think in effect, sir, that is what is happening. They are the individuals who have conducted the enquiry. They have the knowledge and de facto they are in full possession of the facts to make that decision and I don't see a difficulty with that in relation to renewal of Firearms Certificates because I think it acknowledges the reality of what is happening but I think there has to be a good linkage within that for the grant of certificates. I think that is a very important step in the process where, in my view, there should still be a police involvement. I think there is scope for looking at whereinafter there needs to be an actual physical signature on a certificate by a chief police officer.

BY LORD CULLEN: You said the civilians have the knowledge and they have the facts. What does that pre-suppose about the weight of the information which is actually given to them at the time when or shortly after they make their enquiries? - Well, if the enquiry is being conducted on the basis of what has been seen as good practice, if they are trained and if the individual has completed the form accurately and if the counter-signatory side of it can be better addressed, then with the antecedent history they should have acquired, and there is a set process for that/

that through record checks and through criminal intelligence checks, the individual who is an obvious problem will surface. The difficulty is always there, sir, where there is no transparent difficulty. There is no identifiable issue in terms of previous conduct, in terms of previous convictions or whatever. Whether there is a police officer or a civilian involved in that situation, if nothing is surfacing then it is very, very difficult to say.

I understand that but your answer presumably pre-supposes that all information available to the police in whatever form is available to the officer conducting the enquiry, is that right? - Well, the process should allow for that in relation to firearms files that have been built up. If it is a renewal or on the basis of the type of enquiry that is conducted locally, relevant information ought to be capable of being absorbed within the loop of that enquiry.

But if in effect you see enquiry officers being civilians and taking decisions effectively, that must mean that they are placed in possession of all the informtion which is accessible to the police? - Yes, sir.

EXAMINATION CONTINUED BY MR. BONOMY: Do you see any disadvantage for the police if the actual investigation of firearms enquiries be carried out by civilians and then perhaps police officers perhaps lose contact with the subject? - A disadvantage with the police losing contact with the subject?

Yes? - There is a possibility but not very many police officers in the modern age have the level of training or expertise to actually conduct a technical enquiry in relation to firearms. In relation to for example establishing what is good reason. There is a real difficulty with that. If someone says they require a particular firearm for a particular reason, given the range of hybrid weapons and different types of weapons used and the type of sports that have emerged, I think there is a case for somebody with technical knowledge to deal with that and not very many police officers have that and if you train police officers, with the turnover involved in a police career, that expertise is likely/

likely to be lost in the modern age.

Do you see perhaps an advantage, though, in, at the end of the investigating process, a senior officer, a very senior officer, having to make a decision based on all the information that is available to the police about the applicant? In other words, sitting down with the complete historical police file and the result of the current investigation and applying his experience and judgment to all of that rather than leaving it to a civilian who is simply engaged to carry out the technical function of examining and enquiring into a firearms applicant? - Well, within the balance of management I would argue, sir, that that should be happening. In some Forces the Deputy Chief Constable will sign certificates. In others, senior officers are used and it is alluded to here, a facsimile stamp authorised by the Chief Constable who will initial it. But he is reviewing the file. There is an issue there about whether that is appropriate or whether he should sign the certificate at the time of grant and then my own belief is that it should be a very careful decision with police involvement. I think when there has been no change in relation to the renewal stage, that raises different considerations as to whether that requires a police officer's involvement at that point. But I see no difficulty with the point you make, sir. All I am trying to register here is a question of balance.

Yes, you perhaps didn't mean to put it this way but one of the things you did say at the beginning of that answer was your experience shows that senior officers are signing certificates. Now, we have had evidence in the Inquiry of certificates being signed where that is the only thing the senior officer has in front of him. Now, what I am proposing to you is a situation where the whole history plus the result of the current Inquiry is before that officer who then applies both his experience and his judgment before allowing even the renewal, which is effectively a re-grant? - Yes.

Now, do you not think first of all that from a commonsense point of view that should happen and secondly that it is necessary for public confidence? - I think that is a point that requires to be reviewed. I think the issue of a certificate/

certificate is an important decision and I am not saying that the police should be excluded from that. All I would say to you, sir, is that from Force to Force practices may differ according to structure.

Well, we know that in recent times consideration has been given to setting up a Firearms Control Board and that the idea has been fully explored and has not been implemented. Are the police comfortable with the function of dealing with firearms licences? - Yes, I believe we are comfortable with the function. I believe it is a responsibility for the police and the Secretary of State as appropriate to continue to be responsible for the Firearms Act. I think there are issues underlying that where improvements could be made but that would stray into the evidence we have presented but I think it is quite clearly something that we should manage. I think even if you had a Board, sir, there would still be a requirement for local police involvement in the process and I think that was well rehearsed in the Home Office Study in that respect a few years ago.

One of the things that is said in the thematic inspection report at paragraph 1.8 is "Many members of the shooting public object to the fact that their pursuit of lawful sport or hobby is governed by Acts of Parliament which along with involvement of the police in administrative procedures are seen as placing too much emphasis on the criminal aspects of firearms use at their expense". Now, is it the police experience that there is any resentment towards them from the shooting public because of their involvement in the administrative process? - I think there is activity and lobbying by shooters who have a particular perspective on the use of firearms and that can manifest itself individually or as representative groups. I have had personal experience when I have made decisions of having complaints from individuals or from shooting lobbies about actions that have been taken within the Chief Constable's discretion. I think there is an active group of people there who would perceive they have a legitimate interest in sport and other life activities and that is articulated in active group.....

Yes, but overall do you think that there is/

is a good relationship between the police and the shooting public? - I think there is a good relationship. I think we strive to maintain a reasonable liaison with shooting interests.

Well, is that respected by the shooting interest in your experience? - I think in general, yes. In specific cases there will always be opposition to what we do.

Now, can I take you into a different area which is also dealt with in the report and I really want to try to get some specific factual information from you and that is the area of the use of technology? - Yes.

And we have heard reference on a number of occasions at the Inquiry to a Scottish Criminal Records check or an SCRO check? - Yes.

Now, what is the SCRO? - The SCRO is the Scottish Criminal Record Office. It is a service which covers the eight Forces in Scotland and provides a criminal history file, fingerprints and it is a database which serves the local requirements of the Scottish Police Service. It links into that development in England and Wales but in simple terms it is a criminal record database.

Is it centralised? - It is centralised, yes.

If I am an officer in England and I am doing criminal record checks, will that check take in the Scottish system? - You could do a check with the Scottish Criminal Records Office specifically but there is no database link as such. The PNC would cover certain records of an individual but the SCRO is the Scottish link. It is linked with Phoenix which is a system which is emerging from England and Wales and I think as technology evolves it will be a joint link.

At the moment if you are an English officer and you want to know about Scottish records you ask Scottish Records specifically and does the same apply in reverse, that if you are a Scottish officer and wanting English records you would have to go to the English Records Office? - You could ring up through the SCRO to have that.

Is/

Is that a check with English Records or is it the Police National Computer we are talking about? - It is being built up on a database with Phoenix. That is the English equivalent of our SCRO.

Is that something separate from what we keep hearing about as the PNC or the Police National Computer? - The Police National Computer deals with named individuals who are wanted, missing, suspected, disqualified drivers and stolen vehicles.

So it is dedicated to certain areas of police investigation work? - Yes, it is a national U.K. wide database.

That is separate, though, from the records that are kept in either England or Scotland? - Yes.

And we have also heard of the DVLA which is the Driving and Vehicle Licensing Authority? - Yes.

And they seem to have a part to play in checks that are made in relation to firearms applications? - Records for road traffic convictions are held by the DVLA. Disqualified drivers also go on to the Police National Computer. The DVLA is accessed by a form. There is no database link directly at the moment but that is being worked on.

From what you have said, can I take it that SCRO does not necessarily record road traffic convictions, even those including disqualification?
- There was a policy decision made many years ago that the DVLA would be a repository for road traffic convictions. There has been a recent review in relation to the recording of traffic driving convictions and the like with a view to putting them on a database in SCRO and work is progressing on that but there is access to road traffic convictions through the DVLA. It was seen as a duplication of data.

How/

How long does a DVLA check take? - A DVLA check routinely, because it's done not by data, but a form, can take up to three weeks, and if there is a very urgent check, it can be done by telephone, and it should also be borne in mind that disqualified drivers would show up on the PNC database.

Do you agree nevertheless that to get the complete picture of someone's criminal record in its widest sense, you really need to check up with all three of these sources? - Yes. I think any prudent individual, anybody doing a thorough enquiry would check with SCRO, PNC and DVLA, and also with such criminal intelligence as would be available.

Can I take it that all the Scottish Police Forces would have ready access somewhere in their establishment to those three sources -- in fact four sources -- including criminal intelligence? - Yes, there should be.

Does each police force have identifical computer equipment on which they record their own criminal intelligence? - No. The position with criminal intelligence, I think you have to take a step back from these particular applications, that the evolution of information technology in the police service has not been one of standardisation. There is an evolving information system strategy which will in future pull together on a common database in a more standardised way the applications in the police service in Scotland, but at the moment the three are localised. SCRO, however, does fulfull a reference point for flagging intelligence. Where intelligence is held on somebody who is on the SCRO database, then there is a facility to flag that so it can be identified to an enquiring force that there is another body interested in an individual and may hold intelligence on them.

But is there something to be said for aiming at a situation where criminal intelligence held by one Force is readily available whenever another Force does a check on a named individual with his date of birth? - Yes, that is within the on-going/

on-going strategy.

When will that be in existence? - That is difficult to predict at the moment, but it is being worked on over the next three years, and it is at a very advanced stage in terms of the outlined strategy to be developed.

And is that development confined to Scotland or is it a UK wide development? - There is a ITIS strategy for England and Wales. There has been joint working to see where there can be commonality, and at National Criminal Intelligence Service level, there is a growing UK database and exchange in relation to high level crime, but a lot of low level crime activity, local intelligence, remains to be linked, and that will, we believe, emerge with the developing ITIS strategies in England and Wales.

So eventually you will be able to make these checks UK wide from your own Force computer? -Hopefully it will go beyond that eventually and allow linked access as well in the much longer term.

If I check up with SCRO on a named individual with his date of birth, will that tell me whether he holds a Firearms Certificate? - Yes, there is a database. All firearms certificate holders and shotgun certificate holders are fed in by Force to a specific database and there is a designation on it against the Force of the type of certificate, so if someone from Dumfries and Galloway would show John Smith D and F if they had a Firearms Certificate, and if that certificate at any time had been refused or revoked, there would be a designation R against the individual.

So if he applies and was never granted a Firearms Certificate, that would be noted on the system? - Could you explain "never been granted"?

Yes; if a person applies for a Firearms Certificate and never gets one, in other words his application is refused, will that show up? - It should. If there was a formal process of refusal, that should be entered by the Force and that should be logged as an R.

That rather suggests that if it is withdrawn,/

withdrawn, having been made and withdrawn because of police objection or concern, it wouldn't necessarily show up? - I think within the process there will be a number of people who don't fulfill conditions in terms of good reason, and these applications may never in fact be progressed as formal applications, so it will deal with formal applications.

Does the police national computer tell me if I check there whether the named individual has a Firearms Certificate? - The PNC wouldn't; the SCRO register would.

So if I am responsible for recording someone's driving convictions of a fairly serious nature, drink driving, failing to stop, giving a false name, indicators of lack of trustworthiness, and I do this on a couple of occasions because he is caught a couple of times, and disqualified, and I enter that record, it will never be associated with the evidence that that person also holds a Firearms Certificate? - A disqualified driver would -- if somebody has a Firearms Certificate, and became a disqualified driver, then that should emerge as a part of either pending cases within the local record system or the SCRO system.

Let's say we have got past the stage of pending and there is a conviction, so presumably it disappears from the pending cases in SCRO and it comes up on PNC as a conviction and with a disqualification, that system doesn't at the moment reflect the fact that the convicted individual also has a Firearms Certificate? - For a road traffic conviction, it wouldn't at the moment. For road traffic convictions in the future, my understanding would be that when they are in-put to SCRO, the same configuration would apply.

I am concerned to explore the PNC a bit further. I take it that if a person appears on PNC as for example wanted for some offence, that's something you would expect the enquiring officer or rather the entering officer, the person responsible for the entry, to put into it if he knew it that that suspected person held a Firearms Certificate, or would that not be anticipated? - It may not be entered. It would depend on the circumstances, if it was seen as relevant to the situation.

It/

It sounds like something that automatically should go on. Is there some particular reason why it is difficult to do that? - No. I couldn't honestly comment on specific circumstances, but where someone was wanted and they were in possession of firearms, then I would expect that to be entered.

And indeed, a refusal or a revocation having occurred should also be entered. Do you agree? If the fact is known that a particular person who is wanted for something has previously either been refused a Certificate or has had one revoked.....? - It may in fact be covered from another direction because if the reason for revocation or refusal related to the individual's behaviour, there is a warning signal capacity that somebody is violent for example on the PNC, so it could surface in that direction, although not specifically related to the revocation of a Firearms Certificate, and could I just say that in looking at databases, the key in-put really for the firearms history has become the SCRO database, and that has many of the cross references which you described in fact.

The thing that I am exploring with you, and the reason I am exploring it with you, is that at the moment there is an absence from SCRO of a record of certain driving offences, including disqualification? - Yes.

I appreciate what you have said about that changing? - Yes.

But the situation has got to be dealt with at present? - But I think that it has to be seen in the operational context, that serious road traffic convictions lead to disqualification, and disqualified drivers are on the PNC database. That is a point within the configuration.

But the fact they hold a firearms licence or have had a licence application refused or a licence revoked, doesn't show up in relation to that conviction, and that, I am suggesting to you, is unfortunate? - Yes; I think there is scope for developing data on this.

If I can move away from that to the enquiring/

enquiring process itself, we have been looking at areas where clearly uniformity is desirable. When it comes to carrying out a firearms enquiry in relation to an application, is there something to be made, do you think, from a uniform approach throughout the country? - I think the aim has been to achieve that. The 1991 Report to which we referred earlier in fact seeks to promulgate good practice and states a set of standardised steps that our Forces are encouraged to follow.

So you agree that uniform guidance to enquiring officers, whoever the enquiring officers may be, in the longrun would be desirable? - Yes. I think many people would suggest that uniform guidance at present exists in the form of the Home Office Guidance Document, and allied to that, the good practice document that came out.

But when you get down to it, what you have to do as an enquiring officer is fill up a form or make a report of some kind to your superior officers, or whoever is going to make the decision; is that right? - Yes.

And we have seen examples in this Inquiry of forms that are used, the Central Police forms in particular, which are called RL3a Forms? - Yes.

Have developed over the period -- we have seen three sets of these forms during the Inquiry. It might be an idea to have front of you a blank one of these, which is D18L, which will be shown to you. It is in Volume 2 of L. Now, you have probably never seen this document, but my reason for putting it in front of you is to let you see that guidance is actually given to the police officers who have to complete the form; do you see that? - Yes.

Particularly Question 2 there, "What are the applicant's reasons for requiring the firearm(s) or ammunition for which the application is made? If for competition, applicant must be a member of a Club. If for sport, applicant must have land permission. Specify reasons for each firearm". The problem of course is that this is the guidance that is in the hands of the enquiring officer at the time the enquiry is being made, and no doubt it tends/

tends to take on a significance at that stage. Now, would it be helpful, do you think, if the form contained more guidance for the officer at that stage, or do you think it is adequate that the guidance is held in a big book that is kept in one of the police offices? - I think it is frankly very difficult to speak to the form out of the context of any training the officers had, or the accessibility of the Home Office Guidance. I think if somebody is doing an enquiry for a grant or renewal, the clear recommendation made in the Home Office Guidance is that this is a complex area and therefore the guidance should be made available to officers who are conducting enquiries. It is difficult to isolate the form from the background. I think anything that can be done to improve awareness and improve efficiency in any form is worthy of consideration, but I don't know the context within which Central would progress this and what access the individual would have.

I think in fairness to you, from what you have said already, if a civilian officer is making enquiry, the words on the form are largely unnecessary. You would expect him to follow a routine every time he did it, and the form becomes more important when you are looking at an enquiry carried out by whatever beat officer was available on the day to be assigned the enquiry.

If you look at that latter situation, do you think it might be very unhelpful to face that officer with a form which has limited guidance such as question 3 "Firearms held. Must be physically checked by Inquiry Officer". Now, do you think that sort of guidance could be misleading to an officer? Is that adequate, taken along with all the things below, which are quite detailed, because it leaves plenty of space to put in further information? - I think the intent is clear enough from the wording, that it must be physically checked by the officer to presumably verify it is of the make and calibre that is on the certificate. I find it difficult to comment beyond that.

So I take it that you have not got any particular thoughts on whether there might be something to be said for the guidance being incorporated in some more detailed way from the form itself? - The first point I would like to make is that I would find it difficult to criticise this form out of context.

I'm only giving that as an example? - The second point is, that as a principle yes, if you can improve the professional approach -- and there are ideas for that -- then they ought to be considered, and if a satisfactory form of summarised guidance can be incorporated, that is an option. The only point I would make is that guidance is probably no substitute for training, in having an awareness of what has to be looked at. It is one thing to have very detailed guidance for the Enquiry Officer, but if he doesn't know what is self-loading, manual or whatever, it doesn't compensate for that defect.

I see that. On the other hand, if you look at the first question, which is concerned with the suitability to hold a firearms certificate, the answer that is required is really yes or no? - Yes.

And the only guidance as to how you check up on that is a reference to PNC and SCRO computer checks? - Yes.

One would be worried would one not as to how/

how the Enquiry Officer would find out whether or not he was a suitable person to hold a firearms certificate? - I would hope a professional police officer at operational level would know there are certain issues of unsound mind and intemperate habits would prohibit someone from acquiring a weapon. I would hope they would have an awareness as to what that question meant.

Do you know if thought has been given recently to devising a uniform enquiry form such as this? - There has been consideration given within the Firearms Administration Officers' Conference from time to time regarding improving information forms, but whether that extends to the enquiry form I couldn't comment.

Do you know if Mr. Bennett would be the man to ask? - He may be more up-to-date than I am; he may have more up-to-date knowledge.

One of the big issues for renewal as well as grant is the good reason a person has for having a weapon. So far as this Inquiry is concerned, that is a reason for a handgun? - Yes.

Do you approach this on a general basis, in other words whether an applicant has a good reason for having handguns, or do you look at the situation in relation to each individual weapon as a matter of practice? - The law requires us to look at each situation on its merits. It is my understanding there is a fairly clear view that Chief Officers should not be seen to be fettered in their discretion. In practical terms, however, there is very limited cognisance given to reasons outwith being a member of a club for the use of or the possession of handguns. This in my experience would be limited to perhaps a veterinary surgeon, who requires a handgun as a slaughtering instrument.

We have had a number of witnesses at the Inquiry who have held a number of guns, not just one. What is the general police approach to persons having weapons for target shooting, more than one? - There is no general approach. The guidance is fairly explicit in relation to the number of firearms and ammunition, that each circumstance should be considered on its merits. There is no specific case that there is an arbitrary limit.

Does/

Does that mean that the "good reason" test should be applied to each weapon? - In my view in practice that would be the approach. If someone is involved in a range of shooting disciplines, as the law stands and as convention stands, if they can offer that as the reason for acquiring it it would in all probability in most Forces I think be granted, because "good reason" has been shown, and there is no concept in the guidance of an upper limit, on the proviso that conditions are met in regard to sufficiency.

In practice how does a police officer check up whether a person has a good reason for why he wants two weapons which seem to be the same? - That could emerge from an enquiry in relation to their membership and activity at the club of which they are a member.

BY LORD CULLEN: I don't quite follow that. How does an enquiry of the club help? - In the sense that the discipline they are using the firearm for is a legitimate practice at the club. I couldn't comment on someone having several weapons all of the same calibre for the same purpose.

Your starting point would be finding out if there was another discipline to which the second gun was related; is that right? - Yes.

Then you would need to check up that the club had got the facility and had practised that particular discipline? - That is correct.

What about the idea of a spare? - Well, again in individual circumstances that may be seen as legitimate, but if the gun is in for repair or there is some technical defect, if the individual is engaged legitimately in competition shooting he may be able to advance an argument for a spare.

Supposing there is nothing amiss with number one gun but he wanted to have a spare just in case. Now, is that legitimate? - I think it is difficult to say that it would not be. If the individual is a competition shooter and advances the reason why he requires those firearms to participate in his sport, I think most Chief Officers would try to err towards caution in allowing a large number of firearms to accumulate, but I do think it is difficult/

difficult to ascribe to those situations a lack of good reason. One of the big difficulties is that we would argue that there is some uncertainty as to what constitutes good reason in many circumstances. I think we would welcome clearer codification of what "good reason" might mean. There has been a proliferation of innovative shooting practices in recent years, which could well be regarded as legitimate shooting activities by the shooting interests that we mentioned earlier, and that has spawned a range of weapons that we have felt uncomfortable with, and from time to time points have been raised. But I think there is a lack of specification, and individual judgements have to be made.

Do you think perhaps as it is as slackly viewed as you say, that if you can justify the use of a weapon as a target shooting weapon, even though you have a couple of identical weapons, a police officer would find it difficult to say that was not good reason? - I think that would be fair comment in any circumstances.

BY LORD CULLEN: Just one point that you can clear for me. When we talk about "good reason" we seem to get into the area of need, but the guidance refers to the word "opportunity"? - In relation to the Act that is correct, it mentions "opportunity".

For instance, talking about a spare a moment ago you began talking about need? - That is correct.

Is that the criteria? Is it "need" as opposed to "opportunity"? - Well, I think that it may come down to both. It is need, really, in relation to other firearms, that someone needs a .22 rifle for vermin control. It is interesting that the guidance referring to handguns mentions "opportunity". We argue in our evidence that these instances ought to be dealt with in relation to justifying the need quite emphatically by raising the category of all multi-shot weapons to that of prohibited weapons, where the standard there would be very clearly need. They would have to justify a very clear need to justify a multi-shot weapon or a proliferation of weapons of that type in relation to target shooting. I think there is a practical difficulty/

difficulty in this area.

This is talking about the future: but taking matters as they stand, in relation to the first gun as opposed to the gun that is to be the spare, does the applicant require to show need? - He has to show reason, and "reason" arguably in an interpretive sense could be both. If your reason for acquiring the second one is to provide back-up to give him a slightly different technical advantage from a gun -- I am not a technical expert on firearms, but it is my understanding that shooters will tailor guns in certain ways to give them advantages within the same calibre, and an identical firearm may have technical differences. In both circumstances I would suggest they could be interpreted as reasons for acquiring that type of firearm.

Supposing the applicant wanted authority to process a weapon, and it was perfectly clear that he had full opportunity to use that weapon, but the information indicates he had not got the slightest intention of exercising that opportunity: what would the officer do? - In my experience, if someone is not an active shooter, in that situation we would not renew an individual's certificate. We would check at the point of renewal that there was still a certificate of membership, and if it came to notice that the individual was not active we would tend not to renew the certificate, because the reason would have gone.

So you would want to make sure he had not merely an opportunity but intended to exercise it? - Yes, that would be the test. I think, sir, there is perhaps a practical difficulty, in that if you follow the good practice memo No. 91, the inference there is that where circumstances do not appear to have changed -- where there is no notice of change in a person's circumstances -- it is entirely possible that an individual could have a lapsed activity. He or she could still be a member of a club, for instance, but albeit they have got a certificate of membership and that has been renewed regularly you would not necessarily know how active they were. This is why again -- I don't want to stray into the future -- that is why I think there is a weakness here in relation to feed-back from clubs and club activity, that people are still active/

active shooters.

What I want to understand is what is the approach today in dealing with applications, particularly in relation to the term in the guidance "regular opportunity". Do you say in general in Scotland that is taken as meaning that the opportunity is exercised? - I couldn't really say what is generally understood in Scotland. From my local experience, we would check that the individual was a legitimate member of a club, that they were active at the time of grant and at the time of renewal, that they were still members of the club, and I think that is as far as that enquiry would go.

EXAMINATION CONTINUED BY MR. BONOMY: Can I take it from that answer that if the person was still a member but was not actually shooting you are unlikely to find out at the renewal state the way things operate at present? - I think there is a possibility that could arise, unless the membership had lapsed, and there would be degrees of activity.

That may be because there is no real guidance given at the moment on the extent to which to check up on the applicant. There is no positive guidance that a particular check up should be made at the club on the shooting activity of the individual applicant? - No. In the other type of certificate, in the sense of any other category of use, whether it is a club or not -- we are focusing on the opportunity in a club as a general point at renewal.

For a handgun it could only be at a club? - Yes, absolutely.

Just one or two quite separate matters to try to expand our knowledge of the situation at present and what might exist in the future. A number of suggestions have been made in submissions about where weapons might be kept rather than at home. There are expressions of opinion that storing guns in one location, building up an arsenal of weapons at one location, presents certain risks. The police might be in a particularly good position to tell us what the risks are and how the police perceive these risks. Can you help us? - Our view is that the retention of handguns at home should be discouraged, and they should be stored on the club premises,/

premises, and clear guidelines as to how they may be transited between venues in secure circumstances. We raised the point in the context of what we would see as a reduction in the number of handguns. There is a counter-view from the Superintendents' Association of England and Wales that these represent a security risk if you centralise firearms and ammunition holdings in a club: but in context, we would see our recommendations would be valid in reducing the number of handguns being used, thereby reducing the numbers which would be centrally held.
We would also draw a parallel with firearms dealers, where there are significant amounts, significant quantities of firearms and ammunition held at fixed points and under secure conditions: but pending that we would recommend a proper and full evaluation of the security measures necessary both for dealers and for clubs, to ensure the maximum security. We would find that would be a valid possibility, removing handguns from the home.

Let's turn to the possibility of storage of the weapons at clubs. Taking account of the numbers involved does that present a significant risk? - We do not think it does, in comparison with the risk of firearms being readily accessible at home. We think the answer is to make the security commensurate with that risk, in the same way as with a firearms dealer.

What if an alternative approach was taken, and the guns and the ammunition were separated, so that the ammunition was stored at the club, presenting less of a security risk, and the gun was taken home? - That would depend on how you could clearly separate the ammunition from the firearm. I am not sure that is absolutely achievable.

Why do you say that? - I suspect that with home loading as currently exists there is an opportunity to acquire unregulated quantities of ammunition. You could never be absolutely certain that illicit ammunition might not be available for a firearm. There is the issue of carelessness within the system, and there is the issue of deceitfulness within the system, and there is another economy in relation to firearms beyond the one we are talking about, where illicit people may acquire ammunition.

I am concerned to some extent obviously about the use to which weapons and ammunition are put by criminals. If the proposal you are making of keeping guns in a club were to be implemented, what improvement would you see as a result so far as the prevention of weapons getting into the hands of criminals is concerned? - I didn't suggest that as necessarily an improvement in removing criminal use by diverting firearms out of criminal use. What we are suggesting is that it minimises the risk of aberrant behaviour by a recognised certificate holder in whatever circumstances. It is a public safety measure given, as we have discussed, there will be many people who so long as we have a regulated process, within the limitations of any process we may devise, whose behaviour may never be absolutely predictable and to that extent our contention is that where you have handguns I think there is a particular risk. If the users of handguns are continuing to argue a need for access to those weapons then I think our contention would be that those concealable weapons, those multi-shot weapons ought not to be in people's homes but to be at a well regulated point of control.

Do you see any criminal dangers posed by home loading? - I think there is a clear potential there. I mean, if people can acquire materials for making ammunition which is currently unregulated then anything is possible I suppose, sir, in that respect.

So it is not the home loading which is a problem? It is that people can acquire all the individual components without a Firearms Certificate? - I think you need to look at the question of home loading as a concept. If the individual meets all the criteria for a Firearms Certificate then there is a case for regulating it and thereby being a matter under control, where there would be notions of what the quantities ought to be and some means of control over that with regard to access to smokeless powder and the other components which would be transparently controllable or more transparently controllable.

Now, one thing I should have asked you about in relation to applications when we were looking at counter signatories was whether you saw any/

any advantage in applications for Firearms Certificates being publicly advertised before they are determined? - There are public interest benefits in the sense that in other forms of licensing, liquor licensing for example, the individual has to announce that he has the intent to acquire or vary the practice with licensed premises. If someone in a community street seeks to obtain a weapon then you could understand the argument that people in that community are entitled to express some kind of view about that.

I know, sir, and you might want to pursue it with my colleague, Mr. Bennett, that this was given some very serious consideration in the working group which produced our evidence but we were persuaded on balance it perhaps attracted more attention to the individual than would be desirable. The counter argument to that clearly is well, if the weapon is not in the house then there is less of a problem in that respect but on balance they felt it was not something that we would choose to recommend. That is not to say we would oppose it. We just didn't find any level of support advanced at this time.

But if the gun is not kept at home then the public notice that the person has applied really does not present an additional security risk and gives people an opportunity to express a view about his suitability? - Yes, there is no objection or opposition to it. It is simply the climate of the way that the view was formulated, sir.

Do you see any advantage in having what has been described as a Central Gun Register? - Yes, we advocate that. There is a case for looking very carefully at the whole process with regard to firearms manufacture, distribution and certification.

You spoke of databases earlier, sir, and the need for comparability and correlation. There is really no way at present that you can guarantee you were successfully charting the route of a particular firearm because of the absence of accurate serial numbers on weapons and on magazines and the fact that some transactions disappear in the web of dealerships. The fact that people can perhaps go from site to site with knowledge of the shooting location being universally shared and we would see, sir, that careful evaluation of that type of/

of register which would link in the real history of a firearm from manufacturer to the break-up, with all the points of certification and transfer ought to be part of future strategy.

But would that help? - It would help, sir, because really we are going through a process of regulating individuals and specifically weaponry without any real reference point to identify weapons throughout their lifetime. There is a gap in the information system regarding that whole process. There is no way of knowing at the moment for sure just how many firearms globally are in circulation. If we are looking at issues of public safety then we would feel that there ought to be some notion of the sort of ceilings there might be in relation to the circulation of firearms. It is a difficult task to be able to assess just how many weapons globally people would have as technology stands.

There are two obvious problems and no doubt there are many more but one is that there are no unique serial numbers at the moment for weapons? - Yes.

Now, would that present a problem to having a Central Gun Register? - Only, sir, if there is not a will to overcome that problem. I mean, if the assumption is that is the way it has to be because the manufacturers operate that way then clearly there is a difficulty but if as part of any reform process improvements are made in identification of firearms then that problem would be overcome.

The other obvious difficulty is at present there is no means of keeping track of transactions of firearms where a dealer purchases a firearm, is that right? - That is the point I was making, sir, that there would be a reference on an individual certificate when a weapon was acquired by an individual certificate holder. That would be part of the arena we would see being embraced within a National Register.

Does the dealer record in his register when he has purchased a firearm? - It is my understanding that transactions are logged day by day.

But/

But he doesn't need to report that to the police? - Not at the point of transfer. It would be picked up in inspections of the log if they were looked at.

BY LORD CULLEN: Are you suggesting what is on the log would come on to this register? Is that right? - If an individual certificate holder goes to a dealer, sir, and transfers his weapon to that dealer then the dealer will in fact have that recorded as a transaction.

Yes, I appreciate that but are you suggesting what the dealer records ought to appear in the register in some form or other? - Yes, the new register?

Yes, on this new register we are talking about? - Yes, for completeness of the transfer of firearms.

EXAMINATION CONTINUED BY MR. BONOMY: The only other question I want to ask you about is something which is mentioned again in your submission and that is a problem you see in relation to the British Visitor Permit scheme. Now, there has been introduced a scheme for European Firearms Passes? - Yes.

Now, can you help us identify the particular problem? - Yes, very briefly sir.

It is at 2.2.261 of your submission I think? - Yes, if you bear with me just a moment. Can you give me a page reference, sir?

Page 59? - Thank you. Yes, there is a document known as the European Firearms Pass which every resident within the European Community should obtain from his local police if he plans to transit firearms around the European Community but there is no real control over these movements within the Community apart from Britain and that is because of an over-arching scheme, the British Visitors Permit. Now, the British Visitors Permit is required for everyone visiting the U.K. who wishes to bring into the country firearms. Its application, sir, would be for example to shoot on estates where shooters from the Continent might come in the season as tourists for shooting as recreation. In order to allow/

allow them to bring their weapons with them then a sponsor can obtain a permit from the local Chief Constable and that would specify the weapons they were entitled to bring.

So you are saying that is a good thing? - We say it is a good idea because if we try to ensure public safety and control there is a lack of harmonisation of definition of weapons throughout Europe and weapons in the shotgun category that we have raised to Part 1 status or indeed prohibited status may well be freely available in other countries and in our view it would be anomalous if people could enter Britain and use firearms and types of firearms in ways which we would never address as good reason for certificate holders in the U.K. So for that reason, in simple terms we argue that that is an over-arching scheme and the British Visitors Permit has some merit in extending the standard form of regulations to the use of firearms in the U.K., being a higher standard of control than simply a pass which allows the shipment of weapons around the E.C.

Do you accept that has to be a question of how the Directive is actually interpreted and what it actually does achieve? - Well, I'm not an expert on European law but I have an understanding that much has yet to be done in achieving harmonisation within the Directive.

Is there evidence of weapons coming into the country because of the European pass scheme that would not normally be held by a person resident in this country? - There are examples of multiple action shotguns being brought in as shotguns when they should be Part 1 firearms and being used for example for killing geese when we would not regard that as a good reason for acquiring that type of weapon for that purpose.

BY LORD CULLEN: Just one or two matters before you are further questioned. You were asked some questions about the Scottish Criminal Records Office. Am I right in understanding that the records we talked about so far are concerned with individuals but they do have a record of firearms that have been lost or stolen, is that right? - That is correct, yes.

And/

And how is that arranged? Is it by reference to the serial number or how is the information displayed? - It would contain such information, sir, as is available regarding the weapon, its type, its calibre and its serial number.

And presumably location? - And its source of origin, yes, and the nature of the theft.

And that would obviously be used in the question of crime detection? - Yes, that is correct.

As far as the idea of a national database of firearms, is the main purpose of that to do with crime prevention or crime detection? - I think it would have a bearing on crime prevention. At the moment for example it is being linked to more rigorous controls elsewhere but someone could for example with a shotgun simply destroy the weapon, claim they have destroyed it and we would never find it again. It may have gone into the illicit economy on the criminal side. We see it as twofold, sir. From the public safety point of view, which is the primary reason behind our thinking, it would give absolute control of the routing of a legitimate firearm from the point of manufacture to the point of legitimate destruction and we would hope that is thought through conceptually. It would provide a deterrent for syphoning off firearms into the criminal economy and it would also give us a much more accurate measure of the range and types of weapons that are in circulation which we sadly lack at the moment.

Do you see it as supporting the process of certification that you discussed earlier? For example, if a gun turns up and it is known that somebody has been the holder of a Firearms Certificate in respect of that gun, may that be of some assistance in dealing with that particular case? - In the sense that there is an aberration with regard to the use of the firearm and the certificate?

Yes, supposing it is found out that a particular gun is used in the commission of a crime in one part of Scotland and it might be possible I suppose to find out that somebody is holding a certificate in respect of that? - Yes. I mean, that/

that could be helpful, if not directly evidentially, from an intelligence point of view in the investigation of that case, sir.

Would that register we are talking about at the moment refer to Firearms Certificate holders? - We would see it being a complete relational database which would link a record of firearms to their current location and that might be a dealership, it might be that it has been destroyed. It might be that it is with a certificate holder so you would have a composite network of information which would embrace the whole firearms community.

So it would contain amongst other things information as to the name of the current holder in respect of that? - Yes, we would visualise it in that form.

Would it be possible to interrogate that register in order to find out whether a named person was in fact the holder of a firearm or would that be tackling it the wrong way round? - It would then almost become a kind of population database but the database should be capable of identifying people who are Firearms Certificate holders and because there would be a cross transferrence of information, we see it as being a database from which a number of applications could be drawn. We have not, to be frank, and I think this is brought out in our evidence, explored the mechanics of it, the complete functionality of it. We see it as a concept which could add some worthwhile part to the overall control of firearms.

You see, in addition to the suggestion of a database of firearms, I have also heard a suggestion there should be some national database of persons who either hold or have held or have applied for Firearms Certificates or the like, including people who have had them refused or revoked as the case may be. Now, that is not what we are talking about at the moment? - To take regard of that, sir, yes.

Do you see a use in the idea of a national database of persons who have been in some way or other linked to the Firearms Certificate system, whether a holder, a past holder, revoked, refused and so on? - There could be merit in it. My initial/

initial response to that, particularly from the point of view of having a national history with regard to those who have been refused or revoked, I think that could be helpful because people are grouped around the country from time to time as they move and it would be a much more accurate database than has hitherto been available.

Can you tell me anything in relation to the point about what kind of information is held by individual Forces? I imagine that most Forces hold information about Firearms Certificate holders on computer, is that right? - Yes, most Forces now do. I think one till recently didn't have it but I think that is at an advanced stage. I think that is an interesting point, maybe worthy of note, that the guidance from the Home Office does not suggest any standard approach to record holding and I think also it is fair to note that perhaps advances in this area have not gone as fast as they should have because of the diversion of consideration of the Firearms Control Board in the mid-1990s but Forces have got administrative databases which will provide a register of Firearms Certificate holders, Shotgun Certificate holders and we have a knowledge of the certificate system whereby serial numbers, calibres, etc., are available within each Force.

But does the database include information about those who have had their Firearms Certificates revoked or refused? - I couldn't give an absolute answer to that, sir, because I don't deal with specific applications. Ours would be a purely administrative database but it would be, if I could define it, a dead record section which would give us any cross reference check but I couldn't speak with any authority for the other Forces.

If we were thinking about the future, what records on each firearms holder are they capable of communicating to each other or is that not possible? - At this point, no, but when I was speaking to Mr. Bonomy earlier I did mention the Scottish ISIT strategy and that is certainly very much part of the plan there, that there will be firearms applications which would allow for interaction across the Forces.

Are the systems in fact compatible at the moment? - They would not necessarily be compatible at the moment. I think it depends on the hardware and/

and the software. Most of the information is by far, probably in the vast majority of the time entirely of local interest. The vast majority of the data would not necessarily need to be cross-transferred but we could see I think as a professional service looking to the future that there would be an advantage in having that facility.

Can I take it that as between one Force and another there would not necessarily be a uniform approach as to what records should be held and in what form? - No, because there has been no standing point of guidance in relation to that but I would think that there would be a degree of commonality since certain of the information is fairly self-evident, sir.

Do I take it from what you have said that you would expect moves towards uniformity and inter-linking? - Yes. I think that it is the policy of the ACPOS to advance a strategy of uniformity and commonality which will give us a common benefit.

CROSS/

12.00 p.m.

CROSS-EXAMINED BY MR. CAMPBELL: I think you have the joint submission before you? - Yes.

I understand you are not able to take us through this document and I don't intend to take up a lot of time on it, but can I ask for clarification of one or two recommendations? - Certainly.

In the submission, could you turn first of all please to Pages 70 and 71? - Yes.

At the top of Page 71, the second recommendation is that "The law be changed so that all applications for a Firearms Certificate for a handgun for target shooting be granted for single-shot .22 inch calibre weapons only". The next recommendation is that "All multi-capacity smooth bore guns be raised to the prohibited category"? - Yes.

There is then a reference to Section 5 of the Act, and then the next recommendation is that "All multi-shot pistols be raised to the prohibited category". Bearing those recommendations in mind, can I ask you also to turn to Page 48? - Yes.

Here, the submission has been discussing Clubs and the like, and at the bottom of the page, we read the following recommendation -- "All semi-automatic weapons and ammunition (whether belonging to the Club or a member) be stored at the Club"? - Yes.

On the face of it, it may be thought -- I am really just asking this for your clarification -- it may be thought that there is an inconsistency between on the one hand the recommendations at Page 71? - Yes.

Which raised multi-shot weapons to the prohibited category and prevent Firearms Certificates for such weapons for target shooting? - Yes.

But on the other hand, making your recommendation relating to the storage of such weapons at the Club? - Could I perhaps explain? I/

I can understand the ambiguity on first reading. What we are recommending is that semi-automatic weapons, multi-shot weapons, be raised to the prohibited category and thereby need would require to be demonstrated to the Secretary of State for acquisition of such weapons. Were such approval given in limited circumstances, I would presume that would relate presumably to the target arena at shooting Clubs, then our recommendation follows that those weapons could be stored at home, but if people agree with our view, they should be stored with the other weapons at the Club, so that is the logic of it, that we are saying raise the multi-shot, multi-capacity weapons to their prohibited category, and if they are granted, their storage would be on like terms with the other handguns at the Club.

Would you envisage perhaps stricter controls in relation to what would amount to a good reason to have use of a semi-automatic handgun for example? - Yes. I would think that is very much in the mind of the Associations and the group, that the majority of Olympic sports, as I understand it, revolve around .22 weaponry, and as I understand it, almost exclusively could be fulfilled with a single shot weapon. I also believe that some international shooting competitions which are not of Olympic standard have diversified in the nature of events, and it is that particular area, I believe, that the greater capacity for a weapon is more likely to be needed, so I think it would be fair to say that we envisage that there would be a much greater restriction on that type of.....

Would this be part of the scheme to bring about a reduction in the overall number of such weapons in our society today? - That's the view we took. Our reasoning, if it is helpful, to the Tribunal, was that we debated the case for an absolute ban within the Group, but felt that there was a group of people who, for legitimate sporting purposes, could argue a reason to acquire a handgun. We then looked at that and thought what the standard ought to be, and it is achievable -- a balance is achievable if we limit it to .22 single-shot weaponry rigorously controlled with the safeguards, and that greater capacity weaponry be raised to prohibited status.

So if we revert to the top of Page 71 to make/

make sure that I am following the suggested scheme, the second top recommendation is that "All applications for a Firearms Certificate for a handgun for target shooting be granted for single-shot .22 inch calibre weapons only"? - Yes.

Does that in effect mean that private ownership of firearms or handguns, if I can put it that way, would be so limited, and if one wanted to use a semi-automatic weapon for target shooting disciplines which required such weapons, then you would require to use a weapon owned by your Club? - In effect, that would be the case.

And it would follow that that weapon would require to be stored at the Club? - Correct.

So the effect would be that private ownership of handguns would be limited in accordance with the recommendation at the top of Page 71? - That is correct, yes, to the individual certificate holder, yes.

So in terms of weapons overall, that would mean, would it, that you would envisage private ownership being limited to shotguns, some form of rifles presumably, and handguns as defined as "Single-shot .22 inch calibre weapons and" only? - Yes, of which we believe there are approximately 500 certificated at present of that type as opposed to, I think, 10,000 handguns in total.

So you are seeking to bring about a change in that ratio? - That is the aim, yes.

In terms of rifles, what form of types of rifle would be permitted in terms of private owernship under this scheme? - In relation to rifles, there is a residual category of multi-shot rifles which ought, we think, to be in the prohibited category. I couldn't give figures for it, but we would say that the type of rifle would be the type of weapon that is legitimately used at the moment for sport in relation to deer; by the farmer in relation to vermin; with the types identified there, those multi-shot types of weapons, similarly being taken into the requirement to prove need against a prohibited category of firearms.

Moving away from the specific terms of these recommendations and bearing in mind that there are/

are those who take a different view and would contend that private ownership and possession of handguns should continue much as present, one then requires to address, does one not, any appropriate changes in the present system of regulation and control of such handguns, and the ownership of them? - Yes.

Would you agree that any system which seeks to provide public reassurance in the light of the allowance of private possession of handguns at home, any such system should be a rigorous one? - Yes. I think there are two points, if I might make them? Firstly, I think about 2 per cent of the population or less involve that particular group to which you refer, so we would argue that some form of balance in the equasion needs to be carefully considered with regard to where priorities lie in respect of future regulation, but if that balance falls somewhere between what we propose and others would argue for, then clearly we have argued for some time that reforms are needed in the Firearms Regulation and Control, and improvements are required.

Let's assume just for the sake of discussion that in the future, private possession of handguns at home is permitted, plainly the objective of any more stricter controls or stricter regime which may be brought in would be to improve the prospect of preventing another Dunblane tragedy? - Yes.

And the essence of that, I take, it, would be to improve the prospect of identifying people who may do these awful deeds? - Indeed, yes.

Putting it shortly, the system, any system requires to address the potential for other Hamiltons in our society? - Indeed, sir.

I don't think anybody in this Inquiry has suggested that it is possible to identify a system which will prevent another Hamilton on the assumption that private possession is permitted? Would you agree with that general statement? - I think it is very difficult. I think human behaviour being what it is, it is a sad fact that unimaginable aberrations can arise, and if there are opportunities for access to weapons, then that can have tragic consequences.

But/

But no doubt if we could proceed on the hypothesis which underlies this whole line of questioning, that private possession of handguns would have permitted semi-automatics and what have you, then given the need for a rigorous system with a view to improving the prospects of identifying unsuitable people before something terrible happens, the essence of any such improved system, as I think you have indicated, is based upon more rigorous checks, perhaps more frequent checks; is that correct? - Yes. I think it is open to consideration that in evaluation of the future requirements, we would contend that a five yearly turn-round is far too long a period to elapse before there is some structured review of someone's status with firearms, and we would recommend three years, as was the case until recently.

But on any view, any new system which seeks to improve the prospects of identifying another Hamilton before it is too late would involve a more pro-active regime, a more expensive, more time-consuming and a more extensive regime? - Yes: and it would mean we would argue more active players within the community who have a contribution to make.

Even then, even with these more pro-active people in the community playing their part, more regular checks, greater efforts being taken, even then the potential still exists for the same thing to happen again? - I believe it is impossible to predict human behaviour to that level of precision. You cannot absolutely guarantee that an individual is not going to indulge in some extreme act, as long as they have access to firearms; that potential must always exist if they have free access to any form of weapon.

So this may be another factor pointing in support of your submissions proposal severely to limit the nature of weapons held at home? - We believe so. I don't want to say this in any callous sense, but what we are really saying is that if something aberrant happens, at least we have reduced the capability for the most extreme consequences by limiting access to single shot weapons.

Moving/

Moving the discussion on just a little, you told us earlier or we discussed earlier various Home Office-inspired proposals for change before Dunblane occurred, for example postal renewals, doing away with counter-signatories and the like. Does that suggest that by the early 1990s the memory and effect of Hungerford was beginning to fade already, by that stage? - I think there are those who would contend with some justification that the expectations of reform post-Hungerford were not fully realised in relation to the categorisation of weapons and the fulfilment of obligations with regard to certain types of shotgun, for example.

We point out that there has been a need since Hungerford for some far-reaching reforms.

The Firearms Consultative Group was set up after Hungerford, and the two ACPOS members of that submitted proposals in mid-1990, very similar to the proposals we have submitted here. Whether the images of Hungerford have faded I could not comment on. We as professional police officers can point to the fact that I think there has been a momentum towards improving administrative efficiency, which has had a greater priority in our meeting, than underlying issues of regulation.

You alluded to the costs of processing the Firearms Administration as absorbed by the Police Force. That is a costly process. There is a cost which is there. You can appreciate at one level the desire to make this system as administratively efficient as possible, therefore, but our concern would be that that has to be matched with an underlying concern that there is also regulatory effectiveness matching that administrative efficiency.

So you would understand that there may be a concern that if private possession of -- let's limit it for the sake of discussion to semi-automatic weapons. If private possession of semi-automatic weapons continues to be permitted, the counter-balance is some new improved, more rigorous regime by way of checking and the like, and you would understand the concern that in years to come, any immediate impact or effect of Dunblane might begin to fade, and administrative efficiency may once again come to the fore? - I think we have no difficulty in arguing for radical change.

Our whole presentation is based on the need to grasp the nettle once and for all, and if we are/

are to have a society which has access to firearms as part of its culture then that has to be very positively weighed against the perceived public safety, and a real change has to be engineered, and if costs are attached to that then that has to be borne within the system.

I think our evidence would fail if it did not achieve some recognition of the underlying need for that kind of change such as we propose. I do not think anything from our professional perspective which is perceived as half measures or incremental change would satisfy public safety, nor match our professional aspirations.

Would you agree, without in any way wishing to minimise the desirability of proper checks upon those who have access to firearms, that any move away from home possession towards more centralised storage of weapons perhaps along with a reduction in the overall number of weapons, in addition to being potentially safer might well be a cheaper system than would otherwise arise? - It certainly could be cheaper from a public expenditure point of view. It may be costly to the practitioners.

The parallel we have drawn in our evidence is the concern in relation to football stadia from a public safety perspective post-Hillsborough. We think there are some issues here that have to be made, that if there is a cost to be borne than that is part and parcel of this process of change, and that should be borne, where the cost needs to be met.

In that context I think you are probably referring perhaps to a passage in your submission, your joint submission, at page 47? - Yes, sir: paragraph 2.2.187.

Perhaps you would be good enough to read out the three bottom paragraphs, from 2.2.185 at the bottom of that page.

LORD CULLEN: Perhaps I can say something at this point. I have been concerned to try and bring about a situation in which the arguments on either side are carried essentially in writing, and Mr. Bonomy has led his evidence in order to deal with certain practical considerations. I would be anxious if your cross-examination developed into something/

something other than that. I think it is best if we try to deal with this essentially in writing and concentrate on practical considerations, or possibly a question on clarification.

MR. CAMPBELL: I was not going to go into the matter in any detail.

LORD CULLEN: Otherwise we might as well turn the whole Inquiry into an oral examination.

MR. CAMPBELL: Thank you, sir. Is your lordship content with what I am doing at the moment?

LORD CULLEN: I'm not trying to close you off on any particular point, but that is the line I would propose to take.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Perhaps you could read the bottom three paragraphs? - Yes. Number 2.2.185 says "Scotland has a population of 5.1 million. At the end of 1995, there were 32,300 firearms certificates and 68,888 shotgun certificates on issue, a total of 101,100 certificates. Some of these will hold both types of certificates, so the total 'shooting community' in Scotland will be less. Shooters therefore represent less than two per cent of the population".

Paragraph 2.2.186. "Words such as 'inconvenient', 'uneconomical' and 'impractical' seem to us to fly directly in the face of the public safety principle, particularly today when the focus is not simply on ammunition but also on the firearms themselves."

Paragraph 2.2.187. "Following the Hillsborough Stadium Disaster in 1989, and the subsequent Inquiry by the Right Hon. Lord Justice Taylor, football clubs were ordered to bring their stadia up to certain standards. Questions of convenience, economy or practicality were cast aside. 10 years on, our football stadia are some of the safest world-wide, and the rumblings of bankruptcy from certain clubs in having to implement the new measures have not materialised. We draw a parallel here to show that radical change can be introduced despite orchestrated protests from vested interests, if public opinion is strong enough and Parliament so decides".

Is/

Is that the passage you were referring to a moment ago in the context of the Hillsborough disaster? - Yes.

In the next paragraph you make reference to the compulsory storage of firearms and ammunition at gun clubs, and you say that you are convinced that this is what the community at large want, and that they quite rightly want to feel safe and they want their children to be safe from the Ryans and the Hamiltons of this world, and the Parkhills? - Yes.

Who is Parkhill? - Parkhill was a young man who became involved in a firearms incident in Glasgow in the early 1990s. He had a history of possession of firearms on a certificated basis from a fairly early age, a shotgun certificate at 16 and a firearms certificate at 17. The evidence suggested that under the influence of drink he had an argument with someone, took a handgun from his home and started firing it in a public place, I think in the middle of Sauchiehall Street.

Now, that was a fairly dangerous incident. I think one person was killed and some others were wounded as a result. He then committed suicide.

You were asked some questions about the storage of weapons in a centralised place, by my learned friend Mr. Bonomy. I would like you to elaborate on one answer you gave to him, if you would? - Yes, sir.

You indicated to him that certain types of weapon could be confined to club premises, then I noted you as saying "With clear guidance regarding transit between venues", or words to that effect? - Yes.

So we are to understand that the shooter, his weapon is stored at the club, and then presumably he is going to shoot at some other venue? - Yes.

What did you have in mind by "Clear guidance regarding transit between venues"? - We make specific recommendation in the report to the fact that we see these weapons being secured in transit, and that there is some means of ensuring that/

that it is for a legitimate reason when the firearm leaves the club premises.

We also in our appendix outline certain conditions in relation to clubs, and these are but an embryo of conditions.

There was a feeling within the Group that there was scope to elaborate on the control of weapons in transit between competitions, without having anything more specific to say than that.

I ask you this specifically, because we may hear evidence to the effect that this whole idea of centralised storage of weapons at gun clubs is a waste of time, because somebody such as Hamilton would simply pick up the gun from the club, and instead of going to the intended shooting range or other club simply go and carry out the murderous deed? - Well, there will always be a risk attached. But if there is controlled access to firearms within the more rigorous control of clubs I think we would almost have had in mind something akin to our own requirements that a police officer has to have authority to withdraw a firearm, and that is controlled.

I think we would envisage that there was some control measure within the club that would govern access to the firearm, so it was not a question, as has happened in the past, of someone having taken a firearm from a club to use at their own -- that is the kind of thrust we see, without having a codified set of proposals.

Finally, picking up a point raised by my learned friend Mr. Bonomy in the context of the potential for theft of weapons from some centralised armoury, has there been any consideration given to any benefits which may flow from disabling weapons in central storage by removing part of the firing mechanism? - That was one of the points we made. We recommend that there is a structured view of national standards for security of weapons in clubs.

CROSS-EXAMINED BY MR. TAYLOR: When an applicant for the grant or renewal of a firearm certificate submits his application to the police, the police will not know whether that applicant has approached several people to be his counter-signatory and has been refused; is that fair to say? - That is correct. That is one of the disadvantages we see in the present system. There is/

is really no way of knowing at present as to how someone has come to be the counter-signatory. They would not know either necessarily that they were part of a queue, so to speak.

Three or four other people or more could have previous declined to counter-sign the application in the appropriate manner? - That could have happened, sir, yes.

Do you therefore see any merit in there requiring to be some declaration by the applicant that the person who has counter-signed is the only person who has been approached? - I am sure there is a value in that, that could be linked into an improved system of counter-signing referees, yes.

Taking it a little further, in the event of a false declaration being made, there being specific provision, might that lead to revocation or refusal of registration? - Yes, I think that would be a useful sanction to consider, so that there is real meaning to the process: but it does add value in a regulatory sense to the whole process.

You were asked some questions by Mr. Bonomy in relation to what constituted good reason? - Yes.

And in fairness to you it might be of benefit to you if you could have a copy of the Home Office guidance before you, which I think you will find in L Volume 2, and it is D1 of that Volume: have you got that? - Yes.

Can you have a look please at paragraph 6.8(e), which you will find on page 69? - Yes, sir.

I think that was the passage to which you were referred when answering questions in relation to "good reason"? - Yes, sir.

If an applicant states that he has an intention to shoot when his application for renewal comes up, do Police Forces generally to your knowledge carry out any checks during the currency of the certificate to ascertain if the intention is in fact being exercised? - There would be some follow-up I would think in my experience at the time of/

of grant, because for a time the individual would be in a probationary category. At the time of renewal, however, I think it would be fair to say that provided there was some current membership, it would be not usual for any further-ranging enquiry, although the individual would be seen in my own Force, and there would be a home visit, and there would be some guarantee elicited that he was still a member. Not only would the membership certificate be there, but it is my understanding that on one such occasion it was established that the individual was a dormant member, because the certificate was not renewed.

As things currently stand, however, if the "good reason" lapses between grant or renewal there is oddly no facility for revocation, as I believe the Tribunal is aware.

As a point of practice there would be a routine visit in my own Force to the individual, there would be confirmation he would be still a member of a club, but I would say it would not be usual for the club to be visited just to validate just what the level of his involvement would be, if he still appeared to be a bona fide member.

BY/

BY LORD CULLEN: But would he be asked whether he was active as a member? - That would be usual in my experience, that he would have a current membership certificate and as part of the validation process at that time the enquiry officer would be expected to at least confirm with the particular applicant that he was in fact so engaged.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: If at renewal an application indicated that he had not shot in the preceding five-year period because of domestic circumstances, pressure at work or similar but he still intended to shoot and wished to have the opportunity to shoot in the subsequent five-year period for which he was making application, would that satisfy the criteria for good reason? - I think again I can only localise that rather than make a general statement but I think we would look carefully as to whether good reason still in fact subsisted against those circumstances and as to whether in fact the certificate should simply not be renewed and whether points arise where the individual felt that he could operate a gun in a legitimate way considering the fresh application but such is the nature of the Act and the process I would be at pains to say that all of these things, if they arise, would be considered on their merits. My reaction to the hypothesis you gave is that we would look closely as to whether there was still a sustainable good reason for the certificate continuing.

Let's for the sake of the discussion postulate that the person had not shot for five years and indicated that he still intended to shoot. Or let's even change it and let's say he didn't intend to shoot but he said "I want the opportunity to shoot in the next five years". If I have understood you correctly, the officer who was making the enquiry would say "Do you intend to shoot?" and if their applicant is being honest, he will say no, he doesn't intend to shoot but he wants the opportunity. You would in those circumstances refuse the application? - No, what I said, sir, was that we would look carefully at the validity of the continuing good reason. If he was not actively taking the opportunity to shoot, if he was de facto a lapsed member, a dormant member, of a club, we have in the past revoked.....not revoked but failed to renew their certificate. If there was an argument,/

argument, and again I am being hypothetical and just trying to be practical at the same time, if there was an argument that he intended within the five-year regime against those circumstances, my advice would be to ensure that that intention was fully validated. That would certainly be my view in these particular circumstances.

How would you validate that interpretation? - Then I think you would have a follow up with the club and the individual.

And what would you do if the intention was not materialising? - If the intention was not materialising, there is a difficulty in law in as much as, as I said, there is no power to revoke at present and that anomaly needs to be resolved, so I think there has to be almost good faith on both sides that that reason is going to be fulfilled.

Taking an extreme situation; where an applicant says "I don't intend to shoot, I simply wish to have the opportunity to intend to shoot and I thus have joined a club and I am a continuing member of that club", how would you be able to refuse that application for renewal within the terms of the guidance? - I think there is a difficulty if there is a strong argument from the individual that he wishes to exercise an opportunity because that is almost a practical impasse I would say.

So as long as the applicant indicates a desire to retain the opportunity to shoot and is a member of a club to demonstrate that he can fulfil that opportunity, you don't really have very much option but to grant the renewal? - There is not a lot of option but I think you have to not automatically go to renewal. I think you have to look more fully at the circumstances and you would look behind that statement with the scope to seeing how tenable a view that had been. If he had been inactive throughout or he had not acquired any of the weapons he sought to acquire then I think there is an issue there on the validity of the application. That is a personal view. I don't say that any other person would necessarily subscribe to that but it de facto seems as a dormant member and he is hanging on to authority to acquire a particular weapon with no clear intentions to acquire it, I think there is a test of good reason. That is a personal view. But if he is intending to exercise/

exercise the entitlement that is conveyed in relation to the condition and the guidance, as you pointed out at (e), "Has regular and legitimate opportunity to use the weapon for target practice", I couldn't quote any case law on how that has been interpreted but this document is a guidance document. It is not a mandatory document. That has to be understood and as a Chief Constable I would certainly look behind the rationale of this individual before I would renew his certificate in any circumstances.

BY LORD CULLEN: Of course, the passage we are looking at, which is 6.8(e), really begins by telling you what you are not to do? - Yes, it should not be granted unless he has regular and legitimate opportunity.

But it doesn't tell you what the test is to be? - No. Going back, sir, to the point that was made earlier. There is an absence of definition of good reason.

It is a bit unfortunate there is so much discussion about what is meant to be a guidance document? - Yes, that is a fair point, your lordship.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: If the applicant had authority to possess and did in fact possess say three or four guns of different calibres, would you expect the enquiry officer to ascertain if the applicant was making use of each and every one of these weapons? - I think there is a need to demonstrate good reason for each of the weapons. In practical terms, that is with the applicant and enquiry officer. Again there may be a practical difficulty in wholly determining the extent of use. It might become obvious from exchanges in relation to ammunition for example. That might be one guide to it but there is I think again a practical point of good faith in relation to the applicant and the degree to which the enquiry officer can go behind that issue.

Because there would not be any way of checking whether or not a particular firearm, a particular gun, was being used by the applicant on a regular basis? - Not conclusively. Not conclusively, I don't think.

Because/

Because whilst clubs may keep checks on those shooting there from time to time, would I be correct in thinking they do not keep checks on the weapons which are shot on any occasion? - I wouldn't think there was any definitive record of that. My colleague, Mr. Bennett, will be able to cast more light on that particular question, though.

RE-EXAMINED BY MR. BONOMY: On the question of the private ownership of weapons, are you actually suggesting that people should not own their own weapons, quite apart from the question of where they are kept? - This, sir, was in relation to the automatic weapons and having them raised to the prohibited category.

Well, I am also thinking about what you suggest would be available target shooting weapons in the ordinary course, that is the .22 weapon. Are you suggesting they should not be in private ownership? - No, I didn't suggest that.

That is all I wanted to be sure of? - No, for clarity, we saw them being certificated but we see prohibited weapons perhaps to be in a slightly different position.

GRAHAM BENNETT, (53), Sworn,

EXAMINED BY MR. BONOMY: Are you the Depute Chief Constable of Fife? - Yes, I am.

How long have you held the post you presently hold? - Five years.

How long have you been a serving police officer? - 33 years next month.

Can you take me through your years of service please. Just a short summary? - Yes, I was a beat constable for three years and then I was a Traffic Officer in the Patrol Department for four years. I was then a detective constable for four years and then with 11 years' service I was promoted to detective sergeant. I was then after three years promoted to uniform Inspector and after a further one year I was promoted to Chief Inspector and then I was Chief Inspector in a sub-division for three and a half years and then I was promoted to Superintendent/

Superintendent rank for 11 months and then I became Chief Superintendent in 1984 as Divisional Commander for the Western Division of Fife Constabulary. In 1987 I was appointed to the post of Assistant Chief Constable in Fife Constabulary after having been Divisional Commander for three and a bit years. Then in 1991 I was appointed to my present post.

Now, has your whole service been in Fife? - Yes, it has.

In your present post do you have particular responsibility for firearms? - I have.

What are these? - I am the officer who is responsible for the issue, grant, renewal, revocation, refusal and consideration of all matters in relation to firearms and shotguns.

During the rest of your service did you have any responsibility in relation to firearms? - Yes, as Inspector I was responsible for firearms administration in a sub-division. As Chief Inspector I was responsible for the overall firearms administration. Then at Superintendent level and Chief Superintendent level in the absence of the Depute when I was the Assistant Chief Constable.

I think you are also a member of the body known as ACPOS? - I am.

And you have held the Chair, is it, of a sub-committee in connection with the particular subject we are dealing with, the submission they have made to the Inquiry? - That is correct, Mr. Bonomy. I am Secretary of the General Purposes Committee, my lord, and that General Purposes Committee deals with firearms issues and by virtue of my position on that Committee, which I have also held for five years, I was asked to Chair its working group on the joint submission of evidence to Lord Cullen. I also Chair the ACPOS sub-committee which is called the Administration Officers' Committee and that committee is, as I said, a sub-committee of the General Purposes Committee and we deal with matters relating to the administration of firearms in all Forces. We meet six monthly and I have some of the Minutes of these meetings with me if Mr. Bonomy wishes to see them or if Lord Cullen wishes to see them.

What/

What I want to do just now is to ask you about particular issues and the practical problems that arise from them and the first one I want to ask you about is the enquiry form that is used by Forces when they are making enquiry into an application for the grant, renewal or variation of a Firearms Certificate. Has any recent consideration been given to the idea that the forms used should be uniform throughout the country? - Yes, we have been in recent weeks looking at this but we have not taken this on board yet, Mr. Bonomy, and we think it is required to be taken on board and to have a standardised application filling in form for all enquiry officers, whether police or civilian.

The forms obviously pose certain questions or at least the ones we have seen pose questions. I take it that is in itself fairly uniform? - Yes, it is.

In your experience do the forms provide much guidance to the officers about the enquiries they are making? - Not really, no.

Do you think that is one area in which the forms could actually be improved? - Yes. We do for example in my Force have civilians. Our Department for the grant and renewal of firearms and firearms administration is totally civilianised so in the selection procedure we ensured that the people we chose had a previous life with an interest in guns or knowledge of guns and weaponry and explosives preferably but I do think there is a need for a checklist of questions to be asked instead of just the Yes or No situation.

So we are looking for more specification basically in the answers and more specification given in the guidance to the officer asking the questions? - That is correct. I have to add that while the checklists are mainly Yes or No there is nothing to preclude the officer, a police officer or civilian, from putting any further concerns or information alongside the Yes or No.

I think it may be recognised that the more experienced the officer is in relation to firearms the less guidance he might need but I'm concerned at the situation at the moment where in many Forces it is the beat constables who are being asked to conduct/

conduct these enquiries. Now, as long as that remains the case do you see force in the idea there should be more guidance given on the enquiry forms? - I do, yes.

Now, I intend to move on to the issue of appeals and the approach you take to appeals.

MR. BONOMY: Sir, that might be best dealt with in the afternoon.

LORD CULLEN: Yes. We will resume at 2 o'clock.

After/

2 p.m.

After an adjournment for lunch.

EXAMINATION CONTINUED BY MR. BONOMY: As I said to you earlier, we will return to things which could give rise to an appeal, and I am thinking of refusing an application or revoking a certificate. I think in your present position, you have responsibility for taking these decisions? - I have.

How long has that been the case? - Five years as Deputy, and in the absence of the Deputy Chief Constable, between 1987 and 1991.

Before we actually get into refusal or revocation, can you tell me whether there are circumstances which do arise during the life of a certificate, in which action may be required, but that action is not revocation or refusal of an application for renewal, but it is something shorter really? - Yes; on occasions a file is brought to my attention by the officers under my command which gives them cause for concern, and sometimes when I look at that file, I issue that person, the applicant or certificate holder, with a warning letter.

Can you give me an example of when you would do that? - If the shotgun or firearms certificate holder, if it is brought to my attention that he has sustained a minor conviction or for example for drink driving with a low alcohol level, or for example if he has been convicted of a small breach of the peace, a minor breach of the peace, or an assault which is not serious, that has been disposed of probably in the District Court, and alcohol was not a tremendous issue, I would probably consider having regard -- I would look at all the papers and I would look at his previous record, and if his previous record was unblemished, I would consider giving that person a warning letter.

What sort of thing does a warning letter say to him? - Warning letters -- I do them fairly regularly, and it outlines that it has been brought to my attention that he is the holder of a certificate number such-and-such, or a firearms certificate/

certificate number such-and-such, and it has been brought to my attention that on such-and-such a date that it was reported to me that he had committed a minor offence or committed an offence, or had done something which was not conduct which I expected of and someone having a shotgun or a firearms certificate, I would bring it to his attention that if there was any further abberation on his character or if he sustains any further convictions, I will without any further hesitation revoke his certificates.

One of the issues that is highlighted in the ACPO S and the joint submission is the distinction between renewal and revocation in relation to the question of a good reason, in other words you cannot revoke someone's certificate just because he has lost his good reason. In your experience, has that presented any practical difficulties in administering firearms in Fife? - The whole question of good reason causes me as a Chief Officer considerable difficulty, but I think what you are getting at is that at this moment, if someone is a member of a gun club, that he doesn't go shooting, and he has a firearms certificate, I cannot remove or revoke his firearms certificate because of lack of good reason, and in our evidence, we would wish that to be changed.

But have you come across situations where you felt you should be revoking it because of the departure or the loss of the good reason, but you have been unable to do it? - Yes, I have come across circumstances.

That is a practical problem? - Not an everyday problem, but it is a practical problem.

Now, there are obviously a whole variety of circumstances in which you might decide to revoke someone's certificate. Can I ask you, however, whether you have in the past revoked certificates because of behaviour which did not amount or which did not result in a conviction, but which you considered was such that revocation was the appropriate course? - I have, yes.

Can you give me any examples of that type of situation? - Yes; I have two or several examples I brought along with me, and I will not use names, but in 1993 I had a person applied for a shotgun/

shotgun certificate, and he had previously held a shotgun certificate and did not renew it in 1986. The man was 70 years of age and I was not happy with the attendant circumstances of his application, and this, I said, was for a shotgun certificate. I had considerable enquiry made and had statements noted from all police officers who had been involved with this person, and he was a cat lover, and he had told police officers in previous years -- it had been noted in Intelligence and mentally -- that he was going to one day get a gun licence back and shoot these dogs that were tormenting and had killed one of his cats. However, that was in previous years, and in 1993 he applied for, and the police officer, a constable, made enquiry, and reported to me that he was not happy that this chap could provide a good reason for having possession of a shotgun, and one other supportive factor was that a member of his family was not totally overwhelmed with happiness that he was applying for a shotgun, and then the next stage was that I gave an Inspector an instruction to go and see him and discuss the matter with the applicant, and the Inspector then reported back to me that the applicant was short of breath; he lived up a stair; he had not sufficient -- in his opinion, in the applicant's opinion, he had sufficient security, but the Inspector's report indicated to me that the security was totally inefficient and insufficient, and the other factor to be considered was that he was breathless and he was very agitated when the Inspector challenged him about why he needed this. The end of the story was that I refused to grant him a shotgun certificate and subsequently went to an appeal before the Sheriff Court in Dunfermline in 1994 with this case, and I was asked to give my considerations, and I said that that was because he was 72 to 75, 72 years of age, and he would be 75 before the expiry of these certificates; he was breathless; he was anxious, agitated, shaking, and he was not then fit for his age, and I gave my evidence, and the police officers gave their evidence, and the Sheriff made a pronouncement that I had not acted improperly.

There is a number of factors in particular obviously that justify the decision you took. Do you have even from memory any examples where either refusal or revocation depended solely on someone's conduct, but there was no conviction? - Well, the one I have just spoken about was on conduct./

conduct. It was not on a conviction.

But it sounds as though, in addition, it depended on his being unfit to be entrusted with a firearm, and possibly because he was dangerous? - Yes.

And he didn't have a good reason either? - Correct.

So there were a number of factors there? - But he still felt so passionately about the fact he wanted a shotgun certificate that he took it to appeal. I had another one regarding a man from another part of the Force area who again previously held a shotgun and firearm certificate, and every time his life went into crisis, he did something; he tried to commit some form of injury to himself by taking of tablets or by taking of something else to hurt himself when a crisis came in his life, and he was diagnosed as having bipolar disease, which is a form of controlled schizophrenia, and he surrendered his firearm and shotgun certificate when he had one of these crises in his life some years ago. He had several warning letters from the Deputy of the day away back in the 1980s, so in 1983 he had filled in a form requesting renewal and he had said that he had suffered from no form of mental disorder, and as Deputy Chief Constable, I would like to say to you that I believe that this is a particularly difficult question because I have to satisfy myself as Deputy if someone suffers from a form of mental disorder, do they appreciate that they do suffer, or do they care to admit that they do suffer, so I had to consider this, is he aware that he suffers from a form of mental disorder? Anyway, this chap applied for a shotgun certificate some years later in 1993, and I refused it on the basis of his previous life, which I have described to you. The constable's report said that the applicant was not in a fit mental state at this moment to be the holder of any weapon, and he felt it was unlikely in this situation that this would change in the foreseeable future. However, his doctor, who I engaged to tell me in confidence -- I got a certificate signed by the applicant to allow me to approach his doctor -- his doctor said that he was under prescribed medicine for his illness, and at present -- I underline at present -- his mental state is stable and is under regular review, and that he was of the opinion/

opinion that he could have a certificate, and I then could not come to terms with that by virtue of the fact -- the doctor then agreed with me if he failed to take his medication or if he ran out of medication, or if any crisis happened in his life, what did I have to do then, so I then went to my police surgeon, and the police surgeon, while she did not examine the applicant, she was able to give me a diagnosis that the bipolar disease is a disease which you have for life, and she would not have recommended that someone get a firearm or a shotgun certificate, so on the basis of that, I refused these applications for certificates from this applicant, and it was again going to a Hearing, and on the day of the Hearing, his solicitor withdrew the application for appeal to the Sheriff at Cupar, and that was that one finished.

Is it common for you to want to get additional information from doctors? - I now regularly consult the police surgeon about additional information about mental illness or mental problems.

Are you entitled to go asking an individual applicant's doctor about his background? - Only with a mandate signed by the individual applicant.

And apart from the case you have just told us about, have you sought on other occasions mandates from applicants? - On the odd occasion over the last five years.

And have they always agreed? - No.

What I am concerned about, as you will appreciate, is to try to identify circumstances in which in your experience you may have had to act on the strength of material you couldn't substantiate for sure. Have you any experience of doing that? - I have experience of trying to do it, but for a variety of reasons, have been unable to do it.

Can you help us then with an example of that? - Well, I know only of the Hamilton case, the Dunblane case, which I have learned from colleagues and learned in the paper, so I have not a deep knowledge of it.

Lay/

Lay that aside and try and give us an example of the problems that you have faced trying to deal with unsubstantiated material which is to the detriment of the applicant or certificate holder? - This is a painful area for all senior police officers. When I get a file to me on the basis that you have just described, I always return it to the enquiry officer with a list of questions asking for further enquiry to be made, and it's not being awkward; it's just a case of trying to gain every aspect of criminal intelligence or anecdotal stories or anything that can help me to make a judgement, but on occasions, whilst I have been unhappy to grant or renew, I have had to grant and renew because my gut feeling has not been corroborated by other evidence which would have been of help to me to take the thing through revocation or refusal.

Say for example you had information from officers that someone was suspected of committing an offence with a firearm, but you had no hard and fast evidence of that, would that be enough for you to make a decision? - That's a situation where -- was there corroborated evidence that he was suspected?

No? - Was he a person who made an allegation that the person pointed or presented a gun at him? Was he a credible witness? Was she a credible witness? I would have to go into all the aspects, for example.

For/

For example, I must use the test of fairness and reasonableness, and I have to look at every aspect available to me before I make that determination. If evidence is uncorroborated it might be someone trying to make things difficult for the applicant at grant of renewal.

Does the prospect of having to face up to a reassessment or a consideration of the position by the Sheriff affect your judgment at all? - It does not affect my judgment, sir.

In what circumstances would you expect a Sheriff to interfere with a Deputy Chief Constable's decision about a Firearms Certificate? - Only if the Deputy Chief Constable or whoever signed the certificate has in the Sheriff's opinion acted in an unreasonable fashion. I personally have not had a decision overturned by a Sheriff.

Could I turn to something else? Access to homes of applicants when your officers are investigating applications: are they entitled just to turn up and demand entry? - No, not at this moment.

Would you like the officers to be in a position to do that? - That is one of the parts of the submission from our Association, that we would like our officers to be able to make spontaneous visits.

Now, I know that on occasion this happens. If the officer has made an appointment with the person's spouse or his girlfriend and that person has not handed on that information to the applicant the police officers or civilians in our Force can turn up at an unguarded moment and find things they are not happy with.

What advantages do you see from being able to insist on entry? - The advantages are that the applicant or the person who is having the visit is not in a position to have everything locked away, if he is careless and not professional in his mangement of his weaponry, ammunition, he can leave things lying about, he can leave things behind doors, he can leave things in a state of readiness instead of having his weapons properly locked away and safe.

At the stage of carrying out such an investigation in relation to either an application to grant or to renew do your officers make contact with the clubs at which persons interested in pistol shooting actually do their shooting? - My officers do, yes.

Do they always make contact with the club? - Yes.

What is the purpose of that? - It is to check if the applicant for grant or renewal is in a position to be allowed access. Is he a probationary person at the club, has he finished his probation period, has he turned up regularly? Is he a regular shooter? Is he okay? Do they know him? I know that the records of these clubs are not as we wish, and part of our submission is to tighten and improve that. We have approved clubs and clubs that are not approved. Approved clubs can provide ammunition, and.....

What would be the advantage to the police if all clubs were approved? - At the moment we have a good idea, but we do not know the unapproved clubs. In relation to a person like Hamilton, if we tightened up rules and conventions for approved clubs a person like Hamilton if we still had unapproved clubs could go along to an unapproved club and gain access to the weapons legitimately held at the club and use them, and we would not know anything about it.

Is there not always someone associated with a club who is a Firearms Certificate holder who is responsible for the weapons? - Yes.

Are there any clubs in your area you do not know about? - That is the very question I was addressing to myself this morning. I don't know; there could be.

BY LORD CULLEN: You were asked some questions about the right of entry for police officers, and I think you were in favour of that? - Yes.

Would you apply the same coment to civilians? - Yes. Civilian police staff? I would.

At/

At the moment I have got the police officers with me. For example, if a man is alleged to have beaten up his wife and we know that officers going there have a knowledge that this person is a Firearms Certificate holder, if this person has committed a fairly serious crime we would want them to take possession of his weapons at the time.

Now, sometimes we take civilians along with police officers, and the police officers use their powers under the Police (Scotland) Act to take these weapons under their powers at common law to make sure this person cannot do any further harm to anyone in the house, and I instruct that these weapons should be taken possession of at this time. Recently I applied to a Sheriff for a warrant to take weapons.

You are in favour of some form of right being applied to civilians as well? - Yes.

That would require some new statutory powers? - Yes. Under the Police and Magistrates Court Act through this Firearms Consultative Body we made recommendations to the Scottish Office a few years ago.

Prior to the Police and Magistrates Court Act, if civilians found a weapon in one part of my Force area he had to get a police officer to convey that weapon to Police Headquarters.

That Act has now been changed to allow that civilian to convey these weapons. We would wish civilians to have the powers to take possession of weapons on entry.

EXAMINATION CONTINUED BY MR. BONOMY: How do you envisage the improvement of records kept by clubs to help the police? - There are several areas I would like to see improvements in, and these are -- at the moment there is something like 10,300 handguns in Scotland, and if Parliament or Lord Cullen supports our recommendations that would come down to about 500 odds, we estimate, single-shot pistols. We don't see this as being a change overnight; it would be a change over a substantial period, to bring firearms clubs into line with our proposed new legislation.

We would say that single-shot weapons, people with multi-shot weapons would want to have a variety of other single-shot weapons, so the number of weapons would go up from 500, but it would certainly/

certainly be substantially reduced from 10,300.

We feel that proper records would allow us to know how often a person with a Firearms Certificate shoots his weapon, how much ammunition he uses with that weapon, and I would want an accountancy position in the records, that the Secretary or someone with responsibility within the club would count ammunition, the same as we do in firearms training at the moment, where we count out the ammunition, and P.C. Bloggs gets 100 rounds for his training, and he has then to produce the shells from the weapon he has fired, and they are counted back in. We would want the same control on rifle clubs and pistol clubs.

In connection with appeal procedures, do you feel that the present powers to remove weapons pending a decision on appeal or revocation are adequate? - No, they are not adequate.

Why is that? - I would like Parliament through Lord Cullen to give us the power to remove these weapons, and to send a letter to the person I suspend -- I would like the power to remove these weapons at that stage from that house or that building.

The letter you wrote is to what effect? You are talking about revoking the certificate? - I am talking about suspending it, suspending the person from carrying out further hobby or sport with his weapon.

Does that happen at present? - I do that at present.

What happens to the weapons at that stage? - He is supposed to hand them over to a firearms dealer.

And if he fails to do that? - Usually they do. On an odd occasion I have had an assurance from a solicitor that the weapons would be safe and not be used until the next stage of the procedures took place. So I would like powers to take these weapons at that time.

Now, I would like to be clear about the area we are in. Is the course you would simply take not simply to revoke and require the holder of the/

the certificate to hand in or surrender his weapon? - I revoke before the person goes to court on the charges he is alleged to have committed.

Do you have the power of suspension of the Firearms Certificate? - I suspend the Firearms Certificate until such time as he or she, the police officers, can finish their enquiries for a few days, then I assess the situation, and I then revoke.

Is that something you can only do with the co-operation of the individual applicant or certificate holder? - That is correct.

BY LORD CULLEN: You have no legal powers to suspend; is that right? - No. I don't want to revoke, however, until I have made sure that there is evidence for me to proceed with revocation.

EXAMINATION CONTINUED BY MR. BONOMY: We have heard some evidence about this sort of procedure already; it is not unique to you. You are suggesting at the moment you would need the co-operation of the individual who satisfies you that his weapons are securely out of his reach pending your decision? - Yes.

We have heard it suggested that in at least one Force arrangements might be made for weapons to be handed in to a firearms dealer? - That is what I encourage the person involved to do.

Do you see there being some advantage in there being a power to suspend while you are finalising your enquiry? - Sometimes there is a fairly substantial period of time. We have one ongoing at the moment where another investigation team for example from another discipline called at a house in relation to another enquiry, and they were so concerned about what they found in that house regarding weaponry that they came along to me. I then sent a team of officers along.

I was in a great dilemma: "Do I take these weapons?". The person was depressed. "Do I leave them at home with him?". I gave my officers a letter to take these weapons until they sorted out what he legitimately had.

Now, we had a tremendous job sorting out which were real weapons, which were replicas, which was homemade ammunition, which was live ammunition and/

and which was false ammunition.

What powers were you exercising in giving that letter for the purpose of removing these? - Under the Police (Scotland) Act, to prevent further public disorder or crime.

Now, Mr. Cameron suggested it is to you I should direct any questions I have about advertising applications. If a person applies for a Firearms Certificate and there remains the possibility that he can keep the firearm at home -- if we just assume that for the moment -- is there some risk in public advertisement of an application that it simply draws attention to the fact that that house has a gun in it? - The Police Federation, the Superintendents' Association and my Association had considerable difficulty with this in our debate. We discussed it for a long time. We came down and said "Yes, we must look at this, but in the risk of criminal activity, looking at the papers, particularly the local papers, to see who was making application, and the weaponry, the benefits of that might be outweighed by the disbenefits, and we recommended that should not happen.

So you were in favour of not recommending advertising? - Yes.

Would the position be different if guns were kept not at home but at clubs? - Absolutely.

I take it there is some benefit in informing the public so if anyone has an objection on the basis of character, for example, they would be able to state it? - If our recommendation was taken on board by Lord Cullen and Parliament that weapons should no longer be kept at home, it would be probably an advantage for people to have to advertise in certain circumstances, to tell the public, their neighbours, etc., that they were applying for the grant of a Firearms or a Shotgun Certificate. The main criterion we were considering was that we did not want criminals to be aware of where even under proper security weapons could be held.

There are a number of provisions in the 1968 Firearms Act which provide for the possession of firearms without holding a certificate: there are/

are various exempt categories. If a person becomes a prohibited person because of a conviction is he also prohibited from possessing firearms under one of these exempt categories? - I am not quite sure what you are getting at.

You know there are various people such as auctioneers, slaughterers, theatre and cinema performers and also persons connected with ships and aircraft who may possess firearms without certificates? - Yes.

When a person is a prohibited person, cannot get a Firearms Certificate, can he hold a firearm under one of these other provisions, albeit he would be prohibited from having a Firearms Certificate? - I am sorry, I should know that, but I don't know.

Forgive me for asking the question. I thought it was contained in the joint report, but I may have misunderstood.

Do/

2.40 p.m.

Do you have the joint submission there? - Yes.

If you have 2.2.197, it is certainly touched on but it may be it is not put in the way I was inviting you to address it? - Page 49, 2.2.197?

Yes. In any event, we call all consider that for ourselves later. Thank you, Mr. Bennett? - Thank you.

CROSS-EXAMINED BY MR. CAMPBELL: Just very briefly; you were asked certain questions by my learned friend, Mr. Bonomy, in the context of the kinds of circumstances which might prompt you to revoke a firearms licence or refuse to grant one. I don't want to deal with this in detail with you but rather talk about the general topic in the generality if I may. Witnesses have given evidence at this Inquiry to the general effect that in the absence of something hard and fast or in the absence of criminal convictions or in the absence of something which will stand up in a Court of law, that kind of thing, it is difficult to refuse an application for a firearms licence. Assuming that that kind of impression or view is held, can you help me with this; is there a general approach in police forces that an individual has a right to hold a firearm or to obtain a firearms licence, a right which must be rebutted by hard and fast evidence or however you want to put it? - Well, that is a long question but the fact of the matter is that I can't speak for what other Depute Chief Constables or Chief Constables do but in my Force area I don't feel a difficulty.....there are very difficult decisions to be made but I don't find a difficulty in worrying about an appeal, I don't find a difficulty in worrying about the cost of that appeal. I look at all the evidence that I can possibly get and possibly collate before I make a judgment but sometimes because of all the attendant circumstances, and just by virtue of the fact someone is a vexatious complainer about the police and different things, it doesn't allow me to have sufficient evidence in my mind and my own gut feeling to corroborate that to revoke or to refuse renewal or grant of a certificate.

Is/

Is that to an extent based upon a view that you have to have sufficient evidence which will in some way rebut a presumption that any individual is entitled to apply for and gain a firearms licence? - Yes. Well, if an individual meets certain criteria he is entitled to be granted that shotgun licence or firearms certificate and the two cases I went through with Lord Cullen and Mr. Bonomy did have sufficient grounds where I felt that I had a clear duty in my role as police officer in charge of Fife's firearms, a clear duty for the protection of public safety and the peace, to do what I did.

In your evidence you indicated, and I am sure we all understand this, that in considering these matters you had a duty to act fairly. Can I ask you this; fairly towards whom? - Yes, I have a duty to act reasonably fairly to the public out there, to my police officers and to the applicant.

Would you understand a view that if a senior police officer has a gut feeling that somebody is unsuited to have a firearm, weapon, in his lawful possession then it is unfair to the rest of the public who are at risk from this person that that should not be regarded as something to revoke his licence? - Well, I have got to say that on occasions I have gone against recommendations for refusal from officers under my command and the question is it is a test of reasonableness and a test of fairness.

Of course it is very difficult to talk about this in any other way other than the generality because would you agree that one man's unsubstantiated allegation is another man's clear evidence? - That is correct. Absolutely, yes.

So would you see any value in consideration being given in the course of any reform to making it clear, maybe if this was thought to be the correct approach, to making it clear that in considering whether to grant a firearms licence, in considering whether to revoke a firearms licence, when considering whether to renew a firearms licence, the only question is the suitability of the person and the other criteria and that that matter is not to be viewed in the context of any presumption in favour of the individual having the weapon? - Well, again I think that that is one way forward/

forward but, you know, we would like to see it much simpler but I don't know if it is as simple as that.

CROSS-EXAMINED BY MR. GIBB: Just one point that arises out of your earlier answers. You mentioned several times the question of corroboration. Is it your view that you do need some form of corroboration before you will find there is substance to information you have? - It is my view that it does not need to be a witness for corroboration. Corroboration, as you well know, can be derived from many aspects and facets but the fact is you can actually end up with a situation with credibility and you can actually end up with one to one, the applicant denying that he ever did a certain thing and yet an allegation being made by someone and I would look for some form of corroborative evidence to identify the fact that the person who is making the allegation could be believed. That is what I was meaning.

Let's assume someone makes an allegation and there is no conceivable source of corroboration of any sort but you are satisfied that the person giving you that information is giving you truthful information. Are you not entitled to rely on that without insisting on any actual corroboration in law? - Yes, if what you are saying is correct, that the person is a completely reliable person and can give very good evidence to the effect that he or she saw a specific incident, I would have to take strong cognisance and consideration of that.

We have heard a lot of evidence in this Inquiry about some need for corroboration but I think you would accept corroboration in fact is itself a red herring? - No, it not a red herring. If, and I use anecdotal hypothesis, if I received evidence that one person was everything you are saying, was entirely credible and this, that and next thing, that would not necessarily allow me to believe that I had to believe that person's side. I have to consider the other person's side. I have to try and draw a distinction. Is there disharmony or acrimony here between the two? What caused this person to come forward with this? I don't think it is a red herring. I think in terms of fairness I still require to look at all the aspects.

You talked about the question of....

you/

you were properly asked by Mr. Campbell about the question of fairness? - Yes.

If in fact you have an applicant who categorically denies something happened and you have from one source and one source only, one credible and reliable source, that something did happen which the applicant denies, are you entitled in your view to accept that uncorroborated evidence and for instance refuse certificate renewal or revoke the certificate or do you take the view in that event where there is a clear one to one that the presumption must be in favour of the applicant? - Well, with that very bold statement there I find myself in a dilemma but I would look at the previous papers pertaining to that file and having regard to all the circumstances the probability is that I would probably have to come down on renewing the certificate in favour of the applicant.

I can't help feeling there is confusion in the evidence we have heard about the question of substantiation of evidence as opposed to corroboration and there has been often the suggestion that without corroboration of something then there was no substantiation which would justify revocation or refusal to renew? - Well, my personal view is that I take a fairly strong line with grants, refusals and revocations. I have a consistent approach and a strong line. In the narrative you have indicated to me about one against one, I would have to be very careful. In fairness to the applicant I would have to be very careful that I did not err.

So even if your gut feeling was against the applicant, you would probably feel you had to grant? - Well, I have had a few gut feelings in five to seven years and I have had to grant them, yes.

CROSS-EXAMINED BY MR. TAYLOR: When somebody makes application for a firearms certificate, what do you find in the most common reason he gives for wanting to have such a certificate? - Gamekeepers and farmers which cause me less problems than others.

I am sorry, it was a badly framed question. I mean the firearms certificate to enable/

enable him to be in possession of handguns? - I beg your pardon. Mainly target shooting. If someone applies for any other reason I don't normally grant it.

And where does the applicant normally carry out his target shooting? - Approved ranges.

And upon the application being made, what steps does your force take to ascertain if the applicant is a member of a Club? - Well, we normally call on the Club. I would say on all occasions I would demand that they call on the Club and see if this person has joined the Club, if he is coming up to the criteria the Club set, is he doing a probationary period and follow it up from there.

And when that person's application comes up for renewal and if he is able to furnish you with a membership card say and a phone call to the Secretary of the Club confirms that membership has been maintained, do you need to take any further steps? - Well, it is more than just a phone call. The phone call ask and elicits several questions. Is he a regular attender? Is he a good shot? Is he complying with the disciplines in the Club? Is he trying to better himself or is he just going through the motions? We can get a lot of intelligence back from that.

Is this something which has recently been introduced into your force following the events of the 13th March? - No.

When enquiry is made at the Club do you ascertain what guns he is using at any time? - Well, no, this is a problem again because sometimes I have had to issue firearms certificates for people for three guns for one discipline and that does not rest easy with me but sometimes they make arguments that you may have a gun for 25 metres, you may have a gun for 50 metres and the sights are zeroed in for that discipline and they need a gun for a spare gun and as you will see I think from the Home Office, Scottish Office, evidence that sometimes they make arguments that one person could have up to seven guns for one discipline. Now, I have these people in my force area and I am not particularly happy with that but when I phone or my staff phone the Clubs, the Club can't tell us what guns are being used/

used at the moment but I think we should have a register that tells us that guns A, B and C have been used regularly and gun D has not.

What test do you consider the guidelines give to police forces as to what will constitute good reason to have a firearms certificate? - The test is I have got to look at.....

Would it help you to have the Guidance before you? - Yes.

It is document D1 in Volume L? - Is the person unfit.....

I hope my question was restricted only to good reason and not to any of the other criteria which are set out? - Does he meet the good reason?

We will assume the Chief Officer of police is satisfied he is safe to have a weapon without being a danger to public safety and the peace and he is not of intemperate habits and he is not of unsound mind and he is otherwise fit to be entrusted with firearms so he meets these criteria. What do you consider the test to be to satisfy the one remaining criterion which is that of good reason? - I haven't found it here but the test that I can.....

If you look at Page 69 you might find some help. It should be Paragraph 6.8(e)? - Yes, regular and legitimate opportunity to use that weapon is the test that I adhere to and is in the Home Office Guidelines. Is that the point you are making?

Yes, so your interpretation is that it is regular and legitimate opportunity to use the weapons which are set out in the firearms certificate? - Yes. What I am not happy about is sometimes the number of weapons that these shooters say they require to carry out legitimate and regular opportunity. I think that they don't need so many weapons as they do but I am bound by the law to meet the application if they meet all the other criteria.

If the test is whether or not an applicant or a holder seeking renewal hss regular and legitimate opportunity, why does it become necessary/

necessary to carry out a check as to whether he has been regularly shooting? - Because up until now people in Clubs, people who are responsible in Clubs, have not been phoning the police and telling us they have persons who visit their Club or a specific person has not been attending regularly or has not been shooting regularly and I think it would be a benefit to us if the responsible people in such approved Clubs were made to come back to us and say that such and such a person has been acting different lately, such and such a person has not been here for some time and in fact we have told a certain person not to come back. We don't have control of these things at the moment.

There are two things in there though, aren't there? There is whether or not the person has been shooting responsibly on the range and you would perhaps want to know about that in order that you could satisfy yourself that he is fit to be entrusted with a firearm. Is that an understanding? - Yes.

But if I have understood your evidence correctly, you also make enquiry to ascertain if he is making use of the Club? - Yes, we do.

And I was wondering why you seek to identify use given that all that one needs, looking at the Guidance, is to have a regular opportunity, a regular chance.

LORD CULLEN: I am not sure he quite says that is all that is required?

MR. TAYLOR: I will take out the "all".

LORD CULLEN: I think it is quite important we establish with the witness whether that is the exclusive test or whether it is something in the test.

MR. TAYLOR: I take your point.

3 p.m.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: You heard the exchange with Lord Cullen. Can you say what you consider to be the test or tests which would apply when considering whether somebody has met the "good reason" criterion? - The officers who are carrying out the enquiry on my behalf, my briefing to them is, are they legitimately using this club on a regular basis to go and carry out the discipline of target shooting. If the person joins and then does not pay any attention to his shooting in the future, that causes me concern. If the person develops into a Clint Eastwood type character I would wish to know that.

We have these people who want as a big a gun as possible, to shoot as big a target as possible -- preferably moving -- and to make as big a bang as possible. These are the tension indicators I wish brought back to my enquiry officers.

People can go for years to these clubs, and at the moment if we don't make contact with the club we get no intelligence back as to how they present, when they are performing in the target area.

I can understand how you would want to identify a Clint Eastwood character. If someone was applying for renewal and it was established that over the five year period they had not made use of the facilities of the club for four years and nine months, but during the preceding three months they had shot quite frequently, by which I mean once a week, what would you do in such circumstances? - That particular circumstances has not arisen to my knowledge, but what has arisen is that I have found out that people have not been shooting for a while, and I have caused enquiry to be made to see, and confirmed that on some occasions they have been working away from home, they have been working abroad, or it has not been possible for that person to undertake their chosen sport in Fife. I have satisfied myself that they still complied with the terms and spirit of the Act.

For example, if a man works on the oil rigs the period of time can be sporadic. It can be three months he is there, three months he is not there, and we have to take that into consideration.

If/

If over a five year period someone had indicated to you when making application for renewal that they had not shot during the period of their certificate just expired, but they still intended to shoot in the future and wished to retain the opportunity so to do, what would your position be in those circumstances? - Again that is a very difficult question. In my opinion, if he met all the criteria and was giving an assurance he was going to be shooting in the future it would be very difficult to turn him down.

If at the conclusion of the second period of the certificate he indicates to you he is terribly sorry, but he has been unable to shoot for the preceding three years once more, and the reason was pressure of work, domestic circumstances, etc., and he says "But I still intend to take up that opportunity", what then are you able to do if anything? - That is one of our recommendations, that we want that set of circumstances to come in.

What can you do at the present moment? - Not enough.

Can you do anything? - No.

Would you feel obliged in such circumstances to grant the application? - Yes, unless I could get my staff to talk him out of it.

Assuming he stands by his gun, so to speak, and is not to be talked out of it? - I would try and use negotiation to persuade people that they do not require these weapons. That is why we discussed it in our group. We have a problem.

If someone has several weapons of a different calibre what duties does the law impose upon any police officer when an application is made to renew a certificate in respect of these several weapons?

LORD CULLEN: Mr. Taylor, we can look at the law for ourselves. What is the point in asking this of this witness?

MR. TAYLOR: Well, sir, sometimes it helps if one knows how the law is being interpreted.

LORD/

LORD CULLEN: That is not quite what you were asking the witness.

MR. TAYLOR: In that case I will rephrase the question.

LORD CULLEN: If you think it is going to assist me.

MR. TAYLOR: I will bear that in mind, my lord.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: If an applicant has several weapons on his certificate and he makes application for renewal of that certificate what do you have to satisfy yourself in respect of when you come to consider that application? - I have just renewed one at the moment, which did not give me great pleasure, where the person had permission to possess something like eight or nine weapons, pistols, and I put it back without signing it to have further enquiry made in order that we could satisfy ourselves that the man had a requirement.

There were only three different types of calibres of weapon, and a comprehensive enquiry was carried out and an interview with the applicant was again undertaken by the officers -- this all happened pre-the 13th March -- and the person ended up satisfying me he did require all these weapons to undertake all the various disciplines he worked with.

This is a very, very important issue. I personally am not a shooter, and I do not understand why people need that number of weapons, but I had to grant it.

Could you look at page 70, 6.8(i)? We see in the second paragraph that the Home Office requests that "good reason" requirements will need to be satisfactorily demonstrated in respect of each firearm; is that right? - Yes. If someone wants to shoot at 25 metres and 50 metres and he doesn't want to zero in each weapon and he then wants a spare weapon in case he is shooting in a competition and one jams or breaks then that is three weapons already.

And in your view that would be him satisfying the "good reason" test under the present guidance?/

guidance? - Exactly, yes.

RE-EXAMINED BY MR. BONOMY: Can you clear up the rather confused question I put to you at the end of my initial examination? Could you look at paragraph 2.2.95, which is on page 28 of your submissions? Now, I asked you a confusing question I think in my examination about prohibited persons. Could you read please paragraph 2.2.95? - "Neither can we accept the notion that individuals who have been deemed unsuitable either by way of refusal or revocation or, indeed, where their certificate has been cancelled by a Court, can thereafter quite lawfully possess firearms by way of any of the exemptions provided in the Firearms Acts", and I subscribe to that.

Is that a paragraph dealing with the problem that certain people who do not hold a firearm certificate may nevertheless be entitled to possess a firearm in an exemption category? - Yes.

That may or may not apply to prohibited persons, but I think that where a person does not have a firearm certificate they may well be able to possess a firearm under that exemption? - Yes.

TERENCE McCARTHEY (55) Affirmed

EXAMINED BY MR. BONOMY: I live in Argyll. I work as a Local Government Officer.

I think you are also an office bearer of the Scottish Pistol Association? - Yes.

What office do you hold? - I am the Honorary Secretary.

I think you have held a number of positions on your own local rifle and pistol club? - Yes.

Over what period of time have you been on the committee of that club? - Since 1980, as far as I remember.

What is your present position there? - I am the President of the club.

I/

I think apart from now being Secretary of the Scottish Pistol Association you have held a number of other positions on its Executive? - Correct.

You are also a particularly expert marksman; is that right? - I am a reasonably accomplished marksman, yes.

I think you held a position of coach with the Scottish National Rifle Team in Canada in 1994? - Yes.

Coach to what? - The pistol section of the team.

And the team consisted of which sections? - There were two pistol shooters out of a total team of 14.

What were the other 12? - There were four shotgunners, two full bore rifles and the remainder were small bore rifles.

Now, does a coach of pistol shooting require any qualifications? - One can coach without a specific qualification, but there are qualifications that you can take as a coach.

Do you hold a qualification? - I am an SP-qualified primary coach, which is a basic level coach in terms of qualifications.

I think you are also a qualified range conducting officer? - Yes.

Now, we have heard some reference to that earlier on in the Inquiry already. How is that qualification obtained? - One has to take a course run and organised by the National Rifle Association.

What is the purpose of the qualification? - To train people to operate, specifically at Ministry of Defence and Territorial Army ranges, as the person in overall command of the range. Their prime responsibility is to run the range safely and efficiently, in line with military requirements.

Is that different from being the range officer, who actually supervises the discipline as the/

the shooting is taking place? - Yes. The range conducting officer may still have a subordinate range officer working under him.

Does that mean that you as the range conducting officer for a particular range, or is it only a position you actually hold when you are out shooting on a particular occasion as a range conducting officer? - It varies. You can operate on any range throughout the country.

So that when there is shooting taking place you can be in charge of the range? - Yes.

Is that something you do regularly? - I certainly do it regularly in club terms. I have not done a large amount of range conducting on military ranges.

Are you a competitive shooter yourself? - Yes.

At any particular level that we might recognise? - I have shot for Scotland in one discipline.

So my earlier description was accurate? - It was some little while ago.

When was that? - That would have been I think about seven years ago.

Now, do you shoot a number of disciplines? - Yes.

How long altogether have you been shooting? - I started shooting in 1974.

What are the disciplines you have shot? What are the periods since 1974? - Basic club precision pistol, I have shot at most of the International Shooting Union events, I have shot police pistol, service pistol, classics and clay pigeon target.

What was the body you mentioned? - UIT, the International Shooting Union.

What does that stand for? - It is French: Union Internationale de Tir.

What/

What is the status of that body? - It is the world governing body for a substantial group of disciplines which are shot up to an automatic level.

Do you been at World Championships? - World Championships, World Cub, European Championships. All competitions under international rules are shot to UIT rules.

Are they the only body in whose jurisdiction competitions are shot? - No.

What other bodies are there? - There are a variety of national and international bodies.

In the UK? - In the UK there would be the National Rifle Association, the National Small Bore Rifle Association, the National Pistol Association, the Historic Breech Loading Small Arms Association, the Muzzle Loaders Association of Great Britain, and others.

Are a number of these bodies based at Bisley? - A lot of the shooting will be done at Bisley, the NRA and the NSRA headquarters being both at Bisley.

Does the UIT govern both small bore and full bore? - Yes.

Do their rules require that the weapons conform to particular standards? - Yes.

How are these standards determined? - Depending on the discipline involved. They will specify whether they are single or multi-shot, the calibres which will be used, the physical size of the gun, the minimum trigger pull weight and minimum and maximum sight radius and so on.

In determining the size of the gun is there a particular method used? - Yes, there is a box provided into which the gun must fit.

Do/

Do any of the competitions run under their rules involve shooting at targets which have human shape? - No.

In whose jurisdiction do we find competitions of that type? - The only competitions which use human shaped targets would be Police Pistol, Service Pistol and some forms of action shooting.

What is the origin of these? - The Police and Service Pistol, they are based on former and existing police and military trained courses of fire.

When did they first develop? - That I couldn't really say. They've certainly been in existence since well before I took up shooting.

Now, do you presently engage in any of these types of shooting yourself? - Currently, no.

Is there any particular reason why you don't do it now? - My main interest has been International Shooting Union competitions and I gave up Police and Service Pistol mainly because I felt that I couldn't devote sufficient time to the wide range of disciplines and achieve the levels of expertise that I aspire to.

In your 19 years or so in I think club shooting as you describe it in your submission have you been aware of a growth in interest in competitions involving shooting at human shaped targets? - There has certainly been an increase in target pistol shooting overall. I think it would be fair to say that there is a strong participation in particularly Police Pistol which is a very popular discipline and shot by large numbers of people in competition.

Can you outline what that involves for us? - The Police Pistol discipline is a course of fire of 30 shots, the first 12 shots fired at 25 metres from the target in a time span of two minutes. The shooters then advance to 15 metres from the target in order to fire two series of six shots. Each series consists of one shot on each exposure of the target and there are six exposures. They then advance/

advance to 10 metres from the target where they fire a series of six shots where two shots are fired on each exposure of a target.

And that completes the series? - That completes the series.

And is it always that series of shooting or can it vary? - In Police Pistol 1, which is the most popular one, that is the series. There is also a discipline called Police Pistol 2 with which I am not so familiar which is shot at I think 50 metres and then shorter distances.

Now, you are or the body of which you are Secretary is a party to one of the submissions to Lord Cullen's Inquiry which is No. 51 submitted by the Scottish Target Shooting Federation? - That is correct.

And attached to that is a list of the types of competition? - Yes.

Now, it would be helpful if you could perhaps have that in front of you. If you have got your own copy that will do fine? - Yes.

Now, if you could perhaps go to Group E listing the police and service type competitions on page 23. We see there a reference to Police Pistol 1 and Police Pistol 2? - Yes.

And there are other disciplines there. Police Pistol 1 indicates that it can be done using any semi-automatic pistol or revolver? - Yes.

Whereas Police Pistol 2 is confined to revolvers, is that right? - Yes.

Is that just one example of the sort of information that is in this list attached to the submission? - Yes, that is correct.

And I think in addition the type of ammunition to be used is specified, the target and then the procedure that you have just given us? - Yes.

And then there are some comments and explanations which should assist the Inquiry, is that right? - Yes.

And/

And I think that you have provided that in relation to a whole series of different types of competition? - Yes.

Now, do we have here an exhaustive list of the types of competition that there are? - There may be one or two others but they will be of fairly minority interest.

In your period as an active competitive shooter has the number of different competitions increased? - Yes.

Significantly? - The number of competitions.....

I mean the types of discipline? - I would think certainly over the last 20 years there have been developments in what are loosely called action pistol shooting, Groups E and F in that submission.

Yes, the two end ones we have here? - Yes.

And that includes the Police Pistol you have just described to us? - Yes.

Is that the most popular of these? - Certainly in terms of numbers of competitors I would say Police Pistol 1 is one of the most popular disciplines in competitive shooting.

Of any calibre? - I think just in terms of overall numbers of competitor.

That is full bore competition, is it? - Yes.

Now, Group F lists or at least has one in it which is called Practical Pistol? - Yes.

Now, can you describe to us the nature of that competition? - The Practical Pistol form of competition is not a set series or a set format. It is a format designed to tax the ability of the shooter to shoot at different distances with either hand under time and various different types of target constraints.

Does/

Does he move to a different position? - In some parts of it, yes. In others they fire from a fixed position. That is why I say it is really a range of competitions which come loosely under the heading of Practical Pistol and courses of fire can be developed for specific competitions and specific ranges.

BY LORD CULLEN: Can you tell me what the IPSC target is? - That is the International Practical Shooting Federation.

What in fact does the target look like? What kind is it? - IPSC target is a double rectangle of plain cardboard. A large rectangle with a small rectangle on top of it.

EXAMINATION CONTINUED BY MR. BONOMY: If human shaped targets disappeared from the scene, would that have a significant effect on competitive shooting? - I see no reason why it should. I understand that one or two of the European countries have prohibited shooting at humanoid targets. They shoot some competitions using a rectangular target with a disruptive pattern on it. If that were introduced here I would see no reason why that should present a problem to competitors.

If the calibre of guns or the range of calibre of guns was restricted to small bore, .22, would that have a significant effect on competitive shooting? - It would certainly mean that the rules of competition would have to be changed to cater for it and it would also mean those shooters who do aspire to international level shooting in the various disciplines would be prohibited from doing so.

BY LORD CULLEN: Is that answer on the basis it was semi-automatics but that would be restricted to .22? - Yes.

EXAMINATION CONTINUED BY MR. BONOMY: That heralds the next question; if guns are restricted to single shot, would that have a significant effect on competitive shooting in this country? - It would effectively reduce the target pistol shooting to almost zero. There are only two or three competitions which can be shot with a single-shot firearm.

And/

And we see them in the schedules at the end of the submission? - Yes. Single-shot firearms would be the UIT Free Pistol and the UIT Air Pistol. A couple of branches of long range pistol and then domestic slow fire position competition run under the NSRA rules.

I perhaps should have asked you a little more in relation to your experience as coach of the Commonwealth Games Team. Has Scotland always produced a shooting team in the Commonwealth Games? - Yes.

Has the Scottish team realised any success in the Commonwealth Games? - Scotland has always won medals at shooting at any Games I can remember. In Canada they came away with a total of seven out of the 22 medals that were won by the overall Scottish team. They provided nearly a third of the medals.

Sorry, nearly a third of all the medals, did you say? - All the medals that were won by the overall Scottish team.

Now, in these Commonwealth Games what disciplines are shot by pistol or at least by handgun? - For handgun there will be four. There is the UIT Centre Fire which is a full bore semi-automatic course. There is the Free Pistol which is the single-shot .22 air pistol and UIT Rapid Fire which is .22 semi-automatic course fire.

So only one of these is full bore? - Yes.

Do you know whether in the Olympic Games there are full bore competitions? - The Olympic Games does not include full bore competition.

Can I take it that other world competitions, World Championships, under UIT rules do include full bore shooting? - Yes.

Are there European Championships under these rules? - Yes.

Including full bore competition? - Yes.

Are there British Championships? - Yes.

And/

And do they include full bore competition? - Yes.

Can I ask you then now about shooting clubs, particularly in Scotland where you have experience. There has been a suggestion made to the Inquiry that it would be better certainly from a policing point of view if all clubs were approved which is not the case at present? - That is correct.

Do you see any particular problem or difficulty about requiring all clubs to be approved? - I see no particular problem, no.

If it is suggested that far better records than are kept overall at present should be kept so that the use of guns could be more closely monitored and the extent to which people use them to be more closely monitored, would you agree that clubs would effectively have to be approved for that purpose? - I think that would depend on exactly what sort of records are suggested. Most clubs will have records of members' attendances. Those clubs which are not Home Office approved can only have members who have their own individual Firearms Certificates anyway. It is difficult to say exactly. One would have to come up with a specific idea of what records you would want to keep to comment.

Yes, effectively you are saying people who are not experienced at shooting and who want to take it up have to go to an approved club to begin? - Yes.

And it is only people who have Firearms Certificates who can go to one which is not approved? - That is correct.

But if you are going to have records kept of the use of weapons, the extent to which they are used, the amount of ammunition being used, particularly where there is self-loading or acquisition at the club, then there would have to be some recognition of the club in the first instance to start that exercise off? - I am trying to think of a way to comment on that.

Well, you see, we have heard some evidence.....? - If the club has its records and/

and if they need to be examined by whatever authority wishes to examine them, I don't see that they would need to be approved clubs.

We have heard some evidence to suggest that perhaps clubs may exist without the authorities knowing they are there at all. Do you accept that? - I would think that would be extremely difficult in that to all practical purposes, to have a Firearms Certificate for a handgun you have to demonstrate to the police good reason and the only normally acceptable reason is target shooting. When a grant or a renewal of a certificate is done the police will ask what club you are a member of and you have to tell them. It is difficult to see how a club could exist totally without the authority's knowledge.

Does approval by the Home Office of a club involve setting any standards for safety? - There is no specific criteria laid down on safety. The criteria for approval is that you have to have access to appropriate ranges and you have to have facilities for safe storage of the club firearms as against the individual members' firearms for which they are individually responsible.

You/

You have got to satisfy the Home Office for that approval that you can secure the weapons? - Yes.

You would have to be confining your activities to Home Office-approved ranges, I take it? - No, not to Home Office-approved ranges: to ranges with an appropriate safety certificate.

From whom? - The Ministry of Defence.

Do all rifle and pistol clubs belong to umbrella organisations? - Maybe not all, but certainly the vast majority, because by joining one of the umbrella organisations they have access to proper public liability and contents insurance.

For instance, your own home club will no doubt be a member of the Scottish Pistol Shooting Association; is that right? - Yes.

Is it also a member of any other Association? - We are affiliated to the National Rifle Association, the National Small Bore Rifle Association and the National Pistol Shooting Association.

Is it a common feature of clubs in Scotland to have so many affiliations? - Depending on the firearms used. Small bore rifle clubs would only normally be affiliated to the NSRA: those who shoot pistols would be affiliated to at least one if not two or three of these organisations.

When a person wants to take up the sport and has approached the club can he simply come in on his own and state his case and hope to be accepted? - No. Under the current criteria they are supposed to find out where the club is or find the name of the secretary and approach the secretary, who will talk to them, and they would then have to have a direct invitation to visit the club for the first time. On that first visit they would be shown what the club does, and would be given a lecture on the safety and range procedures. On that first visit they would not be allowed to handle guns or ammunition.

Where are these criteria set down? - There is a Home Office leaflet on the criteria for approval of gun clubs.

Does that deal with how you accept members? - Yes.

After we have got to the stage of the first visit what happens? - On the second and subsequent visits -- we are talking about a novice shooter -- they will then be given basic shooting training, either one-to-one supervision from a qualified coach or a suitably experienced full member of the club.

Then what happens? - During the time they are on probation.

They are members right from the start, but not probationary members; is that right? - They are called probationary members. That probation can be either extended or terminated at any time, if the club considers they are unsafe or for any reason unacceptable in their premises.

Can you envisage a situation in a properly-run club where a probationary member could actually be the range officer one night when activities are taking place? - No.

In general, how long is the probationary period? - The probationary period has been specified by the Home Office criteria. Before the 1988 Act there was no specified period: from the 1988 Act it specified six months; and last year in the recommendations of the Firearms Consultative Committee the probationary period was reduced to three months: so the minimum period would be three months.

Is that the standard all clubs apply, as far as you know? - If they are Home Office-approved clubs they would have to apply that as a minimum.

Do clubs apply a longer period? - In practical experience one finds that if you have to extend the probationary period beyond three months it is unlikely that the person involved will be an acceptable club member.

BY/

BY LORD CULLEN: At what stage do the police become aware of a person's application for membership? - Only if that person applies for their own firearms certificate.

Could that person defer that application until quite a late stage? - Yes, it is possible for somebody to be a club member indefinitely, and use club premises, if they do not wish to purchase their own gun.

Could a person approach a club with a view to membership and go along to the various stages without actually becoming a member? - Yes.

In your own experience as a committee member what interests do the police generally take in the activities of individual club members when they are dealing with renewal of the firearms certificate of that member? - Generally the only contact the club has would be a call from an officer to confirm that the person is a bona fide member of the club.

Is no interest taken in how much shooting he has been doing? - Certainly there has not been, in my experience in the past.

And you have dealt with such calls? - I have not. I have never been the secretary of my club. It is the secretary who deals with them regularly.

You know that is the position from the secretary? - Yes.

Do you find clubs insisting on proposers and seconders for new members? - Yes.

Well, insisting, or is it possible to be accepted without being vouched by others? - The general practice is certainly to have either a proposer or a referee named on the application form.

Does that mean a person who is a member of the club proposing the new member? - Yes.

What would happen if you didn't know anybody in the club? - What would happen is that if they are a novice, a probationer, they don't have full/

full membership until they have completed their probationary period, and the referee, or seconder, by that time they would know -- whoever made the reference would have got to know the shooter.

That is at the stage of full membership? - Yes.

We have had evidence in the Inquiry of someone remaining a probationary member for ages. He would not have to be proposed or seconded? - I think for someone to remain a probationary member for more than three to six months would be exceptional.

A number of questions have been posed to you about the need to have more than one weapon of the same calibre. Can you indicate to us the circumstances in which a person like yourself might require to have more than one weapon of the same calibre? - Yes. Of the five UTI disciplines which I actually shoot, three of which are .22 calibre, it will need two different guns to be able to comply with the rules.

Can you explain that even in relation to one of them? - If I shoot UTI procedure on a .22 single shot pistol, if I shoot standard pistol or sport pistol I need a .22 five shot semi-automatic. That is different guns of the same calibre.

All right? - In addition to that, if you are shooting competitively one would often need -- I mean regularly competitively -- one would need a spare or a back-up gun in the event of breakage of a gun in competition, which is allowed under the rules.

When you go to a competition away from your home club do you take spare weapons with you? - Those who have them, yes.

Is it common -- how common is it to have a spare? - I would say a spare weapon would be reasonably common in the upper levels of serious competitive shooting. At the middling to lower levels, not necessarily.

So if we narrow this down to more than one weapon of the same calibre for the same type of competition,/

competition, the same discipline, apart from having one spare is there any good reason for having more than one such weapon? - If we are talking about a single discipline, no.

To give you a more specific example of that, if a person shoots generally speaking police pistol and uses a Browning semi-automatic pistol and has two of them, and one has a longer barrel, has a barrel weight and has a much lighter trigger because of certain adaptations done to it, and the other one is a standard model, is there any good reason for him having more? - If we are talking just specifically for police pistol, maybe not. But at the same time, by having another gun he would then be able to shoot other disciplines with it.

Which/

Which one would give him an additional facility? - Depending on which classification within the discipline he was doing. For instance, within Service Pistol there are three or four classifications that cater for different types of gun. It depends how enthusiastic the person is to shoot different classes. One could not give a definite yes or no answer to that.

Treating it as a hypothetical question, give me an example of the different uses to which these weapons might have been put within the range of disciplines you are talking about? - It would be more common to find a 9 mm Browning being used in Service Pistol.

Now, there are four classifications, and the basic classification is the competitions shot with a 9 mm Browning as issued to the British Army, therefore he will not be able to use the extended barrel and the barrel weighted gun in that class, while he would be able to use it in another class, which allows for it, and in which he may be able to produce better scores for that gun.

One suggestion that has been presented to the Inquiry is that weapons might not need to be kept at home but could be kept at the Club. Would that present any problems to a serious competitive shooter? - It would present problems not only to a serious competitive shooter but to a middle ranking shooter as well.

Why would that be? - It is common practice to travel to open competitions often quite great distances from your home range. A lot of competitions are held at Bisley in Surrey, both pistol and rifle.

Competitite shooters will travel there up to half a dozen times a year. They will also shoot in Scotland on many other ranges.

Once one had completed shooting, what does one do with the gun? Does it have to go back to the Club immediately? There are a lot of practical difficulties which make it onerous for the serious competitive shooter.

It would be possible I suppose to check the/

the gun out and check it back in, and there might be regulations to govern that allowing some leeway for collecting it and travelling with it and bringing it back. Could there be other problems resulting from not being able to keep your gun at home? - I think one of the problems is that you are then collecting large numbers of guns in specific locations.

Now, shooting ranges by their nature are often away from normal public access, to reduce any noise problems. In my own Club, for instance, if everybody had to keep their guns at the Club we would have well in excess of 300 guns, which I think presents a serious problem in terms of the fact that it would be a very attractive target for criminal elements and/or terrorist elements.

In relation to the training and practice you have to do as a marksman would there be any problems presented there if you could not take your gun home? - At a very basic level, no. Once one becomes reasonably proficient there are lots of difficulties.

One of the advantages of having the gun off the range is to carry out dry firing, to practice your aim and trigger pull without the release of a projectile with an unloaded gun. This is a practice carried out by every top class competitive shooter, and many problems would be.....I suppose you could still go to the Club and do it? - If you go to the Club you would be firing live ammunition if you are on the range. The whole point of dry firing is that you can practice away from the range.

Is that something you would do regularly if you were a serious competitor? - Yes.

BY LORD CULLEN: Is this once a day, once a week or what? - I would think certainly two or three times a week would be quite normal. The really top class people do it every day.

EXAMINATION CONTINUED BY MR. BONOMY: Can you tell me the nature of the Club premises at your own Club? - Our Club is a 25 metre pistol and rifle range. The actual firing range is a block-built building. The Club House dated back from the inception of the Club 50 years ago, and is basically a/

a timber Home Guard hut. Bearsden's original name was the Bearsden District Home Guard Rifle Club.

Is it also a social club? - No. We provide such things as access to soft drinks, coffee and biscuits, but that is about the only social aspect to it.

Is that a fairly standard situation, or do Clubs vary greatly in the facilities they provide? - There is quite a wide range of Club facilities. Most Clubs will consist of a range plus a Club room: some may have a separate room to be used as an armoury for Club firearms; some will just have a large stout safe in the corner of the Club room. As a generality, a range plus a Club House would be typical.

In/

In a clubhouse of the type you have described? - Some will be. The more modern ones will be brick or block built. I have seen them being made of corrugated iron.

BY LORD CULLEN: How many handguns does the club hold for the use of members? - My own club has nine.

And I take it supplies of ammunition as well? - Yes.

EXAMINATION CONTINUED BY MR. BONOMY: I see in your statement you do mention at paragraph 3.6 that there has been an increase in pistol shooting over the period you have been shooting. You describe it as a significant increase? - Yes.

In target pistol shooting and you also say a large proportion of the increase has been in the popular police pistol discipline, service pistol and various forms of action pistol? - Yes.

So is it fair to say in the last 20 years just in general terms there has been a significant increase in these disciplines? - Yes.

Can I ask you a little about ammunition. One other possibility might be the storage of ammunition only in club premises. What particular problems would that pose for competitive shooters? - I think exactly the same problem as if the guns were stored there.

Well, that is a security problem. Let's leave security to one side? - No, also for travelling. Storing ammunition there presents exactly the same problems to a shooter as if the guns were stored there.

Now, there are different ways of dealing with ammunition depending on whether it is small bore or full bore? - Yes.

In relation to small bore ammunition, that is all commercially produced, is that right? - Yes.

Nevertheless,/

Nevertheless, do competitive shooters experiment and work with small bore ammunition to find something that gives them that bit extra in competition? - It is quite common to try different brands of ammunition and within a given brand to try different types. The common brand in Britain is manufactured by Elio and they make about 12 different sorts of .22 ammunition, some of which is tailored to rifle, some of which is tailored to pistol. It is common to experiment with the various types and brands to see which one gives the best inherent accuracy for the particular gun that you are using.

But that would be done at the club? - Oh, yes.

And ammunition at the club would be no problem in that regard. Turning to full bore, people can actually reconstitute their own ammunition? - Yes.

Is that done at the club or at home? - Normally at home.

It could be done at the club, is that right? - It could be done at the club but for safety reasons you would normally expect it to be done in a special and separate room.

How important is home loading to the competitive shooter? - Very important. We have heard that something in the region of 70 per cent of full bore pistol shooters will produce their own ammunition. I can't vouch for the accuracy of that figure but it is certainly a very high percentage. It has two advantages, one that you can tailor the ammunition to the specific firearm to get the best inherent accuracy and it also has the advantage of being more economic than buying factory ammunition of good quality but unknown consistency.

So the person who is very serious about his full bore shooting will generally make his own? - Yes.

After experimenting with different mixes I suppose? - Yes.

And will know what best suits his weapon?/

weapon? - Yes.

But if pushed that could be done at the club? - It could be done at the club at extreme inconvenience to the serious target shooter and would also produce the potential for safety problems at the club. One of the advantages of doing it at home is that you can concentrate exactly on what you are doing without any exterior distraction from possibly other club members if you are at the club.

BY LORD CULLEN: Can I just ask about one matter. I see that you mention in your statement a problem where you have prospective members and there is a possibility that they are prohibited? - Yes.

Have you any suggestion as to how that problem might be solved? - The only way I can think of is if there was some method by which the club secretary could check the written declaration that the person is not prohibited with the police, which currently they are not permitted to do.

Would one way of dealing with this be to have a system under which all prospective members names required to be reported to the police at the outset? - That could be done but I think you would have to ask I think the police as to the effectiveness of that, as to what information they are permitted to give out.

Yes, I wasn't thinking about that. I was thinking that to get round the difficulty of you being required to make enquiries of the police, if as a matter of course you reported the name to the police then that might enable the police to take appropriate action? - That could be done, yes.

Any other ways of approaching it perhaps? - I think the problem that there is with that sort of contact with the police is that they are not permitted to declare or make any statement about anybody's criminal record. We would certainly like to find some way in which the declaration that somebody is not prohibited from having a firearm under Section 21 of the Act, to verify that would be useful. How it would be done I couldn't comment.

CROSS-EXAMINED BY MR. TAYLOR: The club of/

of which you are a member is based in Bearsden, is that correct? - That is correct.

Are you able to say in which police area most of the members of the club will reside? - The bulk of the members will reside in the Strathclyde Police area.

And can you tell me if a .22 rifle is a rifle of the same calibre as a .223 rifle? - It is a rifle with a barrel which has the same diameter. However, the .223 cartridge is a centre fire cartridge which is physically much larger than what everybody calls the .22 which is known as the .22 long rifle. It is not possible to chamber one of those cartridges in a gun of the other type.

And are the two used in different disciplines? - Yes.

RE-EXAMINED BY MR. BONOMY: Are you aware of a form which has to be signed now by all members of Home Office approved clubs in which they certify they are not prohibited from possessing a firearm or ammunition by virtue of Section 21 of the Firearms Act? - Yes, all clubs have had to have these on their premises since the 1st of January this year.

Does that requirement apply only to Home Office approved clubs? - Yes.

MR. BONOMY: There is no other evidence arranged for today, sir. There may be certain brief evidence tomorrow and the principal witnesses will then be Mr. Penn for whom special arrangement has been made to come in the morning and Professor Cooke with whom an arrangement has been made to come in the afternoon.

LORD CULLEN: Very well. We will adjourn now until 10 a.m. tomorrow.

Adjourned until tomorrow at 10 a.m.

TWENTY SECOND DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

THURSDAY, 27th JUNE, 1996

Within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
DAVID JOHN PENN,	
Examined by Mr. Bonomy.....	4
JOHN ANDERSON (Recalled),	
Examined by Mr. Bonomy.....	54
JOSEPH JACKSON,	
Examined by Mr. Campbell.....	58
Cross-examined by Mr. Taylor.....	62
Cross-examined by Mr. Lake.....	64
Re-examined by Mr. Campbell.....	65
DAVID JOHN COOKE,	
Examined by Mr. Lake.....	66
Cross-examined by Mr. Campbell.....	107

THURSDAY, 27th JUNE, 1996.

TWENTY-SECOND DAY.

LORD CULLEN: Yes, Mr. Bonomy?

MR. BONOMY: Thank you, sir. The first witness this morning is David John Penn

DAVID JOHN PENN, (51), Sworn,

EXAMINED BY MR. BONOMY: Can you tell us first of all what your job is? - I am the Keeper of the Department of Exhibits and Firearms at the Imperial War Museum.

How long have you been doing that? - I have been Keeper of Firearms since 1974.

Your interest in firearms is obviously professional. Is it a professional interest that first involved you with firearms? - No, I started shooting very early in life. I first fired a firearm when I was five years old. I first owned my own air weapon at 11 and I have been seriously involved in target shooting and increasingly for competition purposes since I was 13.

Are you a member of a shooting club? - Yes.

Which club? - Marylebone Rifle and Pistol Club, the National Rifle Association and various other ones.

Is the Marylebone Pistol and Rifle Club a big club? - Yes, it has about 330 members.

Is that typical of rifle and shooting clubs? - It is a little larger than many of them but in other ways it is typical.

Is it also a social club? - Yes.

Can you tell us something of the social element? - The club has attached to it a large area where people may sit, have a light meal, discuss matters of the day, read journals and magazines/

magazines and most of them talk about shooting and related interests. They will arrange visits occasionally to places of interest for the members.

We have heard descriptions in this Inquiry of clubs of a quite different nature which are little more than tin huts on a hill. Do you know what the whole range of shooting club premises is throughout the United Kingdom? - They vary. Some clubs, and I would say this is an increasing tendency, will if they can afford it acquire their own premises. For pistol clubs that is reasonably straightforward. Most competition shooting takes place at 20 yards or 25 metres so you can build entirely enclosed premises which are perfectly safe in any environment, including the urban environment. The Marylebone Club is in fact under a major office building in the City of London. There are, however, many clubs which use other ranges. They might either use another club or association range. For example, the National Rifle Association ranges at Bisley are used as their home range by a whole variety of clubs in the south-east of England. Very commonly, military ranges, Ministry of Defence ranges, will be hired by civilian clubs for target shooting practice. This is extremely well established, going on very much since the inception of modern military ranges in the late 19th Century.

You have been describing there indoor and outdoor ranges. Can you say how much of handgun shooting is carried out outdoors? - Quite a lot. You can shoot competitions by and large either indoors or outdoors, the exception being the 50 metre precision events. There are very few indoor 50 metre ranges so it is almost exclusively an outdoor sport. They can be shot indoors or outdoors but it is largely a matter of availability of the ranges.

Now, you are on the Council of the British Shooting Sports Council? - That is correct, I am Chairman of the Technical and Research Committee.

The Council itself is an umbrella organisation? - Yes.

For how many other organisations? - Most of the members of target shooting and gaming shooting organisations in this country. I could go through/

through them if you wish.

No, we heard evidence yesterday about an organisation called the Scottish Target Shooting Federation. Are they a distinct body? - They are. They are not in the British Shooting Sports Council.

Which is the member body that you are also on? - I am a member of the Muzzle Loaders Association of Great Britain and Vice-President.

Are you a member of the National Pistol Association? - I was at one time.

And have you formerly held high office in that organisation? - Yes, for many years I was Vice-Chairman.

In your statement we also have an indication of your shooting history, that you are past Shooting Captain of the club, Marylebone Rifle and Pistol Club? - Yes.

And you are past Secretary and Captain of the Oxford University Pistol Club? - That is correct.

And then Chairman of the Museum Weapons Group. Is that really something that has come from the combined effect of your interest in recreational shooting and your work? - I would agree with you, yes, because I have had to get a good working knowledge of the law which applies equally to museums as it does to private individuals.

Have you written on the subject of shooting? - Yes.

Extensively? - I wouldn't say extensively. Probably a dozen or two articles over the years and certain chapters in certain books but I have also prepared papers for specific purposes, for instance the Firearms Consultative Committee, and I have given talks to Police Forces.

And the Firearms Consultative Committee would be concerned with legislation and reform of the legislation? - That is what it was set up for, yes.

Did/

Did you give evidence to the House of Commons Home Affairs Committee on their review of firearms? - Yes, I did.

Was that earlier this year? - That is correct.

In what shooting disciplines do you have the most experience? - Target shooting disciplines. When I was young I shot small bore rifle and target rifle through my school. I continued shooting small bore rifle into my 20's
but most of my target shooting experience has been with either pistols or muzzle-loading firearms, in which I have a particular interest. That is both rifle and pistol. I have been shooting muzzle-loading rifles and pistols.

Do you still compete? - Yes, I do although not as seriously as in the past.

I think we have had some difficulty in the course of the Inquiry in pinning down just how much shooting activity at local clubs is strictly speaking competitive rather than simply recreational. Can you help us with that? - Again, it is pretty much what the individual wants to make of it. There are a wide range of club events normally which are run in-house. It is pretty much up to the club how much it wants to run an internal competition programme. There are also what are known as postal competitions. This takes place for both small bore and full bore pistol. This involves you competing against a wide range of individuals nationally in leagues by shooting at your home club and submitting your targets and results. The shooter may then, if he wishes to do so so, and this may either be on a club initiative or a club team or his own initiative, enter as an individual. He may choose to go into competitions at regional or national level. That is all quite straightforward and these are well advertised and if he wishes to compete he merely sends in his application and then turns up at the event so it is largely individually led, the extent to which a person gets involved in competition shooting.

If at the end of a hard day I want to go to the club just to do some shooting for recreational purposes and I discover there are two or/

or three other people there at the same time, would a range officer take over and discipline us as we shot together? - It is normal practice at any
club to have someone in charge of the shooting detail. There will be a nominated person. He may do it full-time or they may nominate suitably competent individuals from among those present. It is not usual these days for people to just turn up at a range and shoot. That is a past practice at enclosed gallery ranges but about the only one that operates on that basis these days is at the National Rifle Association at Bisley where there is an old-fashioned gallery range.

So normally when I go to the club it will be because it is a club night and I would anticipate other members being there to shoot? - That is entirely the normal procedure.

And in these circumstances would there
be scope for simply recreational shooting for my
own enjoyment but would I in that context also have to shoot along with other people? - Yes, it depends on the physical arrangements of the range. Some ranges have automatic electronic returning targets or hand-cranked returning targets for each individual shooter's target. In a range with that arrangement it is pretty much up to the shooter what he wants to do. So he can shoot quickly or he can practice a particular course of fire or he can zero a gun, do what he wishes. Other clubs, where you don't have this facility, are shot in details and he will normally run for about 10 or 12 minutes and during that 10 or 12 minutes you shoot when you wish to shoot and then a halt will be called. Everyone will go forward, change their targets, come back and you will resume another detail. There is a club arrangement where what normally happens if there is to be a serious competition going on that will be given priority within the club so 6 until 8 will be competition shooting and after 8 the club will go back to practice and recreational shooting. That would be the normal sort of approach.

And practice and recreational means you are not shooting against your neighbour, you are just shooting either for your own enjoyment or perhaps to see how well you are getting on in the sport? - That is correct. It is like every sport./

sport. You have to practice for a competition but you may wish just to practice for practice's sake.

What does zeroing a gun mean? - It is adjusting normally the sight on the firearm to ensure that it shoots precisely at your chosen point of aim. Firearms are shot slightly differently from individual to individual. This is because of the weight of the individual and the way he grips the firearm. Possibly his sight may have an effect on this so the individual will wish to tune the firearm to himself and to the ammunition he is using and when he has got it zeroed then he can be confident if he takes a known point of aim it will put the bullet into the centre of the target.

Now, you cover a number of issues in your statement as you were invited to. I won't necessarily take them in the order in which they appear here because of course as the evidence has been read here certain issues have become clearer and others not so clear and I would like to start at the area of the weapons which Thomas Hamilton actually had. He had semi-automatic or self-loading weapons which were full bore weapons. Now, can you tell me first of all what proportion roughly of target shooting sport is conducted using these weapons in the United Kingdom? - I looked at some figures provided by the National Pistol Association which I would like to refer to. The National Pistol Association is, as the name indicates, exclusively concerned with pistol shooting. It has 438 affiliated clubs. Of these a minimum of 324 shoot some centre-fire disciplines. If I can go through the figures. Bearing in mind the figure is 438 in total.....

Can I be clear about the terminology first of all. I say full bore and you say centre-fire. Now, what should we be saying? - Either term is acceptable. Centre-fire is a general term. Full bore is a peculiarly British term which derives from the Army practices in the certificating ranges. Both are correct. You may equate in these circumstances full bore and centre-fire as the same thing.

And do both cover a certain range of calibres? - Yes.

And/

And can you tell us what that is? - In centre-fire the calibres range from point..... well, technically 2 mm although that is obsolete rounds up to for pistol purposes to cartridges of 577 but that again is an obsolete round. The normal range for centre-fire will run from .22 centre-fire up to 50 calibre for pistol.

That is in current use? - In current use, yes.

And for rifles? - From .17 up to .7 of an inch.

Anyway, we are talking about the same subject? - We are talking about the same subject, yes.

It is helpful to be clear about it so can I just let you carry on now please? -

The/

The National Pistol Association asks its clubs what disciplines they shoot. Of the 438 clubs, 342 indicate they shoot club pistol. This is a .22 event, and it is normally a slow fire event, a fairly basic precision shooting event. 302 of them shoot UIT small bore pistols, handguns or sport pistol, and 110 shoot Olympic rapid fire discipline.

Of the clubs, 255 shoot UIT centrefire competitions, 324 shoot police pistol, which is centrefire, 276 shoot service pistol, which is centrefire, 188 shoot practical pistol, which is centrefire, 100 shoot classic pistol, which is mainly centrefire, and 74 shoot long range pistol, which is exclusively centrefire. So of the approximately 438 clubs in the NPA at least 75 per cent are shooting centre pistol.

Yes? - Figures from the National Rifle Association also indicate a substantial use of centrefire pistols. There are 2118 Home Office-approved clubs in this country. Of those, 1049 are approved for centrefire pistol as a discipline and 1395 are approved for small bore pistol as a discipline.

I must point out that a lot of older indoor ranges in this country were provided for .22 calibre only. There are a lot of clubs that use these ranges that may not have a facility for centrefire.

The tendency with modern indoor ranges -- except those held in schools -- is that the modern ranges would be built to accommodate centrefire pistol as well, because it increases the flexibility of the range.

Are you able to say within these statistics what the actual proportion of centrefire has against small bore activity is? - I would say at the very least 50 per cent is going to be centrefire pistol shooting.

Would the same apply to rifle shooting, in general terms? - No. There tends to be a difference there in the sort of ranges used and the type of clubs. It is a different set-up.

Can/

Can you assist me in identifying how much of that 50 plus per cent of centrefire activity involves the use of semi-automatic or self-loading pistols, handguns? - I would say the trend is towards semi-automatic pistols. There are still a lot of revolvers in use, but I would expect with centrefire it is going to be probably slightly more self-loaders these days. For .22 target shooting the .22 self-loading pistols are in the great majority, much more than used than either revolvers or single shots.

I am sorry? The .22.....? The .22 self-loading pistols are in the great majority, much more commonly used.

Of the self-loading pistols within the .22 category? - You can use self-loading pistols, revolvers or single shot, but self-loaders are in the vast majority.

In centrefire what proportion involves shooting with self-loading weapons rather than single shot weapons? - I'm afraid there has to be two ways of looking at this, and I would like to put them both to you.

Yes? - If you look at the competition available, the majority of competitions these days favour self-loading pistols, so if you are going to be competing seriously you are probably using a self-loader. For recreational shooting or shooting at a lower level you could still use a revolver, however.

If you were looking at the overall use of self-loading pistols and revolvers, self-loading pistols are slightly more used than revolvers, but revolvers are used more for recreational purposes than for high level competition shooting.

The question I am trying to put to you is the distinction between the use of self-loading pistols and revolvers on the one hand and the extent to which single shot weapons are used in centrefire? - I misunderstood you. Single shot weapons are very, very little used in centrefire. The UIT regulations forbid those in centrefire.

On the other hand, in relation to small bore/

bore are self-loading pistols and revolvers more greatly used than single shot weapons? - Yes, the normal use for single shot weapons in .22 calibre these days falls into two areas: one is for a basic club trainer, because it is safer for a beginner. The other is a UIT competition where they are mandatory, called the 50 metre free pistol precision event.

What proportion of small bore shooting is done with single shot handguns? - I would say well under five per cent.

And strictly speaking, what proportion of full bore shooting is done with single shot weapons? - Apart from specialised long range events there is no common use of centrefire single shots.

If as a result of this whole investigation some restrictions emerge, and one of these was the abolition of multi-shot weapons, what effect would that have on the shooting sport? - It would virtually eliminate pistol shooting in its present form in this country.

If we look at another possibility, the restriction of handguns to .22 calibre, but not restricting the self-loading element, what effect would that have on shooting sport in this country? - It would substantially reduce the range of interests, obviously. The .22 calibre long rifle cartridge has not significantly evolved over the last 30 years. There have been very minor improvements, hardly perceptible, in the .22 handguns during that period. There is not therefore a developmental challenge that you find in other areas of the sport, which is one of the great things about the sport, that people try different things to improve their accuracy in relation to their ammunition. This aspect would be removed, and this is a strong attraction to many shooters.

It has been suggested earlier that it is the case the .22 rounds cannot be developed any further? - The .22 round has been subjected to very minor attempts at development, but it really has not progressed. It seems to work absolutely fine as it is. It is the highest precision cartridge available.

What/

What is the difference in composition between a .22 centrefire and a .22 rimfire cartridge? - A .22 rimfire cartridge, the cartridge case itself is made of light metal, which is necessary because the rim of the cartridge case itself has to be crushed by the firing pin to ignite the cartridge. This means that the cartridge case itself is incapable of withstanding very high pressure. The .22 is a relatively low pressure round, which fires a lead alloy bullet at a very sedate velocity of about 1100 feet per second.

Yes? - We cannot significantly improve the rimfire performance. With centrefire, the .22 can be pretty much what you want to make of it. It will use a very strong brass cartridge case capable of a large amount of powder, therefore the bullet can be given a much higher velocity than the rimfire. It is quite possible to fire centrefire .22 at velocities in excess of 3,000 feet per second.

Yes? - The bullet itself will not just be a simple lead alloy projectile, but a projectile where the lead core is encased in a harder outer surface. This enables it to be driven up the bore at a much greater velocity, with no leading effect.

Yes? - The net result is that you get a cartridge capable of longer range, and also with significantly greater lethality.

The main use of .22 centrefire in rifles is for vermin destruction of medium sized vermin, like foxes, and in countries where handgun hunting is permitted, for instance the USA, these are also used with fairly identical cartridges as a vermin hunting weapon.

Yes? - There would not be much use in this country at present for .22 centrefire. The main use in handguns in this country is for longer range target pistol shooting, 200, 300 yards, even 1,000 yards, and they tend to use 7.62 calibre.

One of the problems you highlighted if shooting was restricted to .22 calibre was the state of development and the lack of opportunity of improvement. Would that problem not be removed if in fact the .22 calibre is centrefire? - You would be/

be back to the problem you already had, because the routing of development would be towards more powerful cartridges, not less powerful, and the .22 centrefire in its already developed form is an already significantly more powerful firearm than a rimfire.

But not anything like as lethal as a 9mm round? - If you are pushing it at a high enough velocity it is more lethal. You can approach current military rifle performance with a handgun.

Do you get the same variety of structure of ammunition in a .22 as you do in the full bore ammunition, namely round nosed or hard nosed types, semi-wadcutter and the hollow point? - I would like to answer that in two parts. If I could first talk about .22 rimfire.

Certainly? - Normally for target shooting purposes .22 rimfire is made of round nose. It has been made for target shooting purposes in a semi-wadcutter form. It is not however particularly popular these days.

.22 rimfire is also made with hollow point ammunition, because it is a very useful vermin destruction cartridge, particularly for rabbit sized animals. So .22 hollow point ammunition is widely distributed.

You can also get a high velocity rate .22 rifle which increases the energy of the round by very approximately 30 per cent. That is used for humane vermin destruction. A .22 high velocity hollow point round will normally function in all .22 rifles.

Are they used for target shooting? - Yes. The only normal use for high velocity hollow point .22 is for target shooting.

Why are they used for that? - The higher the velocity means that you don't have to lead the target so much, aim in front of it.

Is standard velocity hollow point used for target shooting? - It might be. Standard velocity hollow point is mainly intended to be used in moderated firearms, firearms with silencers on them,/

them, which are used for normally culling purposes, culling rabbits. A .22 standard velocity hollow point made to the same accuracy level is a target cartridge.

Yes? - It is still perfectly adequate for this vermin destruction purposes. The tendency would be for people to use a standard solid .22 live cartridge for target shooting.

While dealing with hollow point, we have heard evidence that hollow point ammunition is available in 9mm calibre for target shooting. Is there any particular reason why it needs to be available in that form for target shooting? - Most, nearly all of the hollow point ammunition that is available on the market is designed as an expanding bullet, for police or self-defence purposes. This is very widely available in the market place, in that it is made in huge quantities, therefore it is usable.

Yes? - There's no reason why a hollow nosed cartridge may be less accurate than any other design. Since the only criterion for most target shooting purposes is how accurate it is, the hollow point happens to be the most accurate, and we tend to use it.

Now, there are some hollow nosed cartridges which are made for competition shooting. They are jacketed round. The lead core has to go into the jacket, so one end has to be open.

I see? - Now, in fact you get better target accuracy if the lead core goes in from the front and you have a solid base on the cartridge.

Yes? - You have one line of cartridges, the Sierra, which is specifically designed for target shooting and has a hollow point, because the core goes into the front of the jacket rather than the back.

Is hollow point ammunition used throughout the world for target shooting? - By and large, yes.

Is it used in UIT competitions? - It may be, but very few shooters would choose to use that. In/

In UIT centrefire normally they would be using a firearm which is regulatory a full wadcutter cartridge.

Is there any significant problem to be faced by target shooters if they do not have access to hollow point ammunition? - It would mean that the range of bullets available to them would be reduced, and one also has to accept -- this is a difficult point, but there is a crossover problem. A lot of cartridges which are looked on as pistol cartridges can also be used in rifles, and they are normally used in rifles for humane game shooting, for which purpose you would need an expanding bullet.

I am confining my questions at the moment to target shooting. Would there be any inherent problems for target shooters if they were denied access to hollow point ammunition? - They would have to seek an equally accurate non-hollow point bullet, but they could probably find one.

In relation to full bore shooting, is the main use of the hollow point ammunition for moving targets? - No.

Can you clarify that for me? - The main use of full bore hollow point ammunition is for game hunting.

But in target shooting? - In the target shooting area there is no significant use of hollow point ammunition that is designed for expansion for private rifle shooting. A lot of target bullets which are made for high precision are technically hollow point, because the core goes into the jacket, but the front of the jacket is then closed over the top.

If for example these particular rounds that you are describing were used on a human would they expand within the body? - They might do. Frankly it would not particularly matter, because once you get beyond 2200 feet per second you get a cavitation effect, which gives you massive trauma, even with a solid projectile.

It has been suggested to the Inquiry that significantly more damage is caused by expanding ammunition/

ammunition to the body than by other forms of ammunition. Now, everything is relative, in that in themselves these rounds are lethal: but is it fair to say that significant more damage is caused to the structure of the body by expanding ammunition? - Yes, it can be.

But that would not be so true of the type you have just been describing? - It is not designed to do that, therefore it probably would not expand as well.

So there is a technical problem in relation to what would be the definition of hollow point and expanding ammunition? - It is a definitional problem, yes.

And there is added accuracy for the target shooter, in that that involves inserting the bullet from the front and encasing it in its jacket, pulling the jacket over the top of it? - Yes.

And that applies to pistol shooting as well? - Yes. There is one range of very highly regarded ammunition that is made in this way by Sierra.

Just to complete this area of ammunition, do people home load .22 centrefire ammunition? - Yes.

Can you help us with the extent to which ammunition is produced by home loading in general? - Very widely. Obviously rimfire is not susceptible to being loaded, so we are talking about centrefire ammunition. It is my feeling that probably at least 70 per cent of centrefire of pistol ammunition in this country is home loaded.

Hamilton/

Hamilton was an individual who used only

commercially purchased ammunition, and some witnesses have suggested that that was highly unusual, almost exceptional. Is that a fair description of someone who does that? - I would agree.

That ties in with a description you often read when you become involved in a Inquiry like this and comments are thrown at you from all directions, of a sort of macho personality who enjoys the possession or the ownership of weapons rather than the sport of target shooting, and the suggestion that that type of personality has developed with the increase in interest in self-loading pistols and full bore revolvers. Are you conscious of that type of person appearing on the scene in the last 25 or 30 years? - I think that one has to be careful about judging by appearances here. It is my experience that the technological changes in the sport, for instance by the introduction of electronic timers, do enable competitions to be developed which are rather different from the old precision slow fire shooting. That is one approach to shooting at one end, but like many other sports, there can be a whole range of different approaches within the sport. You have it in ballroom dancing; you have it in track events; you have it in field events in athletics, so there's not one time form of shooting. Technological development has opened new avenues to new sorts of competition. Some of these will involve rapid fire; some of them will include in their perameters the use of a heavy calibre weapon. This tends to make it an attractive sport for the younger, fitter, more athletic person. .22 slow fire shooting is a bit like Zen archery. What you are trying to do is to precisely replicate some series of aims time after time, and if you do that precisely enough, you put all your bullets into a very small group and get a high score, but you can have other competition perameters that for instance include having to make mental judgments while you are shooting, which can include firing movement. All of these will attract a slightly different personality, possibly a younger, physically fitter personality, so the old image of shooting which might be considered rather staid, the slow fire attitude,/

attitude, has been replaced by a younger, fitter sort of shooter in that sort of competition. Whether that makes them more macho, I don't know.

I take the point you are making and I would like to develop that particular point in a moment. Before doing that, can I ask you the question again about whether you are conscious of the type of personality I had mentioned appearing on the scene who is more interested in actually owning, handling, possessing the gun, talking about the gun, than actually participating in target shooting, and perhaps he isn't in the sport with the right motivation? - You can get a wide range of pleasures out of the possession of firearms. You have got some people who are purely collectors who never wish to fire their weapon, whose sole interest is having it as an object. I am at least in part among that number, and I consider that I and the other collectors I know have a very serious antiquarian interest in the subject. It is certainly true that some people do get at least as much pleasure out of the ownership of the firearm as they will out of the shooting of it. I cannot see that necessarily makes it a bad thing.

Is it right to say that over these years, the 25 or 30 years I am talking about, the interest in the police pistol, service pistol, practical type of pistol activity has greatly increased? - Yes.

In fact, did these disciplines develop after the War or did they exist before the War? - Pistol shooting in Britain has always tended to have a military basis. When pistol shooting was developed seriously as target shooting in this country in the 80's, it was very very closely tied to military practice. You were required to use a revolver that was fit for service and had a suitable calibre for service. The tendency in Britain from the earliest days was to come at the sport from a military point of view. The small bore tradition is a slightly different one. If anywhere, it grew up in France and it became more important with the development of UIT shooting, but .22 shooting took root in this country quite early, so military style shooting is not new.

You/

You did mention rapid fire competition and a developing interest in that? - Yes.

But did you also mention that UIT competitions include rapid fire competitions? - Yes; it is a highly stylised type of rapid fire. It is shot at five targets and it uses a self-loading pistol or revolver, but in practice, nobody uses a revolver. It uses a five shot normally, self-loading pistol, chambered from lower down and the calibre is known as the .22 shot. That calibre is used to minimise the recoil effect of the pistol and it enables you to use the pistol and fire five shots at five targets very rapidly and then turn away again.

Is it correct to say that there are UIT competitions which require the use of full bore self-loading pistols and revolvers? - Yes, there is a UIT centre fire event which includes both slow fire and rapid fire.

So just to be absolutely clear then, if competition in the UK were to be restricted to .22 calibre weapons, what do you say the effect on target shooting sport would be? - Very, very, very major. Obviously it would restrict people only to 22s. I think what would tend to happen is that you would get surrogate centre fire events designed for use with .22 weapons, so in fact courses that are presently shot with centre fires, people would tend to shoot with 22's, so there might be a 22 police pistol event if that is all that was possible.

That would suggest that people could adapt to the sort of change I am hinting at? - Within the UK, I suppose they could, but it would for practical purposes remove Great Britain from international target shooting as a sport, because I can see no reason whatsoever why other nations would wish to follow our lead in this matter. Other nations seem to accept that shooting is perfectly acceptable as a sport.

Would there therefore be any significant difference between restricting competition shooting to .22 and banning handguns completely? - There would still be many shooters who would carry on the sport as best they could within any limitations that were laid down.

And/

And just to complete that part of the picture, if there was a combination of restricting self-loading and pistols and revolvers to .22, but retaining full bore weapons as single shot only, that would have more or less the same effect? - For all practical purposes, yes.

In your statement, you deal with the use of single shot handguns? - Yes.

At the beginning, and we can read there what you say, but is the effect of what you say there, plus what you are saying today, that single shot handguns are really only used for competition purposes at .22 calibre? - Apart from a relatively obscure long-range pistol shooting, yes.

So far as accuracy is concerned, is there some difference between a .22 weapon and a centre fire weapon? - As we have already discussed, the .22 is highly involved and it is inherently very accurate, as are virtually all the pistols made for it. Absolute pin-point accuracy may not necessarily be the main criterion with centre fire weapons. You may wish to have another balance and attributes, for instance we have already talked about power. There are some competitions which require the use of a more powerful firearm, for instance there are some action pistol competitions where you are trying to knock them down, a solid target, and obviously you require a heavier calibre weapon for that.

And are they necessarily less accurate? - They may be. You are striving for an appropriate balance for the competition, and there is a tendency these days for increasing specialisation of weapons for each competition. There will be still centre fire displays, for instance UIT centre fire where precision accuracy will be of a premium, and there will be others where other factors such as complete functional reliability will be also at a premium, possibly at the expense of some degree of accuracy.

But if it comes to knocking over a target because you have to strike it simply with a degree of force, presumably in a range of areas or a fairly large area over the surface? - Yes.

Presumably/

Presumably an accurate weapon is as good as a less accurate weapon for that purpose? - Oh yes; obviously you would want the best accuracy you could achieved.

If I set up a tripod and fix a .22 pistol to it and let it fire so that when you take the human element away, we would then see just how accurate the pistol was on its own? - That is correct.

And you say that is highly accurate? - Yes.

Can I do the same with a self-loading pistol or revolver? - You would wish to fire either a 22, which has some recoil, or centre fire weapon from a rest which would take account of the recoil, but there are such rests made for testing of firearms.

Would the centre fire weapon be less accurate than the .22? - It depends on the centre fire weapon, but I would say on average, any centre fire weapon, even the best of them, will tend to be slightly less accurate than the 22.

If we take the standard Browning hi-power service pistol, how accurate would it be when compared with a .22? - Significantly less accurate.

This/

11.00 a.m.

This is a major subject that we have been touching on and your evidence has been very helpful and I daresay we could discuss it for a long time but there are other issues that I would like to turn to, individual issues on their own. At present a self-loader can acquire all the elements necessary to make his own ammunition without having a Firearms Certificate? - Yes, that is possible.

With the exception I presume of the original case? - No, you can buy an empty case or a primed case without showing a certificate or having any certificate.

You can buy the lot? - You can buy the lot. The only restriction is an extremely small number of projectiles which are covered by the legislation. These are in fact service hollow point but that is a very minor detail.

It is perceived by a number of people as something which should not occur, that where you can identify elements as essentially component parts of a round of ammunition you should require a Firearms Certificate to buy them. Do you see any practical problems about imposing such restrictions? - It depends on the nature of the restrictions. If you can draw an analogy with the purchase of shotgun cartridges in this country, which of course are extremely widely used in the community in very large numbers. To buy shotgun cartridges you have to produce your Shotgun Certificate. All you do is show it. There is no entry made on the certificate for the purchase of shotgun ammunition. I can personally see no reason why for instance primers could not be sold on the same basis. In other words, you show your Firearms Certificate, having proof you have a certificate for centre-fire pistol ammunition to buy your primers.

Could that not be done in relation to the other elements as well? The bullet for example? - You have a problem with bullets because people can make their own bullets and you have many, many people who do. Either by casting or swadging them up from hunks of lead. That is a common thing to do so you can homemake bullets without any problem.

You can homemake a lot of things you are not/

not supposed to homemake of course and perhaps we just have to accept that certain things should be outlawed. Would it be practical to outlaw the making of bullets by individual persons? - Given the very large numbers of bullet moulds that have been on sale since the 19th Century and their ready availability in other parts of the world and all you need is some scrap lead and something to melt it in, I hardly think that is practical.

What about the powder then? - Yes, you could control the powder. Possibly against a certificate but again there are alternative sources of powder. For instance, by breaking down shotgun cartridges to get the powder out. Shotgun propellent is quite a satisfactory pistol propellent.

What about the magazines? - Essentially the same problems as with the bullet moulds. The magazines at present are on unrestricted sale in this country. They are not numbered normally. Some older firearms have a magazine which is numbered to a particular gun because they were hand-fitted but most modern magazines are unnumbered and no one knows how many have been sold and no one knows how many people have in their possession and they are readily available in other parts of the world so it is essentially a stable door problem. You could introduce a restriction now but its effects are very uncertain.

I suppose there is no real practical difficulty about identifying magazines by putting a number on them? - It would be a massive task and then all you would know about is the magazines that have been numbered. Any magazine had not been declared would still be floating around and any magazine that was illegally imported unnumbered would still be floating around and one has to remember that a number per se does not stop crime. It is merely part of an audit system to work out what happened usually after the event.

Yes, I accept the point you make about crime and the difficulty of imposing an effective restriction there because of the current position? - Yes.

But what we are dealing with in this case is/

is a man who followed the rules and was in legitimate possession of items and if we were to assume that the shooting public would wish to follow the rules and do as they were required, would it not be practical in fact to introduce a restriction which would mean that magazines were identifiable? - What you would then end up with is a situation where shooters.....let's say for argument's sake shooter A has six magazines now. You would go through a considerable process of marking the magazines, of recording them in some way, presumably entering them on to his certificate and at the end of the day you have a shooter who has six magazines on them entered in various places as a record but he has still got the six functioning magazines that he started out with.

Now, it might be possible to combine that with a restriction which meant that the magazines and any ammunition associated with them could be kept separate from the weapon. In other words, kept at the club. What practical problems would that create for sporting shooters or target shooters? - It rather depends on the individual. Some shooters shoot at only one place. They are a member of one club and use one range, but a very large proportion of shooters travel to shoot at other ranges. They will go to competitions. They may be a member of a club for instance which has got its own .22 range on the premises but uses another facility for full bore. He might go to Bisley. So you would have a very large proportion of shooters who for certain periods of time would still need to have in their personal possession a firearm, a magazine and the ammunition if they were allowed to compete at all. As far as I can see, the only way of getting that aspect out of the equation would be to completely ban the present system of competition shooting and restrict people to only one range but, again, I think that would effectively ruin the sport.

For people who have to travel to away shooting, is there any reason why they can't simply pick up their weapon and ammunition on the way and take them back in later? - That is of course a possibility. You have to bear in mind that many clubs function infrequently and they are not permanently staffed. If a club shoots only once a month and he did want to go competition shooting he would/

would have everything in his hands for a month. If he shoots once a week he might have everything in his hands for a week to cover the competition period. So one then begins to question whether this would really significantly affect the issue. If someone really wished to undertake a serious crime using his own firearm and ammunition, he would merely come up with the colour of an excuse by entering in a competition, checking out his firearm, his ammunition and his magazine and then carrying out his actions.

It may be because of great public anxiety however, that exceptional measures have to be taken and these measures which do involve a change in practice by those who benefit from the sport and enjoy the sport and that might mean going to a different place from those at present to actually collect the ammunition and weapon and bring it back afterwards and have the facility for doing that. Now, do you accept that if necessary it could be done? - I suppose it could be done but it does introduce another extremely wide range of problems. For a start, you split the responsibility. You are saying that fallible human individual A will not take entire responsibility for his firearm and ammunition but you are introducing into the equation fallible human individual B, presumably some official of the club who will have to take charge of these separate items and be responsible for the issue and return of them. By split responsibility if something goes wrong, and that is when the question arises, you will also get a dispute as to where responsibility lies and you would create an extremely cumbersome situation which is still open to human error and to human abuse.

And that is really because people do travel regularly to compete in shooting in venues other than their own club? - Absolutely.

What about the need that target shooters have at present to load their own ammunition or make their own ammunition? Could that task be undertaken in club premises so that the ammunition could in fact stay there? - There would be great difficulties, aside from the fact that many clubs don't actually have a suitable building in which this could take place. This is not the sort of thing you can do out of the boot of the car in the open/

open with any hope of success I suspect. You have to have a place where the ammunition is loaded. Now, you have to accept that this requires concentration and precision. You are using measures, scales and so on so you have the potential of going to produce an unsafe round. If someone is doing that he should be doing it in calm, quiet conditions where preferably he is alone. I would suspect that normal club premises with people milling around taking guns out of lockers and cleaning weapons and chatting to each other and going on and off the range is not conducive to that. You also have to accept that loading ammunition may take a rather long time so you would have queues of people waiting to get into the facility to load their ammunition for shooting. I honestly don't believe it to be practical and I also believe it is very questionable on the safety aspect.

Why do you say that? - Because of the circumstances in which the person is trying to load explosives into the cartridge.

We have heard evidence that magazins have varying capacities. What is the largest capacity that is in wide use in competition? - Probably the 18 round magazine in the Glock but there are extension magazines for 20 rounds as we know from this case.

I am wondering whether for example if a magazine were restricted to say five or six rounds, if that would have a significant effect on competition? - It would certainly affect Practical Pistol and one or two other competitions that require a significant string of shots to be fired quickly but you have to accept that any pistol shooter with a reasonable level of skill can change one magazine for another in well under two seconds so it won't significantly affect the rate of fire. He would just need more magazines.

Would it disadvantage a British target shooter in competition elsewhere? - In Practical Pistol shooting absolutely because Practical Pistol shooting is time-measured in fractions of a second.

But apart from Practical Pistol shooting, would it affect the British competitor? - It might do in one or two other events but I have to say I can't/

can't think of one immediately.

Now, can existing magazines be modified to restrict capacity? - I think it is possible probably by either crimping the sides or by inserting a pillar into the magazine preventing the follower going too far down.

What is the average price of a magazine for six rounds or five or six rounds of ammunition? - Well, there is no difference in price at the moment significantly based on capacity. A magazine may be as cheap as £12 or as expensive as £25. You have to accept that magazines are actually semi-disposable. If they are damaged they are normally just thrown away and replaced.

Just to complete the picture on this; with your experience of shooting clubs, and forget for the moment the practical problem of collecting and travelling and so on, would it be physically possible to store weapons at a club for members of the club? - It depends on the club. As we have indicated earlier, there are a number of clubs that have no premises of their own. If they have club guns they are normally kept by the Secretary at his home so what you would be doing is requiring a club official in these circumstances to store everything. Again, one has to accept there would be a very, very significant bureaucratic burden involved here because if you are talking about parts of a Section One firearm you may be talking also about certificate accountability for these. In other words, that there would have to be legal authorities to possess all those parts belonging to the club members.

Now, I think in your statement at Section 11 you deal in considerable detail with the storage of ammunition at club premises? - Yes.

And you make a number of significant points in there, a number of points you have made as we have taken your evidence this morning. Is there anything in that particular section that you feel you want to highlight that we have not either touched upon or can easily be read in your statement? - I would like to emphasise that you would be introducing a position where the base level of fairness in competition could be quite significantly/

significantly affected if shooters had no ready access to their ammunition. This would mean that it would effectively give the home team an advantage if people had to either acquire ammunition from another club or possibly make extensive arrangements for that ammunition to be transported on their behalf to another venue. What I'm saying is that away shooters have to have their ammunition in their possession if they are to compete fairly.

MR. BONOMY: Sir, I wish to ask Mr. Penn questions about one of Hamilton's own weapons. The weapons were not here initially to be examined but the weapons are now here. Would it be possible to have a 15-minute adjournment just now so that he could have a look at it?

LORD CULLEN: Certainly, and I think it will give the witness a break from his explanations.

After/

11.30 a.m.

After a short adjournment.

What I asked you to do was to have a look at the Browning pistol with the longer barrel, the muzzle weight and certain other apparent alterations or modifications to the safety mechanism that had either broken off or been altered in some way. Now, you have had a chance to do that? - Yes.

Can you confirm to me that the weapon is different from the other Browning? - Yes, it is. It is what is known as a Browning competition model. It is a factory-made variant for target shooting. The longer barrel and the extension and weight at the end of the barrel and the adjustable rear sight are all features introduced on to that model for target shooting.

So Hamilton had not himself made any obvious alterations to it? - The only obvious modification is to the spur of the hammer.

What has happened to it? - The spur itself has been completely removed.

Can you tell me how it has been removed, first of all? - No. I can only tell you it has been very neatly re-finished and rounded, presumably with a grinder.

Has this been done accidentally? - The re-finishing is deliberate, but the damage may have been accidental. I think the possibility that he broke the hammer spur is a real one.

Is that something which often happens? - Very rarely. If the pistol was dropped and landed on the hammer spur it could have happened like that.

Could it be replaced? - He could have bought another hammer for that pistol, but that would have required careful fitting. The pistol is set up for target or competition shooting, as a target or competition pistol. It has got a light trigger pull, which I estimate -- and this is only an estimate -- to be between 3 and 4 lbs., and it has been very well adjusted as a competition trigger, therefore Hamilton may have felt that rather/

rather than go to the significant expense of having a new hammer fitted to achieve that good level of trigger pull he would rather just have cleaned up the damaged hammer.

What is the effect of the damaged spur? - It makes it nearly impossible easily to cock the pistol when the hammer is down by pulling back the trigger.

I see? - You have to retract the slide. The slide comes back, overrides the hammer, pushes it back and cocks it. Now, for target shooting purposes that would not be a very significant problem.

Are there circumstances in which target shooters modify a weapon? - Yes, there are two main ones. One is to reduce the weight of the hammer, thereby speeding the hammer forward. You get a shorter time between squeezing the trigger and the firearm firing. The lesser the time the less opportunity there is for the gun to be affected by the hand moving. We are talking about fractions of a second here. The second reason is particularly common with self-loading pistols of the Browning type, in order to avoid hammer bite.

What is that? - For someone with fleshy hands, when the pistol is gripped the flesh between the thumb and forefinger tends to ride up over the back of the frame and be nipped by the hammer when the hammer comes back, which can be painful.

Oh, I see? - Some shooters with large fleshy hands will either shorten or change the shape of the hammer.

Could that have been done in this case? - No, because normally you won't entirely remove the spur. There are some advantages of being able to cock the weapon easily without having to retract the slide.

Does the missing spur affect the trigger weight? - Not significantly.

Is it a particularly light trigger? - Not for a well tuned competition pistol. It is about normal.

Now/

Now could I move to the next section of the submission, which is about separate storage of component parts of a handgun? - Yes.

We have had some evidence to the Inquiry about the facility with which both self-loading handguns and revolvers can be dismantled, so that they cannot operate as firearms. I think you have had the opportunity to read Mr. Paton's evidence? - Yes.

I think you agree broadly with what he had to say? - I do.

There may be however certain weapons -- and he in fact dealt with more than self-loaders and revolvers; he dealt also with single shots -- there may be some where the dismantling process could cause some degradation of the weapon? - That is correct.

Does that apply to a significant number of weapons? - It applies most to self-loading .22 calibre pistols designed for target shooting. There are some of these, including one of the top competition models, the Hammerlee 208, which I use myself, whereby to remove the slide, which would be the only easily removable part, for separate storage purposes you also have to move a yoke on which the rear sight sits, and every time you do that you run the risk of losing the zero on that pistol, and you would have to re-zero it.

Yes? - I do agree that the generality of pistols and revolvers are designed to be field stripped, to be broken down into single components.

Losing the zero just means that you have to re-set it? - Yes: but continual removal and replacement of the yoke would probably ultimately loosen it.

So far as revolvers are concerned, are there any revolvers you know of in common use where there would be a problem about regular dismantling? - Not a major problem.

So apart from the one you have identified just now and the one Mr. Paton identified where you have to hammer out the pin, are there any other particular/

particular features of any handguns which would cause a difficulty that might result in deteriorating the weapon? - Not that I can immediately think of, no.

So far as the objections to dismantling are concerned, if you take pistols first of all, self-loading pistols, I think you were describing the removal of a slide. Are there other easy ways of dismantling the pistol and making it ineffective? - The majority of self-loading pistols in every day use today have a slide; and so normally that pistol will break down into the components, the frame and the slide certainly and possibly also the barrel as a third major component, and also the magazine.

Yes? - There are very few pistols which do not use slides; the only common one that comes to mind is the Luger 22 pistol, which is widely available and made in large numbers, and which is used as a target pistol.

This has an internal bolt rather than a slide. It also happens to be a pistol which is not well designed for easy taking apart -- like the Hammerlee -- and putting back together. It is difficult to do.

Can the bolt be removed? - Yes.

If that is done regularly would it cause any damage to the weapon? - No.

It is simply more difficult than in other cases? - Yes.

You have set out also in your statement a number of problems which are largely related to convenience; is that right? - Yes.

And we can obviously read the difficulties there? - Yes.

I think you also mentioned the availability elsewhere of some of the component parts that might be removed from the main chunks of the weapon to render it ineffective? - Yes.

Do you see a difficulty there about a person like Hamilton replacing the part which ought to/

to be separated from the main bulk of the gun? - If you are accepting a degree of forward planning and an intention to take some trouble to ensure having a complete firearm it would be possible for components to be bought in other countries.

Within the USA normally only the frame of the pistol or revolver is registerable; other parts are on free sale. The same applies in Finland, which is a European Community country. Depending on the canton, in Switzerland any component, including the frame, may be on free sale: some cantons do, other cantons do not. I am talking about an entirely free sale.

I now want to look at the question of the relationship between the clubs and the police, and the policing of clubs. Not all clubs are Home Office-approved. In general terms do you personally see any advantage in having a requirement that there should be Home Office approval for all clubs? - Not really. Approval -- its main function is to provide a mechanism whereby a person may have temporary possession of a firearm for the purposes of target shooting within the club. This is obviously necessary if you are going to introduce new probationary members into a club. The police will not issue a firearms certificate normally to a person who is not a full member of a club, therefore you need that facility. There are other clubs which are not Home Office-approved, and if they work on that basis every single member of the club has to have a firearms certificate, therefore they will have gone through the police vetting process.

I also have to say that I think there is some difficulty in defining what a club would be in these circumstances. You are really talking about imposing on groups of already-certificated individuals a Home Office approval system which they might not feel they wanted.

The problem of identification or definition was one of the difficulties highlighted by a police witness, that perhaps the identity of all clubs in a given area is not known by the police. That is a possibility? - I think it is a possibility, yes.

Some clubs will effectively function as a means/

means of a group of like-minded people getting together to shoot a certain type of firearm or a certain competition.

I happen to be a member of one such society which meets to shoot Edwardian courses and meets three or four times a year. It has a natural status in that it has a letterhead, and all the members have firearms certificates, but they get together and shoot a competition, have lunch and then go away again.

That takes me to a concern which has been expressed that when perhaps it comes to looking at the "good reason" test being genuine or renewing a certificate held by a target shooter that some attention should be paid to the amount of target shooting the applicant is actually doing at the time, and for that to be checked if that is necessary to be able to identify where he is doing his shooting, and to have some sort of ability to obtain information from that source. Now, do you see any particular problems about requiring clubs to give information to the police about shooting being done by members? - It depends on the organisation of the club as to whether they keep this sort of information. Obviously if this were to be made a requirement -- you would then still run into difficulties, because many shooters shoot at more than one location. For instance, someone who is a member of the National Rifle Association can book a range for himself and go and shoot, so he and the NRA officers are the only people who know he has made a booking. His local club would not know he had done that. If he belongs to two clubs, presumably they would not interchange information. Since different members can belong to a wide range of different clubs, the only way the information could be assessed is by the police going to every single club that a person might have a right to shoot at and checking every single competition he said he had entered.

12.00 p.m.

I think perhaps the starting point would be a declaration by the applicant that he had been shooting at particular places and giving at least some guidance, so obviously in his own interests? - Yes.

And that would obviously reduce the extent to which enquiry would be necessary? - That would be one route to go.

Assuming there was such an obligation on Clubs to disclose information, would that create a particular problem for the Club? - Only that it is another piece of bureaucracy. I don't want to say it is necessarily a bad thing. It has to be borne in mind that most shooting Clubs are groups of like-minded people who gather together to enjoy their leisure activity, and they are run by amateurs in the best interests of the sport. They are not doing it as a job and fully professional, therefore one has to accept that the less pleasurable aspects of that administration, as they grow, it becomes more difficult for the Clubs to accommodate them.

There has been a suggestion in -- I think it was the Chief Inspector of Constabulary's report -- into Firearms Licensing Systems and Licensing Departments, in Scotland, that there could be detected a measure of resentment among the shooting public about the very involvement of the police at all in the administration of the system in the certification process. Do you detect that? - It largely depends on the sensitivity of the policing. The tendency in recent years has been for a number of police Forces to see this increasingly as a police service and not as a police Force. Her Majesty's Inspectorate of Constabulary's report on licensing that was recently done in England and Wales stresses the fact that the police were supposed to be giving the shooters a service and that the shooters demanded good service, and could expect good service. I think that is entirely reasonable, so provided the police do in every way conduct themselves in a proper and efficient manner, I can't see why anyone would object to it. If they don't then there may be reason for complaint.

BY/

BY LORD CULLEN: Can I ask you one question as to my own understanding of this? When somebody applies for a Firearms Certificate and he specifies target shooting as a reason, I imagine he would normally be expected to specify where he is going to do it? - That's not an absolute requirement in law. It is, however, an almost absolute requirement in practice.

So he would normally, I suppose, refer to a Club or Clubs by name? - Yes.

Am I right -- would that normally be an approved Club, or might it not be an approved Club? - The tendency would be for it to be an approved Club because if he joined an unapproved Club, he would have at that time absolutely no means of enjoying the sport because the law would prevent him using either -- well, in fact most unapproved Clubs don't have Club guns, but he couldn't get a firearm.

He couldn't get started? - Exactly.

But he could at the same time or later become a member of another Club which was not an approved Club, possibly some informal arrangement of the type you have been describing? - That is true, although for the sort of informal arrangement that you are describing, every person will be a member of another Club which he would use on a much more regular informal basis. What we are talking about there is like-minded people getting together to enjoy an aspect of the sport.

So in practical terms, for every Firearms Certificate holder, there will be at least one, if not more than one, approved Club of which he is a member? - There would be at least one Club that the police could be expected to recognise as an existing entity. It may be that some shooters as they move on, possibly change their place of residence, will have moved from an approved Club to an unapproved Club because that is what is available locally, but they will already have gone through the certification process so they will have their certificate.

But to require firearm holders to be a member of at least one Club would not represent any significant difference compared to the present situation?/

situation? - Not for most people. There may be some areas of the country where it would be physically difficult to get to an approved Club, and if that were the case and people were knocking on the doors of unapproved Clubs, it would probably encourage them to seek approval.

EXAMINATION CONTINUED BY MR. BONOMY: It has also been suggested that perhaps the records of some Clubs, certainly as kept at present, would not provide evidence of the extent to which a member was making use of the facility. Would you say that was fairly common, in view of what you have been saying about the attitude to bureaucracy? - I really can't say. The normal reason for keeping records or for creating records on use of a whole new range, is for members to list their names while they are waiting or queuing to go on the range, so effectively you are producing a queuing system and the range officer will call out the next detail of shooters to go forward and shoot. Whether the club bothers to keep that shoot paper thereafter is really up to them at the moment. That is the normal reason for keeping a record of shooting. There may be other forms of record of attendance, for instance if someone is buying ammunition at the Club, he would normally be expected to sign for it in some form of register or book, for good accountacy purposes as well as legal ones, so that would be an indication at least he had been there on the day.

Or if he buys ammunition from the Club, would that be recorded? - That is what I am talking about, yes.

There does appear to be a practice in some Clubs of requiring a minimum attendance? - Yes.

In the course of a year; is that common? - I can't say how common it is. I certainly know that at least one of the Clubs I am a member of makes such a requirement, yes.

But that is an attendance requirement rather than an actual shooting requirement, is it? - It is a nice distinction, yes.

So is the answer "Yes, it is a nice distinction"?/

distinction"? - That is precisely the reason, yes. You have to accept that not everyone goes to the Club every time to shoot. There is a social element to most Clubs, and people will sometimes just go along for a snack and a chat. One also has to say that at some very busy Clubs you can turn up and not get on the range all evening. That has happened to me many a time because you are too late and there is too big a queue.

BY LORD CULLEN: I have heard that some shooters come along and may shoot a few rounds in order that they keep their attendance up; could that happen? - Yes, I think that is possible, but I can't see how you can differentiate between the shooters -- the mental process of the person who is on the range is a little difficult to -- I have to stress that the shooting aspect is obviously a major part of the reason for being in the Club, but there are other reasons. There are people who are perfectly proper, acceptable, respectable in this and who have a very strong interest in firearms, who may be less interested in the shooting aspect. They will shoot a bit. It is the reason for having the firearm, but they are still within the system. They are still certificated; they have been checking out, and I can't say that that interest is either more or less proper than someone who is interested entirely in the highest precision target shooting. It is just another aspect in the spectrum of interest in firearms.

EXAMINATION CONTINUED BY MR. BONOMY: I think the problem with that may be the very existence of the weapon at all where they are being put to little use, and that is then taken along with the suggestion that it is very difficult to predict when people's mental state might change, and they have ready access to something that they have little use for? - The difficulty here is that, as I have indicated, the interest in firearms is broad, and there is without doubt, and I am among those people, a group of people who have a strong interest in firearms as objects as opposed to sporting implements primarily. Those people also have a legitimate interest. It is very hard to differentiate between the two. A lot of collectors like to shoot a bit, and a lot of collectors like to shoot as a process of understanding the object they are studying because they want to check mental performance./

performance.

I have been asking you about Clubs. Can I just alter the direction of these questions now into the area of the umbrella organisations or bodies representing the shooters more widely? In your experience, and you are obviously very experienced in these areas, how do these shooting organisations get on with the police? - Very well. If we are talking about the National Target Shooting Association, they have excellent relations with the police, largely because large numbers of police actually shoot through them.

I think you may be the only witness to give evidence who has experience of the -- inside experience of the operation of the Firearm Consultative Committee of which -- are you still a member? - I am a member.

And have been for how long? - Since the Committee was founded in 1989.

What is the object of that Organisation? - May I quote you the law on this? The Committe was set up by Section 22 of the Firearms (Amendment) Act 1988. 22/1 -- "There shall be established in accordance with the provisions of this section a firearms Consultative Committee consisting of a Chairman and not less than 12 other members appointed by the Secretary of State, being persons appearing to him to have knowledge and experience of one or more of the following matters -- (a) the possession, use or keeping of, or transactions in, firearms; (b) weapon technology; and (c) the administration or enforcement of the provisions of the principal Act, the Firearms Act 1982 and this Act.

(2) the reference in sub-section 1(a) above to the use of firearms includes in particular a reference to their use for sport or competition". It then goes on about vacations of posts and resignation. "(5) it shall be the function of the Committee, (a), to keep under review the working of the provisions mentioned in sub-section 1(c) above and to make the Secretary of State such recommendations as the Committee made from time to time think necessary for the improvement of the working of those provisions; (b), to make proposals/

proposals for amending those provisions if it thinks fit and (c), to advise the Secretary of State on
any other matter relating to those provisions which he may refer to the Committee.

"(6) the Committee shall in each year make a report on its activities to Secretary of State who shall lay copies of the report before Parliament", and it then goes on about payments of expenses.

Can you remind me what the provisions above are? - Yes -- sorry, it's Section 22/1 of the Act.

Sub-section 5 refers to the provisions above; what are the provisions above? - "The possession, use or keeping of, or transactions in, firearms, weapon technology, and the administration or enforcement of the provisions of the principal Act, the Firearms Act 1982 and this Act".

What in practical terms has the Firearms Consultative Committee been doing since it was set up? - If I could first say that the Consultative Committee does not consider matters relating to the use of firearms by the Armed Forces or by the police or other Crown servants, so it is very strictly looking at civilian use and training in firearms. Its function really has developed into one of looking at different sections of the existing legislation which, as you know, is actually a series of Acts, of establishing whether there are any problems connected with that part of the administration and application of the Act. If there are problems, to look into those problems and then to make recommendations. Some of these recommendations may be of a nature that they can be implemented without primary legislation. One has to say that a very large number of suggestions would require primary legislation for enactment, so effectively the Firearms Consultative Committee has been building up a study and large corpus of information to assist the Home Secretary in making
future decisions of changes on primary legislation.

Now/

12.10 p.m.

Now, you can take it that we know what the reports say and we know to what extent they have been implemented. It is a general picture I am looking for at the moment? - Yes.

Can you now tell me the general composition of the committee in practice? - In practice, yes. You will have ex officio a senior member of the Home Office in the Police Policy Department as it now is. The Secretariat also comes from that body. There will be a representative from the Association of Chief Constables of England and Wales and also ACPOS in Scotland. There is normally at least one and possibly two or three lawyers. At the moment there is for instance a recently retired senior Crown prosecutor and a Scottish Advocate on the board and also one solicitor. There is a representative of the Proof House. There is a representative of the Forensic Science Service and there are also individuals who will have specific knowledge of aspects either of firearms or of aspects of the shooting sports.

BY LORD CULLEN: Can you perhaps enlarge a little on what you see as being the objectives of the committee. I understand the function because you have described that first but what are the objectives in terms of interests to be pursued? - The committee reacts to suggestions and these can come from any source. So, for instance, the Home Secretary may and indeed has asked the committee to look at an area that he perceives as a problem. An example of that would be the standards for approval of clubs which have been looked into twice during the course of the committee. It may be that there will be a police interest and one or other of the senior police officers will introduce the subject for consideration. It may be that there will be a subject raised by one or other of the shooting organisations. An example of this, for instance, will be the territorial conditions on certificates relating to the use of sporting rifles. So what tends to happen is at the start of each year the committee will consider proposals that have been put forward to it from whatever source and it will chose these topics which it then considers to be most important or if it has been asked to look at a subject by the Home Secretary, obviously it would include/

include that. Then those subjects will be given detailed scrutiny in the course of the year, if necessary by reference to a working party and then the conclusions will be reported to the Home Secretary.

Yes, I think that is still very much within the realms of function. What I was interested in was whether the committee conceives it has a role to play in regard to public safety? - Yes, public safety is considered to be of absolute and prime foundation to the firearms legislation and therefore everything the committee does is with a view to the public safety element as the major and prime consideration.

Some of the earlier things you were discussing sounded as though they were more concerned with making sure that existing rules operated efficiently or effectively? - This does have a public safety aspect because resources, police resources, are finite and if aspects of an administration are actually taking police resources away needlessly, that being the criteria from a public safety point of view, from other aspects of police work then it is desirable that they be entitled to use resources for other purposes.

So presumably then you're thinking about the balance between using resources on the one hand and safety on the other? - That obviously is a consideration.

EXAMINATION CONTINUED BY MR. BONOMY: Now, one of the things that was considered by the Firearms Consultative Committee was the question of a unique identification mark on a weapon, is that correct? - That is correct, yes.

And you in fact have written a paper for the Consultative Committee dated the 3rd of March, 1993? - Yes, I have.

Now, that has actually been given to Lord Cullen and to other parties. I don't know whether it has had a Production number. I doubt if it has. Do you have a copy there that you can now give to the Production Officer? - I am just checking to see if I have a copy with me. If you would excuse me. Yes, I do.

Now,/

Now, that was your assistance to the committee on that subject? - Yes.

Did the matter proceed any further after this paper was prepared? - I had twice suggested to the Home Office that they should get their own data processing experts to look at my paper and to indicate whether they think it is a true picture. I think it is true to say that at least one of the two Chief Constables on the committee, Dr. Ian Oliver, is convinced of the soundness of my argument.

And your argument is for or against? - My argument essentially is that if you are looking at a national database of unique identifiers, the system will not work well. The serial numbers on firearms as it exists in the real world works adequately for local audits. So a check of the holding of a firearms dealer or of an individual certificate holder against a record on his certificate or register, that works quite well but for data retrieval, when you don't necessarily have the object before you and what you are looking through would be millions of records, I don't think the system would work.

Is there any good reason why firearms should not, like a motor car, have a unique identification number? - If you are talking from a starting point of now, no, but you have to accept that there are many old firearms in common everyday use and not all of those are numbered. The routine numbering of shotguns is really relatively recent. The same applies to 233 rifles and certain other classes of weapon. So there is no such thing as a manufacturer unique number. Some major manufacturers number within a model or a series so you could have a number of Colt revolvers with precisely the same serial number. What you have got to know is what model of Colt it is before you have a unique statement relating to the weapon. This also holds true of military weapons because the military don't like long serial numbers so they tend to have repeat batches and require prefixes or suffixes to the number. They may require the number to be related to a date on the weapon so uniqueness is difficult to achieve because whoever is recording the firearm has to know an awful lot about the subject to make sure he is recording all the data necessary to create a unique record.

Now,/

Now, I take it the objective of having a unique way of identifying a firearm is to keep track of it? - Yes.

And that in fact might be of assistance in the detection of crime? - It might be but it very rarely is and I believe it was the New Zealand Police a few years ago when they looked at their own recording system, I think they discovered that they had never successfully tracked a firearm. If you look at the report done by Inspector Maybanks on numbers of firearms recorded in the Metropolitan Police area during a period of time, the percentage that they could, by the description and numbering, link to legal ownership was very low. I don't have the report with me but my recollection is that it was about 13 per cent. It may have been lower.

BY LORD CULLEN: Just remind me of the name of the report? - It is the Maybanks Paper.

EXAMINATION CONTINUED BY MR. BONOMY: Now, the other document you provided was in letter form and that is dated the 31st May, 1996 and that can actually be considered I think quite independently by the Inquiry as a description of the types of ammunition which Hamilton had and the use to which these are put? - Yes.

You indicated you also had the opportunity of reading Mr. Paton's evidence? - Yes.

And he dealt with ammunition in some detail. Do you accept what he has actually said about ammunition? - In the generality of terms, yes, but there are one or two specific statements I would take issue with.

And you deal specifically with anything you wish to say on that subject in this letter, do you? - Yes, I do.

So I can give that also a Production number and lodge the two I have here. That is the report of the Firearms Consultancy Committee and the letter as to additional Productions? - Yes.

BY LORD CULLEN: Perhaps you could tell us if there are any matters you take issue with because I think perhaps I better know in case I rely on/

on something where there is some issue? - I am sorry, sir, I can't recall precisely. I think at one point he talks about semi-wad cut bullet and I don't think he was precisely correct there. I'm afraid, sir, I really would need to review Mr. Paton's evidence in some detail. I did not take notes. I read it.

What I would suggest if there is any passage in it which you would like to draw to my attention you should write to me and draw these points to my attention. I think that would be the sensible way of dealing with it? - Certainly.

And then I will have to make up my mind what to do then.

EXAMINATION CONTINUED BY MR. BONOMY: That leads me to the question of illegal firearms. Do you have any information that might assist us in relation to the numbers of firearms which are held illegally in the United Kingdom? - I would like to talk about this. I'm afraid I can't be brief on this subject. One of my jobs involves looking at firearms that come in in amnesties and I think I probably looked at about one-third of the firearms that came in in the previous amnesty. I will be looking at other firearms shortly. I would like just to mention one or two figures. The total of firearms that have come in in amnesty since 1933, and bear in mind that nearly all of these firearms would have been in unlicensed ownership, is 321,023. That includes Scotland. Anecdotal evidence seems to indicate that apart from amnesties the police have recovered approximately 600,000 firearms that have come to the police. So we are looking at a figure of a million firearms or thereabouts that have already come out of Great Britain and nearly all of which would have been unlicensed.

The question then arises about how many more there are out there. That is difficult. Now, can I say to you that I believe essentially one is looking at three different pools of firearms in Great Britain. Pool one we have been discussing today. They are the certified legally owned firearms and the person who owns these is an active shooter. He wants to be able to travel with his firearms, to replace them, to buy ammunition and so on. There is a second, and I submit very small, pool which is used for professional criminal purposes./

purposes. My own feeling is that they can probably be served by 2,000, 3,000 or 4,000 firearms. If you look at the report that was done by Oxford University recently on the use of firearms in crime, it indicated that most of these cost less than £200. In a magazine article, a magazine called SKY written shortly after the 1988 Firearms Act gave anecdotal evidence that the only firearms purchased illegally that cost more than their equivalent purchase legally were Uzi sub-machineguns and other weapons that were popular in the drugs sub-culture. The indication there is that supply exceeds demand for serious criminal purposes.

The third pool of firearms, and that is the one we are talking about at the moment, is those that are in public possession, members of the public, but uncertificated. Now, you may wish to consider the extent to which those can be and have been recovered.

Again, I would like to take you back to the period before firearms licensing in any serious way was introduced in this country which was in 1920. For all practical purposes before 1920 anyone could buy pretty much any sort of firearm they wished to possess.

Now, with your permission, sir, I would like to read from a short passage from the Journal of Beatrix Potter which is dated 13th January, 1885. "I can't help thinking that the state of society, as regards personal safety, has rather gone back lately. A correspondent of the Times in Paris states that he became confused as to his overcoat in the lobby of one of the most influential and respectable Paris Clubs. He thought that he should at once recover his coat because he had left a revolver in the pocket, but he felt in no less than 20, in every one of which was a pistol. This letter called forth a most startling one from a gentleman who seemed veracious, and must of course have given proof of his good faith to the editor.

He said he had been staying at a quiet Yorkshire hotel when, one day in the coffee room, a discussion arose as to whether the practice of carrying revolvers is common in England. The correspondent thought not, but to his amazement discovered that, out of the eight or nine persons present, he was the only one unarmed. The Times wrote a Leader on the subject, in surprise and consternation, and other papers declared that the practice had for some time been very common, and it is/

is perfectly well known to the authorities.

One of its dangers, a shocking example, has lately occurred in Huddersfield, where an unfortunate gentleman thinking he heard burglars in the middle of the night, went downstairs and shot his cook dead."

Now, that indicates that firearm possession was extremely common and also that it was not very responsible. I would just like to make an aside that in this country things have changed very considerably obviously and one factor of that is that possession of firearms in this country now legally is a very social activity. If you shoot game you are normally shooting on someone's land and you shoot as a member of a group or a syndicate which tends to be self-regulating. If you shoot in clubs you are in a self-regulating society. So in fact it is in the interests of all shooters to make sure that reasonable standards are attained for safe and successful firearms use and handling which is a significant change but my main point is the very large number of firearms we see.

Another point which indicates this is that the Americans passed a major tariff law change in 1897 which put a very heavy tax on cheap firearms coming into America. The result was that Great Britain, who through Birmingham, who was a major firearms manufacturer, also at that time became the single perhaps destination of firearms from Belgium which was probably the largest firearms manufacturer in Europe at that time. So all one can say is that there were very large numbers of firearms in Britain after the First World War.

The/

The second main source of illegal firearms are wars and other forms of conflict. The First and Second World Wars brought huge numbers of firearms into the country. In fact it was not illegal in the First World War. After the First World War the Government gave great quantities of rifles and machine guns, which were not deactivated, to people and institutions who contributed to War Savings.

In the Second World War it was technically illegal, but you only have to look at the number of firearms used in crime which emanated from that source to know how many were brought back.

Since 1945 there has been no great cessation of conflict in which Britain has been involved, albeit in a very minor way. You only have to look at the Falklands and the Gulf War and all the weapons that were brought back into the country illegally and which have been involved in crime.

In relation to the amnesty figures, they appear to be going up somewhat. There could be lots of reasons for this. The big amnesty after the Second World War in England and Wales netted 76,000 firearms, 70,000 in 1961, 41,000 in 1965, 25,000 in 1968, 42,725 in 1988; so the numbers have not obviously been decreasing.

All one can say is that there are probably still large numbers of firearms out there, illegally held. My personal gut feeling and belief is that it is probably around the million mark.

Figures have been put by others ranging from many thousands to 4 million. I would think around 1 million is a sustainable figure.

There are a number of quite distinct issues I wish to ask you about finally. We have heard about the practicability of converting weapons from multi-shot to single shot, and all that evidence concentrated on weapons made of standard material, which I presume is normally iron or steel of some kind? - That is correct.

No attention was paid at that stage to the possibility of weapons which have frames made of different/

different material. Now, how widespread are weapons with frames of different material? - Aluminium started to be used as a frame-making material significant between the wars, and became much more common post-war. There are quite a large range of pistols which have aluminium frames, which are not susceptible to welding.

Yes? - There is also an increasing tendency to use plastic as a material. Quite apart from lightness, it has very genuine benefits in that it won't corrode, and it helps to avoid recoil.

Now, there are a number of pistols, including the Glock, which is commonly used and also commonly used as a police weapon, and that has a plastic frame.

In top competitions, at the top level there are a number of weapons made by Sterr Tripp, which have plastic frames.

There are of course a number of adhesives. You can hold aircraft wings on by adhesive these days. Plastic however by its nature is fairly soft, so I suspect it would be relatively easy to cut out blocks.

The general tenor of the evidence was that it would be largely unsatisfactory to try to convert these weapons from multi-shot to single shot because of the potential for re-constituting the original mechanism. Is the position the same in relation to those weapons which are plastic framed and alloy framed? - Yes.

We have also had some evidence -- this is on a separate matter -- about the speed at which a good shot might fire off a number of rounds from a single shot handgun? - Yes.

You may have read that evidence, given by Mr. Paton? - Yes, I did.

Do you agree with the view he expressed about the time he said it would take to re-load and fire a second shot? - No, I think the time he indicated was too long.

Why is that? - A single shot weapon is normally very simple to manipulate. Most of them are/

are very similar to a conventional shotgun, in that the barrel will drop and the fired case will be ejected.

Now, provided you have ready access to additional rounds you can re-load quite quickly.

I used to use a .22 shot, single shot, for vermin destruction, and I used a wrist bandolier which had .22 cartridges to assist re-loading. With one of these attached to your wrist, the movement from cartridge to breech is four or five inches, and you can considerably speed up re-loading. If you couldn't buy one of these it is within anyone's capabilities to make one.

How quickly could you re-load and fire? - I would suggest with reasonable practice you could get it down to about five seconds.

Can you tell me anything at all -- please tell me if this is outwith your expertise -- about the relative lethal capacity of .22 rimfire ammunition compared to centrefire 9mm ammunition? - You have to understand that there is a difference between lethality and stopping power. Something can be lethal without immediately incapacitating someone. Heavy handgun cartridges are designed for immediate incapacity. A .22 long rifle is capable of lethality on a human being and is capable of instant lethality if you hit certain areas, the brain and the spinal column.

This might seem commonsense, but is it not the case that the bigger the round the more likely it is to cause damage? - It may cause damage, but it depends where you hit. If you hit the brain or the spinal cord with a .22 you will cause instant death. You would not cause as much damage generally to the brain with a .22 as you would with a heavy calibre weapon.

But you must be more likely to hit a vital organ the larger the calibre of ammunition? The smaller the calibre the greater or more likely must be the chance that you would miss? - That is true. The chest cavity however is full of vital organs. If you miss one you are likely to hit another.

We/

We have had some evidence in this case about Hamilton's firearm certificate containing permissions which were never taken up over a number of years, in fact up to 10 years? - Yes.

In your experience is this something which does occur from time to time? - I suspect it occurs frequently. For instance, on the renewal form used by the Metropolitan Police, it takes this into account.

Yes? - On my own firearms certificate I have had one open variation on my certificate for a long time. Now, my interest is antiquarian, but I have an open variation, which is an opportunity to purchase. It is not a problem.

BY LORD CULLEN: How detailed is that variation? - In my case it is for a .455 revolver. Normally the variation is couched in terms of nominal calibre of weapon. I am talking about -- I think it was a .445 handgun. Essentially it is not specific as to serial number or.....

EXAMINATION CONTINUED BY MR. BONOMY: So you would have the facility within that variation to purchase something other than the particular weapon that you sought it for? - Yes. It would still have to be a handgun of a .455 calibre, but frankly that is quite normal for target shooters, who may well decide that they want a .22 rapid fire pistol, and apply for a variation. They will then try several different types and decide which one they want.

BY LORD CULLEN: If I could ask you about one matter, and that is to do with clubs. We have heard a number of clubs are affiliated to national organisations? - Yes.

Does that have any bearing upon the way in which the clubs are run or managed? Are there model rules or things of that sort? - There may well be advice to that effect from the Associations. The Associations also increasingly make available information on safe range construction and on training courses to ensure safe and good practice.

Now, for the most part we have been thinking about what might be called members' clubs, but I think there are a certain number of what might be/

be called proprietary clubs, which may be more common in England than in Scotland. How many are there relative to members' clubs? - I don't know, and I am not sure anybody does. They are normally approved clubs, because they will be wishing to attract new novice shooters to join. Now, the fact they are commercial is not necessarily a bad reflection on them: indeed it has been argued that a properly run commercial club, where there is the ability to pay staff full-time, may run better and more efficiently than clubs run by amateur committees. There is therefore in my view nothing wrong in a club being commercial. The way they operate tends to be that they will operate a shooting range, to which a shop will be attached, and you may buy your ammunition or firearms or shooting equipment there: so obviously the commercial aspect will stem not only from membership fees and range fees on the day but also from the sale of necessities for the sport.

Are they likely to be affiliated to national organisations or not? - They may be, yes. In practice, in operation they can be, the same as an amateur-run club. The difference is that they are run with a bottom line that is a commercial one.

Are they linked normally to somebody for example who may be a dealer? - Yes, normally if they were going to sell guns and ammunition, in these circumstances they would have to have a dealer's certificate, because they would be doing it by way of trade or business. Am amateur-run club can sell its members ammunition through its firearms certificate.

EXAMINATION CONTINUED BY MR. BONOMY: Arising out of that last matter, I assume it would be possible to invite the Home Office to provide information in regard to the number of clubs which are approved? - Given the nature of the approval today, it would be straightforward for them to secure that information in the future, because approval now requires a positive police inspection to make sure the club is meeting the criteria. In the past approval was essentially a correspondence transaction, and lasted indefinitely; approval is now a finite concept.

JOHN/

JOHN ANDERSON (Recalled)

The witness was reminded he was still on oath.

EXAMINATION CONTINUED BY MR. BONOMY: I believe that at one stage in your service with Central Scotland Police you served in the Child Protection Unit or the Family Unit? - That is correct.

When was that? - I began in the Child Protection Unit on the 4th January, 1989 at the launch of the Unit.

How long did you remain in the Unit? - I remained there as a Detective Sergeant until April of 1991, when I was promoted to Inspector.

Who took over from you? - Detective Sergeant Paul Hughes took over at that time.

Did you keep in touch with matters within the Family Unit? - For the following year not directly. I did obviously see Detective Sergeant Paul Hughes in my working day.

While you were in the Family Unit did you have any experience of Thomas Hamilton? - I did not, sir.

After you left the Family Unit did you pick up information from other sources about Thomas Hamilton? - I did.

From where? - From Paul Hughes, who in casual conversation asked me if I had known Thomas Hamilton. I said no, and he mentioned he had an investigation ongoing at that time and I said I had no knowledge of him.

When was that? - It was during the time I was away from the Unit, which would have been after 1991. I could not be more accurate than that.

What was the investigation he had ongoing at that time? - I believe it concentrated on the area of Loch Lomond.

Was that the first you had ever heard of Hamilton?/

Hamilton? - It was to my knowledge, yes.

Now, in April of 1995 WPC Anne Anderson spoke to you about Hamilton? - That is correct.

Now, that was specifically her subject, Hamilton? - Yes, sir.

Do you remember the conversation in some detail? - It was a very short conversation: but yes, I can recall.

Do you remember why she spoke to you? - Yes, sir.

Why was that? - She came into my office at Stirling and mentioned that she was doing background enquiries into a Thomas Hamilton; I think it was to do with a firearms enquiry. Whether it was an application or a renewal I do not know.

Yes? - She said she had checked to see if he had any previous convictions, and he had not. She suspected I may have knowledge of Thomas Hamilton.

Did she indicate why she thought you would know? - She did not.

What did you say? - I recalled the name Thomas Hamilton in my previous conversation with Paul Hughes, and I mentioned to her that Thomas Hamilton had been the subject of investigation by the Family Unit, and I suggested she make enquiries with staff there and also carry out a check on the Force's Criminal Intelligence Unit to see if they had information regarding Thomas Hamilton.

She indicated in her evidence you told her the Family Unit had put in a report regarding Thomas Hamilton? - I am aware the Family Unit did put in reports to the Procurator-Fiscal.

Do you remember telling Constable Anderson that? - No. My recollection of the conversation was that I said Thomas Hamilton was the subject of investigation by the Family Unit, and that she should liaise with them.

Do/

Do you remember saying to her that there were no previous convictions that you knew of? - No, sir, she told me that she had carried out a check and found that he had no previous convictions.

She indicated to us that you told her there were no previous convictions and there was nothing we, that is the police, can do about that? - No, sir, that is not the case.

Are you suggesting her recollection is faulty? - I would say that if the officer had said that, she is mistaken.

This whole investigation made a big impression on her, which she told the Inquiry very graphically about, and one might have formed the impression that she was likely to remember clearly what had gone on. Do you think it may be your recollection that is not clear now, since it wasn't so important to you? - All I can say is, sir, that my recollection of events as far as I am concerned are quite accurate. The conversation we had was very short and perhaps no more than a minute, and I am quite satisfied that I can recall what I said and what indeed that officer said to me.

No cross-examination.

MR. BONOMY: Sir, the arrangement I have made with Professor Cooke is that he should come this afternoon to respect his professional commitments, and I would have grateful if you could now adjourn. It is proposed that Mr. Lake should take his evidence.

LORD CULLEN: 2 o'clock -- would that be helpful?

MR. BONOMY: I think because the length of his evidence is rather unpredicable, it might be as well to start at 10 to 2.

LORD CULLEN: Very well -- 10 to 2.

1.50 p.m.

After an adjournment for lunch.

LORD CULLEN: Now, Mr. Lake, I think there was a suggestion about a witness being interposed?

MR. LAKE: Yes, the next witness it is proposed to call is Mr. Joseph Jackson and it is proposed that Mr. Campbell examine him.

LORD CULLEN: Yes, all right.

JOSEPH JACKSON (56) Sworn

EXAMINED BY MR. CAMPBELL: I think you currently live in Jackton by Eaglesham? - Yes.

Are you a retired Detective Superintendent of Strathclyde Police? - I am.

What is your current occupation? - I am chief of security for the Chivas Glenlivit Seagram Group in Scotland.

I think you joined the City of Glasgow Police Force in 1960? - That is correct.

How many years of police service did you have? - Just over 32. 32½ years.

And you have prepared a statement which I think has been given to all parties and to the Tribunal and we can take your personal details in the main from that. Am I right in thinking that in 1978 you became a Detective Inspector and you were transferred to the Gorbals Sub-Division of F Division of the City of Glasgow Police? - That is correct, yes.

And at that time as a senior CID officer did you begin to take charge of a number of major inquiries, including murder inquiries and numerous other types of violent crime? - Yes, I did. Before that I had been a Detective Sergeant in the Serious Crime Squad and of course was dealing with serious crime but had not actually fronted any enquiries or headed any enquiries.

I/

I think you served in the Gorbals area in that capacity for some seven years before being promoted in 1985 to Detective Chief Inspector of the Strathclyde Serious Crime Squad? - That is correct.

Seven months later you were again promoted and appointed Detective Superintendent in charge of that Department? - That is correct.

And you remained there for a further two years before transferring to G Division to take command of the CID within that Division? - Yes.

And you served there for five years before retiring from the Strathclyde Force? - That is correct.

Were you an authorised firearms officer? - Yes, I was.

Was that from 1974 until your retiral? - Yes.

And can you give us some indication of the kind of experience which you have had which enables you to tell us a little bit about the illegal obtaining of firearms which is the specific subject that I wish to ask you about? - Obviously as a CID officer, and I was always in the CID from three and a half years service, when dealing with criminals and the criminal fraternity, the majority of the time was in Glasgow but when Strathclyde came about it was outwith Glasgow too and from there of course we had to deal with situations where there were robberies which involved firearms, murders which involved firearms and other types of crimes where firearms could or would have been used or would be in the possession of the criminal who intended to commit that crime.

As an incidental, do I correctly understand that as a Detective Superintendent you were also involved in a Working Party concerning the restructuring of the use of firearms by Strathclyde Police officers? - That is correct.

And the recommendations of that Working Party were implemented in due course? - That is correct.

Obviously/

Obviously you are aware of the terrible crimes committed by Thomas Hamilton on the 13th of March of this year? - Yes, I am.

With which we are concerned. The Inquiry has heard evidence to the effect that if Hamilton's firearms certificate had been revoked Hamilton may have simply obtained firearms illegally for the purposes of carrying out these terrible events? - Yes.

And it is in that context that I want to ask for you evidence. We have also been told that Mr. Hamilton had no criminal record? - Yes.

He had no previous convictions of any nature. Bearing that in mind, do you have any comment to make upon the proposition that Hamilton would have obtained firearms illegally? - It is something obviously you would have to think about and you would have to think well, in that context from where could he obtain firearms? If you are looking at it from the criminal element, if his certificate or firearms certificate had been revoked and he had obtained them from the criminal element -- looking at Hamilton's background I would suggest that this would be highly improbable for the simple reason that, and I think great stress has been placed on the fact, he had no criminal convictions and he had no criminal contacts. To obtain firearms from criminals in the context which I am aware of, on many occasions for armed robberies etc. firearms are hired out. Firearms are there for hire and I couldn't see Hamilton being the type of person who could go into an area, and there are specific areas, where these firearms can be hired. I could never see Hamilton going into such an area to hire a firearm or buy a firearm for that matter. I just don't think he was that type of person.

Now, those of us who know very little about this type of thing may not immediately understand why Mr. Hamilton should not have been the kind of person who would be able to do this. Can you help us on the reasons for your view? - Yes. He doesn't have the criminal contacts, he doesn't have the type of background, he has no previous convictions and he doesn't seem to come from any criminal family. He doesn't seem to come from an area where firearms could be obtained in that way. There/

There are a whole set of circumstances which would have to be put together before I would say that Hamilton or any other person could go to an area and obtain firearms by buying from criminals or hiring them from criminals.

So do I understand from that it is not the simple matter of anyone with the necessary amount of money going to wherever one goes and buying an illegal firearm or hiring an illegal firearm? - No, that is not the way it is done.

Now, have you considered other possibilities such as burglary? - Yes. I have thought of the situation where if he had no firearms and he was requiring to acquire similar types of firearm which Hamilton had he would have to look at specific places where he could go to obtain them by housebreaking and it would have to be a gun club or it would be a firearms dealer. These places generally, if they are holding firearms, are heavily alarmed and heavily secured and it certainly takes a certain amount of expertise to break into such places. I would suggest that Hamilton would know this and possibly not have the nerve, let alone the expertise, to carry out such a housebreaking.

So from the knowledge which you have of Thomas Hamilton's background and the type of person which he was, assuming his firearms licence had been revoked what is your view as to the likelihood of him obtaining alternative firearms by illegal means? - The only other way that he could obtain them by illegal means was perhaps by some colleague or contemporary within a gun club giving him these guns but from my reading of Hamilton, Hamilton was a loner, Hamilton was not a person who had friends and if a person's firearms certificate or gun licence was revoked I would expect that people who were members of the gun club certainly would not be prepared to hand over other firearms to him so I really don't think.....it is not beyond the bounds of possibility but I certainly do not think it is probable that Hamilton could have obtained the type of firearms he had if they had been taken from him. If his legal firearms had been taken from him I don't see him acquiring illegal firearms.

CROSS/

CROSS-EXAMINED BY MR. TAYLOR: Can you tell the Inquiry the nature of the information you were given which enabled you to form your view of Mr. Hamilton? - The information I was given certainly was in regard to what evidence of.....you are talking of my view of Hamilton, sir?

How it was formed, the basis upon which it was formed? - Obviously I am the same as every other person. I have been reading the papers. I have been looking at the background of Hamilton.

Sorry, looking at the background? Can you please tell me the source for the background material? - The source for the background material is material which has been published in the newspapers and the media which has come from this Inquiry.

So your view of Hamilton has been formed from the media? - My view of Hamilton has been formed from what I have read of him and of this Inquiry.

Have you had access to the transcripts of the evidence? - No.

Have you had access to any of the statements which were prepared by the witnesses before they gave their evidence? - No.

Have you had access to any of the Productions? - No.

Have you formed a view that Mr. Hamilton was a determined man? - Yes, I have formed that view. I have formed a view from what I have read. I have formed a view that he would be obsessive in certain areas. When I speak of that I would be speaking of the fact of how he pursued the situation with regards to the childrens Clubs that he was involved in.

I take it from what you have said about knowledge that weapons capable of doing that which Hamilton did on the 13th would be available to certain individuals from various sources in Scotland illegally? - Can I say that my experience is that generally illegal weapons which are used in robberies or murders and which I have come across and/

and which I have investigated are generally sawn-off shotguns. It is very rare to find 9 mm Browning automatics or semi-automatics being used by criminals. I have had instances where semi-automatic firearms have been used but the vast majority of times when I have investigated crimes it has been sawn-off shotguns.

If one wanted to obtain a 9 mm weapon or similar and if one was sufficiently determined, would it not be possible by building up certain relationships to be able to gain access to such a weapon, albeit it illegally? - I don't know which types of relationships you would be referring to. Can I say to you that generally when criminals are trying to hire or buy a gun they will not refer to "I want a 9 mm Browning automatic". They will take whatever is going. If it so happens the cache of guns has sawn-off shotguns or some other type, they will take that. I have never known a situation where they have been able to go and demand a certain type or calibre of gun.

Even if one accepts that, would you accept that it would not just be one particular type or calibre of gun which would be necessary to do what was done on the 13th? - Yes, I would accept that. I would say, though, that semi-automatic firearms to my own personal knowledge are highly dangerous and these are the ones which really people are afraid of because even in a situation where I have recovered a semi-automatic firearm at one time, it was still a situation which although I was an authorised firearms officer and I had actually taken the magazine from the gun, there was still a bullet within the chamber so these are guns which are very, very dangerous and semi-automatics always were ones which were treated with extreme caution. If we were going into a situation in the serious crime squad where we had to face firearms and our information was that this was the type of weapon which was being used then obviously that was the time when we took great care.

Are you familiar with the Bonnyrigg murder? - No.

I can understand why one might have some difficulty if one walked into a locality without being known and made inquiry as to whether it would be/

be possible to obtain a weapon illegally, either by purchase or hire, but would you accept that it is said that there are certain premises, usually pubs in Glasgow, in certain areas in Glasgow and perhaps in Scotland, where one can go and where a weapon can be obtained? - Yes, but you can't just go in with some money in your hand and go to the barman and say "I'd like to buy a rifle" the same as you say "I would like to buy a bottle of beer". It isn't done that way.

You would need to establish a relationship? - It would take a long time to establish such a relationship. Believe me, with the criminal fraternity in Glasgow you couldn't do it in a week. It is a thing that would take a long, a long time and you would have to be introduced and you would have to know other criminals and they would have to take you into their particular enclave before you could ever get anywhere near buying a firearm.

Are you saying that would be impossible to achieve? - I would say it would be highly improbable that any one of Hamilton's calibre could go into the areas of Glasgow which I know, and very well, and buy a firearm.

CROSS-EXAMINED BY MR. LAKE: You said that in your experience most of the guns used in crimes are sawn-off shotguns? - That is correct.

Is it the case that most of the illegal firearms you come across are ones that have already been used in the course of some crime? - They may have been. Most of the time, yes, when we investigate crime we would find a firearm which had been used. There are other occasions of course where we were given information and you would go to certain premises and you would recover firearms. Shotguns, it is very difficult to work back from a shotgun whether or not it had been used at that time.

If you are given information about the existence of firearms without a certificate, is that a matter which you investigate at once? - Yes.

So although estimates may be given it would be very difficult for the police to predict with/

with accuracy how many unlicenced firearms are in circulation? - In my experience, yes, that is correct.

And my understanding is that evidence was given this morning that there were up to one million in circulation. Would you be able to make any comment on that? - No, I couldn't make any comment on that.

Similarly, would you be able to make any comment on how many of the weapons used in the course of crime are licensed or unlicensed? - The vast majority of them have been firearms which have been obtained illegally. Generally with shotguns, they are guns which have been stolen during the course of housebreaking etc.

When you say the vast majority, are you able to make any estimate on percentage? - I'm sorry, I couldn't. If you allow me to speculate in this instance, in my experience, because I have had instances where you had firearms dealers broken into etc. and guns acquired from there but I would say that in all crimes which I dealt with and all the firearms I saw, I would say probably 5 per cent at the outside would be legal firearms.

RE-EXAMINED BY MR. CAMPBELL: You were asked certain questions by Mr. Taylor about the material upon which your evidence was based? - Yes.

Were you provided by a solicitor acting for the families with summaries of the evidence of this Inquiry? - I was with some of them, yes. Yes, it was summaries I was given. I wasn't given statements.

And I think we know there are large files upon files of Productions just outside here? - Yes.

Were you provided with summaries by the same solicitors of the chapters of evidence in the Productions? - Yes.

And did you read that material? - Yes, I did.

Did/

Did you take it into account when preparing your evidence? - Yes.

DAVID JOHN COOKE (43) Sworn:

EXAMINED BY MR. LAKE: What is your present occupation? - I am a Clincial Psychologist and Professor of Forensic Psychology.

Where are you a professor of psychology? - At Glasgow Caledonian University.

What are your qualifications? - Bachelor of Science, Master of Science, Doctor of Philosophy, a Fellow of the British Psychological Society and a Chartered Clinical and Chartered Forensic Psychologist.

Can I ask you to have in front of you please the reports that you have prepared for this Inquiry. I propose that these be numbered 64 and 65. 64 would be the one entitled "Predicting Violent Behaviour: A Psychological Perspective" and 65 would be the one entitled "Psychological Report on Thomas Watt Hamilton". Are these the reports prepared by you? - Yes, they are.

Rather than referring you to the reports in any detail, what I would like to do is to consider certain aspects arising out of them which I might add would involve dealing with them perhaps not in the same sequence as they are contained in the report? - Okay.

The first thing I would like to consider please is different types of violent behaviour and if I can ask you to look at Page 15 of the first of those reports entitled "Predicting Violent Behaviour"? - Indeed.

I think we see under a heading on that page you refer to the fact that the nature of violent acts and violent individuals is heterogeneous? - That is correct.

In what way do you mean it is heterogeneous? - In the sense that people really are/

are violent for a whole variety of reasons. Some people can be violent because they are active criminals using violence in an instrumental manner to intimidate other people or to rob a bank. Other people use violence because they are emotionally disturbed, perhaps even brain damaged. Other people use it because they have difficulty controlling their anger. A whole variety of reasons why people actually act in a violent way and you can get to that violent act by many different pathways.

And do these different pathways reflect different states of mind of the person that commits a violent act? - Yes, indeed. If we take a case of instrumental violence, a person might not be in any emotionally aroused state. They are using violence as a tool whereas someone else may be using violence because they are very angry, they feel they are being threatened. The cause of emotional reasons are instrumental reasons.

Now, I take it that these different types of violence are more or less prevalent depending on the population as a whole? - Yes, indeed. It varies. There are some sub-cultures where violence is the norm. It is the way of dealing with difficulties and people are brought up and taught that violence is the way to resolve difficulties.

Is there a particular sort of violence that will arise in that context? - The end result, the violent behaviour, will be same but it comes because people have learned that is the way to deal with difficulties and we call that sub-cultural violence.

The particular incident which occurred at Dunblane Primary School on the 13th March of this year, how would you classify that particular form of violence? - I define it as spree killing or mass murder and these terms are used but they are not clearly defined. The difference. I am not clear what the motivation for it was. It may be that he had violent fantasies that he was acting out because he felt he had a grudge against people because they were spreading rumours about him but it isn't clear.

When you talk about the violence as being/

being a spree killing then would there be factors which are to some extent a definable profile of factors which might be relevant to it? - No, there may be a variety of reasons why people commit spree killing. It may be that someone is suffering from psychotic symptoms, they believe God has instructed them to carry out a violent act. That may be one process leading to it.

Even/

Even within the different parties there may be a great variety of factors which go to explain why violence might occur? - The internal psychological processes which lead to the same end result may be different in different cases.

I would like you now to look at page 16 of your report, to consider the determinants of violent behaviour. What are the two basic determinants which go towards violent behaviour? - There are psychological factors and there are situational factors.

Although we will consider this in more detail, in broad terms what are the psychological factors? - Something inherent to the person. It may be they have personality difficulties that make them prone to anger easily, they may be dis-inhibited through the use of drugs or alcohol, they may have psychotic symptoms. It is the type of thing which is inherent to the individual.

Just in very broad terms, what are situational factors? - These are the factors within the context of the acts of violence which may increase the likelihood of violence. One example might be of a fight in a pub, if someone draws a weapon the likelihood of the violence being more extreme is increased. Researches show that victims who had to draw a weapon were more likely to be killed by the perpetrator than those who did not. So there is a psychological factor in the violence.

In what way do these two factors inter-act to provide a determinant indicator of violence? - It would vary. In some cases the psychological factors on their own may be sufficient. For example, there may be someone who has elaborate sadistic fantasies, and these are enough to make him go outside, seek a victim and to resort to violence without any other external trigger, where there are others where the situational factors would be very important.

If someone goes into a public house wearing a football jersey they may be attacked because of what they are wearing and the context in which they are wearing it.

Turning now to consider the various factors/

factors which might be relevant to predict violence, I think you summarised those, starting at page 6 of that report? - Yes.

And again we have a sub-division into biographical factors on the one hand and psychological factors on the other hand? - Yes.

What is the definition of the two categories in this case? - I was trying to simplify the list. Biographical factors would be characteristics of individuals, the experience and the employment status, and they would include gender and age, because young men are more violent than older women, for example.

And psychological factors? - Psychological factors which are inherent to the person or things to do with their thoughts and behaviour.

I think under the heading of "Biographical Factors" you say "The best predictor of future behaviour is past behaviour"? - Yes.

Then you talk about being a victim or witness of family violence on a child, recent relationship problems and recent employment difficulties? - Yes.

What is the relevance of these factors in indicating that someone might be prone to committing violent acts? - You are looking for a variety of factors which are related to violence. There is no simple relationship between the number of factors someone shows and the risk of violence: one is sufficient. For example, if someone has this belief that God is telling him to go and kill prostitutes, that might be sufficient to make him a high risk. In general terms, the more risk factors the greater the risk.

Talking about someone who thinks God is telling him to do things, that would be a psychological factor? - Yes.

In relation to purely biographical factors, do these factors give any indication about the state of mind of a person, or are they matters of statistical probability? - I think they are all interlinked./

interlinked. They are based on essentially the actuarial risk. These things have been shown from studies to be linked. People with unstable employment are shown to have a high rate of violence. That may be linked to personality or other factors. One could not be clear on this.

So biographical factors may overlap the psychological factors? - Yes.

Looking at psychological factors, which you begin on page 8 of your report, you begin with a number of headings, the first of which is "Personality Disorders"? - Yes.

What is meant by a personality disorder? - This is essentially a disorder which starts early in adulthood or late adolescence, and it affects all parts of a person's life. They have difficulty in dealing with problems: they demonstrate inflexibility, and so forth. It should be distnguished I think from other forms of mental disorder, which tend to be episodic. It is a thing which is persistent and affects all aspects of an individual's life.

You provide instances of three different types of personality disorder, the first of which is psychopathic personality disorder? - That is correct.

What is suffered by someone who has a psychopathic personality disorder? - There are a variety of problems that will show up that are relating to that or they are relating to -- they tend to be grandiose or egocentric, forceful, cold-hearted and so forth. Their actions are labile, they are easily angered, they are impulsive and sensation-seeking in their behaviour. These lead to increased risk of criminal behaviour in general and violent behaviour in particular.

By what means has it been established that there is an increased risk of violent behaviour in people with psychotic personalities? - There are now a number of extensive studies looking both retrospectively and prospectively at individuals. One example is a study where people are rated before they leave prison and are followed up ten years afterwards, and you can say that the probability of them/

them having resorted to violence is five or six times increased when they have high levels of psychotic disorder. That has been replicated in nine or ten studies now.

The next one you have referred to is sadistic personality disorder? - Yes.

What are the key features of that? - When an individual relates to other people in a cruel and demeaning and often aggressive manner they may get pleasure from humiliating or assaulting other people.

One of the characteristics which has been shown to be a frequent part of this is a fascination with violence, a fascination with weapons and Martial Arts, with tortur, concentration camps and that type of thing.

When you say weapons and Martial Arts, is that purely the activities themselves or is it films also? - Books, pictures, photographs, films, video tapes.

I think sexual sadism is a sub-category of sadistic personality disorder, is it? - That is not clear. It is related in some way, but it is not necessarily a sub-category. I think it probably is a sub-category, but it is not clear.

What are the features of sexual sadism? - Again, it is not very well mapped out.

There are a few research papers on this, and the evidence suggests that they get sexual satisfaction from dominating other people and humiliating other people. They have elaborate fantasy lives, which are often more important to them than their real lives. They have fantasies of domination of others.

They may attempt to get sexual arousal by putting their sexual fantasies into action and indulging in behavioural draw-outs: so they may stalk someone for a while and get sexual gratification from that, but that fades after a while, and that is not sufficient, and they go further and perhaps assault them.

On page 24 you list previous reports of a classical/

classical description of a sadistic murder and of that sort of personality trait. What sort of personality trait did these people have? - They are shy, socially withdrawn and often prudish, though they have complex sexual fantasies. Although they are sexually interested they are often inexperienced in sexual matters.

I think you go on to refer to the relevance of weapons? - Brittain was a psychiatrist and pathologist who wrote the classic account of sadistic murderers. He was able to look at a crime scene and also talk to the perpetrators because of his dual speciality. He suggested "The weapons have an attraction for him far beyond what they have for an ordinary collector, and he may 'love' them, handling, and in the case of firearms dismantling them and cleaning them for long periods of time. He has strong feelings about them, may have special favourites and he can even have 'pet' names for these."

That has been taken from a report in 1970 I see? - Yes.

Is that still accepted to be an accurate definition of that? - There has not been a lot of research in that areas. Britain's account is a clinical account based on clinical experience. There have been two major papers since this that perhaps have clarified the mechanisms by which sexual sadism operates. Fortunately it is a rare disorder, so it is difficult to get an absolutely clear profile of what they are like. It is perhaps the best clinical description we have had at the present time.

You state there it is a rare disorder. How rare is it in relation to a general situational personality disorder or psychopathic personality disorder? - We can't answer that, because we have not got studies we have carried out on the general population.

Within the Scottish prison system the rate of psychotic personality disorder is probably in the order of 8 per cent, but we have no estimate of the level of sadistic personality disorder or sexual sadism within the general population: one can only guess.

The/

The next of the psychological factors relates to impulsivity? - Yes.

What are the features of impulsivity? - It can take a variety of forms. People may act without thinking, they may think and make decisions very quickly or they may go through life without any thought for the future.

How does that relate to violent conduct? - People attacked without thinking can be violent. In a dispute or a conflict rather than reflecting how to deal with it the person will punch or kick or act in a violent manner.

Next you refer to poor anger control? - Yes.

What are the principal features of that? - There are certain individuals who might be described as hot-headed, who is a social situation would feel they were being provoked, seeing injustice where there was no injustice, easily aroused physically about these issues.

If someone does have poor anger control what is the mechanism by which that leads him to commit violence? - It is a way of trying to resolve the problem by treating it and trying to stop the problem happening. It is a way of getting over their frustration.

The next heading is "History of Substance Abuse". What range of substances do you include within that? - The principal one would be alcohol, but there are other drugs which are related to violence; Temazepam abuse, for example.

In relation to someone who only consumes alcohol, in what circumstances does that become relevant to violent behaviour? - I suppose people are dis-inhibited and are less likely to think about the consequences of their actions.

With other substances violence may occur because people are trying to secure supplies of the substance, although that could apply to alcohol as well.

Is alcohol relevant in any situation where it/

it is consumed or only in situations where it is being consumed in an abusive manner? - I think at even low levels of consumption it can be sufficient to facilitate violence. In public houses, someone taking two pints of beer may be sufficient if the other triggers are there, may be sufficient for him to be violent.

That is the dis-inhibiting effect you have referred to? - Yes: depending on their experience of drinking alcohol, their weight, etc.

We have heard some evidence to the effect the police take into account when issuing a Firearms Licence the fact that a person has been convicted of driving whilst under the influence of alcohol. Is that a factor which in your view would be relevant in relation to predicting the possibility of someone committing violence? - Yes, it suggests the person is prepared to behave in a reckless manner, and that would be an increased risk.

The next heading is "Recent Suicidal and Homicidal Thoughts and Intent"? - Yes.

How does this relate to the issue of violence? - Someone who has formed an idea they are going to kill someone else, that increases the risk.

Again we don't know how common this is in the general population, for people to have homicidal ideas and not to carry them out. We know that suicidal thoughts are not uncommon in people who do not go further.

Would suicidal thoughts be an indicator of likely violence to others? - They can do, yes.

The next heading is "Psychotic Symptoms or Manic Symptoms"? - Yes.

What do you mean by "Psychotic Symptoms"? - Psychotic disorders such as schizophrenia may include difficulties in perception or difficulties in thinking, but they may include delusions, hallucinations and so forth.

What is meant by "manic symptoms"? - Manic symptoms would be symptoms of a manic depressive/

depressive disorder, which might include thinking difficulties, irritability and so forth.

You said in relation to personality disorder that these are matters that set in relatively early in a person's life and last throughout their life? - Yes.

Is that true of psychotic symptoms or manic symptoms? - Generally psychotic symptoms start -- they may start in early adulthood, and
they are episodic. When the person is not in an episode of their illness they are effectively in a normal state. There is a quantitative difference in their state when they move in and out of the illness.

Yes? - With a personality disorder it is a basic disorder which is there all the time and may diminish in late adulthood, and you may find anti-social personality disorder diminishes in people in their 50's, but it is a very long-lasting process.

If somone has a psychotic disorder but is not having an episode of it would there be any indication that they were prone to having episodes in the future? - There might be slight evidence in their mannerisms and behaviour and so forth, but not in the same way as a personality disorder is evidenced throughout a person's life.

Does that mean it would be more difficult to detect a psychotic disorder? - When a person is not in a florid state, yes.

In what circumstances might a person be detected having a psychotic disorder? - You mean in terms of the symptoms?

Yes? - If they start believing that God has instructed them to do something, or if they say they are hearing voices which are giving instructions or if their thinking seems abnormal in its form and structure.

How would you as a psychologist be able to detect if a person was suffering from these symptons? - Only by interviewing them, and if they were in a hospital by observation of nursing staff, who/

who would be able to see them talking to someone who was not there, for example.

We will come back to this in more detail, but purely in relation to some of the psychotic symptoms, if they did not wish to reveal them to you would you have any means of discovering they were there? - It would be difficult to detect active symptoms such as delusions and hallucinations. It may be their behaviour seems odd, but it would be difficult to be precise about the diagnosis in the absence of information from them.

You have referred to the prevalence or non-prevalence of personality disorders. How prevalent are psychotic symptoms in relation to personality disorders? - We have more information in relation to the prevalence of psychotic disorder in the general population, which is estimated at between 1 and 2 per cent of the general population, and a similar prevalence within the prison population in Scotland.

Is that 1 or 2 per cent of people who are currently in an episode of psychotic disorder? - No, that is a lifetime prevalence for them.

How relevant is psychotic symptoms or disorder to violence? - That has been a hotly debated issue over the years. In the public mind there is an association between what we might term madness and violence. However, empirical evidence is not clear. There is some evidence that types of psychotic symptoms, so-called poor control of anger, are linked to increased characteristics of violence.

I quote a paper by Monahan, who is regarded as the world authority on ths topic, which asserts that psychotic symptoms are really of limited relevance as compared to other risk factors, like abuse of drugs and alcohol.

Is that because these other factors are more prevalent in the population, or are they more potent in relation to causing violence? - Both, I would think.

You mentioned there threat control over-ride systems; what are they? - These are symptoms where a person believes that an outside agent has taken control over them, and believes that they have been subjected to some sort of threat, and the outside agent is instructing them to deal with this threat in some way, so someone may believe that the police are going to shoot them, and this voice is telling them that the police are going to shoot them and you must do something about it to protect yourself.

And how would that come to light? - Only if the person reported that by detailed interview, and it may not come to light.

And just prior to the reference to threat control over-ride symptoms, you refer to "urrent psychotic symtoms are lined with an elevated short-term risk for a violent act"? - Yes; we are thinking in terms of months rather than any longer -- about two months maybe.

From what time does that two months run? - From the onset of the symptomatology.

Is that each episode of symptomatology? - Yes; one cannot be precise about these things. The evidence comes from only two studies essentially. It is not well worked out yet.

I have asked you about the prevalence of psychotic symptoms and personality disorders, but in relation to impulsivity, poor anger control, substance abuse, and suicidal and homicidal thoughts, are they more prevalent than these other disorders? - I would consider they probably are, but we don't have any clear evidence of the prevalence of these types of psychological characteristics in the general population at the moment, although there is a large community study which is about to report next week, which are using many of the instruments that I would use in measuring/

measuring these things, and it will give us estimates, but it is a North American study, so it may not relate to Scotland, but it will give us some estimate of the prevalence of these characteristics in the population.

Is that the general population? - The general population -- a community study.

And the bases for the current studies have begun? - Which studies?

A number of studies; you said you don't have information on these matters in the population as a whole. On what base of the population do you have information regarding these matters? - The bulk of the information will come from studies in special hospitals, studies in prison settings, and studies in forensic clinics. Very few studies have been carried out in the general population because for one reason, the base rate or frequency of the violence we are interested in is so small that you would need to have very large samples to study the problems.

And presumably the base rate is much higher within hospitals? - Within special hospitals and within prisons.

I would like now to consider means by which these various items might be detected and violence predicted, and to consider the tests that might be used? - Yes.

And the results which might be identified, but dealing with those in reverse order and first of all looking at the issue of results, what is the outcome of any test as to someone's psychological state? What information can you get out of that in the context of risk assessment? - Yes -- you can use the information in a variety of ways, but one of the common ways is looking at a group of people and looking at a group of people and looking at whether they are likely to offend or likely not to offend in the future.

How might you test someone to discover the existence of the disorders you refer to? - If I can say normal risk assessment is carried out in the context of a hospital or prison or forensic setting and/

and so normally you have a lot of information about an individual, either from previous case records or from observations by nurses or by prison staff, and then the person doing the assessment would carry out a very detailed interview with the individual, and that may include -- for serious cases, that might be quite a number of interviews, which may be 10 or 12 interviews over a period of some time. To assess the risk, you might use standardised interviews to look at things like psychotic symptoms and so forth. To assess other characteristics such as psychopathy, you would use the instrument of choice, which is the psychopathy check-list, which is a standardised instrument for measuring psychotic personality disorder.

What is the check-list? - Essentially a psychopathy check-list revised, which is the one we would use in the criminal population or hospital population and has 20 characteristics, and the assessor will make judgements on 20 characteristics using information culled from files and also from the interview with individuals, so we would be looking for things like grandiosity, impulsivity, criminal flexibility, someone who engages in a lot of criminal activities. You would be looking for lack of empathy, failure to take responsibility for their actions and so forth, so these are all very tightly defined, and there are standard ways of rating it, and once you get a score, that can indicate the level of risk the person may present.

You said it is part of the information provided by an interview? - That is correct. It is not essential, but to make the ratings, you must have access to collateral information, because pathological lying is a defining feature, so you have to check out the information and it can be done from collateral information or file information alone, but it is preferable to do it from interview.

You have said that once that information has been gathered, it would be assessed by the person carrying out the valuation? - Yes.

Using the guide you have referred to? - Yes indeed.

To what extent is that evaluation a subjective evaluation or to what extent is it governed/

governed by an objective scale? - It is governed by an objective scale. Each item or each characteristic is defined in rather tedious detail and examples given, and the person doing it has to be trained of course by somebody experienced in these matters. Training takes three or four days to learn how to do the test properly, so it is not subjective.

Prior to the training, does the person require to have any qualifications before carrying out such an assessment? - Yes, he would need to be clinically qualified either as a psychiatrist or a psychologist.

But he would need further training over and above that? - Yes, very specific training on this particular instrument.

The phrase has come up a number of times "psychometric testing"? - Yes.

Is what you have described psychometric testing? - It is one form of psychometric testing.

What other forms of psychometric testing are there? - Psychometric testing is essentially a way of measuring psychological characteristics or abilities or perhaps people's personality characteristics, and they can take a variety of forms. They can be demonstrated by a psychologist who asks the person to do particular tasks. The fundamental characteristic of psychometric assessment is that the tasks are done in a standard way so everyone gets the test in the same way, that they are scored in a standard way so you know -- there are criteria laid down for the scoring of each item in the test, whatever the test is, and there are statistical methods for converting a person's performance and scores into a score which can convert to how a large group of people have performed. Perhaps the easiest example would be a IQ test where a person is given a large number of different types of tests which are related to intellectual functioning, and then that is converted to the IQ score and you can tell whether the person is in the bottom 10 per cent of the population in terms of intelligence, the top 10 per cent and so forth.

Is/

Is a IQ test a form of psychometric test? - It is a form of psychometric test.

I think you mentioned in your report on page 24 in the form of paper or administered by computerised adaptive testing? - Yes. Essentially that is a method of delivering a psychological test using a computer screen. The particular advantage of this method is that instead of perhaps administering 100 questions or tasks to measure their ability, the computer is able to select items as the person goes along, which are likely to be measuring the level of ability that the person is falling into. I am not sure if that clarifies it, but shall I give you an example?

Yes, please? - If you are measuring an arithmetic ability, the computer will give the person one or two items to begin with, and from that, whether they pass or fail on that gives you an idea of the range within which their ability lies, and then it will select tests which measure that rate of ability, and administers those to the person, so it is an efficient way of selecting items.

Are there any disadvantages to using computers to carry out this sort of test? - They are very useful for measuring abilities, but for measuring aspects of personality which are related to risk, they would not be very useful, but if you consider that personality disorder is important, then the computer has no way of judging people's inter-personal style or the way you relate to other people and so forth, so it wouldn't be very useful in this sense.

And how do you get that information? - By interviewing them.

What sort of things would you be looking for in an interview of the person? - I would be interested in whether they showed any appropriate sign of remorse, not just for their criminal behaviour, but for the way they relate to other people, or their behaviour to their family and so forth, whether they seem to have the capacity to experience appropriate emotion, or whether the emotion is seen in an alien concept to them. That is a concept of a psychopathic individual.

How/

How long would it take in duration to carry out an assessment of a person to determine these criteria? - Which criteria?

All of the things you have talked about? - It is difficult to do it in two days of working with the individual and scoring subsequent to that.

You think two days? - Two days, 16 hours, to do all the things you have talked about in the report.

And is that on a one-to-one basis or would it be possible to assess an entire group of people? - No, it would have to be done on a one-to-one basis, but it could be done with collateral information.

What sort of collateral information? - For psychopathy, previous offending history, you would want to know the way they relate to their family. In a prison setting, you would want to know how they relate to other prisoners and other prison staff and so forth.

In/

3.00 p.m.

In a non-prison setting, a community setting, if you were trying to evaluate people working with children or in possession of firearms what collateral information would you want there? - I would want very detailed references from people who know them well and who took the matter seriously and who could be considered to be reliable. I think that that would be quite difficult to obtain.

BY LORD CULLEN: Is what you are describing a quest which could alter with the passage of time, or would it be very much a lifetime characteristic? - There are some stable characteristics which would tend to be consistent, such as psychopatchy, poor anger control. These characteristics do tend to diminish slightly as people get older.

In terms of psychotic symptoms, these may emerge at any time. Someone may develop poor anger control seven months after being processed, and you would have no idea at the time of the assessment he was going to develop these characteristics or symptoms.

What you have been describing sounds as if it would take a lot of time and require a lot of collateral information. Is it practical to think of something along more modest lines for community use which would be affective as a form of screening? - In my view it would not be effective, sir.

EXAMINATION CONTINUED BY MR. LAKE: I would like you to consider even whether you would consider someone who has been interviewed in a two day test, whether or not that would be effective for determining the propensity to commit violent acts. Do you consider you would be able to identify the likelihood of someone committing a violent act? - Are we talking about the community setting?

Yes? - I think you could identify a propensity in some individuals, and you could estimate generally that they are likely to act violently. There are always of course errors. You either falsely predict that people will commit an act and they do not, or you predict that people will not be violent and they are violent. There is always/

always errors in the system.

The other problem is the severity of violence we are trying to predict. Presumably there is a relationship between the frequency and severity of violence. Extreme violence is very rare and is virtually impossible to predict because of what is termed the base rate problem.

What is the base rate problem? - It means it is effectively impossible to predict any behaviour which is rare.

I see? - Violence prediction schemes operate reasonably well in settings of violence which is reasonably common, such as prisons or psychiatric hospitals; but in settings where violence is rare you run into problems of rare events, which are extremely difficult to predict.

It is like trying to predict a disease. It is the same difficulty. There are good statistical reasons for it that I do not feel qualify to explain.

When you refer to the low base rate making prediction difficult, what sort of base rate do you start to have difficulties at? - Below 10 per cent.

And we would consider the chances of committing violent acts as a whole falls beneath that 10 per cent? - Yes, I imagine it must do, in a community setting.

You referred to the output of various heads as being a scoring system? - Yes.

How did you translate that score into an assessment of whether someone is likely to be violent? - There are various ways of doing it, but I put different factors, the different factors we have identified, into a risk system. Some factors are more important than others.

I suppose the most well-worked-out actuarial system was produced in a psychiatric hospital, and in that setting psychiatric personality disorder is the most important predictor of violence. There are other things, such as whether/

whether you have parents who are alcoholic, which is one predictor, or the early onset of behavioural problems is another predictor. The people are positive in these characteristics there is a weight given to the characteristics, and there is a continuous score of risk. The higher the score, the greater the risk.

It then becomes a question of judgment about the level of risk, what level of risk is acceptable, and you can change the cut-off risk that is used. If the scale goes from zero to 100, you may decide that a score of 50 or above is sufficient to say there is a risk, or you may say a person has to have a score of 80 or above before they can be regarded as a risk. You choose the cut-off point normally to justify the number of predictor errors you make. You can look at both positive and negative errors and decide where to put your cut-off score.

This is a reference to something which is contained on Page 19 of your report? - Yes.

I think there you provide a simple table which tabulates the prediction of violence against the outcome of violence? - Yes.

And you establish areas where both predictions are correct and you also identify incorrect predictions? - Yes.

I think you refer to a situation where violence predicted does not occur, and that is a false positive? - That is correct.

And in situations where it is predicted that it will not occur but does, it is a false negative? - Yes.

Presumably the allocation of the outcome within these four categories depends on the cut-off point you set on your scale? - That is correct.

I think on the next page, Page 20, you give an example of the same information, but adjusted so that there are not false negatives? - That is correct.

And/

And an increase in false positives? - Yes.

And that is identified simply by a cut-off point on the scale? - Yes.

So presumably it is a matter of evaluation and consideration in relation to any particular matter whether persons were not concerned by false positives than false negatives? - Yes. You have to balance the two types of error. In hospital settings the evidence is that people tend to be conservative and to make more false positives than they ought to, but that is the nature of things; so in that case they are balancing public safety and the liberty of patience, and the information available suggests that people tend to err on the side of false positive predictives.

That is where you are considering the liberty of the individual? - Yes.

So if you did have a concern about the liberty of the individual would you consider that would increase the number of false positives? - It would reduce them.

If you did not have to take into the account the question of personal liberty would that have an effect on the cut-off point you choose in your scale? - If your intention is to use false negatives and you were not worried about false positives then you would suggest a cut-off point.

Do you consider it would be possible to adjust the cut-off point to such an extent as to eliminate false negatives in relation to the possession of guns, firearms? - I don't think you could use psychological assessment with sufficient confidence to eliminate false negative errors.

Why is that? - We don't know enough about all the factors which make people violent. There are situational factors which come into play. People change between assessments in relation to these factors, which makes it difficult to rule out false negatives.

In relation to violent behaviour, which would be the most difficult false negative to eradicate?/

eradicate? - Violent behaviour which was related perhaps to psychotic symptoms which developed after assessment, or violent behaviour related to complex fantasies which the person did not acknowledge when you were interviewing them.

Would you be able to find means in a psychometric testing to calculate information of such a nature to identify people who would be safe to hold firearms? - You could probably do that with some degree of accuracy, but there would still be the danger of error.

Why would that be? - The sort of pattern I showed can be quite useful in identifying a group of individuals who are unlikely to be violent, but you couldn't be absolutely sure that some of them won't be, depending on the circumstances, situations there they are confronted with.

Considering the outcome, that you do not feel confident about predicting violence by means of psychological factors, I would now like to look at the second determinant you referred to, which is the situational factors. I think on Page 17 of your report you refer to the importance of some of these factors in two studies in relation to the availability of handguns? - That is correct.

What is the nature of these two surveys? - They are essentially studies following on -- one was a study following the changes in the law on the availability and transfer and possession of handguns in the District of Columbia in the United States of American; the other was a comparison in the rate of homicide using guns between Seattle and Vancouver.

Do you see there the difference in homicides related purely to handguns, despite the fact the assault rate was similar? - Yes. This is a comparison between Seattle and Vancouver, who are very close to each other, similar population trends, similar demographic characteristics, similar rates of crime: but there was 4.8 times as great a risk of being killed by a handgun in Seattle than Vancouver, and the study suggested this was because of availability.

I think you talk about your work in Barlinnie?/

Barlinnie? - Yes, I worked in the Barlinnie Special Unit for 12 years as a psychologist there.

What does the research from there show? - It shows that a group of very violent men transferred to Unit, and the assault rate on staff and other individuals dropped dramatically. The research shows there was not any intrinsic psychological changes but situational changes.

What were the situational changes? - There were differences in the way in which aggressive behaviour was handled. If people started having arguments then a group meeting was called, and you had to come to these and discuss the difficulties till they were resolved without violence.

Anything else? - They were given more autonomy within the Unit to make basic decisions about the operation of the Unit.

The third thing was that there was a change in the nature of the staff/personnel relationship. An attempt was made to break down the "us" and "them" relationship which persisted in other prison settings to a relationship closer to that of a nurse/patient in a hospital. A variety of factors were important.

Turning/

Turning now to consider what situational controls might be appropriate in relation to firearms, I think you deal with this from page 26 onwards on your report? - Yes.

The first one you referred to is the availability of weapons? - Yes.

I think there are a number of considerations in which you consider that is a factor that is a relevant form of situational control? - Yes.

The first of these is lethality? - Yes.

What is meant by that? - It is the instrumental effect of the weapon. Studies would suggest that people are more likely to be killed by firearms than if a knife is used. This study suggested you are five times more likely to be killed by firearms used than if a knife is used as a weapon.

You then consider the question of restriction of access to handguns? - Yes.

And you refer to the study in relation to the District of Columbia? - Yes.

What was the outcome of that? - Essentially they looked at the in the changes in the rate of homicide using guns before and after the introduction of the laws. They found that the number of homicides and suicides dropped significantly; homicides by firearms dropped significantly, and there was no increase in suicides or homicides using other methods following the change. They also looked at other similar Metropolitan areas closer to the District of Columbia, where there had been no change in the gun laws and no changes had occurred in these areas where the law had not changed.

Yes? - The authors concluded that the restriction had reduced the number of deaths by 47 per year after the law had been implemented.

I think you then go on to consider the other study, being a comparison between Seattle and Vancouver?/

Vancouver? - Yes.

And the fact that the availability of guns in Seattle might account for the very much greater rate of homicides? - Yes.

And you set out the conclusions of the study? - Yes.

At the foot of page 27 you refer to another study relating to Canada which seemed to contradict that? - It was not very well carried out. It was a page and a half paper, and a very limited analysis, I thought. It doesn't completely contradict the first paper.

Are situational controls more relevant to certain types of killings than others? - Yes. I think situational controls would help reduce certain types of murder in society, but there will always be determined perpetrators who will get access to guns whatever we do, so there will always be a core of people who can and will get access to weapons.

Dealing with these categories of possible killings you referred to at the outset of your evidence, people who might be determined would carry out killings anyway, but what other category of killers might not be affected by situational controls? - I suppose people involved in what might be termed professional criminal activities, to do with drugs and so forth, turf wars, etc.

Which category of killers might be more affected by situational controls? - Impulsive individuals. If someone goes into a public house with a handgun they are likely to use it, if the weapon is in their hand. A knife or a tumbler, they might use it, but the lethality of the weapon is much less.

Looking at the case of Hamilton, what is the relevance of situational control to that situation? - Clearly in this case the man had an intense interest in weapons. If he couldn't get them legally he may have been able to get them illegally. Now, that may have been difficult for him if he was not part of the criminal sub-culture. Individuals in the criminal sub-culture I understand can have easy access to weapons, but someone who has no/

no contact in that area might have found it more difficult.

We were going to consider Hamilton's situation in particular. Do the various views set out in the first of the two reports -- are they very generally representative of the views within the psychological profession? - In respect of psycho-metric testing I have published articles on this in journals talking about things of this nature. People who are experts in the field have accepted the argument. I have also received a fairly reasonable grant from the Chief Scientist's Office to research this issue, and am currently doing that. That research appraisal was subjected to peer review before it was funded: so to that extent I think it represents mainstream thinking.

BY LORD CULLEN: You have been talking about various factors that might lead to a person resorting to violence, and you have also been talking about the ways in which one might set about trying to predict that kind of outcome. Now, it has been suggested to me that multiple killings are apparently done by men who mightly loosely be described as loners? - Yes.

The type of person who has had difficulty perhaps in establishing relationships with others, who has a lack of empathy and perhaps low self-esteem? - Yes.

It might be suggested that people like that tend to convert these feelings into some kind of dominating act, ending up in killing? - Yes.

Can you think of any way in which one might target psychometric testing on that sort of person in order to try to weed that person out of the category of those wanting to possess firearms or the like? - I think the first problem is that probably we do not know how many individuals like that are around in the community. The second problem is that we do not know how many of them go on to do these sorts of things, but it is very rare: so even if we did identify this group of individuals and got insight into the thinking, it would be difficult -- we know that there are a lot of people -- certainly I meet a lot of people in my clinic who have homicidal ideas but do not go on to carry out the/

the act, but they have very violently disturbed thoughts of doing things to other people.

Now, sir, we do not know the basis by which people have these thoughts and then translate them into actions. I think it is very difficult to work that out. Also, it seems that the people we are dealing with and trying to assess will not talk to us about their fantasies and feelings and thoughts and anger and so forth. People may do that in the context of treatment over a long period of time, where if they have come to us for another reason we have been able to assist them and they may develop trust and start talking to us about these issues; but my experience is that that takes a long time.

Someone who has got low self-esteem, is a loner, a lack of empathy, is probably someone who is not easy about disclosing his innermost thoughts of violence and fantasies.

So we are talking about a system in which one can make a score? - I do not think that is realistic.

So obviously the system would have to be relatively simple to administer and has to be short circuited by.....? - That is correct.

I/

I tried to indicate that in a setting where we would typically do an assessment which is a very lengthy involved procedure, and part of the length of time is because it takes a long time to build rapport and build trust with the individual being assessed.

EXAMINATION CONTINUED BY MR. LAKE: If somebody is a loner and lacks empathy, but there is also disquiet in respect of that person amongst people they meet as to their suitability to have weapons or to be dealing with children, would that provide a platform from which you consider you would be able to carry out a psychological assessment with a view to identifying undesirable traits? - Here we have an individual who on the face of it may represent a risk. It depends how much time and effort we direct towards the assessment, and it would have to be very detailed, and we would need to have a lot of collateral information before we could do it adequately.

If I could now turn to the consideration of Hamilton in particular in the second of your two reports, if I can do this in reverse, considering the conclusions of your report first of all, I think you say you do not consider it would be possible to provide a full explanation of the factors which led Hamilton to commit these crimes? - That is correct.

But you give what you consider to be the most likely explanation; what is that? - I think it is informed speculation. It is the most likely explanation from my perspective and my experience, but in this sort of situation one cannot be clear. I think it is the sort of -- the data which are most interesting are missing really, which are data about his thoughts and fantasies, and I think that is probably the most significant aspect, but there is very little evidence to go on in relation to thoughts and fantasies of this man.

But in the absence of these data, what you have described as informed speculation, what conclusions and explanations have you arrived at? - I think primarily he was suffering from some form of personality disorder characterised by lack of empathy, and perhaps by sadistic personality disorder, but there is not complete and sufficient information/

information to make an absolute diagnosis of that.

Do you consider that with all the information you now have about Hamilton, that not including the events of the 13th, it would have been possible to identify in advance that he posed a significant risk? - From the information that I have, no, I don't think one could have predicted that he would have been a risk of this sort.

Just picking up the point I dealt with before, had you had information that Hamilton was already the source of a great deal of concern locally, both by Reporters to the Children's Panel and parents, would that have made it any easier for you to carry this out? - In terms of predicting a risk of what type of behaviour?

First of all, what assistance would it be in identifying his unsuitability to have custody of children? - If we had the information which has come to light since the Inquiry started, then that would have been extremely helpful. Looking at his video tapes and so forth, I think it is suggested that he had a strong paedophiliac interest.

And in relation to identifying the chances of acts of extreme violence, would that have assisted you? - I doubt it.

If I can turn back in your report to consider a number of factors which you enumerate in your first report as being indicators of possible violent conduct, and you note there was little history of past violent behaviour? - Yes.

You refer to the incidents of which you were aware from the boys' camps? - Yes.

When he struck them sometimes across the head? - Right.

Do you consider that had any relevance in determining likelihood of violence? - It was not clear from the information I had the extent of this violence. Reading it, it struck me that it might have been -- looking at the video tapes and the way in which he ran his clubs, he seemed to be almost in a time warp in terms of the way he behaved to children and the way he ran his gymnastics and so forth,/

forth, and it may have been that he considered slapping children about the head or smacking them on the legs as an appropriate way of controlling them, and when I was at school, this was not an uncommon feature in the way we were dealt with.

Would you consider that in the 1980s and 1990s as being an indicator of violent conduct? - Not particularly. I didn't think that the level of violence was severe enough.

I think you then note that there was no specific information as to Hamilton himself being a victim when he was a child of violence? - No.

But you describe it as relevant that he did have relationship difficulties and was a loner? - Yes.

You refer to his employment difficulties, such as they were, and in fact he wasn't employed. In Hamilton's situation, would you have considered that of relevance? - I think of more relevance is the effect of lack of employment, the financial difficulties. He was running up debt and he was being refused loans and he was having financial difficulties.

Then under the heading "Personality disorder", you assess features of Hamilton's personality? - Yes.

And in particular, you refer to psychopathic personality disorder which was considered in the context of your earlier report? - Yes.

Did you consider that there was evidence that Hamilton was suffering from a psychopathic personality disorder? - No. He showed one or two traits, but he didn't have sufficient number to merit a diagnosis of being a psychopath. I used an instrument which is developed for use in community settings for people who have no previous convictions, and he obtained a score of six out of 24 on that. To be diagnosed as a psychopath, you have to have a score of 18 or above, so he was a long way from the diagnostic.....

I think the details of that are at the top/

top of page seven of your report? - That is correct, yes.

If the cut-off point is 18? - Yes.

Is it possible to indicate what the average score might be on that scale? - We have no idea in the general population. There is one study currently which has been completed, but has not been reported, in North America where they used this on 1200 people in the community. When that is reported we will have some idea of the average score in the general population, but as yet we have no evidence from the community setting, and certainly nothing in Scotland.

Without knowing what the average is, are you able to say whether, if the level, the cut-off level had been set so as to catch Hamilton with a score of six, what percentage of the population that would have caught? - No. You need to know the prevalence of the disorder or the mean value and standard deviation of the scores in the general population and we don't have that information. We haven't done the studies to collect this data.

When is the study you have referred to to be published? - There is a conference in Oxford next week at which the results of the biggest recent assessment study every carried out will be presented by Professor Monaghan from Virginia. They have spent six million dollars doing this research in the community identifying what we are trying to do, looking at risk factors of violence.

And that should be available next week? - Yes.

Looking back at page six of your report, you refer to there being no evidence that he was pathologically superficial grandiose or deceitful. What sort of things would you be looking for to give an indication that these factors exist? - Superficial people tend to have the gift of the gab. They tell stories which are elaborate and they lie easily; they are good at conning people. When you are talking to them you get a sensation that they are not being open and truthful although they can be quite engaging to be with. Grandiose people feel they are superior to other people and feel they may have/

have special insight into the way the world operates, and they may regard other people as worthless. One patient described them as being like insects which he would like to crack and he could just destroy people.

That is quite an extreme example? - Yes, but that is one example of grandiosity. Deceitful people, perhaps con artists, would be an example of people who lie pathologically in the sense they lie for no reason and they know you are going to catch them out, but they still lie anyway, and when you catch them lying they just smile. There is no embarrassment and they just proceed to tell you more falsehoods.

We have heard evidence from a policeman who considered that he had adjudged Hamilton as being a deceitful person. Is the deceit relevant for this check-list of a very extreme nature, or is every day deceit enough? - It would be extreme deceit. I assume most, if not everyone, lies in certain contexts. Lying in a social context, if you don't want to embarrass someone and tell a white lie, that would not be seen as pathological, but I am talking about lying when there is no purpose and almost for the fun of it. It has been termed "duping delight", getting pleasure in conning other people.

And you have given an example of what you consider to be grandiose conduct which is quite extreme? - Yes.

Would it have to be that extreme to qualify it for the check-list? - Not as extreme as that, but Hamilton was described as timid and withdrawn and overly polite and so forth by various witnesses.

We heard evidence from a surgeon who had met him in the late 70s, who felt that Hamilton had delusions of his own abilities? - Yes. It is difficult from the information available. There seemed to be a group of people who report him as timid and withdrawn loner and unassertive, Dr. Fairgrieve in this context regarding him as grandiose, and it is difficult to make a judgement on whether that applies or not.

You/

You go on to consider in the context of the screening check-list you were referring to, a number of other items you felt Hamilton might satisfy the requirements of the check-list? - Yes.

But you come only to a score of six out of 24? - That is correct, yes.

In the next part of your report, you analyse Hamilton in relation to sadistic personality disorder. What was the outcome of that analysis? - I felt there was some evidence that he may be suffering from a sadistic personality disorder, but I don't feel there is sufficient to be absolutely certain.

What facts did you consider were relevant in identifying him as suffering this disorder? - Looking at the video tapes suggested he might have pleasure dominating other people, younger boys between 8 and 12.

It/

It looks like he was taking photographs and video tapes presumably to look at later, and the children seemed to be suffering; they seemed to be cowed and distressed when they were doing certain of the exercises, sit-ups, working on the wall bars and so forth. I read there was an education expert who suggested he is pushing the boys far too hard, but I felt that may be to do with power and control, although one cannot be certain about that.

You referred to a number of other matters in relation to threats? - Yes, it seems he may have gained pleasure from alarming others. It is reported he deliberately alarmed his biological mother by telling her she would have to go to Inverness for medical treatment; he fired a gun at James Gillespie. His neighbours felt he deliberately frightened her by creeping up behind her. It was stated he was being cruel to the boys.

The final matter you mention under that heading is Hamilton's fascination with weapons? - Yes.

Despite all these factors you do not consider there is a clear indicator he suffered this disorder? - No. Under the diagnostic system which is used, which is the DSM3R system, there has to be clear evidence of four of seven characteristics. I could not be absolutely clear that he had so sufficient interest in the suffering of others to be absolutely sure. There is suggested evidence to that effect, but I was not absolutely certain.

Again, if all this information had been available to you prior to March 13th you would not have been able to identify him as being someone who suffered from this disorder? - If this information on its own had been available, no. If I had been able to talk to him that would have been perhaps different.

I see? - A lot of the risk factors are to do with the way the person relates. You have to make judgements about how they seem to be experiencing emotion, etc. If you think someone does not seem to have the capacity to feel guilt, empathy and so forth that is important. It is difficult/

difficult to gauge that from the sort of information which was available.

Would this information be enough to ring alarm bells and suggest that further enquiry was needed? - Yes, in terms of either access to handguns or to children's organisations, yes.

What sort of information would you require to complete your assessment if you had been carrying it out prior to March? - If I had been allowed to interview him that would help; that would be the most important aspect.

If the interview was held under some compulsion, where Hamilton had been forced to attend, would that have assisted you? - It could have. Often we are assessing people either for the Courts or for the Parole Board, and it can be helpful, but again it has got to be seen in the context of a large amount of collateral information and the interviews.

What is collateral information? - Information about their past behaviour, information from people who knew them well. Most interviews are in the context of a prison or hospital, so there would be observations made of the person over a lengthy period of time, and his home background reports and so forth.

Again assuming alarm bells had been rung for someone interviewing Hamilton, would they have needed collateral information to make sense of that interview? - Yes: in the sense that the person may tell you things and you want to be able to check them out to get an idea if they are really a pathological liar and they are trying to con. you. Psychotics will take in even experienced interviewers, so you may be able to check it out.

What things do you require to check out? - As I was saying, in the normal context we have Social Enquiry Reports, background reports and so forth, and observations made by prison staff.

On page 10 of your report you refer to the frequency of Hamilton's visits to gun clubs and his use of specially marked targets and his firing more bullets than he was supposed to? - Yes.

How/

How much weight would you attach to these matters in providing an indication of a disorder? _ In retrospect, are we saying?

Firstly in retrospect? - In retrospect it would be consistent with the notion that he had fantasies which he was trying out, behavioural try-outs. Now, if you observed that at the time it would be difficult to regard it as particularly significant in the absence of any information about what he was thinking in his head, what his fantasies were.

But would that have started additional alarm bells ringing for you? - In which situation are we?

Without knowledge of what happened in March, would the fact he was going to the gun club and behaving in this fashion be an indication of concern in relation to him, or would it not have been relevant? - It might have increased my concern, but only marginally, because he was pursuing a role in a gun club. He was instructed to fire off six bullets over a certain period, and he was firing off the magazine as fast as he could.

You go on to refer to other factors from your other report, and you say that there is no evidence to suggest Hamilton tied in with these particular factors? - That is correct.

You say "In relation to standard risk factors it is clear that many of the most frequent risk factors would not have been present in Thomas Hamilton"? - Yes.

What are the most frequent risk factors? - Capacity for violence, abuse of alcohol and drugs, psychotic personality disorder.

What is the significance of the fact these were not present? - In what sense?

What significance would you attach to the fact these were not present in terms of evaluating the likelihood of his future conduct? - As I indicated initially, there is no clear relationship between the number of risk factors and the level of risk. One risk factor was sufficient. The fact that/

that these -- an assessor coming in and looking at probably would not have regarded him as being of high risk, assuming they did not have information about his thought processes.

You indicated at the foot of page 11 that Hamilton may have "Obtained feelings of power and mastery by fantasising his revenge on those whom he perceived as persecuting him"? - Yes.

We have heard some evidence as to the persons or organisations that Hamilton considered were persecuting him. We have not heard evidence that Hamilton regarded himself as being persecuted by children. Is there any way you can indicate as to how his desire for revenge appears to have been directed at children, ultimately? - Well, I understand that he believed that the school at Dunblane and the staff were telling the families not to send children to his boys' club, that he felt the parents were spreading rumours that he was a pervert. Perhaps the most powerful way of getting back at people like that is to kill their children. That is a very traumatic thing to happen. Perhaps he thought he would make maximum impact by doing that. Again, that is speculation.

Moving away from the issue of violence towards the issue of Hamilton;s paedophilia, were you able to draw any conclusion as to the likelihood of paedophiliac tendencies in relation to Hamilton? - I think on balance there is probably some good evidence that he had paedophiliac interests. Paedophilia can take a variety of forms; it doesn't necessarily involve physical sexual contact between the adult and the child. It may be someone has an infatuation with children and likes being in their company, and although physically attracted does not go as far as physical contact.

Yes? - One witness, Carruthers, reported that Hamilton rubbed the inside of his leg, and became "stroppy" when Carruthers moved away.

Yes? - Looking at the video tapes, they give the impression of being fantasy material. He had a lot of them. They were all tapes of boys he was filming. There were long, lingering shots of boys' torsos, and there were lots of shots of boys in a similar position, hanging from wallbars with their/

their torsos stretched out, and on some occasions with matching swimming trunks; apparently his favourites received red rather than black trunks. That looked like a fetishistic interest in boys.

How was that fetishistic interest indicated? - We know paedophiles often use films and video tapes, and they use them in a fantasy style which gets them sexually aroused, and they tend to, I suppose as other people do, they have particular physical types that they find attractive, and they tend to select images which are attractive.

Yes? - Some paedophiles find that more mature boys with hair and so on are unattractive, and so they tend to focus on a particular type of body shape and style.

Yes? - One cannot be absolutely sure it was used for paedophiliac interests, but it had that feel about it.

We have heard evidence that Hamilton wanted to recruit boys between the ages of 8 and 12. Is there any significance to be attached to that? - Often paedophiles, whether they are interested in females or males, are interested in sexually immature children rather than sexually mature children. It may be to do with sexual maturity.

Were you able to form a view as to which particular types of paedophilia Hamilton might have fallen into? - There doesn't seem to be a lot of evidence of physical contact, although it may be that the physical training was an excuse to allow him to have legitimate physical contact with the children, lifting them on to the wallbars or holding them while they were doing sit-ups. Yesterday I believe it was alleged he sexually assaulted a boy at camp, but I was only given that information this morning.

Does that affect the conclusions of your report? - It depends on veracity of the witness. If what he says is true it obviously increases the probability considerably.

I concentrated initially on asking you questions about the ability to predict violent behaviour in future, and we have looked at various factors/

factors which would be relevant in identifying the violent behaviour in advance? - Yes.

I think your conclusion is that it would not be possible accurately to determine violent behaviour in advance? - Yes, in this context.

Would it be possible to identify the possibility of paedophiliac behaviour in advance by means of psychometric testing? - No. One of the characteristics of paedophiles is that they will deny sexual interest. Even those who are convicted and come for treatment, a lot of the initial stages of treatment is getting them to admit what has happened: they either minimise or deny completely.

Yes? - There are techniques which are not psychometric which have been shown to be useful, but they are very intrusive. They involve measuring changes in penile volume or circumference, where people are shown particular types of slide. That technique is used with serious sex offenders in special hospitals before their release.

Yes? - Some of those factors I talked about earlier have been shown to be powerful predictors of re-offending in a sexual manner. This is a very intrusive technique, and it would probably be difficult to do in a community setting.

Is there any factor which might be used to identify in a community setting that someone might be a danger to children? - The experimental work, which has shown promise, again is looking at really pornographic imagery, and looking at viewing times, how long a person takes when they are viewing the images, but again that is not well defined: penile measures are well established, and especially hard to fake, and have been shown to be useful towards prediction of serious sex offenders.

Presumably of course the number of people who carry out this is very small indeed? - Yes.

Perhaps I can consider one other means by which it has been suggested it might be suitable to determine personality types. Have you had any experience of graphology? - No.

Are you able to express any views on the possibility/

possibility of identifying personality traits by means of graphology? - I think it is improbable that it would be of use in predicting violence.

Dealing with the precise situation of Hamilton, we heard in evidence that a number of concerns arose in relation to him, both of cruelty and neglect of children, requiring boys to train in swimming trunks, taking photographs of them and taking videos of them, and showing weapons to them. There had been a number of parental complaints? - Yes.

With that information, would you have been able to make enquiries about Hamilton which would have enabled you to draw a conclusion as to his fitness to hold a firearms certificate? - I think it would be difficult. It is difficult to see the link between paedophiliac interests and violence. In fact paedophiles as a whole tend to be non-violent. The fact that he had these other interests would not necessarily be any indication of a propensity to be violent with firearms.

But you had an indication from Gillespie of him having paedophiliac tendencies? - Well, that would certainly raise concerns.

CROSS/

4.00 p.m.

CROSS-EXAMINED BY MR. CAMPBELL: Will you turn to your first report please? Towards the latter part of this report you are dealing with the availability of weapons? - Yes.

If I have followed this correctly, the available evidence indicates that homicide, gun homicide and gun suicide, or the rate of that, I should say, is linked to the availability of weapons in the particular society concerned? - Yes, that is my understanding of the research in the United States.

And interestingly, in that connection, there is no displacement effect? - Yes.

In the sense that there is no compensating alternative method of suicide or violence to replace the lack of the gun? - Yes, that is correct.

So it follows, if the evidence is correct, that one way of reducing gun homicide and gun suicide in a society is to reduce the availability of firearms? - That is correct, yes.

Looking at your conclusions at page 29, in the third conclusion you say "Restriction of access to handguns is more likely to have an impact on the level of lethal violence in the community; unfortunately, it is unlikely that any restrictions could prevent a determined perpetrator obtaining access to a handgun"? - Yes.

The latter part of that third conclusion, lest there be any confusion or uncertainty over what you say there, I take it that that is not intended to dilute what we would otherwise conclude from the statistics we have just been talking about? - No, it doesn't. Overall the effect of restriction is to reduce the overall rate of gun homicide, but if someone is absolutely determined there is always ways of getting guns in most societies, I would imagine. The number of illegally held handguns is allegedly quite high and so it would be relatively easy for somebody who is very determined to obtain one.

I just wanted to be clear about that, because I think, just speaking generally, comments such/

such as that are sometimes used by those who favour the status quo for no change? - No, it's not in in any sense trying to limit the impact of the research evidence which shows there is a dramatic change in the rate of gun homicides.

Turning to your second report, can you help me with this -- what was it that you were setting out to do when compiling this report? - Essentially I was trying to see if there was anything that could be identified which would assist us understanding what had happened on that day. I didn't feel I could provide a complete explanation, but maybe some of the facts which led Hamilton down this path might be identified, and I was aware it can only be regarded as hopefully slightly informed speculation after the fact. That is obviously all it can be.

Essentially, am I right that one of the things you were looking at was whether the awful events of 13th March could or should have been predicted by someone such as yourself? - Yes.

If involved in the kind of testing which you have been talking about? - I'm not sure if that is the case because I think the conclusion of my first report is that it is extremely difficult to predict the type of violent behaviour. If there had been evidence of some of the risk factors, then that might have given us a clearer explanation for what had happened. If for example there had been evidence that he was suffering from some psychotic delusion, that might have helped us understand how the events came to pass, but as that wasn't the case, then the report was less helpful in that sense.

You were not asked in preparing this report, and you haven't in your report dealt with the question of whether or not Hamilton, before 13th of March was a fit person to be entrusted with firearms? - No, I haven't dealt with that.

And you haven't addressed yourself to the question whether it could have been determined that he was an unfit person to be entrusted with firearms? - No, I haven't directed my report at that issue.

If/

If we look for a moment at the final conclusion of your second report at page 14, you say "It is unlikely that psychological psychiatric examination prior to the incident at Dunblane would have alerted an assessor to his dangerousness; it is unlikely that he would have divulged any plans or fantasies, unless he had been in long-termm treatment". Just concentrating on the first of those for a moment, "It is unlikely that psychological or psychiatric examination prior to the incident at Dunblane would have alerted an assessor to his dangerousness", can you help me with this -- how is that to be understood in the light of your evidence to my learned friend a moment or two ago that what was known about, or at least what was brought to your attention about Hamilton, relating to his conduct before the 13th of March, was enough to ring alarm bells was the way you put it, either regarding handguns or children's organisations? - If I remember my evidence correctly, I thought I said in relation to the paedophilia it would have raised concern. With handguns, the evidence available would have been less use in predicting the fact that he was going to go on and engage in very violent behaviour. It would raise concerns about the paedophilia or attempted paedophilia.

I don't want to enter into a confrontation with you, but I have a clear note that you said this would be enough to ring alarm bells either regarding handguns or children's organisations. Have I noted that wrong? - Perhaps I didn't explain myself correctly. Handguns -- well, in terms of going and engaging in the violence that he engaged in, it would have raised alarm bells, but the probability of that act would probably be quite low because it is an infrequent act. Paedophilia, there would be alarm bells because there is more evidence related to paedophiliac interests than there is into gross violent behaviour.

So are we to understand that while alarm bells might be ringing relating to handguns, because something like the 13th of March is a very rare event, then one cannot really predict that it would happen? - That's right, and that comes back to the base rate problem, the difficulty predicting events.

But/

But if alarm bells are ringing about handguns, might not that suggest to people that there is a risk that that person is not fit to be entrusted with weapons? - Are we not talking about two different things here?

Are we? If somebody of your experience, qualification, has alarm bells ringing in his head about a person and handguns, is that not good reason to question his fitness to be entrusted with weapons? - Yes, I think so. I think it comes back to what I am saying in No. 5. I meant his dangerousness in relation to committing the violent acts he committed in Dunblane. I think it is very difficult to -- I think it comes back to the confidence of the assessor. I would be more confident that, on the information I have, that he would be a risk of engaging in paedophiliac behaviour than I would be confident that he was going to go out and shoot people, and that is to do with confidence on the information available.

But if someone such as yourself has any concern at all that someone who has firearms is someone who might act violently, then would you not agree that the public may have a legitimate expectation that if that matter came to light, that something would be done to remove weapons from that person? - Yes, I think that would be a legitimate thing for them to expect to happen.

Because tragically, it may be too late to wait for the absolute confidence that you have just mentioned a moment ago? - Yes.

If I have followed the thrust of at least part of your evidence correctly, you are of course severely hampered by the fact that Hamilton is now dead? - Yes.

And that you are looking at necessarily part of the overall picture as has been made available to you? - And I think significant data are missing in terms of his thoughts and fantasies. That is the most likely explanation, but again I may be wrong.

And the reality is that if the matter had been brought to your attention, specifically in the context of Hamilton, not only would you have wanted/

wanted to interview Hamilton perhaps more than once, you would have instigated no doubt other enquiries? - Yes, indeed.

And what the end result of that might have been, we can only speculate upon now? - That is correct.

But what you can say now is, as we find at Page 11, that "He suffered from significant features of personality disorder of a sadistic type"? - Yes, that is correct.

And that he was a paedophile, or at least someone with paedophile tendencies? - Yes, that is correct.

And just in the context of paedophile tendencies alone, the question of whether or not someone of that character should be entrusted with firearms is a matter that legislation has entrusted to the discretion of the Chief Officer of Police? - I didn't..... yes.

So it may be unfair to ask you your opinion on that? - Yes.

And would I be right in thinking that before you were content to express a view as to whether or not Hamilton was or was not a fit person to be entrusted with weapons, you would want to have as clear a picture as possible as to all the available information relating to him? - That is correct, yes.

And for example, you have not been provided with a detailed and comprehensive report of all the information available to Central Scotland Police? - No, I have not, no.

Stop me if this is beyond your expertise, but while no doubt you are right to say that tragedies such as Dunblane are rare events, they have happened from time to time world-wide? - They have indeed, yes.

We have had two for example this year? - Yes -- three.

Is there a general pattern emerging as to/

to the type of person who tends to do this, for example the word loner or mis-fit often seems to crop up in this context? - There is some evidence that that is the case, but that applies to many types of criminal behaviour. On its own, it's not sufficient to tell us very much. Some of the acts seem to be committed by people who are psychotic and others are people with grudges. There are a variety of motivations, in a sense, because fortunately they are rare events and it is difficult to see patterns.

One striking, what some may think is a striking feature of the evidence at this Inquiry is that almost everyone who had anything to do with Hamilton seems to have recoiled from him in some way -- not everyone, but many people? - Yes, many people.

And nouns such as weirdo, mis-fit, loner, creep, that kind of thing, are very common? - Yes.

The Inquiry was adjourned
until tomorrow.

TWENTY SECOND DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

THURSDAY, 27th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
DAVID JOHN COOKE,	
Cross-exam, cont'd by Mr. Gibb.....	4
Cross-examined by Mr, Gibb ……..	15
Cross-examined by Mr. Taylor …….	17
Re-examined by Mr. Lake ……..	25
HUGH DILAHAY DAVIES,	
Examined by Mr. Bonomy ……..	30
Cross-examined by Mr. Campbell …….	44
Cross-examined by Mr Gibb …….	46
Re-examined by Mr. Bonomy …….	46
ARTHUR MORRIS,	
Examined by Mr. Bonomy	48
Cross-examined by Mr. Campbell.....	66
Re-examined by Mr. Bonomy	69
ROBERT MOIR,	
Examined by Mr. Bonomy.....	72
KATHERINE MARY ANDERSON,	
Examined by Mr Bonomy ……..	92
Cross-examined by Mr. Jones …….	108
Cross-examined by Mr. Taylor …….	115
Re-examined by Mr. Bonomy …….	118

FRIDAY, 28th MAY, 1996.

TWENTY-THIRD DAY.

LORD CULLEN: Well, let's resume. Now, Mr. Campbell?

MR. CAMPBELL: Thank you, sir. Good morning, Mr. Cooke.

MR. COOKE: Good morning.

DAVID JOHN COOKE,

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Professor, I want to move away for a moment at least from Hamilton as a specific case? - Indeed.

To discuss matters in a more general nature with you. Your first report deals in general with the question of the extent to which qualified people such as yourself can predict violent acts by people? - Yes.

Am I correct in understanding that there is considerable literature which indicates that mental health professionals are unlikely to be able to predict dangerousness in every case? - That is correct, yes.

Although, is it also fair to say that some of those interested in this field are more pessimistic than others who perhaps take a slightly more optimistic view to the possibilities? - I think that is true, but I think the research is suggesting with the correct techniques we can always improve, but there is always a barrier beyond which you cannot go.

Would it be accurate to say that when professional people such as yourself are dealing with a specific individual, the emphasis is upon management rather than prediction? - Yes, there are/

are two elements; risk assessment entails prediction, but if you are, say, suggesting release of a prisoner on parole and you think there is a potential for danger, you build in treatment and management in the Community.

And that would involve for example, if we discuss someone who is or has been in a psychiatric clinic, then their illness and their history will be well known? - That is correct, yes.

And it will be managed by a multi-disciplinary team? - In the ideal world they will have, yes.

And tell me if it is just the ideal world, but usually at least, would there be features such as monitoring of the individual? - Yes.

Discussion with him and between the team managing his.....? - Yes, there would be regular contact with the patient and monitoring of the individual and his symptoms.

And from time to time, positive intervention by perhaps hospitalisation, medication, discussion with relatives and so on? - Indeed.

The purpose of it being hopefully to head off or prevent crises and problems? - That is correct, yes.

So in so far as there may be a predictive element to the management of the patient, no doubt amongst other things that would be based upon the in-gathering of a large amount of information about that person? - You require information, a large amount, yes.

And hopefully a good working relationship between the doctor and his patient? - That is correct.

And again, preferably, would I be right, short time spells between one appointment and the next? - Indeed.

I think you touched upon in your report the question of the extent to which predictive assessment/

assessment can be carried out by self-assessment by the individual himself? - Yes.

Would I be correct in understanding that there are very serious limitations about the use of questionnaires and the like? - Definitely; certainly that is my opinion. Many of the characteristics we are interested in cannot be measured reliably using self-report measures.

Not only do they rely upon the accuracy of the responses? - Yes.

Necessarily they involve a pre-determined set of questions rather than perhaps one which would arise if one was speaking to the person? - That is correct, yes.

Also, they omit observer judgment? - Yes, which is critical.

And again, by their very nature, do not permit the therapeutic or management intervention, or may not do so? - May not do so, but often these are used as part of a screen before you engage in more detailed interview of the individuals, but one has to make judgments about the reliability in each individual case.

So in the context of firearms licensing, you perhaps would not be an advocate of psychometric self-assessment? - Certainly not.

Am I correct in understanding from your evidence and from what we have heard from others, that so far as mental illness or a change from a peaceful to a violent person is concerned, this can happen in unforseen and unexpected ways, sometimes over a relatively short period of time? - That is possible, even whether there is mental illness involved or not, I think.

And of course, peoples own domestic situation may change quite dramatically over short periods of time? - Yes, and that can cause an increased risk of future violence.

And I take it depressive illnesses and the like can come on almost at any time over a short period of time? - Some illnesses can on-set rapidly,/

rapidly, yes.

So a firearm in one individual's hands today may be satisfactory, but next year the position may be very different? - That is correct, yes,

Which in itself may give rise to concerns if firearms licence holders are reviewed only every five years? - That is correct.

But it follows from what you have been saying, even a reversion back to the old system of three years, or perhaps even yearly reviews, nonetheless would not necessarily identify the problems we have just been discussing? - I would agree with that, yes.

Stop me if this is outwith your area, but in general terms, would I be correct in understanding that many deaths from firearms include suicides? - I wouldn't claim to be an expert on that.

But it is presumably common knowledge that a proportion of suicides have been committed by firearms? - Yes, indeed.

So any improvement of controls on firearms, in addition to perhaps having an effect on gun homicide, may also have some knock-on effect on suicide rates? - Potentially there is some evidence in the studies I quoted which suggested that may be the case.

Am I correct in understanding that fortunately very few suicides are also what is known as an extended suicide or someone who takes other individuals lives along with his own? - Yes, that does occur, but again I am not an expert in that particular field.

So as to whether Hamilton fell into that category, that is not a matter for you? - No, but I should say that suicide following murder is not an unknown phenomenon. There is literature on that.

So one question that may arise in that context is whether the decision to commit suicide was formed in advance of the murders or immediately afterwards?/

afterwards? - Yes.

As to which category Hamilton fell, that is not something that you have applied your mind to? - I would speculate that he formed the intention before he killed the other people, and that is purely speculation.

Based upon what? - Primarily the fact that he changed weapons before killing himself, which seems ritualistic in some way, but it is speculation.

I won't press you on that because I think another professional may touch upon that, but thank you for your comments; so one conclusion we may draw, that might be drawn from your evidence is that psychological assessment is not a complete answer to any public concern following upon Dunblane? - Yes, I would agree with that.

Therefore, if that public concern is to be addressed, one needs to consider other methods of control? - Indeed.

With regard to your first report, in that context one alternative method of control which you point to is situational control? - That is correct.

The most obvious of which, if I have followed you correctly, is the restriction of the availability of lethal weapons? - Yes, indeed.

Can I ask you to turn to Page 22 of the first report please? Is that a passage in your report headed "Not all errors are equal"? - Yes.

You tell us that "The available evidence suggests that mental health professionals are conservative and tend to recommend the detention of patients who in actuality have a low likelihood of violent recidivisms"? - That is correct.

"That is, mental health professionals tend to make 'false positive' errors rather than 'false negative' errors"? - Indeed.

Could that be described as, for obvious reasons, a safety first philosophy? - That is correct,/

correct, yes.

You go on "In the context of a secure psychiatric facility a high 'false positive' rate has to be carefully monitored as significant issues are at stake; the decision must balance the liberty of the patient with the protection of the public"? - Yes.

You go on "In the current context, where decisions may have to be taken regarding access to handguns or access to children's activities, judgments about acceptable errors may be easier to make. In this case public safety is not being balanced by the unreasonable detention of an individual in a secure facility, but merely by the removal of the opportunity to engage in interests, namely shooting or running children's organisations. If screening is introduced it should be designed to have a low 'false negative' error rate even, as is inevitable, this is at the cost of a high 'false positive' rate"? - Indeed.

Do I correctly understand that as a recommendation that in this particular context, the philosophy should be safety first? - Absolutely.

So that is both in the context of running children's organisations and firearms licensing? - Indeed.

And would I be correct in assuming that safety first philosophy should apply to the general regime of firearms licensing and also to dealing with a specific individual? - Could you clarify the question for me? I am not absolutely sure what you are asking?

I will take it out and start again -- a safety first philosophy may have effect in considering what the overall regime of firearms licensing ought to be? - Yes.

Would that be an appropriate approach? - In my opinion it would be, yes.

Similarly, once a firearms licensing regime is in place, it requires to be implemented or enforced in a particular individual's case. Would the same safety first philosophy apply? - Very much/

much so, yes.

So would that suggest that in the context of a specific case -- I am not meaning to talk about Hamilton particularly -- but just generally, there may be considerable benefit if those involved are alert to any personality trait or characteristic that might be a cause for concern? - Yes indeed, it would be helpful.

And putting the matter at the very minimum perhaps, it may at least suggest the need for further careful consideration and investigational examination? - Yes, other examinations.

Your report dealing with Hamilton himself, while subject to the various caviats which you have made very clear, you appear to have reasonable confidence that he did demonstrate paedophile tendencies? - Yes indeed.

Bearing/

10.20 a.m.

Bearing that in mind, could we look at page 16 of your report, the more general report? - Yes.

In the middle of that page you have a little diagram overlapping some ellipses; psychological factors in one ellipse, situational factors in the other, then an overlap headed "Violence"? - Yes.

One situational factor I take it we will have in mind in the generality is whether or not the individual has ready access to weapons? - That is correct.

Let us assume for the moment that so far as psychological factors are concerned that individual is a paedophile or has paedophiliac tendencies? - Yes.

Let us also assume that he runs boys' clubs and let us assume those boys' clubs have given rise to numerous complaints by parents and others in society? - Yes.

Might that give rise to other relevant situational factors in relation to paedophilia or in relation to violence?

I am thinking primarily in terms of risk of violence. Is it possible for example that a parent outraged by what has happened confronts Hamilton? - Yes, and that might escalate into violence.

If the paedophile is confronted by an outraged parent and the paedophile has ready access to firearms, that is a situational factor which one requires to bear in mind? - Yes.

So it is perhaps not possible to put paedophilia into a separate category from any concern over violence where there is ready access to weapons? - Yes. As with all human beings, we have to consider a whole range of factors when making a judgement.

We have heard some evidence -- I am not sure/

sure if it has been communicated to you -- to the effect that at his clubs and summer camps Hamilton appeared to display no -- and I stress "normal" in this context -- no normal kindness or affection towards the boys, even if they were homesick or upset, whereas you or I might comfort a child in a perfectly normal way. There did not appear to be any characteristic of this nature in Hamilton's make-up? - I was not aware of that.

If that is the position does that add anything to your knowledge of him? - It adds weight to the view that he lacked empathy, which I have stated in my second report.

Turning to page 10 of the second report, you are dealing here with sexual sadism? - Yes.

In the middle of the paragraph you make reference to a work by Brittain in 1970? - The first report?

The one on Hamilton specifically which I have been calling the second report, because it is the second one you mentioned? - Yes. On page nine?

Page 10? - Yes.

Just to avoid any confusion, this is the report dealing specifically with Thomas Watt Hamilton, page 10? - Yes.

In the context of sexual sadism you make reference to some work by a gentleman or lady called Brittain in 1970? - A gentleman; yes.

This suggested that sexual sadists' interests in weapons is unusual? - Yes.

It says ".....they" -- that is the weapons -- "have an attraction for him far beyond what they have for an ordinary collector, and he may 'love' them, handling, and in the case of firearms, dismantling them and cleaning them for long periods of time. He has strong feelings about them, they have special favourites, and he can even have 'pet' names for these".

LORD CULLEN: I think you are quoting quite correctly, but from the other report, Mr. Campbell./

Campbell.

MR. CAMPBELL: Am I? Oh, dear. The confusion is entirely mine. I do apologise.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: I am sorry, Professor. It is your report on the psychological perspective? - Yes.

Page 10? - Yes.

The question I want to ask you is this. In the case of a person such as this is such a person more attracted to guns in the first place or does his attraction come after the guns have been made available to him? - It is difficult to know. As I tried to indicate yesterday, these conditions are relatively rare, and I think it is most likely that the interest in weapons is there first, and people seek access to them.

If I revert again for a moment to Hamilton as an individual, you told us he had paedophile tendencies? - Yes.

And you told us a considerable amount of other things about him? - Yes.

Is it a pure coincidence that he was also interested in guns? - Because he was interested in paedophilia?

Yes? - I think the majority of paedophiles would not necessarily be interested in weapons.

So there is some other trait or aspect to his character which explains his interest in guns? - Yes.

We have heard some evidence that he occasionally called his guns his friends or his babies? - Yes.

Does that seem to bear some relationship to what Brittain was talking about? - Yes, it seems to fit with what Brittain is describing.

We also have heard evidence that Hamilton would occasionally talk about his guns or his clubs and/

and rifle clubs, ammunition and the like, to the children in his care. We know of at least some instances where he has gone out of his way to show his guns to children in their homes? - Yes.

From the child's perspective, would that have any influence upon how they regarded Hamilton and his behaviour towards them? Not only did he run these clubs and camps in the way in which we know you have told us about, but these children knew he was a man who had guns. Would that have any bearing upon how a child viewed him? - It is difficult to know, to speculate on that. Many young boys are interested in weapons and guns, and they may have been fascinated by what he was showing them.

If we have agreed this is -- and there is just some evidence of this; I appreciate not a lot -- somebody who has exhibited paedophile tendencies towards young children, might the fact they know he also has a gun have some influence on the way they respond and react, or is this just too speculative? - I think it is just too speculative.

Still on the same report we were looking at a moment ago, and still on the context of sexual sadism, over the page at page 11 we read this: Brittain again in 1970 indicated that murders carried out by sexual sadists are generally planned days or even weeks ahead. "They frequently have low self-esteem, and Brittain contended that their acts of violence frequently occur when their self-esteem is challenged"; is that correct? - Yes.

According to Brittain they "May be vain and egocentric: 'He would rather be notorious than ignored'. His acquaintances may consider him to be 'strange', 'off-beat', 'twisted', 'a loner', 'kinky' or 'a weirdo'"? - Yes.

Here again do we have echoes of some of the material known about Hamilton? - Yes, I think that is the case. The evidence suggests that there were witnesses who felt he was strange. I can't remember the phrase that they used. Secondly, there seems to be good evidence that he was planning or he may have been planning this several months beforehand.

I think there is also, would you agree, some/

some evidence that his self-esteem may have been challenged by the rumours and gossip and police investigation into his conduct? - Yes. The fact that fewer boys were going to his clubs, he had been refused access to places to run his clubs, all these things would have an impact on his self-esteem.

It does appear he took considerable offence at, for example, the police investigation into his conduct; is that correct? - As far as I understand, yes.

Likewise, there would appear to be a degree of social ostracism in his immediate community? - Yes.

At the foot of page 11 in the text of "Poor Anger Control" you tell us that certain individuals may be provoked by for example frustration, perceived injustice or by the perception that they have been treated without due respect? - Yes.

You say "Their responses may be in the form of angry thoughts, physiological arousal or angry and violent behaviour, or indeed combinations of these three classes of response"? - Yes, indeed.

Again does the evidence concerning Hamilton indicate somebody who was constantly conversing in a somewhat unreasonable and aggressive fashion? - Yes. I suppose in terms of the number of letters of complaint he wrote it suggests he was somebody who complained a lot when he was angry.

So when it comes to not only assessing the personality of an individual but more generally in the context of assessing for example his fitness to be entrusted with firearms, would it be important to have regard to the cumulative picture built up over the years about that individual, rather than concentrate on individual episodes? - Yes, it is important to have the history.

And that would be of importance when assessing for example risk factors arising from his possession of weapons? - Yes.

CROSS-EXAMINED BY MR. GIBB: Just one point/

point that has not been covered. GPs are at the moment sometimes asked to be counter-signatories? - Yes.

And one recommendation from the Chief Police Officer is that a medical report should be provided with any application? - Yes, a medical report.

Over and above the question of counter-signatory, that medical report would require some sort of professional capability on the part of a GP to assess personality and psychology. To what extent do you think GPs have that training and ability? - It is not only personality and psychological characteristics that need to be assessed; you would need to have knowledge of all risk factors of violence of paedophilia, which is not part of the training of GPs, and I doubt whether they would have the expertise to carry out the task.

So you think the position of a medical report from a GP in itself would be relatively worthless, because they would not have the training to assess particular characteristics? - I don't think they have the training to assess the risk of violence.

I suppose it would be very difficult in terms of the psychology for a report to be prepared by a specialist such as yourself? - Yes. I tried to make clear in my report that we probably do not have enough trained people to carry out risk assessments in relation to people being released from special hospitals or even from prison, so I don't think there are available experts to do this at the moment.

How many meetings would you need with an applicant to carry out a risk assessment? - In what context?

For the purposes of a firearm certificate, if an applicant was required to produce a medical report, and that included a risk assessment? - I think I have tried to indicate this. It seemed very difficult to predict within the community, where the rate of violence is very low. If one was to interview someone you would need several sessions and access to lots of collateral information/

information before I could make a realistic estimate: but then there is always errors.

So would you think the practicalities of producing a medical report with every application or renewal of a firearm certificate -- do you think it would not be practicable? - That is correct.

CROSS-EXAMINED BY MR. TAYLOR: If you would have the report which you prepared in relation to Mr. Hamilton with you, I am interested in what you say at the top of page three in the first paragraph on that page. You say that there is a natural human tendency to explain events, and you refer to "effort after meaning", which you say may result in significant distortion in the recall of events? - Yes.

In what way is the recall of events likely to be distorted? - Memory processes are active processes. It is not like putting information into a computer, which should come out the same way as it goes in. Things which happen subsequent to memories can change the memories, and they can come out in a different form. Can I give you an example of one of them?

Please do? - One study was looking at the cases of Downs Syndrome. This was in the days before people knew it was a chromosomal abnormality. They asked mothers of Downs Syndrome children to count how many frightening experiences they had had, and shocks, during their pregnancy, and they found these mothers had three times as many shocks as people who had no Downs Syndrome children. Now, these mothers were trying to explain what had happened by reorganising their memories. This is a well-established phenomenon, which has been recognised for 60 years.

Applying that to the particular events that we have been looking at at this Inquiry, how do you consider if at all the witnesses' recollections will have been affected by the events of the 13th March? - It may be they can selectively recall parts of Hamilton's behaviour. One witness I think described him as cold, unemotional, like a robot. Now, if you have heard what he has done you may re-interpret what his behaviour was like. Of course, psychologists are not immune from it either, or anyone/

anyone else for that matter.

In a sense, what you have been asked to do in the course of this exercise is different from that which you would normally do? - Yes, indeed.

We have been dealing with an event, and we have asked you with hindsight to go back through the personality of an individual and make some sense of it? - Yes.

Whereas normally you would have the personality and try to predict what the future would be? - Yes.

Just how difficult does that make your task in doing what you were asked to do in the second of your two reports? - It makes it quite difficult. You have to balance the evidence as it is presented as I say in my caveats to begin with. It is a difficult task, and one cannot be expected to explain the whole lot.

Yes? - It may have been different if during the risk assessment Hamilton had shown some evidence of threat control mechanism or clear psychopathic traits, but there doesn't appear to have been that in the evidence.

I was interested in some of the descriptions or the labels which you attached to Hamilton? - Yes.

And one of these labels which appears from time to time in your report is that of him being a loner? - Yes.

What do you mean by the use of the label "a loner"? - He seemed to have very few relationships outside his family. His adult relationships seemed very tentative relationships, and they were not close relationships. From the evidence it seems he did not necessarily disclose things to other people, he did not seem to share his thoughts of violence with other people.

We have heard some evidence to the effect that he visited certain individuals on a very regular basis, to the point that they called him I think a pest. Were you aware of that? - Which people?/

people?

In fairness, I will refer you to the transcript. If you could have the transcript from Day 5 available, and look at page 593? - Yes, I have it.

Right down at the very bottom of the page, the witness, who was a Mr. Anderson, is asked "How often did he call at the house?", and the answer is "To the extent where he began to become a bit of a nuisance, like three to four nights a week"? - Yes.

If you could put that to the side and look at the transcript for Day 3, and in particular page 287, this is the evidence of a Mr. David MacDonald, and in the middle of the page just before the letter C he is asked "Did he phone quite a lot?", and the answer is "He" -- that is Hamilton "did phone me quite frequently, yes, and eventually it got a bit wearing having so many phone calls"? - Yes.

Then if you jump to the bottom, just after the letter E, "So from 1990 right up to 1996 did he continue to keep in touch with you?", and the answer is "Yes". Then he is asked "And how frequently during that period did he speak to you on the phone?", and the answer was "It was maybe a couple of times a week, something like that"? - Yes.

And/

10.40 a.m.

And if we could then look at one more transcript in this connection and that is Day 16 and page 1985. I think this will be a transcript which you will not have had sight of? - No.

You have had sight of the transcripts of Days 1 to 5? - That is correct, yes.

This is Mr. MacFarlane giving evidence and just above letter B he is asked "Q.- Through the 1980's did Hamilton continue to call on you from time to time? A.- Yes, he did.", and then at letter C, "Q.- What about the length of time? A.- Well, they would sometimes go on for about three or four hours in which time he consumed about half a dozen cups of tea and I think every chocolate biscuit you had in the house."? - Yes.

Now, if one takes those passages of evidence and looked at them, does one still become entitled to consider Mr. Hamilton as being a loner? - I think so, because I think we are looking at the quality of the relationship as much as the contact. I mean, there doesn't seem to be any evidence of a close, confiding relationship. At page 1985-B he says "You couldn't carry on a conversation with him". I think Mr. MacDonald referred..... if I have got the correct witness but I may not, I think he referred to it as a telephone relationship at one point.

Yes, that is correct? - So he appears to talk at some people but he doesn't seem to have a close, confiding relationship where he discloses things. In a sense that is what I conceive as an important element of a relationship with other people in regard to forming a relationship of a meaningful type.

Now, in your report you indicated that you considered that there were some traits of him having a sadistic personality disorder? - Yes, indeed.

And I think we will find these traits set out at page 8, is that correct? - Of the report on Hamilton?

Yes, the Hamilton report? - Yes, indeed.

And/

And am I right in thinking that these are the traits which are set out in the first complete paragraph of page 8, the paragraph starting "There is evidence that....."? - Yes.

And where does the evidence conclude in relation to ascertaining whether or not he had this disorder? - Page 9. The second paragraph.

I wonder if we could just look at some of that evidence. You indicate that as part of the examination one has to draw that Hamilton has become amused or gained pleasure from the suffering? - Yes, that is one of the characteristics one might look for.

And is that the characteristic which you were looking at in respect of the analysis of his behaviour? - Yes, that is one of the characteristics.

What were the other characteristics? - Well, for example, restricting the autonomy of other people. The interest in guns and so forth.

I wonder if you could look at the transcript for Day 3, Volume 3 at page 276. This is the evidence of Mrs. Ogilvie who was one of Mr. Hamilton's neighbours. Just below letter C she is asked first of all "Q.- So that on the occasions when there was some conversation between you, who was it that started the conversation off? A.- It was him and I nearly jumped out of my skin. Q.- Can you remember the first time that happened? A.- Well, if I was maybe out the back hanging out my washing, he was there. I never heard him coming but he was there and he would speak and I just got a fright and I would talk but then I just left him."? - Yes.

What in that passage which we have just looked at gives rise to the view that Hamilton derived amusement or pleasure from any conversation or interaction which he had with Mrs. Ogilvie? - It is ambiguous but I thought there was perhaps a possibility he was doing this deliberately but I admit it is ambiguous.

Well, where in that can one define that Mr. Hamilton might have been doing it deliberately? - Well, when she said "he was just there", it sounds/

sounds as if he had come up behind her and surprised her.

The other aspect which you talked of a few moments ago was the way in which he restricted his grandfather's or adoptive father's movements in the house? - Yes.

Did you read the statement from the grandfather, the adoptive father, Mr. Hamilton? - Yes, I did.

I wonder if we could look at that. It should be in one of the volumes which you have before you. It is in the second day. We have already referred you to Day 2. I think it is set out on page 210? - I have it, yes.

Page 210 just at letter E I think the passage which you might have had in mind can be found. Mr. Hamilton says "On 24th August, 1992 I moved out of Kent Road and into sheltered housing accommodation. The reason I moved out was that Thomas began to take over the whole house, he moved all my personal possessions and items of furniture into my bedroom, some pictures I had on the wall and my telephone and other personal items. I just could not be bothered with it all and went to Stirling District Council and they arranged for me to move". Is that the passage you had in mind? - That and also I think there was a witness who suggested that Mr. Hamilton's adoptive father was restricted in terms of his access to the house. He would come home at night and would be kept outside for 20 minutes and so forth. So that together.

Yes, that was Mr. Dewar? - Yes.

Considering these passages did you also have regard to the evidence given by Mrs. Watt and Mrs. Watt's friend, Mrs. Sutherland? - Yes, I'm aware of that.

You see, on page 204, and I don't think it is necessary for you to have this passage before you, Mrs. Watt indicated that.....she is asked "Q.- In general terms what was the cause of the disagreement? A.- I can't tell you, I don't know, they just kept arguing; you see, my Daddy drinks and he used to come in and Tommy would be in his bed and/

and he used to wake him up and start arguing with him"? - Yes.

And Mrs. Sutherland was asked a similar question at page 207 on Day 2. "Q.- Did you ever see him in recent years in the company with Thomas Hamilton?", he being the adoptive father? - Yes.

And the answer was "No, never". "Q.- What sort of relationship did you understand they enjoyed? A.- Very bad. Q.- What was the cause of the problems? A.- The father's drinking."? - Yes.

Couldn't we find another explanation, perhaps a perfectly innocent explanation, for Hamilton's conduct towards the adoptive father? - That is one possible explanation, yes.

And is it just as likely an explanation as the explanation which you advanced, being a function of his personality trait? - No, I think the evidence of the personality trait is based on more than just, you know, the relationship with the father. I mean, it is the interest in guns and I think the lack of empathy which we have heard evidence of and so forth. So, I mean, in all human situations there are complex factors involved. Drinking might have been a factor and personality might have been a factor but again we can't necessarily add weight to which one is the most important but probably a combination of things.

In attaining the Degrees and qualifications which you have told us about yesterday, you would have spent a considerable amount of time in study and learning presumably? - Yes.

Can you say for how long you studied? - Six years full-time and five years part-time doing a Ph.D.

Would much of that training have been directed towards analysing the behavioural patterns of individuals and drawing conclusions therefrom? - Much of it would be, yes, and in the treatment and management.

And thereafter the treatment and management,/

management, I appreciate that? - Yes.

So you would be looking at events and drawing conclusions from them, which perhaps I might not be able to do, as a consequence of the training which you have had? - Perhaps, yes.

You have been asked to paint a picture of Hamilton and you very fairly told us of the difficulties in so doing, given the manner in which one must now do it. Can you tell me what base information you had about him? What material did you have before you when you were trying to paint a picture? - Essentially I had the transcripts from the first five days of the Inquiry, I had access to the video tapes, extracts of video tapes of Hamilton and I had access to some of the summaries produced by the police during their investigations and I think I note this in the introduction to the second report.

I beg your pardon, if you have done that I apologise if I have overlooked it. Yes, I do beg your pardon. I see that there? - I also discussed the case with Detective Chief Superintendent John Ogg to get an over-view of the evidence.

BY LORD CULLEN: Just one matter perhaps I can ask you about before you are re-examined. You were asked some questions by Mr. Campbell dealing with the matter generally about situations where violence might erupt and one situation would be in the process of confrontation? - Yes.

I can see how a person might react in some situations where he was faced with somebody else who was, let's say, beligerent or complaining? - Yes, indeed.

Now, in the case of Hamilton we seem to have a number of insights suggesting that in confrontation he was extremely cool, if not cold and highly controlled. I hope I am correctly representing the evidence. For example, I don't know if you have read about this but we heard of evidence where two women deposited rubbish, noxious substances, on him? - Yes.

And his response was extremely restrained. No/

No complaint, no kind of reaction at all? - Yes.

Do you know the incident I am talking about? - No, I am not aware of it. Oh, yes, I am. I beg your pardon. Yes, I know the incident.

The two ladies, Mrs. Haggar and somebody else? - Yes.

Now, does that tell you anything about his characteristics in that situation for a start? - It is quite interesting to Megargee, who I refer to in my report, who has classified different types of violent offender and describes people who are what he calls over-controlled personalities. These people are often timid, unassertive, individuals who don't appear to react in the way that Hamilton didn't appear to react. They can tolerate or they appear to tolerate a lot of provocation without reacting but when they do react they react in a very dramatic way. Megargee describes this and the evidence for it in the literature is not very convincing and certainly clinically I think I have only seen one case in my career.

Is he one of the authors in your report? - Yes, Megargee. He describes an over-controlled personality. There is not full agreement that this exists in the psychological community but he insists that it does.

We have also had him described as being somebody who planned things very carefully? - Yes.

Perhaps I should not extrapolate this too far but would that tend to suggest that in his case if there was violence it arose out of calculation as it were? It was fairly cold and calculated? Is that a fair reading rather than an instinctive response? - Yes, it appears from the evidence I have that it was planned and it was cold and calculated.

I don't want to misrepresent what you have said? - No, I would agree with that.

RE-EXAMINED BY MR. LAKE: Just to return to a matter which was raised as possible confusion yesterday afternoon. In the conclusion of your first report you conclude that psychological risk assessment/

assessment would not provide a satisfactory basis for the prediction of violent behaviour in individuals of a community, is that correct? - That is correct, yes.

That is both because of the accuracy rate of such tests in a community setting? - Yes.

Or because of the practical difficulty in carrying out sufficient tests? - That is correct.

At the same time, I think you said in your evidence that certain factors, the ones you take into account in assessing that Hamilton could suffer from a sadistic personality disorder, might have been sufficient to ring alarm bells in relation to both the possession of firearms and having care of children? - Yes, indeed.

In a situation where you might not regard these as being sufficient to permit you to predict violence, on what basis do you consider that they would have rung alarm bells for you? - Well, I would be concerned that someone like that would have access and the opportunity to engage in paedophilia or to have access to handguns.

On/

On what basis would you be concerned that they had access to handguns? What would your concern be if they had access to handguns? - Are we talking about sadistic characteristics?

Someone who displayed the characteristics which you have taken into account? - What characteristics? Say psychomatic personalities?

If I refer to the characteristics in particular, I think they are contained in the second of your two reports and they run from the foot of Page 7 through Page 8 to the top of Page 9, and I think those are matters I put to you yesterday in regard to ringing alarm bells, and you said yes? - Yes.

Why would someone who displayed those characteristics give you concern if they were to hold a firearm? - Well, it seems to me that they enjoy dominating other people and humiliating other people, and the use of the firearm potentially could be used for that purpose.

And is that because all the characteristics come together or is it any one of them would produce that? - The characteristics of sadistic personality disorder?

The ones enumerated here? - Well, they are all linked; they are all inter-correlated; they tend to occur together because it is a cluster syndrome, so the fact that he has a particular way or style of inter-acting with other people would make me concerned.

And that concern would exist notwithstanding the fact you didn't feel able to say that you would predict this as being someone who would commit a violent act? - Yes; it is a different threshold of concern.

I think you said in response to a question by my learned friend, Mr. Campbell, we are dealing with two different things here, and these two different things you have in mind, on the one hand predicting violence and on the other hand safety/

safety with a firearm? - Yes, I think these are two distinct concerns, yes.

I don't want to push you into saying more than you wish here, but do you feel able to say that even although you might be able to provide an accurate prediction of violence, you could identify people who would raise concerns that they would have firearms by psychological means? - Yes, I think you could, but you would have a very high "false positive" rate. Supposing someone comes along and they are experiencing major psychotic symptoms or are psychopathic, psychopathic people don't always go on to be violent, but would be a risk factor, and I would suggest that those people should be excluded from having firearms, but it doesn't mean that I would necessarily predict that that individual would go on to be violent, but that class of individual is at a higher risk than other people.

I may be asking too much, but could you estimate what proportion of "false positives" might arise if such a broad approach was to be taken to excluding people from having Firearms Certificates? - I don't have the necessary information about personality disorders in the general population.

Is that something which might be available in the document that is published next week? - From the American situation, but I think those are different. We know there is great cross-cultural differences in the rate of psychopathic personality disorders, much higher in North America than in this country, fortunately.

Fortunately for us? - For us.

If I could refer you now to the report on Hamilton? - Yes.

On Page 8, at the end of the paragraph relating to Hamilton getting amusement or pleasure from the suffering of others, you say in the sentence there "There is no evidence of cruelty to animals"? - That I am aware of.

Is that actually a matter that you were aware of, because there has been some evidence arisen in transcripts which was not sent to you, that there has been some evidence that Hamilton used to/

to engage in something called "bunny hunts" where he would go out in his car trying to catch rabbits in the headlights trying to startle them and then run them over? - I wasn't aware of that.

Would that be a material factor in your consideration? - He was doing this as an adult presumably?

A young adult? - Yes, that would cause me some concern, yes.

Do you consider the events of the 13th March indicate a sudden and dramatic deterioration in Hamilton's -- it might be colloquially said that he had flipped -- or part of a continuing process? - I think it is probably part of a long-term process. I think he had personality difficulties. There was evidence that he was planning this at least two months beforehand, tentative evidence of that, so I don't think he flipped, no.

Taking the factors you do know about Hamilton's behaviour in relation to children? - Yes.

Which I think we have had referred to as being elements of cruelty in hitting them, a lack of care, if those matters were made known and referred to a Council, would you be able to advise them after an interview or certain other investigations as to the suitability of that person having access to children? - It depends on the quality of the information you get and the extent to which the person being interviewed cooperated at the interview. I think, as I indicated yesterday, paedophiles, even those who are convicted, will deny their behaviour, so it is very difficult to determine from an interview.

If it is a matter on which the local authority had expressed some concern, and said to someone he would not be permitted access to children unless he were to submit to interviews, and he would not be allowed access until someone in your position expressed that they were satisfied that it was safe for him to do so, do you think you would be able to express such satisfaction that it was safe for him ever? - In a sense it depends what investigations I am allowed to do.

What/

What investigations would you require to do? - I would need detailed information from background sources and I would need to be able to interview the individual for some considerable time and I would need to use some indirect measure of sexual arousal such as we referred to.

And that was quite intrusive? - Yes; penile measurements in response to pornographic pictures.

LORD CULLEN: Thank you, Professor. I am very much obliged to you for your evidence and the very great amount of work you have put into your two reports.

HUGH DILAHAY DAVIES (67), Sworn:

EXAMINED BY MR. BONOMY: Are you Hugh Dilahay Davies? - I am, sir.

And are you the immediate past President of the Association of Police Surgeons? - That is correct, sir.

What age are you? - 67.

What are your professional qualifications? - Master of Arts; Batchelor of Medicine; Batchelor of Surgery, and holder of the Diploma in Medical Jurisprudence.

How long have you been practising medicine? - Since 1955.

And how long did you practice as a police surgeon? - 37 years.

Have you now retired from that? - I am retired as the Principal Police Surgeon to the Northamptonshire Force, but I am still used as consultant by Northamptonshire & Warwickshire Police, and occasionally other police forces.

Are you used independently as a consultant by those acting for say the defence of an/

an accused? - Oh yes.

In that capacity, do you describe yourself as an independent consultant forensic medical examiner? - I do.

That is an expression I don't think we are very familiar with in Scotland. Is it an expression, "Forensic Medical Examiner" which is used commonly in England? - It's now becoming more common. It started with the Metropolitan Police about 10 years ago when they re-named their police surgeons forensic medical examiners because the doctors and the police did not want to be seen as being too partisan to the police.

So it was a cosmetic change of name? - A cosmetic change of name; I think up here in Scotland they are still called police surgeons.

To be a police surgeon, do you need to belong to the Association? - No. The membership of the Association is for police surgeons, but there are a large number of doctors who are in general practice, and unfortunately do not do much police work and they do not need to join the Association. This is a view of course with which I do not hold.

Are your members largely full-time police surgeons then? - No; our doctors are generally medical practitioners who have taken extra post-graduate study in forensic medicine in order to deal with the work that they do.

So is there a normal additional qualification to do the job of police surgeon? - Yes; the qualification which you should have is the Diploma in Medical Jurisprudence.

And is that organised by one body, or can that qualification be obtained in a number of places? - No, it's only obtained in London through the Society of Apothecaries, but they do also -- the Society does have examinations in Australia, and they are this year having an examination in Hong Kong.

So can I take it from what you have said so far that the majority of police surgeons in the country are General Practitioners who do the job of police surgeon part-time as an additional element in their/

their practice? - That is correct.

Their experience will therefore vary according to where they are really? - It will indeed.

Can you tell me the size of the Association, the membership? - Yes, just over 1,000.

And can we compare that with the number of police surgeons there are in the United Kingdom? - Well, it is difficult to be accurate on this, particularly as in some areas the police do not appoint police surgeons with a contract, but they call on the occasional general practitioner to come occasionally to do the work. We estimate that there are something like 2,000 members who are called upon by the police to render medical aid.

The reason you have been invited to give evidence here is to see whether there is a role for the police surgeon and indeed the general practitioner in the process of deciding whether or not a person should have a Firearms Certificate. Now, you will be familiar yourself with the role that a general practitioner, quite apart from a police surgeon, may play in that process at the moment. He may be in the category of person who might sign or countersign an application for a Firearms Certificate in the sense of supporting the application, but we have heard some evidence already in the Inquiry that there are circumstances in which the police may obtain consent from an applicant or holder of a certificate and approach his general practitioner for information. Now, do you have any direct experience personally of dealing with applicants for Firearms Certificates and either supporting their application or providing information to the police for their consent? - Yes, I have, considerable, because I live in a country area outside Northampton and I think I have been signing and countersigning applications for Firearms Certificates for many years.

Does the role of the doctor as a potential countersignatory create any difficulty for him in his practice? - It isn't personally to me, but I could quite easily see how it could, and I personally would be -- I agree with doctors that we really/

really shouldn't do this job of countersigning.

Why do you say that? - Well, it could upset the doctor/patient relationship. If one of the people that I have signed certificates for -- if I had said to him "Look, I don't think you should have a certificate because you are mentally unstable; you have got a short fuse", he may well
-- it would first of all break up the relationship, but he might even be the sort of person who could take revenge on me.

So/

So it then places us in an uncomfortable position. I think the only thing you can do under these circumstances is make up some excuse as to why you can't do it.

You will be aware that the medical profession in general through the BMA in particular have expressed concern about being involved in some positive role in the process of certification for firearms holders, and I take it you understand that concern? - I do.

We will perhaps explore later this morning whether there is a negative rather than a positive role for the doctor. Am I right in saying that the Association which you represent see a role for its members in the process? - Yes, we do.

Will you tell us what is the role that you envisage for your members? - Have the Court got the document I handed in this morning, the flow chart of our ideas?

Yes. This will be R66. Do you have your own copy? - Yes.

That is the one which shows the things which you envisage taking place? - That is correct.

Would you find it best to use this in illustrating how you see the police surgeon playing his part in the process? - I would like to refer to this.

Please do, and take us through it? - We see in the Association that the police surgeon or forensic medical examiner, that is the medical examiner to the Chief Constable, can play a useful role as a preliminary medical screener. By this we mean that when the person applies for a firearm, in his application form it would include the bona fide reason for the need to have a firearm, such as occupation, field sports, member of a gun club. In addition to including that reason the application form should have a medical questionnaire which the applicant can fill in.

Yes?/

Yes? - This medical questionnaire would be similar to the type of thing which was filled in when you apply for a life insurance or a sickness insurance policy, and of course there would be legal penalties for false declarations or failing to disclose? - Yes. That questionnaire would be seen by the police surgeon, and with that he would write to the person's general practitioner or any other appropriate doctor who is mentioned in the questionnaire, and get a medical report.

Yes? - We envisage that the vast majority of medical reports, there will be no problems, and we can inform the Chief Constable that there are no problems, medical problems, with this application.

Can I interrupt you at that point to establish what information you envisage getting from the named doctor at that stage? - Any serious illnesses, particularly illnesses which might affect one's mental capacity. Also, there is an advantage. If one is writing to a general practitioner, that general practitioner as a family doctor has an insight into the personality of the person making the application. For instance, he may, to use a phrase I have used before, have a short fuse, he might lose his temper quickly, he might beat up his wife or kids, there may be something about him which the GP would like to communicate to another doctor, but at the moment under the present system he is unable to do so.

Now, this would require a specific form of mandate to be completed in the application form; is that correct? - That is correct.

And it would also involve the GP or family doctor not having to make a judgement himself? - That is correct.

However, it does also involve inviting him to say things about his patient which are to some extent based on general experience of him rather than answering a medical question; is that right? - To a certain extent, yes.

Now, whether or not you get that information I presume might depend on the particular general practitioner? - Yes; there would be some variety./

variety.

There could be no way of compelling the disclosure of that sort of information? - No. I think GPs as a whole take their public duty seriously, and as with people who drive cars who are medically unfit, they do tend to try and persuade the patient to report his medical condition to the DVLA at Swansea, or if the patient does not do so the GP does it himself.

I think we are envisaging here a mandate authorising the GP to disclose information to you as a police surgeon; is that right? - Yes.

And therefore once the mandate goes to the GP you would expect him to answer that question, I presume? - I would. And if he felt uneasy, if the GP felt uneasy, I would expect him to tell me. But it is on a doctor-to-doctor basis; there is nobody else involved. Quite often doctors do talk between themselves. In fact when you are referring a patient to a specialist you quite often say things to the specialist you wouldn't say or wouldn't necessarily say to the patient you are seeing.

Now, if we have reached the stage that there are no problems, as you have described it in your flow chart, I take it by that you mean there is no obvious reason to suggest the applicant is unfit to hold a firearm certificate? - That is so.

It is a negative statement rather than a positive one, to the effect that he is fit to hold a certificate; or do you envisage going that far? - I would say from the past history. I don't think it is practically possible to have a full medical examination of every person who applies for a certificate. Apart from the logistics of the thing there is the fact that even a full medical examination by one doctor cannot visualise how a person is going to turn bad later and do something, as has happened here.

Yes? - What I can say is that at least we have done a medical screening, and we have not let somebody through who has got a history of mental illness, schizophrenia, many of the things that would in my opinion be an indication against holding a firearms certificate.

We/

We have been listening to some psychological expert evidence in the last few days telling us how difficult it is to forecast that a person might be violent and how difficult it also is to forecast that a person might demonstrate paedophile tendencies towards children. Bearing that in mind, it is quite difficult to imagine a doctor, even a police surgeon, being able positively to say "This is a man who is fit to hold a certificate", whereas it is easier to understand him saying that there is no obvious reason why he should not hold one? - You have summed it up very well. I entirely agree you cannot say this person cannot turn violent; you can't.

We have got to the stage where the person at the initial screening has demonstrated no obvious signs which render him unfit. If that is not easily determined, what further stages do you envisage in this process? - I think further changes would be either any medical records from a hospital, hospital records, reports from specialists he has seen, and it might be necessary to examine or interview the applicant yourself: I have left that open.

What do you mean by that? - I visualise that possibly rather than one doctor doing it the appropriate specialist might be involved as well, so that there is some further diagnostic exercise.

I think you have actually gone as far as to put in a suggestion of a final medical panel? - That is what I would say, a specialist and a police surgeon. For example, in a case where I suspected there was some mental instability or a short fuse I would sit with a forensic psychiatrist and interview the chap with the forensic psychiatrist probably taking the lead.

Now, you have suggested also in your presentation here the change in the way you envisage the law working at the moment? - Yes.

And you suggest it should be incumbent upon an applicant to prove positively that he is fit to hold a firearms certificate rather than incumbent on the Chief Constable to be satisfied he is not fit; is that right? - That is correct.

And I take it that that suggestion is there/

there because of this whole scheme that you propose, which involves a fairly detailed examination of the fitness of the individual? - Yes.

So that if he fails he does not get the certificate because he has not passed the test, the onus on him, to demonstrate his fitness; is that correct? - That is correct, yes.

All right. So we go through the whole screening. There are a number of possible results at the end of the more detailed process that you envisage. Can you tell us what the possibilities are? - The possibilities are that somewhere along the line you may decide there are no medical problems, and you will inform the Chief Constable that there are no medical problems.

Yes? - There are of course other investigations going on on the police side, and it is the Chief Constable's decision. He has got his police evidence to weigh up as well, and he will certainly have yours, that there appear to be no medical problems.

Yes? - On the other hand, if the medical panel felt that there was a risk or that the person was not medically suitable to hold a licence we would tell the Chief Constable that he was not medically suitable. Now, because of the point of confidentiality we would in these circumstances not give a reason: all we would say is that the patient is not medically suitable.

Now, these are two fairly clear-cut situations. What about the position where you could not put your finger on medical unfitness: you have a plausible applicant -- we have heard psychological evidence that if he is a paedophile he will be plausible and that he will lie to you -- but you have got this gut feeling that there is something there that you cannot nail. How do you deal with that? - That is a difficult problem. I see no answer to it. I am sure you will get cases like that, and I honestly cannot answer that question. But at least you have made some medical enquiry; you have made an effort.

I wonder if the answer is not in your scheme at the moment. If the onus is on the applicant/

applicant to demonstrate his fitness and he has not satisfied you, but you could not actually pin down a specific medical reason, do you see a basis for you, acting responsibly, still saying that you are not satisfied of his fitness? - I think so.

Or is that one that would present your members with real difficulty? - I really don't know the answer to that question for my membership. Speaking for myself, however, I think I would certainly err on the side of caution.

Now, can I ask you to look at the second page of your submission? - Yes.

You have actually told us more or less what is here. In the second numbered paragraph you mention the way in which the material would be obtained from the GP, by using a form similar to that currently used for life assurance medical reports or by the Driver and Vehicle Licensing Authority, but tailored specifically for the purpose of firearms licensing? - Yes.

Now, can you help us with information about the sort of form used by the Driver and Vehicle Licensing Authority? - I have not filled in one of these for many years now, but to the best of my memory the form is filled in by the applicant, and it asks various questions, such as "Do you have any loss of consciousness?" and things like that.

Yes? - This form goes to the DVLA. The DVLA doctors then write to the GP, and they write specifically, saying that the person has mentioned this on his application form, "Can you elucidate further?".

So it is a form used and triggered by the applicant himself disclosing his medical condition? - Yes, indeed.

Now, in relation to firearms licensing am I right in thinking that you envisage the automatic use of this form of enquiry? - Yes. Not necessarily the same form as the DVLA, but one tailored for this situation.

But they are only dealing with particular cases; you would be dealing with every applicant for/

for a firearms certificate? - Yes.

In paragraph 3 you mention at the end that in your assessment you should also be supplied by the police with any other non-medical evidence thought to be relevant? - Yes.

So you envisage the police providing you with information before you advise the Chief Constable? - Yes. The two investigations are going on in parallel, the medical investigation and the police enquiries, and again the police may have some information which is relevant.

And you also in paragraph 5 mention the need for frequency of examination; is that right? "This system should operate as frequently as reasonably practicable"? - Yes.

And it is suggested at one stage that an annual renewal is one possibility, or legislation could be framed so as to place the onus on the GP to advise the police surgeon if the holder of a certificate became for example mentally unwell, or other circumstances had changed? - Yes.

So you envisage either a more regular renewal of the certificate than we have at present or a duty on the GP to tell the police surgeon if certain things change? - Yes.

Now, that raises difficulties of defining the circumstances you envisage having to be disclosed. Is there some easy way to identify these? - First of all, it is very much a matter of political will: but the most important thing is that they have been granted a certificate, and if there is any medical condition that comes up during the time, whether it is for one, two, three years, that medical information should be divulged, preferably by the applicant, but if not, as with driving cases, if the patient does not divulge it then the GP has a duty to do it himself under the provisions.

If we take driving as an example for the moment, is there some sort of recognised category of conditions that have to be disclosed? - Oh, yes; epilepsy is one, loss of consciousness and sudden loss of consciousness, eyesight changes.

Now,/

Now, in relation to firearms what sort of information do you envisage having to disclose, starting with the applicant disclosing them? - Treatment for any mental illness.

Anything else? - Severe body illness, not mental illness, which might affect his clear thinking.

Now,/

11.40 a.m.

Now, one of the problems you have identified about this whole area is that there are statutory obligations nowadays on doctors to tell patients what they are telling other people? - Yes, that is Access to Medical Reports Act and the Access to Medical Records Act. We feel that anybody involved in this process should have exemption from those Acts.

The very last thing you mention in your submission is a central firearms licensing and registration agency similar to the DVLA. Now, what advantage do you see in the process that you envisage for having such a centralised body? - Well, I think if for example you are refused a licence in Scotland and you come down to Northampton then we would be able to, through a central agency, find out that you had been turned down by another authority.

Firearms registration is dealt with according to where a person resides? - Yes.

People quite frequently move from one area to another. Do you envisage that to present a problem unless there is some centralised way of recording information which has been obtained about individuals in the course of the licensing process? - Well, yes, particularly travelling communities. People travel all over the country and move from place to place. This would be a way of keeping a check on them.

Do you think police surgeons with their current experience are well placed to do this job or are we talking about starting now a long learning process? - Well, I think in the position they hold and have held for many years as medical advisers to their Chief Constable they are in a good position. I think there will have to be some learning process but I think at least you have got people in the position physically, also being almost in the same office as the Chief Constable. You have got the people there who can be trained further. When eventually the procedure is decided, they can be trained to put it into operation.

Do you visualise perhaps certain police surgeons becoming specialised in this type of examination/

examination or do you think that it is something that should be done by all of them? - No, I think it will be the equivalent in the Police Forces to myself. I was the principal police surgeon of the Northamptonshire Police. It would be myself and my depute rather than every police surgeon in Northamptonshire.

I think there are examples in Scotland of full-time police surgeons, in Strathclyde in particular? - Yes. I think in that situation of course a full-time police surgeon would do it. There are in England some, not officially full-time but they spend more time on police surgeon work than any other work. There are more and more of them now, particularly in the larger cities. About three-quarters of their time is spent with Police Forces.

One other problem I would like to ask you about is we have heard some evidence already of cases where individuals who don't hold Firearms Certificates do do things which have an obvious relevance to whether or not in the future they should get a Firearms Certificate. For example, they make threats to use firearms against animals or people. Do you see any way of keeping tabs on that type of information if it comes into the hands of either a general practitioner or a police surgeon and relating it then to any future application for a Firearms Certificate? - It is very difficult to keep tabs on that sort of information. Probably the police are more experienced at that than we are because of their contacts with people and domestic violence.

So that depends on relaying information through the criminal intelligence system? - Yes, indeed. Mind you, there could be a contribution certainly in the domestic violence situation that general practitioners could make because we do occasionally deal with families where there is quite a bit of domestic violence and threats going on.

Yes, I am envisaging a situation where either something about a firearm crops up or you know that the person is likely at some future stage to apply for a Firearms Certificate. Then it might be appropriate to expect somehow or other doctors to relay that information to police intelligence? - I would/

would hope so and that could be done without them breaking their confidentiality by them contacting the police surgeon on a doctor-to-doctor basis.

Now, the only other particular issue I want to raise with you is the extent to which you envisage surgeons being capable of making assessments about a person's mental rather than physical state in an examination because I assume that while you will all receive some general training as students in psychiatry and psychology, is that right? - Yes.

Very few will have any specialist knowledge of these subjects? - Well, I think one would have to admit the level of one's own competence or incompetence and if you have a case where you are uneasy about this then that is a case that should be referred to a psychiatrist. A forensic psychiatrist preferrably.

And that is why you envisaged this panel of interviewers including a forensic psychiatrist? - Yes.
Or perhaps a psychologist? - Yes.

CROSS-EXAMINED BY MR. CAMPBELL: Can we look for a moment at R66, the flow document. Has this document been circulated amongst other members of the Association for their comment and approval? - The document itself has not. The original document was a working paper produced by one of our members and was debated at the Council of the Association on the 9th of May at which I was present. I was Chairman of the Council. That is the paper that we based it on. This flow chart is a simplified version of that.

So is the answer to my question no, it has not been circulated? - No, it has not been circulated to all 1,000 members but the Council of the Association has met the Regional representatives which is 20 strong. There are representatives from each Region and we discussed it at the Council meeting. The Annual General Meeting was the day after the Council and they voted that we should proceed with it.

So how many out of the thousand members would be present when that was debated? - There were/

were 20 at the Council meeting and the Annual General Meeting I think was about 200. Well no, 150.

Has there been any consultation with other interested parties, for example the BMA? - Yes, we brought it up to the Forensic Medicine Sub-Committee of the BMA and they were in general agreement with us. There was some concerns expressed about confidentiality but I think the BMA delegation representative will deal with that. The BMA are happy as long as communication is on a doctor-to-doctor basis.

And would the exercise be carried out by any qualified police surgeon? - I don't envisage that. I think we envisage it to be carried out by the senior police surgeon, the principal police surgeon in the Force. Senior, whatever you like to call him. Each Force has got one. The leading or principal police surgeon and his depute.

You have told us that you have counter-signed applications for Firearms Certificates for many years? - Yes.

What was it that resulted in you counter-signing applications for Firearm Certificates for many years? - Well, because the doctor is one of the named Council signatories and for some reason they don't want to go to someone responsible like their bank manager or the other people named on the list. They always tend to choose the doctor and I was a village doctor so naturally the farming community and the villagers around used to come to me.

If we look at R66 for a moment on the second page and paragraph 3. The advice is that there should be a reversal of the presumption of law which at present assumes a person is a fit and proper person to hold a licence unless determined otherwise. Can we infer from that that it is your experience that the law is operated at present on the basis that there is a presumption in favour of granting? - Yes, that is what I feel because I do know that in the County of Northamptonshire that sometimes where a person is not granted a certificate then they do appeal to the Crown Court to see if they can have that reversed. It doesn't happen/

happen often but it does happen.

So the system is operated with that in the back of the policeman's mind? - Yes.

We have heard evidence that Hamilton had not been to his G.P. for more than 20 years so the system which you are discussing would not have played much of a part in this particular case? - It would seem not to be, no.

BY LORD CULLEN: Just to take up that point. How would you cope with a situation of that sort where a patient had been rarely in contact with his doctor? - If the patient had been rarely in contact with his doctor I think this would be a case where I would want to meet him and see him. You know he would be one of the cases that I would call up for interview.

CROSS-EXAMINED BY MR. GIBB: We have heard from Professor Cooke this morning, a forensic psychiatrist, that his view is that four or five meetings at least would be needed before it would be possible to do any risk assessment on the psychiatric side. I mean, physically is it possible if a police surgeon is involved in that amount of involvement with so many firearms applications? - No, it is not physically possible but I think if you do interview somebody and, as you say, four or five times to do a proper psychiatric assessment, I think that is where I would refer them to a psychiatrist.

BY LORD CULLEN: Presumably you would not go on to that stage unless you had sufficient concern to advance to that, is that right? - That is what I mean, yes.

RE-EXAMINED BY MR. BONOMY: Simply one question on timing here. In your experience is it the fittest members of the community who don't see their doctors very often or can you draw any conclusion about fitness from the fact that a person does not go to his doctor? - That is a very good point and I have not really thought about it until now but in my experience I have a regular number of people that I have signed certificates for. They are usually fit people, farmers and gamekeepers, and so I very rarely see them as a doctor. I usually see/

see them socially. So, yes, some of my people I only see when I sign their certificate.

BY LORD CULLEN: Just one point; I know to some extent you have touched on this already but can you perhaps sort of crystallise for me what you think would be the merit of introducing police surgeons or forensic medical examiners into the scene that we are discussing? - Well, I think it is not a perfect screening system but at least it is an effort at doing medical screening without involving the patient's general practitioner in a face-to-face confrontation with his patient and also giving at least somebody that the Chief Constable can turn round to for medical opinion.

Of course, I suppose you could have a system in which every G.P. was required to submit the kind of report that you were talking about to the Chief Constable and what you are talking about is what is done with it, is that right? You say that is where somebody in your position would have a role to play? - Yes, because the G.P. cannot do a report on his patient to the Chief Constable because of medical confidentiality.

Well, would there be a difficulty about obtaining consents, if there was proper consents given in advance, for the applicant to agree to that being done, or do you see that great difficulties woud arise there? - I can foresee difficulties in getting consent for medical information to be divulged to a non-medical person, namely the Chief Constable. The parallel is insurance companies. They insist on medical information but at least the patient, when he fills in his insurance application form knows it is looked at by the insurance doctor, a doctor in the insurance company.

So you are keeping it so to speak contained within a system which does not mean that the information is fully divulged but that it will eventually come to the Chief Constable as a statement as to whether a person is or is not medically suitable? - That is how we envisage it.

And you are acting as a means of determining to what extent any further action is required and if so, what that is? - Precisely.

ARTHUR MORRIS, (55), Sworn,

EXAMINED BY MR. BONOMY: Are you on the Council of the British Medical Association? - Yes, I am.

Do you hold a position as Chairman of a sub-committee? - I'm the Chairman of the Scottish Council of the British Medical Association. That is the Council for the Scottish BMA. That in itself I think is a sub-committee of the main Council of the BMA U.K.

And are you actually on the main Council? - Yes.

How long have you been a medical practitioner? - For 30 years.

What are your professional qualifications? - My professional qualifications are M.A., M.B., B.C.H.(I.R.), F.R.C.S.(Edin.) and F.R.C.S. (England).

Are you currently in practice? - I am currently in practice.

As? - As a consultant plastic surgeon.

Can you tell me what the BMA is? - The British Medical Association is a professional organisation representing and having as its membership medical practitioners. It is a large organisation. It represents or its members constitute over 100,000 doctors and it is a very sizeable proportion of the whole medical practitioners of Great Britain. It is probably over 80 per cent plus. In some speciality divisions it is more. Almost 90 per cent.

And that means that it represents not just general practitioners but it represents specialists such as yourself? - Yes, a whole range of medical specialists, what we call crafts. That representation, if I can just enlarge, is done via a divisional system basically which is arranged into divisions locally throughout the United Kingdom and this divisional system is represented in two ways; directly through committees but also through annual representative meetings where one or two representatives/

representatives of each division can put forward discussion.

And that is going on this week? - This week in Brighton.

Has it finished? - It finished yesterday, yes.

There/

There is also a body called the General Medical Council; can you tell me what that is please? - The General Medical Council is the statutory body which registers medical practitioners for them to be able to undertake their job as doctors.

Are they the disciplining body at the end of the day? - Disciplining is part of their remit, yes.

Now, you have had the opportunity of listening to the evidence this morning for, I suspect, fairly obvious reasons, and I think it has been of some assistance to you to have heard particularly Dr. Davies. Have you found that helpful? - Yes.

One of the things I asked him about was the difficulty a doctor might experience because he is asked to be a countersignatory to an application for a Firearms Certificate. Do you know if doctors generally find some difficulty in having to fulfill that role? - Yes; in the first place, doctors when acting as a countersignatory have to be seen as acting not in a purely medical capacity. They are acting in a personal capacity by reason of their standing as one of the eight listed professional groups that can countersign an application, and it is very important to make a distinction when doctors are acting in that capacity. Our concern, or the concern of a lot of doctors, is that by virtue of the doctor being a doctor, and having access to other information, that it should be thought that extra weight can be given on the opinion of the doctor who countersigns that signature, that application, and I would say that in Brighton there was considerable discussion about this particular problem in terms of one motion that was discussed, and that there is considerable division of opinion within the profession.

Did a policy emerge on this? - Yes.

What is the policy on countersignatories? - The motion that was carried by a very small majority was that this meeting believes that doctors should not endorse gun licence applications./

applications. Now, the problem about that was that this was discussion and it was not -- there was no distinction made in the debate about the precise definition between personal capacity of a general practitioner and acting in a medical role in this process.

It might be complicated a bit further by the fact there are couple of medical questions on the application form? - Yes.

About mental fitness and epilepsy? - Yes. I don't have a form in front of me, but I think the doctor has to just countersign, and the applicant themselves fill in the 15 questions, or the 14 questions that's on it, and one of those is that the applicant has to show that they are not suffering from epilepsy and diabetes, I think it is.

Yes, but I think you have to countersign that you have no reason to..... We will get the form in a moment? - Yes, but a bank manager could do that as well, and a bank manager is one of those countersignatories.

Do you think a doctor is in any more invidious position as a countersignatory than for example a Member of Parliament in the sense of giving special endorsement to the applicant? - I would imagine that for example people that apply for gun licences would be youngish, fittish adults, and these are precisely the people that don't go to their general practitioner with illness generally in the main, and therefore I think the general practitioner may have no greater knowledge of the patient in that sense.

No, which is the difficulty that you are mentioning at the moment that I am concerned about, that you feel that you may be viewed as giving added weight over other types of people who are countersignatories simply because you are doctors, and may be expected to know a little more about the person, but you have to know the person to be a countersignatory and to know him for a certain length of time? - Yes.

And many other professions are asked as well to sign these, including Members of Parliament? - Yes.

Now,/

Now, do you think that your difficulty is not really one that is suffered by others as well in a slightly different way? - Yes, I understand the point, yes; I would agree with that.

You can perhaps have a look at one of the application forms, D91L is the one I have here, in L3. It will just be a moment in coming to you. Now, D91, if you have it there, that is an extract of an application form, and it has got a letter unfortunately in the middle of it, but if you can go past the letter, you will find the page with the countersignature at the bottom, Part F. Do you see that? - Yes.

And at the foot you will see that the countersignatory is certifying that "To the best of my knowledge and belief, the information given in answer to questions 1 to 15 above is true". Have you got that? - Yes.

And if you go back to the first page and look at Question 14, you will see mention of epilepsy and mental disorder? - Yes.

So I suppose you are being asked in a professional capacity as well as a personal capacity to say something about the applicant, and that is putting an extra burden on a doctor? - That is the concern of the profession.

You will see also that the second statement is "I know of no reason why the applicant should not be permitted to possess a firearm". Do you see that as perhaps expecting a doctor to say something professionally rather than simply personally? - This is the concern, that it might be seen as that from the public perception point of view, but technically the doctor is signing in the same status as any other professional.

One other difficulty Dr. Davies mentioned was in the relationship between patient and doctor, that because a doctor might from time to time on a personal basis have to say no, that that can cause difficulties in the professional relationship. Do you see that as a problem? - I could envisage that as a problem, yes indeed.

Have you yourself ever signed these forms?/

forms? - I think I have once signed a form.

Now, Dr. Davies has also outlined a proposed scheme in which contact would be made between a police surgeon and a general practitioner or other named doctor that an applicant had referred to in his application. Without really having to spell out what you have already heard this morning, can I have your reaction to that please? - Could you just repeat the precise point?

Yes; he outlined in his evidence this morning a scheme which would involve a police surgeon obtaining information from a patient's general practitioner, or other doctor that the patient has had contact with, named in his application form as a result of mandate to provide information. What did you make of that idea? - First of all, it would obviously require the patient's complete consent to any confidential matters of that nature.

That is probably not a problem because he will just be told he's not getting his Firearms Certificate unless he cooperates, so it is therefore fairly easy to get consent? - Yes.

So assuming we have got that? - Disclosure of the information -- it would then be very important that what happened to this information afterwards, because if this information was given from one doctor to another, as in for example an application for life insurance or something of that nature, it is specifically given to the medical officer employed in the Life Association Company rather than in general to the other employees in that Company, and it is very important that specific medical details are kept confidential. It is a very very important point.

I think he envisaged that happening also, so assuming that we can cope with that difficulty as well, could this work? - Well, I think the problem is that all one could say is it would have to be an extremely well constructed form, and all one could then talk about is what has happened up until that time. It's not a certificate of sanity for example. It cannot say that in the future something else might not happen, or something might change.

You/

You might have detected in the questions I put to Dr. Davies that I don't envisage for a moment a certificate that is framed in a positive way, that a person is positively okay to have a Firearms Certificate? - No.

I am talking about something that might say that "I don't know of anything that is obvious that renders him unfit". Now, assuming we are looking at it from that point of view, has this got some potential? - I think that would have -- yes
-- you would have to err on the side of safety, I would think, and if the doctor basically had the slightest reservation that there might be something there, I think he would have to very carefully weigh up the position you have to put to the applicant that he might not be a suitable person to want to do it, or possibly to consider withdrawing the application, but if the applicant persisted, you can envisage a system where you might go through the system; you might try a separate route, and that would put you as a general practitioner in an extremely difficult position.

You mean go elsewhere? - Yes, try again elsewhere.

BY LORD CULLEN: So you would end up with the same problems as the countersignatory? - Yes.

EXAMINATION CONTINUED BY MR. BONOMY: That would be of course because of the way you envisage actually trying to persuade the patient first of all to withdraw his application rather than give an adverse report to the police surgeon? - Yes. In this envisaged scheme, would every single applicant have to get a report made on them? This would be a routine thing?

That is what Dr. Davies had in mind; is that another difficulty? - It might be a logistical problem; it might involve a large amount of extra medical work.

Am I right in saying that the way you are looking at this, namely telling the patient first of all, or counselling the patient first of all that perhaps he should withdraw the application, is that the sort of thing you do with drivers? - With/

With driving licences, yes.

Who have come across a change in circumstances that renders them unfit? - Yes.

And your system there is to try to persuade them first of all, and only as a last resort to go over their heads and tell the Licensing Authority that this person suffers from a condition? - Yes, that is correct. There is the difficulty that the registered medical practitioner is registered with the General Medical Council and there is quite strict guidance on that. I understand some copies of that Guidance were sent?

We will come to that in a moment because I do want to ask you about it, but I suspect that bearing the events of the 13th March in mind, that if we are looking at such a scheme as this, some would suggest we should be looking at it in a very peremptory way so that when the consent for the disclosure of medical information is given, it should just be implemented rather than implemented only after a process of counselling the applicant to withdraw his application. If that were envisaged, do you see difficulties for doctors in the patient/doctor relationship? - Yes, I do. If the doctor was to say to somebody "I'm sorry, I can't agree to countersigning that", that could leave the patient, and in this case the applicant for a gun licence, with very little room for manoeuvre, and if it was the sort of person who might not be suitable to get a Firearms Licence in the first place, I think one could feel for the general practitioner putting himself at considerable risk in this type of situation.

It is important not to confuse the role of countersignature with this. We are talking about a quite separate report after the application form has been lodged when the police surgeon would contact you for information and send you a form? - Yes.

As he envisaged already happens in relation to insurance? - Yes.

And you would complete the form? - Yes.

He/

He also envisages you giving him information that you wouldn't be comfortable giving to the patient, your own views to some extent, your own anxieties about a particular patient. Would doctors be comfortable about relaying that type of information to another doctor? - Again, that would have to come under the General Medical Council type of Guidance on relaying information about that, because if that was not being disclosed to the patient what you were doing, and yet you were doing it to another doctor?

So that does present an ethical problem, does it? - No, it doesn't. The difficulty is it depends on whether there is an immediacy of danger or concern, and that would have to be weighed up by the individual practitioner.

So that would be the qualification. There would have to be an immediate danger? - No, not necessarily, but there would have to be justifiable reason. If we could refer to the actual.....?

Yes, I was going to give it an R number, which was going to be R68. The document has been circulated to Parties, and if you have it, it refers to the Guidance? - Yes, this is Guidance, confidentiality from the General Medical Council.

And which part are you referring to? - One section of the whole.....

Paragraph 18? - Paragraph 18, yes, "Disclosure in the interests of others".

And can you read that to us please? - "Disclosures may be necessary in the public interest where a failure to disclose information may expose the patient, or others, to risk of death or serious harm. In such circumstances you should disclose information promptly to an appropriate person or authority".

Is that what enables you to disclose information to the Driving and Vehicle Licensing Authority? - Yes, it is, yes.

The/

The test at the moment would be the same? - The test would be similar, yes.

He also suggested that it would be helpful if doctors were under an obligation to disclose changes in the patient's condition that might affect their fitness to hold a firearm, and a disclosure might also be made to the police surgeon? - Yes. I think that would fall completely within paragraph 18.

So it would have to be on that basis? - Yes.

One of the submissions you have presented to the Inquiry is a letter sent to the Home Affairs Committee investigating similar issues, which refers to the guidance from the General Medical Council and points to circumstances actually occurring, particularly in rural areas, where doctors do learn of the development of deteriorating judgement in patients and do disclose this information? - Yes.

That submission goes on to say that it would be helpful to have a scheme similar to the one which operates for drivers with the DVLA? - Yes.

It talks about a confidential telephone advice and information service. How does that operate? - That would be similar to the driving licence one.

How does that operate? - The driving licence one operates -- there is a helpline which is available, and the medical practitioner rings up the helpline and asks to speak to one of the medical advisers. They can speak to one of the medical advisers to discuss the medical condition of the patient. Following discussion with the doctor, if appropriate the medical adviser sends an application form to the patient to complete, and if that is not returned to the DVLA then the licence is revoked.

Do you envisage an identical arrangement in relation to firearm certificates? - Yes, the same in principle.

I think the crucial difference in what Dr./

Dr. Davies was proposing was that all of this disclosure would be with consent, that you would really not be into the area of the application of the GMC guidelines at all; you would be operating in a situation where the patient has said -- obviously, because he is not going to get his firearm certificate otherwise -- that you can disclose anything? - Yes.

Now, why should that simply not be done? - Yes, you could do that. There might be something in that. There is talk of this gut feeling that something else might be there. To put that down in writing would be extremely difficult.

It is a matter for a doctor's judgement about what he can disclose within the terms of the mandate; is that not right? - Yes.

Some doctors will be more comfortable than others about disclosing certain types of information, as in any other area of human experience? - Yes. From discussion this week at the BMA, some doctors expressed the opinion that they should be conscientious objectors, as it were, and not have anything to do with the signing of applications. Now, that would create difficulties again for getting in the medical report. In that case it would have to go to an independent person, not the GP.

If we assume for the moment that there will be a form of regulation of firearms that involves the applicant obtaining a certificate, and if we assume for the moment that a person should only get a certificate if there is no obvious reason or no reason established from a medical examination why he should be regarded as unfit, then would the person who is the current general practitioner not be the doctor best placed to advise of problems? - In some respects yes, but in some respects no.

If he has not seen the patient I can understand him saying "I cannot tell you"? - Yes.

But we have heard Dr. Davies say in that situation he would have to do the job? - Yes. I think there is a case for having an independent person, not the registered medical practitioner, fulfil this role.

You/

You mean in all cases? - In all cases, yes.

BY LORD CULLEN: How would that independent person be briefed about what the medical history was? - I think an independent practitioner would have to be briefed, but with access to medical records, in order to do that effectively.

So the GP records you would assume would be made available? - Yes.

And nothing more than that? Is there any possibility of discussing the matter with the GP? - I think we have to have the ability to discuss it with the GP as well.

In that case is there a problem? Because we were talking about a problem of consent. Even with consent there seemed to be a difficulty in the view of the existing guidelines, but what about discussion between the independent person and the GP? - I think if the original application is done with the patient's consent this removes a lot of the constraint on the individual medical practitioner.

EXAMINATION CONTINUED BY MR. BONOMY: That is what he was putting forward to us? - Yes.

If that is right do you see a difficulty? Is it not caught by the strictures and the guidelines? Does it not go outside these? - Yes. The medical practitioners want to take part in the process for the sake of all individuals. They don't want to come across anything else like this. Doctors are feeling extremely strongly that in general they want to avoid the misuse of the firearms and the possession of firearms being misused. That is the over-riding factor.

You have made your position clear in your statement to the Inquiry, that you want to play your positive part in this. Can I be absolutely clear about the position of the confidential guidance? Paragraph 18 does not apply in circumstances where informed consent had been given by the patient for the disclosure of his medical history by his GP? - No, not if the patient has given his informed consent.

I/

I can see that you may in your representative capacity have difficulty for definite in speaking for all doctors today: but perhaps some of that is influenced by the views of doctors on handguns, which we should perhaps try to lay aside for the moment, and look at the problems which might be created for doctors if there remains a certification process which had to be carried out? - Yes.

Now, did your meetings this week pass any resolutions which would inhibit a doctor from participating in the process which Dr. Davies mentioned this morning? - Yes. This Motion 62 stated that "This meeting believes that doctors should not endorse gun licence applications", and if you take that to mean doing a secondary report, that would be it. But I could imagine it would not necessarily cover that.

Was that resolution related to being a counter-signatory? - It was related to the whole point of counter-signatories, yes.

But it would still have to no doubt receive the support of your membership, wouldn't it? Or do you think it is something you would have to go along with if that happened? - One problem is that this has arisen in a relatively short time scale to get full consultation. If this recommendation came out this would have to be discussed at future meetings. As it stands at the moment, it was a very small majority that carried that motion, and therefore I can foresee that a large body of the medical profession would be -- if it reflects the vote, roughly half the profession would carry out endorsing gun licences.

So this is not a motion which binds all members? - No. Because of the wording of it, really.

Now, do you have there a letter which was sent by your secretary to the Home Affairs Committee, dated 23rd April, 1996? - Yes.

On the second page of that you express concern about the relationship which is perhaps in the public perception between psychiatric illness and being a public danger with weapons. Now, is there such an obvious relationship as a layman think there/

there ought to be? - Between medical illness and danger?

Yes? - Not at all. I am talking here about representing practitioners in the BMA, not as a forensic psychiatrist. I think it is very important that we do not ally mental disease necessarily with a slur which suggests that people might be a danger to the public. I think there is a complete distinction between the two, and it is very important to make that clear.

Does that not point out the importance of involving doctors in the whole process of firearms specification? - I think a very important point to remember is that the general practitioner is a generalist; he is not a specialist in the risk assessment of the danger of someone carrying weapons. The general medical practitioner who signs the form is doing that on the basis of a generalist, who does not necessarily have any specialist training. Even if he had specialist training the prediction level is very uncertain. Even at the time when this is signed it is all right, circumstances can change that afternoon or the following morning.

That is why I think no one would ever ask you anything other than to say you know of no reason why a person is not fit to be entrusted with a firearm? - That is correct.

I take it a doctor can go that far? - Yes.

You have mentioned in the next paragraph anxiety about the relevance of many conditions that doctors see to firearms fitness, and these are some cases and conditions that a layman might suppose would have relevance to the fitness to hold a firearm certificate, and one you mention there is depression? - Yes.

What is the difficulty the doctors are expressing there? - I think the problem is that it is a question of what sort of depression, how deep is the depression. Again, to lump together a range of different conditions very broadly, I think everybody here would say they had at some stage been depressed. It is a sort of comparative term.

Does/

Does that not emphasise that if we are going to look to doctors to assist at all in the process there can be no boundaries or limits to the areas they are asked to comment upon? In other words, they should if asked be able to comment on the whole medical history of the individual, insofar as they consider it relevant to the question they are dealing with? - Yes, but I think it would be fair to say that specific questions would have to be framed. It would need almost a check-list in order that you did not miss one particular aspect.

I take it you would expect the police surgeons to devise a form and then consult you about its appropriateness? - Yes.

I don't remember if I have used this expression already, but we have heard the expression used certainly by Dr. Davies and others that in the circumstances we are envisaging here you ought to err on the side of public safety. Do you agree with that? - Yes.

I think in their submissions the BMA have been anxious to stress their concern for public safety? - Yes.

You have also I think made submissions to this Inquiry through your General Medical Services Committee? - Yes, that is correct.

And one of the things you have dealt with there is the logistical difficulty you mentioned earlier, that particularly in relation to the number of psychologists and psychiatrists that would be required to do psychometric testing of applicants? - Yes.

You will appreciate today we have been looking at a slightly different arrangement, in which a police surgeon would initially screen the applicants and the psychologist and psychiatrist would only become involved if he thought that was necessary? - Yes.

Obviously that is not as ideal as the full testing, but we have heard that psychometric testing is unlikely to be of particular assistance if done on a general basis? - Yes.

Do/

Do the BMA have any views on that? - I think one would have to go back to the distinction between the generalist nature of the GP and the police surgeon and their specialist knowledge. I am sure that workload is a problem. If you can imagine a general state of awareness after tragic incidents like here, I am sure GPs would look at things in much more detail, and much more doubt would arise in their mind, and I can envisage a situation where more second opinions from forensic scientists or psychiatrists would be sought. There could be a big logistic problem.

I wonder if you could look at R67, the interim firearms guidance note which the BMA have issued: have you got that? - Yes.

Can you tell me when that was issued? - It was issued in March, 1989, and it was revised in April, 1996.

Has the revised version been issued to your members, do you know? - It is available, yes.

Is it not issued automatically? - I don't think it has been posted out to each individual member.

But if someone wants guidance, that is the guidance they get? - Yes.

I am confused about one particular part, which is paragraph 11, under the heading "Patients who may be dangerous if controlling firearms": do you see that? - Yes.

Can you read paragraph 11, which is the guidance you give to doctors at present? - "In these circumstances doctors should consider breaching confidentiality and telling the relevant officer (The Chief Constable of the County or the Commissioner of the Metropolitan Police) of their disquiet. In keeping with other situations, in which a doctor may consider breaching confidentiality, doctors must be prepared to justify their decision before the GMC or a Court, if necessary. The GMC guidelines of September, 1995 on confidentiality say that rarely, cases may arise in which 'Disclosures may be necessary in the public interest where a failure to disclose information may expose/

expose the patient, or others, to risk of death or serious harm. In such circumstances you should disclose information promptly to an appropriate person or authority'".

So that is guidance that you have given which reflects the GMC guidelines we were looking at earlier? - Yes.

Now, separately you have commented on the checking of adults who may seek to work with children? - Yes.

And you deal with this is in a letter dated 24th May, 1996? - Yes.

And you say in that that you feel at present systems for checking whether an adult should be permitted to work with children are inadequate, as it is possible for a suspected individual to move from one Authority to another, and you are suggesting the establishment of a national register of suspected persons? - Yes.

So/

So the principal concern there is obviously with the problem that comes when people move from one area to another, having been detected in one area possibly and moving into another one?
- Yes.

A national register of suspected persons; what do you have in mind? - Well, if I can perhaps enlarge on that?

Yes? - When this was done, the line of enquiry on what was going to happen was a little bit less sure. I think again there has to be a distinction between convicted persons, persons who have actually been convicted of some offence, and suspected persons because I think when we talk about suspected persons you are in a very grey area as to whether you suspect somebody or not and how severe the suspicion has to be before you can do something and this would be for debate. We feel that there would be some merit in having some sort of co-ordinating body who could collect, gather and accumulate information. It would have to be done on a totally confidential, very independent basis. It would of course have to be done very, very carefully and it would have to be done in such a manner that if anybody was wrongly put on such a list that there should be a way in which they can make sure that their name was completely expunged from a list of that nature.

Well, do you have in mind any way in which you could determine whether a person was satisfactorily recorded as a suspect? - Very difficult. No. It is totally prediction.

It is quite a desirable proposal you have. What I am trying to do is to establish whether there is any feasible way of implementing it? - Well, I think to err on the side of safety first. That would be one part of it.

Bearing in mind all you have said today, though, about the need for consent from patients before you disclose anything and the confidentiality guidelines you have, what you are really suggesting is a scheme which has no regard to that sort of thing at all and relies on no doubt rumour and speculation about individuals on the basis of untested/

untested information? - Yes, I think one would have to make a distinction there between this sort of register not being medically driven as it were. Not necessarily based on the doctor/patient relationship. We are not talking about a doctor taking a major or a part in this. We are talking about the sort of public. I can see that that does open up a completely different type of thing.

Well, the closest we have at the moment is police intelligence? - Yes.

Which is confidential information gathered by the police from all sorts of sources? - Yes.

And there may be something to be said for making that nationally available, to the police nationally? - Yes.

I wondered if you have something else in mind beyond that and a feasible way actually to implement it which I think we are all having difficulty identifying? - No. I mean, I don't think we could come up with a blueprint to give you a scheme to do that.

CROSS-EXAMINED BY MR. CAMPBELL: Do you still have before you the submission to the Home Affairs Committee of the 23rd of April, 1996? - Yes, indeed.

I think you were asked in the course of your evidence-in-chief for the purposes of the questions you were being asked to put to one side the more general position adopted by the BMA in relation to these matters. I wonder whether it is possible to do that for these purposes. So let me approach the matter in this way. If we look at the second page of that document, the third-last paragraph, the last paragraph at the foot of the page, we read "In the absence of any clear scientific evidence upon which to base discrimination between persons who are and persons who are not likely to behave anti-socially while in the possession of firearms, it follows that any firearms policy needs to take account of the fact that in the present state of knowledge it is not possible from a medical viewpoint to assist in any real way with the prediction of those positively safe with firearms, nor those who are unsafe". Now, does/

does that point of view play any part in the BMA's response to the suggestion that G.P.'s should be brought into the licensing process in a more direct fashion than they are at present? - Yes, it does because I think, as I said earlier, G.P.'s by their position are felt to have an extra knowledge which a generalist would not necessarily possess and that knowledge itself of forensic prediction is in itself an imperfect science. Very large margins of error are possible.

My learned friend, Mr. Bonomy, puts to you that this problem can be resolved by ensuring that the general practitioner is simply asked "Do you know of any reason why this person should not be given a Firearms Certificate?" as opposed to "Is it all right for this person to have a Firearms Certificate?"? - Yes.

Well, no doubt sitting round this table and thinking about it we can readily appreciate the difference between these two questions and the answers to them but is there a concern that these differences may not be appreciated by everybody up the chain in the decision-making process? - There is concern amongst medical practitioners in general about that position, yes.

Is there a risk that any certificate by a general practitioner will be misinterpreted as a green light? - I think there is that risk and that is the reason why, when it was discussed this week, a large body of general practitioners or practitioners were concerned about doctors entering into this process.

So does that have a further knock-on effect upon how a G.P. would assess what he was being asked to do? In other words, would he approach the matter on the basis of well, never mind what the actual question is, I have to bear in mind that the mere fact that I am being asked to answer this question and to put my name to this application may in some minds give the application a legitimacy which strictly it ought not to have for the reasons that we have read in your report? - Yes.

And then the G.P. is in a very difficult position because you have told us that he cannot reliably, positively, certify that person X will never/

never act inappropriately with a firearm? - That is correct, yes.

So still on that paragraph that I was reading from before, do the considerations which we have just been discussing lead at least in part to what we read in the rest of that paragraph, "Our conclusion, sadly, is that until such time as methods are developed to provide reliable predictions, firearms policy needs to be based on the understanding that from time to time unpredictable behaviour will occur? - Yes.

And if we look at the letter which was sent to Mrs. McKeane on the 24th of May, 1996, do these considerations play any part in the view expressed in the short third paragraph on the first page of that letter, that the BMA would like to reiterate the point made to the Home Affairs Committee that members of the public should not be permitted to possess handguns personally? - Yes, the point made was that persons possessing them and retaining them was a risk.

Now, as the BMA points out in the remainder of that paragraph, whether that risk and tragedies such as Dunblane will be the price which should be paid in allowing legal access to firearms is something upon which presumably views will differ but the BMA recommends that the Government considers further tightening of the regulations? - Yes. If I can add again that there was another discussion at the meeting in Brighton and a motion was passed by a very large majority that it should be illegal for private individuals to use or possess automatic or semi-automatic weapons or handguns other than in establishments licensed for that purpose.

So bearing that in mind, is there another concern on the part of doctors that they might be asked to perform the impossible in effect? - There is a very considerable concern, yes.

And asked to do this in a context which might simply be facilitating something which they regard as inherently undesirable? - Yes.

And I take it doctors are fairly hard pressed, overworked individuals I suppose? - Yes. I think also you have to bear in mind that doctors themselves/

themselves form a very wide group in society and some will own guns themselves and have gun licences and some will be at the other end of the spectrum and don't recognise that anybody should hold a weapon.

Conscientious objectors? - Yes.

RE-EXAMINED BY MR. BONOMY: When you are asked to complete a medical examination and report in relation to insurance, are you giving a positive declaration that the subject will survive for a number of years? - I would have to say that I'm not a general practitioner. That is not my specialist subject at all but I have signed these forms as part of doing locum work. From my recall of that, you are actually signing to medical details and examination and I don't think an opinion is formed by the person filling in that form. That is performed by the company itself.

So you are answering details of what? - Details of the patients, their height, weight and previous medical history. The forms vary in their complexity. There are some simple ones but there are more detailed ones where they want a full medical examination, a sounding of the chest, blood pressure and a test of urine.

So you don't have to say whether there is any reason why a person should be denied insurance? All you do is answer straightforward factual questions? - I think again it depends on which type of form. They will be formed to different degrees. In some forms you would be asked to say there is no reason to believe. Some of them are just simply certificates where you just fill in and corroborate the details.

What I want to know is why a doctor may have difficulty in understanding the difference between saying positively that a person is a suitable and reliable person to have a gun and saying on the other hand that he knows of no reason why he should be declared unfit? Why should the doctor have particular difficulty understanding the difference between these two? - The difficulty between saying that the patient is unfit or saying that he knows no reason why not?

No,/

No, saying he is positively fit and ought to be given one and on the other hand saying you know of no reason why he should be regarded as unfit to have one? - Well, the difficulty there is that sanity or ability to do something is not a finite thing.

No, I understand that but why should a doctor find difficulty in understanding the difference between these two propositions? I am not suggesting you determine his sanity for all time? - I am sorry, can you repeat the point?

Well, you have just said to Mr. Campbell that there is some perceived difficulty amongst doctors. Well, I see heads shaking. I seem to have misunderstood this but I got the impression you were indicating that doctors felt they would be giving a positive endorsement seeking a gun licence if they answered any medical questions about him? - Yes, I think the point was, wasn't it, that the doctor by giving that was seen to be giving an extra type of endorsement, an extra approval.

I can understand that in the counter-signatory area but what Mr. Campbell then moved on to, away from the counter-signatory, forget about that, was into the area of the medical history of the individual being disclosed to a police surgeon. Now, where is the difficulty there that doctors would feel about somehow or other giving a positive approval to the applicant? - Well, I think the doctor would always feel a difficulty, even if he was trained in forensic psychiatry because it is a very inexact science. To give a positive approval that somebody is fit is an extremely difficult thing to do and a generalist couldn't do it.

I'm not suggesting that. All I am saying is that if you are posed with some questions about a person's physical fitness and these questions are designed to establish whether you know of any reason why he should be declared unfit and you answer these questions, how is that seen as giving some sort of positive approval of the person as being fit for the next five years to hold a licence? - Well, that is the thing. It would depend on what the form was you were actually filling in and signing. It is agreed you could only do it at that time and not reasons in the past. There is no difficulty about that./

that. The difficulty is a feeling amongst doctors that the fact a medical person has done that gives some extra substance to it. That is the point I was trying to make.

But is that you referring again to the counter-signatory? - Yes, the counter-signatory.

I am trying to get away from the counter-signature and to ask you about providing information to a police surgeon? - Yes.

Now, if you provide information which is factual and all you are additionally asked is to say that you know of no reason why the person should be regarded as unfit at present, at this minute, unfit, where do you see a difficulty? - No, I don't see a difficulty with that.

After/

2.00 p.m

After an adjournment for lunch.

LORD CULLEN: Yes, Mr. Bonomy?

MR. BONOMY: The next witness, sir, is Robert Moir.

ROBERT MOIR (52) Sworn

EXAMINED BY MR. BONOMY: Are you Robert Moir? - Yes.

Sergeant? - I am now Acting Inspector.

With Central Scotland Police? - Central Scotland Police.

What age are you? - 52.

And how long have you been with Central Scotland Police? - 25 years.

What was the first you ever heard of Thomas Hamilton? - Back in 1979. I was transferred down from Lochearnhead to Stirling and I heard him being discussed in general terms within the office, that there was some innuendo and suggestions that he may have been involved with young children, but there was nothing concrete.

Do you remember who was making the enquiry? - I think it was D.S. or D.C. Kindness at the time.

Did you speak to him about Hamilton? - Just in general terms.

Did you know whether anything was established at that time? - As far as I was aware, I was told that there was nothing concrete at all, nothing.

We have heard evidence from Kindness that he put an entry on the Intelligence system about that time. Were you aware of that? - No.

Did/

Did you know that Hamilton had a shop in Cowane Street in Stirling? - It wasn't until after a few years after that that I heard that he had a shop in Cowane Street.

After 1979, when was the next contact you had with him? - It was when I had become Chairman of the Dunblane Community Centre Council, which was responsible for the letting of the community halls within Dunblane, and he ran a youth club.

Was that a Council that dealt with letting within Dunblane High School? - High School, and the Braeport Centre.

Beside it? - No; the Braeport Centre is at a different part of the town.

So you dealt with both? - I dealt with both at that time.

When did you first go on to that Council? - I think it would be about '81/'82, round about then.

And were you working in Dunblane at that time? - Yes.

Were you stationed in Dunblane? - I was stationed in Dunblane.

So when did you first move to Dunblane? - I actually stayed in Dunblane when I moved down from Lochearnhead in 1977, but I worked in Stirling for a year and then I moved back up to Dunblane to work.

Do you still live in Dunblane? - Yes.

And have you lived there since you moved there from Lochearnhead? - I have.

Did you become Chairman as soon as you went on to that Council? - No.

When did you become Chairman? - That would probably be a couple of years after that.

In what capacity did you understand you were taking up office on that Council? - It was after/

after I went to Dunblane, they received a letter from the Youth and Community Officer who was based in the Braeport Centre, a full-time Council employee. They wrote to the police asking if they could send a policeman along to be part of the Committee dealing with the youth of Dunblane.

And you were sent along? - They asked for volunteers. I have been involved with youth groups before, so I volunteered to do it.

And when do you reckon it was you first encountered Hamilton in that connection? - He never turned up at the meetings. He would only occasionally turn up at the AGMs more or less and that would be it.

Was he on the Council? - Each user group had a representative. That was how the Council was made up, of user groups.

So when did you first meet him again, or when did you first meet him? - I believe it would be about May. That's when we usually held our AGM, so probably about '82, '83, round about there.

Did you do any checking on him at that stage? - No, because I had heard that he had been involved just prior to that with the Ombudsman for the Council and won his case, but I didn't actually do any checks on him at that time.

So it was after the Ombudsman episode that you came across him in person? - Yes.

You can take it that it was probably into 1985? - I heard it was going on, but I was never actually spoken to about this with the Ombudsman at all.

So you didn't make any further enquiry with Kindness for example to check up on him? - No.

You would be aware though on the Council that he was running or was anxious to run, rather, clubs within the High School? - He was, yes.

Do you know whether, when you first went on the Council, he was actually doing that, and it stopped after you went on the Council? - I believe he/

he was started because it was the policy of the Council that the youth clubs got priority of lets over anyone else, adult groups.

But we know his lets were suspended for a period? - Yes, and shortly after that, they came back on, but it was the full-time leader more or less dealt with the lets at that time and it was only when any problems arose he would maybe raise it at an AGM or meeting.

But can you remember whether, when you first came on the Council, he was actually using premises? - I think that was the period he was stopped.

Who was the person responsible for deciding whether or not a group should get the use of either part of the school or the Braeport Centre? - At that time it was the full-time Youth and Community Officer.

Who was he? - Jim Gardiner at that time.

And preference had to be given to youth groups over adult groups? - That is correct.

After Hamilton won his case with the Ombudsman, how did the matter arise with the Council? - There was very little said about it other than he had went and he had to get the lets, which were granted, and I believe it was a Thursday night he got an hour and a half or two hours.

When the club resumed, did he advertise it? - Yes, there were letters went round.

Did you get one? - Yes.

Was there any anxiety among local people at that stage about resuming the club? - There was one -- I got several phone calls from residents, but I had spoken to someone and he said there was still nothing concrete against him.

Do you know who you spoke to? - I think it was the Criminal Intelligence Officer at the time, but I can't remember exactly who it was at that time.

And/

And what were the phone calls you were getting about? - Asking "This chap running the youth club, is it all right? We have heard a lot of stories about him".

What was your reply to that? - I said "To my knowledge I don't believe he has been convicted of anything", and left it at that.

Were you yourself running a club in Dunblane High School at that time? - Yes.

When did that start? - I got involved -- just after I went on to this group in '81, '82, I went along to help. They were short of leaders. It was a Monday night for younger children up to about 13 years of age, and I got involved with them, and it was about a year or two after that the older ones -- we started a Tuesday club which was for children from 14 up to 17, and they were running short of leaders so I went on and started running that.

So were you running both? - No, only the Tuesday club. I left the Monday club and went on to the Tuesday one.

Are you still running the Tuesday club? - No, I stopped.

How long ago was that? - Just over a year ago.

Did the Monday one continue? - Yes.

Did it do activities similar to those Hamilton claimed to be doing? - No, I wouldn't say we did the same.

What sort of activities were they? - They were doing like art work, handicrafts, as well as some gym, but the gym work wouldn't be physical training as such. It would be more like playing football, hockey, indoor hockey.

You moved to Balfron as an officer; when was that? - It would be about '85/'86; no, it was after that.

Roughly? - Yes, roughly about there.

Did/

Did you stay on in the position of Chairman of the Council? - Yes.

You encountered Hamilton in connection with your service at Balfron? - That is correct.

And that related to the camp at Loch Lomond in 1988? - Yes.

Between his getting the lets back in 1985 and 1988, was there anything happened in the running of his club that caused the Council concern? - No.

Tell me how you encountered him in 1988? - I was at Dunblane and we got a call from Dumbarton Police.

Were you at Balfron? - I was stationed at Balfron at the time, the Sergeant there, and we got a complaint this camp was being run for youths by a chap Tommy Hamilton, but they didn't say where he had come from. I didn't relate it was the same Tommy Hamilton I had known from Dunblane at that time, and he just said "We've got some complaints; they are out on one of the islands; could you send two officers out to check the island and the camp and see what it's like and report back", so there was a PC Gunn and a PC Sloan -- no, Duncan -- Sloan is her married name, and they both went, and reported back what they saw.

Have you any recollection of what their view of the camp was when they came back? - When they spoke about it when they left I said "Well, try and look at it how you feel with your own children". PC Gunn had children, but PC Duncan didn't have any so I said "Try and look at your own boys going to a summer camp, how would you find it and react if your own boys were at the camp", and left it at that, and they came back and said it wasn't the worst; they seemed to be running about; they were quite cold, in shorts all the time.

Their report would have to go back to Strathclyde Police? - That is correct.

Were you aware of action taken by Strathclyde Police? - Yes; they phoned us up and I made some enquiry. They phoned up again and told me they had done it, roughly a brief description of what/

what had happened over the phone, and I was told by PC Hood where Mr. Hamilton was at this time.

Were you alerted to the fact that Strathclyde Police made arrangements for parents to come if they wanted to take their children home? - I didn't know that until later on. I was doing split shifts and I had left after a while quite early in the evening as I was coming back out at night.

But around that time, did you learn that? - Yes.

And you learned about the children being taken from a cinema? - The next day they arranged to go, they said they were going out to the island, and never told us. It was the boatman that contacted us, but Hamilton had left with the boys.

Now,/

2.20 p.m.

Now, we have heard evidence of a complaint against Constables Duncan and Gunn which arose out of this incident. Were you roped into that complaint? - Yes.

To what extent? - I believe we had a committee meeting of the Centre Council just after it, shortly after that, and Hamilton came up to me and said "You are at Balfron now I understand", and I said "That is right". He said "You will know about my complaint". I sayd "What complaint?" and he said "P.C. Gunn put in a bad report about me. What is in the report?" and I said "It is sub judice. I can't discuss it". Thereafter he kept phoning my house virtually daily.

What was his purpose in so doing? - He wanted to know what the contents of the statements were that were made by P.C.s Gunn and Duncan so he could sue the police for breaking up his camp. He said he had lost money -- he said he had lost his camp, it had cost him money, because he had to give money back to the boys.

Did he write to you at all? - Numerous letters.

About what? - About the camps, complaints. Every letter he sent to various persons, I got a copy of it.

There is no sign you were formally complained about, but was your understanding that he did complain about you? - He did complain about me.

What did he complain about you in relation to? - He went into Headquarters. He phoned one day shortly after asking if he could come and speak to me again. I said "I have nothing to speak to you about. I can't discuss it. It is sub judice". He said "I will need to speak to you about something else". This was a Saturday, and I said "If you call about 1 o'clock I should be free, saving anything unforeseen happening". Now, unfortunately a couple of incidents arose at Dunblane at that time, and I had to attend to them, and I didn't get back till 4 in the afternoon. He thought I was evading him, and he went in and complained/

complained about me.

But there was never any formal police procedure about you? - No.

When he contacted you did he ever try to justify himself? - Yes, he tried to say he was running good youth clubs, he was a responsible person.

Did he ever show you documents to try and justify himself? - Yes, he heard that some of the children were alleging there was a lack of food. On one occasion he was in my house -- I had been out to call at Dunblane for mail, and I just phoned my wife and said I would be back in five or ten minutes. In the interim he arrived in my house to speak to me. My wife told him to come in. When I arrived home he was in the house. I wasn't very pleased about that. He tried to discuss it, and I told him I was not discussing it. He went on about the food. He produced a bill he had got from one of the supermarkets "See the good I bought for the kids. That shows you how much I paid". I said "That doesn't prove anything". I looked at it, and near the bottom was an item for two or three cans of beer. I said "Were you buying drink for the kids as well?" and he just snatched it back from me and put it in his pocket.

There were suggestions to this Inquiry that he was a tee-totaller? - I have never known him to have a drink; but it was certainly on the itemised bill.

Did it get to the point where he was making complaints about the police persecuting him and associating you with these complaints? - Yes, just about simply rumours. Every year he would put round letters about his youth club in Dunblane saying he was also a photographer, and he had been involved with the police at Loch Lomond at his camps.

Did he ever show you photographs? - He did some, and he also invited me to the camps, "I will show you videos", which I also understand he went into headquarters and spoke about as well.

What about the photographs he showed

you?/

you? - It was just photographs of a camp in Loch Lomond.

Now, did there come a stage when the arrangements for letting the premises were changed? - Yes.

When was that? - Just about three years ago now.

What was changed? - There was a new management in the Council's Youth and Community policy, and the female that took over though it was up to the committee to agree the lets, not the full-time officer.

That was Jackie Cowan? - Yes.

She followed Mr. Gardiner? - No, Mr. Sutherland came after Mr. Gardiner.

She had his job? - Yes.

She decided the Council should negotiate the lets? - Yes.

Hamilton started having camps at the high school? - That is correct.

Do you know when he started that? - I think that was the year after he did his Loch Lomond one. They were stopped. I believe they would not allow him back on the island. He applied for a camp and was given it.

How many camps do you reckon he had in Dunblane High School? Over how many years? - I think three or four.

Did you go to any of them? - Yes.

How many? - On two of the years I was up and I attended. He asked me to attend to make sure everything was okay, to pop in any time, which I did, in and out of uniform. I would just walk in initially when I was out walking as well.

Do you know what years you visited his camps, what two years? - Say about three years ago and the year before.

Did/

Did you go more than once in each year? - Yes.

Was there anything wrong about what was he was doing on these occasions? - No, I couldn't see anything wrong.

What about the dress of the kids? - When they were in the gym -- I also dropped in when he was running his youth club on a Thursday night. He also asked me to go to this. In the gym they were all just dressed in shorts and trainers, and they were running about doing keep-fit, exercising, running, and there was nothing I could see that was wrong other than that all the boys were always stripped to the waist. His idea, however, was that they were always sweaty, and it was to stop them getting dirty.

Were you concerned about the fact they had nothing on on top? - No, because there was a parent -- because I stayed in Dunblane they all knew who I was, the locals and the parents, and one or two spoke to me about it, and one of the parents of one of the boys went along quite regularly to it just to make sure everything was okay, because his son wanted to go, and he wanted to make sure there was going to be nothing untoward happening.

Did the amount of interest in these clubs and camps from Dunblane residents decline? - Yes, the number of pupils dropped until at the end just before I finished with it he was bussing kids in from Balfron.

Now, there was a dispute we have heard about in relation to the let he got for one of the camps being interrupted in part by a let to another group. Can you tell us something about that? - To the Quakers' Church group?

Yes? - Yes.

Could you tell us something about that? - We had agreed we would be the ones responsible for the lets. Since the Loch Lomond incident he turned up at nearly every meeting we had. Prior to that he was very seldom there. It was discussed, and one of the Quakers, who was also a committee member, said "Could we have a let for the Sunday School?/

School? We finish by half past 12", ad he objected, and I said "I thought you only used the kitchen down at the other end of the school, not in the community wing?", and he committee agreed they could get it on a Sunday up till half past 12, this community wing, where there is a small kitchen with one cooker. I don't think he was present at that meeting -- or was he? I can't recall now.

Yes? - Anyway, I got a telephone call shortly after it from him objecting to us cutting his hours on a Sunday because of this church group. He said every year which passed the church group stopped taking their services on a Sunday, and I said I wasn't aware of that at all. I said "Put it in writing, and we will discuss it". He went to his councillor and the next thing I was told it was granted.

He went to more than his councillor, did he not? - Apparently he always went through this councillor, then it went through the Education Committee.

Who was the councillor? - Ball.

Was that issue ever resolved? - Yes, it was taken off our hands. We understand the let was granted the previous year, which Miss Jackie Cowan had not told us about.

We may see in the correspondence that he had been asked to apply yet again shortly before the camp began? - We did not know he had applied.

So there were two separate lets at different specified times? - Yes.

Now, was that the only major issue of complaint he had at the Council? - He always thought we were against him, trying to cut his hours. I think the previous year on a Thursday evening one of the adult badminton groups approached us and said "He is finishing early on a Thursday night. Is there any chance of us getting half an hour of his time so we can run a junior badminton club?". We spoke to the janitor of the school, who said he was leaving early. In fact I went up on one occasion, and he had gone about half an hour prior to his let terminating. It was therefore discussed/

discussed at the next meeting.

Yes? - Before we had the next meeting I got in touch with Jackie Cowan. I said "You better check with the Council's Legal Department, because you know what Hamilton is like and we will get letters of complaint about this". He always told us about him winning his case with the Ombudsman against the Region.

So that is another problem for him relating to the time he was being allocated in the High School? - Yes.

Any other complaints? - The only other thing was, he was accountable to no one. He charged so much a night. Other people that were running youth clubs, like judo and dancing, they had to pay for their lets. Even the churches paid for lets, but Hamilton got his free.

Was this because it was a youth club? - It was a private club. The youth clubs on a Monday night and a Tuesday night had to produce books and accounts to the Council: they got to look at the books and everything else. Hamilton was accountable to no one.

Yes? - Initially he was charging 50p per night per boy. When he started his youth club he was getting 60 ot 70 boys there, and 60 or 70 at 50p is a lot of money.

Were you aware of a policy of discouraging his youth premises if alternative uses could be found? - No. We were always told it had to be for youth, that youth had to have the priority. Other groups were told -- as the years went on we got busier. Now, between 7 and 10 is the busiest time for these community halls to be used, and we had to turn down other groups.

Did your Council consult the Legal Department at all? - Only when we stopped his half hour meeting, or reduced it by half an hour. We contacted him regarding that. That was done through the full-time youth leader.

So throughout the time you were associated with the Council was the policy or attitude that if Hamilton/

Hamilton applied and the premises were available he would get them? - Yes.

Did you ever hear any positive information about him on which you as a police officer might have acted to try to stop his activities? - No.

You went on to the Council as a police representative. Did you remain throughout your period as a police representative? - No. At the very end after all the complaints and letters going back and forwards from Hamilton to the Chief Constable, 18 months or two years ago I was told to say I was not a police officer.

Do you know why that was? - No, I never got a satisfactory answer yet.

I would like you to look at one or two documents. The first is D83/K, which I think we have: do you have that? - Yes.

Can you see that is a letter dated 16th January, 1991 to the then new Chief Constable, William Wilson? - Yes.

Does it mention there at the second page of the first paragraph "In fact, when your officers eventually visited the camp on Wednesday, 20th July, 1998, even their sergeant, Bob Moir, and their Inspector, Mike Mill, did not know that they were visiting our camp or their whereabouts"? - Yes.

Can you confirm the impression from your evidence that you sent Gunn and Duncan to the camp?
- Yes, we said it was on this island in Loch Lomond.

But you sent them? - Yes. The phone call came in. It was the girl that took it. I spoke to them, and they left to go.

You will see in the last paragraph he described what happened as "An arbitrary condemnation of our 1988 summer camp by your officers, without knowing or checking the facts", and he says ".....it was a deliberate and malicious attempt to cause maximum disruption and damage to our group, which it did"? - Yes.

Now,/

Now, that doesn't sound as though that is what you had in mind? - No. I explained to them just to go and see it "Treat it as if your own child was there" to P.C. Gunn. That is the only way I believe you can do it, because everyone has different standards.

I would be grateful if you would look at the Minutes of the Council, DDH29, the Minutes of the 12th May, 1994: have you got them? - Yes.

You appear as one of the persons attending Dunblane Centre Council Annual General Meeting. Do you see that? - Yes.

Look to item 5, the name of the Council changed at that meeting to Dunblane High School Wing Council? - Yes.

Do they still seem to be responsible for Braeport Centre? - No. What happened here is that -- we have a lack of facilities in Dunblane. We have been pushing for a new community centre through the Region for a number of years, and we had an open meeting in the Victoria Halls in Dunblane, and it was agreed that a Steering Committee would be set up to look at the possibilities of sites, costs and that type of thing, which was done. When this was done, Jackie Cowan and her superiors decided themselves that we would have to split the Council, with the Dunblane Centre Council looking after the Braeport and the Dunblane High School Wing Council being responsible for the Community Education Wing at the high school, which was two different identities. This new Steering Group which was set up to look after the new community centre took over the running of the Braeport.

But/

But this meeting would be after you had already decided that it was the Council who were responsible for dealing with lets, is that correct? - It was just about this time it then became the responsibility of the Council to deal with lets.

Then if you look at DFU27 which is a series of four letters all dated 30th May. You will see the first of these is to Michael Forsyth? - Yes.

And the Heading is "1994 Summer Camp 10th-24th July 1994", is that right? - Yes.

And the letter is signed Thomas Hamilton? - Yes.

And this is about this problem you have just mentioned about the let for that camp, is that correct? - Yes.

Do you see in the second paragraph he says "It comes as no surprise to me that a member of Central Scotland Police has been involved in this. Central Scotland Police have taken every arbitrary opportunity to disrupt our camps and Clubs all, in my view, as part of an ongoing conspiracy". Is that what he says? - Yes.

Now, were you in any way involved in trying to disrupt his camp when that decision was taken? - No.

And in the next pararaph he says "I have spoken to the police representative who signed the restriction to ask why such a last minute decision was taken". Now, that would be a reference to him speaking to you? - Yes, this was raised. As I said, Jackie Cowan had agreed that we would now be responsible for the lets and this let came in and we changed it. Well, the Church group would have it on a Sunday morning up to 12.30.

But all I want to confirm is this is you he is referring to? - Yes.

And he did speak to you about it, is that right? - Yes.

And/

And you tried to explain it to him? - Yes.

And he didn't accept the explanation basically? - Yes, that is correct.

Can you confirm he also at the same time wrote to Mrs. Cowan setting out his case? - Yes.

And that he also wrote to the Commissioner for Local Administration in Scotland, affectionately known as the Ombudsman? - Yes.

And that he also wrote to the Chief Executive of Central Regional Council? - Yes.

To state his case to each of these people? - Yes.

All on the 30th May, is that right?
- Yes.

Now, would you look please at D196K which is a memo. It may be there separately. It is dated the 1st June 1994 from the Depute Chief Constable to Inspector Barker. It is also DCD229. Now, you will see that is a short memo from the Depute Chief Constable to Inspector Barker at Dunblane dated 1st June. Do you see that? - Yes.

And we can take it that some of the last correspondence I have just referred to had reached the Depute Chief Constable's hands and he is asking "Can you assure me that Bob Moir is involved in Dunblane High School as a private citizen and not as a police officer" and does that date the time at which you have a change in status? - Yes.

And if you look at D197, the next item, do we see Inspector Barker's reply? - Yes.

Now, if you look at the second page of that, does it say "The allegations made and aspersions cast by Hamilton regarding a police conspirary in respect of this matter appears to be totally without foundation in that Sergeant Moir was acting in a completely voluntary capacity"? -
That is wrong. I told him. I said I was asked to go along as a police representative a number of years previous and when I moved away from Dunblane to/

to other stations I phoned the various different inspectors who took over in Dunblane and I explained to them who I was and what I did and I said "Do you want to send someone else or do you wish me to carry on?" and they just said "Carry on yourself and keep on doing it". When I saw this I said "You are just going to get another letter back from Hamilton". When I saw that.

Well, you don't need a crystal ball for that one. If you look at D200K you will see that Inspector Barker there confirms that you had undertaken to make it clear in the future that you were there as a private citizen? - That is correct.

And you did undertake to do that, is that right? - Yes.

Now, can you look please at a letter which I think has been copied for everyone which is DDH308. It is dated 10th June 1994 and is from Central Scotland Police to Councillor Ball. It's the last sentence in the second paragraph of that letter "My Sergeant Moir, who is involved in a wide range of community work in the area, has been the Chairman of this body for more than 10 years, but purely as private citizen, not in his capacity as a police officer"? - That is right.

That is not your understanding? - No.

And that is signed by Mr. McMurdo, is that right? - Yes. I got copies of these letters sent as well. Every letter that Hamilton received or sent, he sent me copies and whenever I saw this I explained it to the Inspector. I said "That's wrong".

If you look now at the letter of the 16th June from Mr. Hamilton to Councillor Ball which is DFU29. Do you see in the second paragraph there that Hamilton says to Councillor Ball "I have to say that contrary to their letter....." -- that is the police letter we have just looked at -- "....
Sergeant Moir is and has always been clearly defined in Minutes etc. over some 10 years or more as being the police representative and not 'purely as a private citizen, not in his capacity as a police officer'"? - That is correct.

So/

So you and Hamilton are at one on that, is that right? - Yes.

I think in the last paragraph of that letter he thanks Councillor Ball for his interest in this further unfortunate matter, is that right? Does he say "I thank you most sincerely for your interest in this further unfortunate matter and your kind help in other related matters"? - Yes, that is right. "I thank you most sincerely".

"I thank you most sincerely for your interest in this further unfortunate matter and your kind help in other related matters"? - Yes.

Go back to the front page of that letter and tell me what the heading is at the very top? - "Boys' Sports Club Group Committee".

And Thomas W. Hamilton, Group Chairman? - That is right. Well, he said he was.

That is what it says? - Yes.

Now, go to the second sentence in the last paragraph and read it please? - "Both the Committee and myself are, as always, impressed with your competence, honesty, integrity, sense of fair play and dedication to all of your constituents. In my own findings over many years of practical experience, these qualities are unfortunately not found among officers of Central Scotland Police -- in fact, quite the opposite!".

But he is writing there on behalf of "The Committee and myself"? - Yes, that is correct.

Now, attached to that there are copies of Minutes in 1992 where you are designed as Chairman/Police or Police/Chairman? - Yes, that is the police representative chairman but I also could have signed, with me running the Youth Club at the time, I was a representative from the Youth Club because as I said earlier, I was a representative of the different groups which made up the Committee of the Centre Council.

I think it would be fair to say, though, that this sort of petty problem was meat and drink to/

to Mr. Hamilton? - Yes.

And it indeed gets on to the agenda of the Council and if you look at DDH311, which is a Minute of a Council Meeting on the 28th June 1994, and look at Item 6. Do we see there that the problem over the let was raised at the meeting, is that right? - Yes.

Now, was it a question of resolving responsibility for the lets or was it a complaint by Hamilton that brought it on to the agenda? - Not only Hamilton raised it. It was only raised with others because the School Boards then took over and we were left with the problem of conflict. Were the School Boards letting out the rooms and were they responsible as they were responsible for the school and also were we then responsible. It was to avoid any clashes. You know, avoid double bookings etc.

Now, can you look please at letter DFU30 which is a letter of the 5th June from Hamilton to Councillor Ball and if you look at the second paragraph do we see there that the issue is not going to go away where he says "Robert Moir's role on the Centre Council has suddenly switched from Police Representative to Senior Youth Club Representative and not as 'purely a private citizen'. Indeed under the Chairmanship of Robert Moir this incompetent action is one of a series of decisions which has undermined my group on an arbitrary basis"? - Yes, that was when the initial letter went in. I said that I have been representative as far as I have been aware when I first went along to these Centre Council meetings and it was only when I was told I had to stop I said "Well, I am also representative for the Youth Group".

Now, we could spend many enjoyable moments going through the rest of the correspondence and Minutes about this but to no particular effect. Can you tell me whether you got to the stage ever of saying as a Council "Hamilton is not getting our premises"? - No, we never ever said that.

Did you ever get to the stage of being so concerned even about him that you debated whether or not he should get the premises? - No.

Was/

Was your Council privy to information that was causing it at any stage concern about his having the premises? Concern as a Council? - No.

Well, did you know anything else about Thomas Hamilton that you think might be of assistance to the Inquiry? - The only thing, as I said earlier, was that he was accountable to no one and I think with Youth Clubs, whoever is doing it should be accountable to someone.

You have been identified as a person that a number of people are concerned should give evidence to the Inquiry because they are worried that perhaps we are not getting all the information we should be getting so I invite you to tell me anything you know that you think the Inquiry ought to know about Hamilton? - Nothing other than this.

No cross-examination.

KATHERINE MARY ANDERSON (59), Sworn:

EXAMINED BY MR. BONOMY: I think you stay in Dunblane? - I do.

And we have already heard evidence from your husband who is Ewan Anderson? - That is right.

When did you first know Thomas Hamilton? - Well, I can't really remember the exact dates but I think it was in 1982.

How did you get to know him? - Through his association with my husband.

What was his connection with your husband? - It was the rifle shooting.

And was your husband a member of the Dunblane Rifle Club? - Yes. Well, he was. He isn't now.

He was at the time? - Yes.

Did/

Did Hamilton become a visitor to your home? - Yes.

Was he a frequent visitor? - Not to begin with. It was usually once a week.

And was that connected with going to the rifle Club? - I couldn't really tell you if it was or not. I don't think it was, no.

In your statement you indicated that he started coming to the house on Friday nights before and after going to the rifle range. Is that not right? - I thought it was Thursday nights. I don't think it was a Friday. My husband doesn't shoot on a Friday.

But was it in connection with going to the rifle Club that he came to the house? - I don't think so.

Well, can you remember in what connection it was? - Well, I think he started coming because of the connection with the rifle Club but it was just a friendly call to begin with.

Did you actually on any occasion visit a boat he had at Loch Lomond? - Once I think. Twice maybe.

So how friendly were you around that time? - Well, as I say, I think he called about once a week.

Did he ask you and your husband to help him in connection with this Boys' Club? - He asked us if.....he was thinking of forming a Committee and he asked us if we would go on the Committee.

Did he tell you why he was forming a Comittee? - I don't think so. I think he just said that he was starting up the Boys' Club again and he was forming a Committee.

Did you have family at that stage? - Yes.

Boys or girls? - Girls.

What were their ages at that time? -

In/

In 1982 one of them would be 11 and the other one nine.

Now, that is when you first got to know him. Could it have been a bit later than that that the question of helping out with his Club arose? - Yes, much later than that.

Could that have been in 1984? - Well, I can't remember if it was 1984 or 1985 but it was when he got the let renewed to start up the Boys' Club again, Dunblane Boys' Club. I think it was probably 1985 but I'm not sure of the date.

Now, did you agree to help him? - Well, he said that he was trying to form a Committee and could we go to a meeting about forming a Committee which we went to.

Where was that meeting? - In his house.

Do/

3 p.m.

Do you remember who else was at the meeting? - Yes. Do you want names?

Yes, please? - There was Mr. Williams. At the time I gave my statement I thought he was at the meeting, but when I discussed it with my husband I thought Mr. and Mrs. Williams were there, but it was only Mr. Williams, because I couldn't remember; it was so long ago.

Is that Mr. James Williams? - Yes.

Had you met him at that time? - No, I hadn't met him before that.

Who else was there? - Mrs. McFarlane, my husband, myself, and there was another lady there who at the moment I can't remember her name, and Mr. Hamilton was there. I think that was all, but I am not very sure.

What was decided? - It was decided that these people there would form the Committee.

Did you have a particular position on the Committee? - Yes, I agreed to be Secretary.

What was the Committee called? - The Committee?

Or the club? - It was just the Committee.

What was the club called? - The Dunblane Boys' Club.

Was there a discussion about the activities of the club? - I presume so. I can't remember.

Was there a discussion about why this Committee was being formed? - It was because a new club, the Dunblane Boys' Club, was starting up.

Were you aware at that stage of some difficulty Mr. Hamilton had encountered about running his club at Dunblane High School? - Yes.

Were/

Were you aware the Committee had something to do with trying to resolve that difficulty? - I think we were made aware at that meeting that he was getting the let renewed from the Council.

So you knew he had lost it? - Yes.

Did you know you were on the Committee to give some sort of either control or respectability to his club? - You mean at that time?

Yes? - No, not at that meeting. We were just asked to form a Committee, which we agreed to.

He didn't tell you he needed a Committee for the Council to agree to reinstate his let? - No.

Did you have to attend any official meeting as a result of being on this Committee? - Yes, we were told that night we agreed to form a Committee that the Council would like to meet the Committee, which we did. We went to the Council Chambers, and we went to that meeting, those people I have already mentioned.

What happened there? - I can't remember everything that happened, but I remember the Council saying they were putting a certain onus on the Committee to see it was run properly.

So by this time you knew there were particular reasons why he needed a Committee? - Well, I would think any club would have a Committee.

But here you have a club which gets a Committee, and the first thing it has to do is go and meet the Council? - I thought that was because of the rumours that had gone before.

What were the rumours about? - As far as I was aware, the boys' club he had had before, which was called the Rover Club, I understand the Scout movement had objected to the name because of the Rover Scouts, and that club had been disbanded. I had heard a couple of rumours by then.

I don't want you to give me any names of boys, but what were the rumours? - I heard two rumours; that on one occasion two boys had been left/

left on the island with just a tin of mince to eat, and the other one was that one boy had been left with either a tin of mince or a tin of beans.

Had you heard any stories about kids being homesick? - One of the boys I mentioned -- I knew the boy and his parents, and after I heard that rumour about the boys being left on the island I heard from the boy's mother that the boy -- this was a different occasion -- the boy had been at his aunt's for a holiday, and the mother had to go and bring him back after two days because he was homesick.

Yes? - At the time I was asked to go on the Committee I asked Mr. Hamilton about that incident, and he said the boy was homesick, but he said if boys are homesick they are not going to tell their parents, they are going to tell a different story. That tied in with what I had heard from the mother of the boy, and I thought it must have been just rumours.

Following the meeting with the Council did you take any active part as a Committee member in the physical running of the club? - No.

Did you do anything as secretary? - I did correspondence.

Was there much of that? - I would say there was quite a bit. There were letters. I was only involved at the one summer camp, and there were letters about that. There were letters I think about obtaining grants for equipment, but I really can't remember. It was just general correspondence.

We have had a lot of evidence about his writing to all and sundry on numerous occasions. Was that his practice in the time you were secretary? - No.

So the letters you are describing sounded as though they had some purpose? - Yes. They were to do with the running of the club.

They were not letters of complaint, for example, or letters of contention with other bodies and complaining about other people? - I don't quite follow you. You mean that the club was complaining?

Yes?/

Yes? - No, not that I recall.

After you were on the Committee did Mr. Hamilton continue to visit your home? - Yes.

Did you visit his home on any occasion? - Not socially. I don't think there were regular Committee meetings. I think there was one other Committee meeting in his house. We did not visit his house socially, no.

Did you meet his mother, at that time known as his sister? - Yes, at the first meeting to form the Committee.

Was she on the Committee? - No.

Did you meet his father, whom we now know is his grandfather? - No, I met who I thought was his sister, although it was his mother, and I met who I thought was his mother, who has turned out to be his grandmother.

But neither was on the Committee? - No.

How long did you remain secretary? - I can't remember whether it was 1984 or 1985, but it was in the autumn of that year. If it was 1984 it was from the autumn of 1984 to the spring of 1985; if it was 1985 it was the autumn of 1985 into the spring of 1987.

If I say to you the meeting with the Council was in the autumn of 1985.....? - Well, it was from the autumn of 1985 until the spring of 1987 I was on the Committee.

What led to you resigning from the Committee? - I changed my job. I had only been working a few hours a day, and when I changed my job I felt I did not have the time. It was not so much the quantity of the work, it was the inconvenience of it. Mr. Hamilton would just come up to the house just after tea time saying he wanted letters done, and he would wait and take them with him to post or to photocopy.

Did your husband remain on the Committee after you resigned? - Yes.

For/

For much longer? - I couldn't tell you. Less than a year, I think.

Throughout the period up until your resignation was your husband still going shooting with Hamilton from time to time? - They did not actually go shooting together on a regular basis. I think my husband maybe went with Mr. Hamilton twice, but not at the Dunblane Club. It was at a range that Mr. Hamilton used: I don't know if it was Dechmont.

Did Hamilton ever bring any weapons to your home? - Yes.

On more than one occasion? - I remember just one occasion.

What did he bring? - I don't know. I think it was two firearms, but I don't know what kind they were. I am not into firearms.

Do you remember if any of them was a rifle? - I think one was a black thing about <u>that</u>. I remember at the time thinking it was a terrible looking thing, a terrible looking piece of equipment.

You were indicating 18 inches to two feet? - Yes.

Did he say anything about that particular weapon? - No.

In your statement you have referred to him coming to the house and having a gun in a case and taking it out to show you and your husband? - Yes.

And saying it cost over £1,000, and he was told he was only getting £100 compensation back when it was handed in, because of Hungerford? - I do know he told us at the time of Hungerford that he had -- was it a Kalashnikov?

It could have been? - He was having to hand it over. I asked him would he get compensation, and he said he would get about £100. I asked him how much it cost, and he said about £1,000./

£1,000.

After you and your husband were off the Committee did Hamilton continue to visit you? - Yes.

Until when? - I think it must have been during 1989. I think it must have been before the summer of 1989.

What brought matters to an end? - I didn't realise this at the time; we only discovered this after this happened. We wondered why he had stopped coming, and my son-in-law told me one night when we were out and he was in the house Hamilton called, and my son-in-law told him not to come back, that he was making a nuisance of himself.

And he didn't? - He didn't re-appear after that.

Was he a nuisance about that time? - He was. When he started coming at first I didn't see him as much as my husband, because it was always on a Thursday night, and I was always out when he came. But he started coming two, three, sometimes four nights a week latterly.

Did he continue to use your name as a Committee member after you had resigned? - I didn't know if he did.

Did it come to your attention that he still had your name on a leaflet? - That was my husband's name. I found out at the time of this that he had both my husband and myself down as members of a previous club, which we had never anything to do with.

Now, prior to the formation of the Committee you have been telling us about he had his dispute with the Council over the letting of the premises at the High School, and in connection with that there was a petition presented to the Council to try to keep the lets going. Did you have any part to play in that petition? - I don't remember a petition.

We have had evidence in the Inquiry that you were actually round doors collecting signatures for/

for a petition? - That I was?

Yes. You went to George Robertson's door? - I don't remember that.

You stay quite near him? - Yes. I had been round with a petition round Dunblane to do with the rates, but I don't know when it was. That was the only time I remember going round. I also collect for Christian Aid in Dunblane. I don't remember going round with a petition.

When was the petition about rates? - I don't know.

Was the Council Labour or Tory? - I don't know.

I am just trying to work out whether you would go to George Robertson's door? - I had an area to do. George Robertson lives just up the hill from us. If there was someone collecting or going round that would include the area.

If he was within the area.....? - Yes. I went to people's doors with a petition about the rates, and they said they wouldn't sign it as they were employed by the Council. I was employed by the Council as well.

If you look at D50/H(v) -- have you got that? - Yes.

You will see that is a letter headed "Dunblane Rover Group"? - Yes.

And under that "J. Williams, representative of parents"? - Yes.

And you have told us there was a J. Williams at your meetings? - Yes.

His address is 3 Murdoch Terrace, Dunblane? - Yes.

This is dated 2nd November, 1983, addressed to the Director of Administration and Legal Services of the Council? - Yes.

It reads "We as parents of the boys attending/

attending the Dunblane Rover Group wish to appeal against the decision taken by the Education Authorities (following a sub-committee recommendation), to terminate the lease of the Dunblane High School"? - Yes.

It talks about Mr. Hamilton, the group leader, and all the other voluntary helpers having given a great deal of their time and resources to ensure that members find a healthy outlet to their boundless energy by channelling it into a constructive form? - Yes.

And then if you go down to the bottom of that paragraph it says "We believe that Mr. Hamilton is the victim of malicious back-stabbing by a person or persons unknown possibly calculated to cause disharmony"; is that right? - Yes.

Then he says "We are all proud to have Mr. Thomas Hamilton in charge of our boys. He is a man gifted with excellent qualities of leadership, integrity and absolute devotion to his lads. Above all, he cares"? - Yes.

Then it has "Yours faithfully, the parents (as listed over)"? - Yes.

Then there is three pages of signatures? - Yes.

I can tell you there are 70 signatures there. Now, did you gather these signatures? - Not that I remember.

It is headed "Dunblane Rover Group"? - I had nothing to do with that.

These forms say "Management Committee, Dunblane Rover Group". Do you see that? - Yes. I was never on the Committee. I had nothing to do with the Dunblane Rover Group, although when this Inquiry was coming up I was shown a letter that had been sent to the Council where my husband's name and my own name were on as being members of the Committee, but I was not there. I was not involved with the Committee until 1985 when the Dunblane Boys' Club started up. That was when I became involved. I had nothing to do with the Rover Group, and I can't see my signature on this petition, so I would/

would imagine if I had been round collecting signatures I would also have signed the petition.

Well, you were not the parent of a child who would be attending the group, so it may not have been appropriate for you to sign it, the way it is worded? - No.

I may have given you wrong information about the time of the formation of the Committee. Perhaps you can clarify this for me. If you go to D53 in that volume, I think you can see this is a letter of 24th February, 1984 to Mr. Buchanan, the Director of Administration and Legal Services, headed "Dunblane Boys' Club"? - Yes.

It says "We.....are pleased to supply the information that you request" in the first sentence? - Yes.

And the Management Committee is set out there, including your own name as secretary? - Yes.

And your husband is there, and some of the other names you have mentioned are there? - Yes.

If you go to the end of that letter you will see that you appear to have signed it? - Yes.

Do you remember signing it? - I don't really remember the letter, but I presume yes. No, I don't think so.

Is it your signature? - It looks like my signature, but I certainly did not type it.

Did you sign it? - Well, it looks like my signature.

I take it you would not sign a blank? - No.

3.20 p.m.

If you go to the second page and in the middle you will see a heading "Difference between Dunblane Rover Group and Dunblane Boys' Club" and it says "1. The Committee is agreed to disband as Dunblane Rover Group; 2. The Committee is agreed to form as Dunblane Boys' Club; 3. The Committee is agreed to a new constitution as enclosed", all suggesting that this is a replacement of the Rovers Group, to give it a different identity. Were you not party to this letter? - I don't recollect it.

Can I ask you then to look at another item which I think may have been copied. It is a letter of the 31st of October 1983. It is also in.....? - Sorry, I was still looking at this other letter. Which one are you on?

Another one will be given to you and it is also in D21/J(i) and it has got a number 28. There is a whole series of these letters but one of them has the number 28. It will be put in front of you. Now, you will see that that is a letter of the 31st of October 1983 to Mr. Buchanan again and the heading is "Dunblane Rover Group -- let of Dunblane High School" and you have signed it? - I am just reading the letter.

Well, before you do that, can you tell me if that is your signature? - Well, it looks like my signature.

All right. Now, yes, please read the letter? - No, I didn't sign that. It looks like my signature but I didn't sign it because it says in it "Firstly, as an interested member of the Management Committee of the Dunblane Rover Group" and I wasn't a member of the Dunblane Rover Group. I wasn't associated with it at all.

It also says in the second paragraph "All activities are well supervised, as I myself have been present on various occasions at meetings and outings". Had you been present at any? - I was at one. I don't know if it was with the Dunblane Boys' Club or if it was when he was with the Rover Group but we were invited. I think it was maybe when he had the Rover Group. He asked us if we would like to go one Sunday on a swimming outing to/

to the Commonwealth pool but that was not in an official capacity. He was taking the boys and asked if we would like to go and take our two daughters. It wasn't official.

The letter in the second paragraph says "I have accompanied the boys from the group on outings to places of public interest when the behaviour of the boys has made me proud to be associated with the group. This, nowadays, cannot always be said of large groups of children out in public"? - Yes. Well, I was at the Commonwealth pool on one trip with the boys.

It then goes on to say "As a parent of two daughters, my children naturally are not members of the Dunblane Rovers but they have had the pleasure of being invited on several occasions to sail with Mr. Hamilton, my husband and myself"? - Well, that is true. We did go sailing with him.

"The care and safety shown to my family, especially the two children, in these instances, was of the very highest standard", is that right? - Well, yes, it says that.

The next section says "Secondly-I come into contact daily with many of the boys from the group in the course of my duties as School Helper at Dunblane Primary School, and I know how much they enjoy the groups activities"? - Yes, well, I have lost you now.

If you look at the word "Secondly"? - Yes.

And then the next bit says.....? - Well, I was a School Helper at Dunblane.

And did you come in daily contact with many of the boys from the club? - Well, I wouldn't have known the boys with the Rover Group because I wasn't associated with the Rover Group.

You might have known them if you had been to the Commonwealth pool with them? - On one occasion.

You would probably know the boys if you saw them at school and then at the pool. Would you not/

not recognise them? - If you ask me now to name the boys who were in the Dunblane Group that I was associated with I could probably only name two at the moment.

Is it not possible even that you wrote this letter? - Not when it says "Firstly as an interested member of the Management Committee of the Dunblane Rover Group" because I was never involved with the Dunblane Rover Group.

Are the rest of the contents largely accurate? - Well, I wouldn't know about "all activities are well supervised" because I was never there. I was never even at a meeting of the Dunblane Boys' Club although I was the secretary. We went sailing twice with Mr. Hamilton.

If you go forward now please to D78/J(i) you see there this is an excerpt from a Minute of a meeting of the Further Education and General Purposes Sub-Committee of the Education Committee. Have you got it? - Yes.

Held on the 23rd of September 1985 and if you could go over two pages.....? - Excuse me, but was this the meeting held in the Council Chambers?

Well, this Minute relates to a meeting which you were not at but you were at the earlier meeting which is referred to there as a special sub-committee and if you go over two pages you will see the Minute of the sub-committee meeting which was actually held on the 4th of September? - 1985?

Yes? - Yes, that is when I became involved.

And you will see your name near the top of that page? - Yes.

As one of the people coming to the meeting? - Yes.

And the others there were Mr. Hamilton, Mrs. McFarlane, your husband, Mr. Williams and a solicitor. Do you remember that? - I don't remember the solicitor. Probably because I didn't know the man.

Well,/

Well, it is a woman? - Oh, sorry. I remember Mr. Hamilton, Mrs. McFarlane and it has got Mr. K. Anderson. It should be Mr. E. Anderson. Mr. Williams.

Were these people, apart from the solicitor, you do remember being at the meeting? - Yes.

Now, we know that there was correspondence about the possibility of such a meeting for quite a long time and we have seen a letter dated the 24th of February 1984, you saw it earlier, in which you are listed as a member of the Committee? - That was of the Rovers?

No, the new group? - Sorry.

If you go back to D53 in H(v). You have seen that already but just to remind yourself, this is a letter your signature appears on and that one is dated February 1984 so it is quite difficult I suppose to date exactly when you first got involved in this Committee? - I got involved in the Committee when he got to renew the let and the name was then the Dunblane Boys' Club.

But can we date it to the letter which is the same idea or the meeting with the Council which is a year and a half later? - Well, it was the meeting of the Council because we had a meeting at Mr. Hamilton's house to ask the people that were present if they would form a Committee and then I think it was that same week or maybe the week after that we had a meeting in the Council Chambers.

Well, if the date on the letter is accurate then the presence of your signature on it is a bit of a mystery? - Exactly. I mean, I don't really know it is my signature. It looks like it.

I suppose you might say Hamilton writes in a similar way to you on the face of the signatures. Does the signature look like yours at all? - Well, if you look at the signature on my cheque card, it is not my signature that is on that letter. If you want to look at that?

I think his lordship might want to look at it? - And compare it with the signature on that letter./

letter. It is not my signature I would say.

It might be as well if you look in that connection also at the other letter, the one which was in D21/J(i) which had the 28 at the top of it. The other place that we had your signature, apparent signature, the letter of the 31st of October? - Well, as I say, it looks like mine.

Does that look like your signature? - Similar but if you look at it with the cheque card, it is not.

Well, does it look different from the cheque card signature? - Yes.

CROSS-EXAMINED BY MR. JONES: Can I try and be clear about the sequence of events. You knew Thomas Hamilton before the let of Dunblane High School was stopped by the Council? - Well, I wasn't aware of that being stopped. As I say, my husband was more involved on that side than I was up to 1985 because when he called, I'm sure it was a Thursday he normally called and I go out every Thursday night and have done for the last 30 years so I would only see him for a few minutes and when I came back I would say to my husband "Was Tommy up tonight?" and he would say yes and I would maybe say "What was he saying?". As I say, I didn't often see him at that time.

I just want to be clear about this. Were you or were you not aware that the Council had stopped Mr. Hamilton's let at Dunblane High School? - I wasn't aware of it.

Were you never aware of it? - No, I thought it was when he went.....I thought he had been asked to disband the Rovers Group because of the name and that when he went to re-name it the Dunblane Boys' Club, that is when the Council had problems with renewing the let.

And you look again please at D78/J(i). That is the Minutes of the meeting that you attended at the Regional Council in September of 1985. Do you have that document? - D78/J(i), yes.

And that is the Minute of the meeting? - Yes.

Now,/

Now, can you turn to the third page, at the top of which you will see X-219? - Yes.

And then you see the words "Confidential-Not for Publication". Do you see that? - Yes.

You are then recorded as being present. Do you see that? - At that meeting?

At that meeting. Is that right? - If that was the meeting.

Well, do you see your name? - Yes.

And your husband's name? His name is amongst those who were there? - Yes.

Just below the names do you see it says "During a wide-ranging discussion with the Representatives of the Club the following specific points were raised by the Sub-Committee:-" and then there are eight points? - Yes.

Now, do you remember while you were there being asked a number of questions? - No, I don't remember it.

But you accept that you were because that was the purpose of the meeting? - Probably, yes.

And do you see the third question was "During the period since the let for Dunblane Rover Group was terminated had the Committee made any attempt to find alternative accommodation in Stirling, Dunblane or any other area?". Do you see that? - Yes.

Now, if this Minute is accurate, you were at least aware in September of 1985 that the let for the Dunblane Rover Group had been terminated? - Well, I understood it to be that the Rover Group had been asked to disband because of the name.

Well, it says here that you were asked about something happening after the group was terminated. All I am asking you is if this Minute is correct then it must mean that you knew at least in September 1985 the let had been terminated? - I am not saying it wasn't. I am just saying I don't remember it. My recollection is that the Rover Group/

Group had been asked to disband because of the name.

Well, I think that is really what I am trying to get at. It may be your recollection now is not perfect. We are talking of events that happened between 11 and 15 years ago? - Well, I don't remember because I don't even remember the exact date. Until the gentleman there said it was 1985, I couldn't remember the date.

But you accept there is a difference between things not having happened and your not remembering whether they happened? - Well, yes. I suppose so.

Now, do you see that the first point that was put to the people who were there was this; looking back at this document, "Of the Committee membership detailed in the letter dated 24th February, 1984, from the Secretary of the club, only three were residents in Dunblane". Do you see you were asked that? - Well, as I say, I don't remember it. You know, when we had the meeting.....

If you just answer me. Do you see that is in the Minute? - Yes, I see that.

Now, we have heard that one of the papers that was available to the Council was the letter that you have been shown, the letter which bears your signature of the 24th of February 1984. Now, can you have in front of you again please D53 of H(v)? - Yes.

Can/

3.40 p.m.

Can you accept, although you may not remember it, this letter of the 24th February, 1984 was in front of the committee when you attended this meeting in September, 1985? - I cannot answer that, because as I say, I don't think that signature on that letter is mine.

Leaving aside your recollection, I am just asking you if you can accept the Minute is aware of a letter dated 24th February from the Secretary of the club? - Yes.

And the only Secretary of the club you have ever known about is you? - Yes.

Could you look at another document, which is in the other bundle in front of you, D.....? - If I can go back to that, Dunblane Boys' Club was not effective until after this meeting, or at the time of this meeting.

I think you have already seen that the letter of the 24th February, 1984 records the change of name from the Dunblane Rover Group to the Dunblane Boys' Club? - I thought it was at this meeting we were at at the Council Chambers.

If you look at page X-220, you see just below halfway down there is a paragraph which does not begin with a Roman numeral? - Yes.

It begins "In closing their remarks..."?
- Yes.

You see it says "In closing their remarks the representatives from the Dunblane Boys' Club referred to the change of name of the club from Dunblane Rover Group. The club representatives felt they would prefer to revert back to their original name and wondered if the Regional Council would find this acceptable". Do you see that? - Yes. Can I just read that?

Yes? - Well, this was the representatives of the Dunblane Rovers Group I presume saying they would prefer the name to be the -- the Dunblane Boys' Club rather -- saying they would prefer the name to revert to the Dunblane Rovers Group, but that didn't mean the representatives/

representatives there were representatives of the Rover Group.

I am putting this to you because you said it was at this meeting in September, 1985 that the name was changed from the Rover Group to the Boys' Club? - No, I didn't say that. I said that my understanding was that when the Rover Group was disbanded it was because of the name, and that I became involved with the Committee of Dunblane Boys' Club, which was in 1985.

Now, you told us I think that the signature on the letter of 24th February, 1984 is not yours. Could you say which one this is? D53/H(v)? - Yes. If you look at my credit card it is not.....

I am not interested in your credit card. The question is whether you are saying the signature on the letter of 24th February, 1984 is not yours. Is that what you are saying? - Just let me read the letter. I am not really sure.

It may be yours? - What I cannot understand is why I would be typing that at the time when I was not the Secretary.

I am not asking you that. I am simply asking you about the signature, and I am asking you to say whether or not you think it is yours? - Well, I would say it looks like mine, but I am not sure.

Could you look at another document, D74/J(i)? - Yes.

This is a letter which bears to come from your organisation, dated 21st August, 1985. Can you see that? - Yes.

And it is handwritten and appears to be signed by your signature, Katherine M. Anderson? - Yes.

Was this written by you? - Yes.

And that is the same style of signature we have seen both on the letter of 31st October, 1983 and the letter of 24th February, 1984? - Similar, yes.

Can/

Can I ask you to look at one further document? If we go to D49/H(v), this is a very faint photocopied letter. Do you see that? - Yes.

Can you turn from that, turn from the second page and go on to the third page which has "7b" at the top right-hand corner. Have you got that? - Yes.

This appears again to have your address in Dunblane in the top right-hand corner? - Yes.

And that appears to have your husband's signature on the bottom, Ewan Anderson? - Yes.

And that bears the date 6th November, 1983? - Yes.

Do you see the text "Dear Sir, As a fair-minded person I feel obliged to write to you to protest about and to condemn the Director of Education's handling of the Dunblane High School let to the Dunblane Rover Group.

"Firstly let me refute the allegations made about Mr. Hamilton's character and his parting company with the Scout Movement"? - Yes.

And then if I can take you on to the fourth paragraph "I had no personal connection with this group until recently, when due to an injury the sports coach could not attend the Thursday meeting. Mr. Hamilton asked for my assistance to run the five-a-side football. I thoroughly enjoyed the experience and was astounded at the manners and good behaviour of the boys"? - Yes.

Do you remember an occasion when your husband helped out with the five-a-side football? - He did with the Dunblane Boys' Club occasionally, but I could not differentiate.

He stated, "My wife, daughters and myself then assisted with an outing to the Commonwealth Pool in Edinburgh, and can honestly say that we were proud to be seen in their company"? - Yes.

And you remember a trip to the Commonwealth Pool? - Yes. As I say, we were not involved in the running of the club. Mr. Hamilton invited/

invited us to go one Sunday.

And that was with the Rover Group? - Yes. Not as part of it. It was a social invitation.

It goes on "In fact we have been so impressed that my wife and I have volunteered our services as members of the Management Committee, now acting as Secretary and Treasurer respectively"? - Yes.

And that is what happened, isn't it? - Yes. Not with the Dunblane Rover Group; with the Dunblane Boys' Club.

Is it just that you do not have any recollection of the club being called the Rover Group at that time? - No. I was not involved with the Dunblane Rover Group; I was involved with the Dunblane Boys' Club.

How do you explain this letter? - I don't know. Mr. Hamilton had put down on a letter that we saw that the CID had produced, he had us put down as members of the Management Committee of the Rover Group, and that was not true. What I am saying is, is this letter true? Did my husband sign that? Because we were not members of the Management Committee of the Rover Group; we had nothing to do with the Rover Group. We were not involved with the Rover Group.

If that is right it must follow that the letter which appears to be signed by you on the 31st October, 1983 is just false? - That is what I am saying.

And the letter which appears to be signed by your husband a week later is just false? - Yes.

And the letter dated 24th February, 1984 is just false? - Well, I would say that because I was not involved in the Dunblane Rover Group.

And although there is reference in the letter dated 24th February, 1984 in the Minutes of the Committee meeting you attended it must be a reference to some other letter? - Maybe this is a letter that my husband didn't sign and that is a letter/

letter that I didn't sign: but I know I was not involved with any club until the meeting at the Chambers, which appears to be in 1985.

CROSS-EXAMINED BY MR. TAYLOR: You may be relieved to know that I do not propose to ask you any questions about letters or Minutes, but I would like to ask you some questions about meetings which you had with Mr. Hamilton: do you understand? - Yes.

You have told us that when he came to your house it was in the order of once a week at first, usually on a Thursday, when you were out; is that correct? - Yes, as far as I remember.

Can you say what year he started attending your house? - I don't remember, but my husband dated it to 1982, because he was unemployed at that time.

Your husband was unemployed? - Yes.

You have told us that the frequency of the visits increased from once a week to eventually three or four times a week, and finished when? - 1989.

At first you would not have had much contact with Mr. Hamilton if you were out on Thursdays when he called? - Yes.

But you would have been in the house on occasions when he started to visit more regularly? - Yes, I was in when he called.

And when you were in the house with him did you form an impression as to how he looked on you and your husband? Never mind how you might have looked on him, but what was your perception as to how he looked upon you? - We were friends.

What sort of topics would you discuss with him? - Just general topics of conversation. We talked about the clubs, we talked about general topics of conversation, about games, board games, etc.

Would there be any distinction as to what you would speak to Mr. Hamilton about and what you would/

would speak to your neighbour about? - No.

At what stage did the visits increase from once per week to something more frequent than that? - I think it was the fact that one of the other members of the Committee whose two sons were in the boys' club moved away from Dunblane, and he had visited them, and when they moved away he started visiting us so often.

Can you say when that was? - No.

Who were these other people he visited? - The name of the family?

Yes? - The Williams.

Do you know how often he attended at their house? - No, but I know it was on a regular basis.

About once a week? - Probably.

Other than the Williams was there any other family who he visited, to your knowledge? - In Dunblane?

Anywhere? - He did speak about a friend he had -- his name escapes me at the moment: he was something to do with one of the gun clubs. I only knew his first name.

Was that a Mr. Woods? - Can you tell me the first name?

Clive Woods? - Yes.

Taking these two groups separately, how did you perceive Mr. Hamilton saw the Williams? - How did I perceive Hamilton's view of the Williams?

Yes? - Just as friends, the same as we were.

In relation to Mr. Woods, how did you perceive he thought of Mr. Woods? - He did not mention him so often. He knew we knew Jim Williams, but I had never met this Clive, so he didn't talk about him so much.

Did/

Did the name Williams come up reasonably frequently in your discussions with Mr. Hamilton? - Just as a topic of conversation.

Would you describe Mr. Hamilton as a loner? - I suppose so, yes.

In what respect? - Well, I suppose apart from the visits to us and his club meetings I don't think he had other social.....

Yourself, the Williams and Mr. Woods? - I don't know how often he visited Mr. Woods, but he visited us regularly and he visited the Williams regularly.

You told us about two instances where there were rumours that some boys were left on an island, and one rumour was that they were given only a tin of mince and another rumour was that they had only been given a tin of beans; is that right? - Yes.

Were you able to make enquiries as to whether that was true? - No.

Did you believe that rumour? - No.

But it was a rumour which you were able to check upon, if I have understood your evidence correctly? - No, I didn't check up on it. I had heard the rumours, and I knew one of the boys concerned, and a while after I had heard the rumour just in conversation the boy's mother in general conversation said to me that her son had been at his aunt's for a week's holiday, and she had to go and pick him up after two days, because he was homesick.

And it was rumoured he had been somewhere other than his aunt's? - No. He was homesick.

And he had been homesick at one of Mr. Hamilton's camps? - I heard the rumour, then I had a discussion with the mother.

What was the rumour? - There was a rumour that the boy had been left on the island with a tin of beans. I heard that conversation, and then in general conversation with the mother, nothing to do with the club, she said that her son had/

had been away up at an aunt's for a week's holiday and she had to go and bring him back after two days, that he was homesick.

Was this the same week it had happened? - Yes, she had just gone and brought him back. But it was months after the rumour; it was quite a while after that. After that I said to Mr. Hamilton what was the story about this rumour, and this was when he said to me that the boys were homesick but they didn't want to go home and say to their parents they were homesick, so they made up stories.

Do you know why Mr. Hamilton brought round weapons to your house? - Because of the common interest with my husband. When they had gone shooting it was pistol shooting, which my husband doesn't do; he shoots .22 target. I think Mr. Hamilton took my husband to Dechmont on one occasion I can remember.

So he has taken guns round to your house on the way to the pistol shooting? - No, this was a different time. The times he went with my husband he called the house. I didn't see the firearms. They just went away. On a different occasion he brought the guns, yes.

This was because of their mutual interest in guns? - Yes. Not me, but my husband.

RE-EXAMINED BY MR. BONOMY: I got the impression initially you didn't now Mr. Williams. How well did you know him? - I didn't know him until I met him at the meeting in Mr. Hamilton's house.

That was the first time you met him? - Yes.

How/

4.00 p.m.

How long after that was it he moved away? - I can't remember when he moved away. It was after I came off the Committee. He was still on the Committee when I, you know, resigned.

The letter which you were shown by Mr. Jones, which is signed by your husband, your husband has already told us he wrote or at least was responsible for. Did you and your husband get involved in the Committee at the same time? - We joined the Committee at the same time but I resigned before my husband.

So if your husband accepts his involvement in 1983 around the time the lets were lost, does that help you? - Well, my husband was involved, as I say, with Mr. Hamilton. I am not saying on Committees but he was involved, you know, more on that side of it than I was. I wasn't involved until the 1985 but I know my husband was involved before that because he was able to say to me that he had tried to get to the bottom of the rumours and nobody would do anything. You know, they would never name names. Because my husband told me he had gone to this one and that one and people just said that so and so told me that and my husband tried to get to the bottom of it and wasn't ever able to do so because nobody would come forward with any names. They would say "Oh, I don't know. I just heard it". So my husband was involved with Hamilton but I'm not saying on Committees but involved with talking about it with him before I was.

Well, you will see or you will remember that the letter which he signed said that he had no personal connection with the group until recently when due to an injury the sports coach could not attend the Thursday meeting and Hamilton asked for his assistance in running five-a-side football? - Yes, but that was on one occasion. If that letter was genuine.....

Well, he has told us it was? - I know, but did he read it?

Well, he took an oath like you did? - Yes, but did he read the letter? He may have looked/

looked at the bottom and thought it was like his signature but, as I say, it says "In fact, we have been so impressed that my wife and I volunteer ourselves as members of the Management Committee now acting as Secretary and Treasurer" and that would appear that is to the Dunblane Rover Group, wouldn't it?

It could be? - Well, I mean, the letter was headed the Dunblane Rover Group and my husband and I were not involved on any Committee with the Dunblane Rover Group although I was shown a letter by the CID Detective who came to the house when I was interviewed and she showed me a letter that Mr. Hamilton had written to the Council and our names were on it and we were not members of the management group for the Rovers.

I follow all of that but take it from me that your husband did see the letter and did have the opportunity of reading it here and did confirm his agreement with its contents? - Yes, but I am saying did he read it or did he look at it?

Well, would you listen to what I am saying please. Take it from me that he did have the letter and he did have an opportunity of reading it here and certain parts of it were subsequently put to him with which he agreed? - Well, my husband.....

Just give me a moment to finish the question. In the light of that he confirmed that this letter was his. Now, if that is the case and he is referring there to the two of you becoming involved in the Management Committee and you agree you both got involved at the same time, does that help to confirm that you actually were involved in November of 1993? - No, because I know that I wasn't involved with the Committee until it was the Dunblane Boys' Club in 1985 and neither was my husband. We were not involved with the Rovers Group at all and I can swear that on oath, that I wasn't. I had nothing to do with the Dunblane Rovers Group. Nothing.

MR. BONOMY: Now, sir, that completes the oral evidence I propose leading today. I anticipate certain further oral evidence, in particular the evidence of Dr. Baird, Consultant Psychiatrist./

Psychiatrist. He unfortunately will not be available to give evidence until a week on Monday which is the 8th July. That may not present any particular difficulty in view obviously of the need of parties to consider the volume of evidence that has been led over the last 23 days in preparing Submissions they propose to make to you.

I have some written evidence which ought to be lodged now I think in the form of Productions largely. Not entirely but largely in the form of Productions which should be given R numbers.

Before I do that, I tender a letter from Her Majesty's Chief Inspector of Constabulary dated the 25th June 1996 to the Procurator-Fiscal confirming the status of the draft Thematic Inspection Report and in the last paragraph it says, "I understand that you already have a copy of the draft Thematic Report and I would confirm that the decision on whether or not it should eventually be published will be taken when Lord Cullen's deliberations have been completed" and that is signed by Her Majesty's Chief Inspector.

The other items which I suppose, sir, should be Productions are first of all a document headed "Lord Cullen's Inquiry-Firearms offences" giving certain statistical information about the commission of offences with firearms.

Secondly, a series of four documents which are covered by a summary or description of them. These are documents relating to the form of inquiry form used by Police Forces in England and Wales. They were handed to me by an interested observer at the Inquiry. They do seem to be of some value, sir, and I thought it might be of assistance for you to see forms that are used elsewhere.

The next set of documents.....

LORD CULLEN: Before you go any further, can we just check what numbers we are clocking up as we go along. The letter with the statistics would, I suppose, be 68, is that right?

MR. BONOMY: No, I think 69. The GMC Guidelines are 68 and the BMA Guidance was 67. So the/

the statistics becomes 69. The four forms with the accompanying note becomes 70.

The next one, 71, is the Precognitions which the Procurator-Fiscal obtained in relation to the investigation of the 1991 camp. So these are the Precognitions the Procurator-Fiscal at Stirling had. The Inquiry has already seen the police statements and the information before the Inquiry would be incomplete, in my submission, without this additional material which was before the Procurator-Fiscal.

Then lastly, a document headed "Violence to staff in the Education Centre" produced by the Health & Safety Commission and referred to by Mr. Gibb in the examination of a witness earlier and one which you, sir, expressed some interest in and which ought to be before the Inquiry.

With that, I complete the presentation of evidence so far.

LORD/

LORD CULLEN: Thank you very much, Mr. Bonomy. There are a few matters I would like to deal with.

Since the last list of written submissions, further submissions have come in or at least have been recognised to be submissions to enter the evidence. There will be a list which will be issued later today. I understand that a number of written submissions are still, so to speak, on their way here. These include I think supplementary written submissions from the British Sports Council and a joint submission I think by the Callander and also Stirling Rifle and Pistol Clubs. That may be of interest to those who are here.

Now, can I check on one point. I'm not sure whether parties have any intention of lodging any written submissions in regard to possible recommendations between now and the resumption of proceedings. Can I ask parties in turn what their position is. Mr. Campbell, what about you?

MR. CAMPBELL: Sir, my intention, if it is acceptable to you and obviously if it is not then I will think again, is to present submissions orally when it is appropriate but they could then be put into written form if necessary thereafter.

LORD CULLEN: The only thing about that that slightly concerns me is whether there might be a problem if you were to take some line which is not indicated by any of the existing submissions. Maybe that doesn't arise.

MR. CAMPBELL: Well, sir, you have indicated that concern to me informally before and you did indicate that it might be helpful if I was to speak to another party and that has happened and I think I have given him an assurance which should be satisfactory but certainly if there is any written information of that nature being circulated to one party, I will make sure that it comes to you and others.

LORD CULLEN: That is helpful. Thank you. Mr. Gibb, what is your position?

MR. GIBB: My position is that I have really been hanging on Mr. Campbell's coat tails to some/

some extent over the last few days and I may end up duplicating a certain amount of his verbal submissions but if the general view is that verbal submissions are appropriate, clearly I can excise what I need to on the day but I would be happy to make written submissions if you wish.

LORD CULLEN: It is entirely a matter for you. I don't think I have any great need for that except if there is any risk of you raising a point nobody else had yet raised in writing, in which case it might be fair if some notice is given of that.

MR. GIBB: I am quite happy to go along with verbal submissions.

LORD CULLEN: Thank you. Mr. Jones?

MR. JONES: Sir, I would not be making any recommendations and therefore I am not covered by the enquiry your lordship is making.

LORD CULLEN: Mr. Taylor?

MR. TAYLOR: There is still an outstanding document I promised to your lordship some time ago and that is in a fairly advanced stage of preparation and should be available some time towards the end of next week. It is a different form of submission, however, from what has been discussed up until now because it is a document from the Chief Constable. Insofar as there is a submission on the evidence then if the view is that the submission should be delivered orally then I will go along with that.

In my submission, it is on occasion of considerable advantage for the written submissions to be prepared and exchanged at a point of time in advance of the oral submissins because that affords an opportunity to make some preparation in response to any criticisms which might be made.

LORD CULLEN: I think at the moment all I am talking about is written submissions in regard to possible recommendations because the invitation that was made to the world at large was also extended to the parties and I simply want to know whether the parties are going to take up that invitation by giving me written submissions as distinct from making/

making oral submissions when we resume. You have something in preparation?

MR. TAYLOR: Something in preparation coming not from my pen but from the pen of the Chief Constable.

LORD CULLEN: Well, that is very helpful. Thank you very much.

Now, as far as oral submissions are concerned, obviously parties will wish to devote some attention insofar as interests extend to (a) the circumstances that we have had explored over the last so many days, as distinct from secondly the possible area for recommendations. So far as the circumstances are concerned, I don't think I would want parties to feel that they have to prepare elaborate statements of fact as to what should be found established. I think that would be far too large an imposition. I am much more concerned with matters of fact to which observations or comments may be directed. I am not wishing to prevent anyone from presenting any presentation on the facts they want to but I am most particularly concerned with matters of observations or comments on the evidence that we have heard. There are a few instances in which evidence has been conflicting or uncertain and I think there are one or two instances where questions of credibility arise and I won't say what that is but I would like to hear what parties have got to say about that.

As regards possible recommendations, I don't think I need to add to what I have said earlier.

I don't at the moment, Mr. Taylor, feel any need to require any advance notice to be given. Are there any particular matters which are concerning you as to the future?

MR. TAYLOR: If I knew of the matter I would not be asking for the submissions in writing, sir.

LORD CULLEN: I think we should take things as they come. I think that somebody in your position will have a fair idea of what some other party might want to say in due course.

MR./

MR. TAYLOR: Yes.

LORD CULLEN: So far as the order of submissions is concerned, it might help if I said a bit about that now. I would intend to call on Mr. Bonomy to speak first insofar as he feels it necessary to address me on matters. Then I will call on the parties in the order in which they have been questioning and when that is done it may well be that Mr. Bonomy will wish to give me some further assistance in the light of what parties have said.

There is one other matter which has given me some concern. I have a strong impression that at least one of the parties here will wish to make certain submissions as to recommendations in regard to restriction of availability of firearms and ammunition or the like. I am quite anxious to make sure that I have a proper debate in which there is a proper contradicter so I have decided, and I have been thinking about this for some time, on my own initiative to invite representatives of what I might call the umbrella bodies to be present so that if they wish they can have their interests responded to in whatever submission may be made in that direction. I have therefore invited, and this invitation has been accepted, any legal representative of the British Shooting Sports Council and the Scottish Target Shooting Federation to be present whilst the submissions are taking place. This is an invitation which, as I say, I have made entirely on my own initiative. They don't come as parties to the Inquiry. They come here to assist me in trying to make sure that any submissions that are made are fully scrutinised and it is of course a response rather than to advance the case which they have already set down in their written submissions.

One other thing. Mrs. McKeand has reminded me to tell you that the Inquiry office will remain open here next week in the usual way so that if any party requires to be in contact with her, that can be done as usual.

Very well, we will now adjourn until Monday the 8th of July at 10 a.m.

Adjourned until Monday, 8th July at 10 a.m.

TWENTY THIRD DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

THURSDAY, 27th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

	Page.
DAVID JOHN COOKE,	
Cross-exam, cont'd by Mr. Gibb.....	4
Cross-examined by Mr, Gibb ……..	15
Cross-examined by Mr. Taylor …….	17
Re-examined by Mr. Lake ……..	25
HUGH DILAHAY DAVIES,	
Examined by Mr. Bonomy ……..	30
Cross-examined by Mr. Campbell …….	44
Cross-examined by Mr Gibb …….	46
Re-examined by Mr. Bonomy …….	46
ARTHUR MORRIS,	
Examined by Mr. Bonomy	48
Cross-examined by Mr. Campbell.....	66
Re-examined by Mr. Bonomy	69
ROBERT MOIR,	
Examined by Mr. Bonomy.....	72
KATHERINE MARY ANDERSON,	
Examined by Mr Bonomy ……..	92
Cross-examined by Mr. Jones …….	108
Cross-examined by Mr. Taylor …….	115
Re-examined by Mr. Bonomy …….	118

FRIDAY, 28th MAY, 1996.

TWENTY-THIRD DAY.

LORD CULLEN: Well, let's resume. Now, Mr. Campbell?

MR. CAMPBELL: Thank you, sir. Good morning, Mr. Cooke.

MR. COOKE: Good morning.

DAVID JOHN COOKE,

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: Professor, I want to move away for a moment at least from Hamilton as a specific case? - Indeed.

To discuss matters in a more general nature with you. Your first report deals in general with the question of the extent to which qualified people such as yourself can predict violent acts by people? - Yes.

Am I correct in understanding that there is considerable literature which indicates that mental health professionals are unlikely to be able to predict dangerousness in every case? - That is correct, yes.

Although, is it also fair to say that some of those interested in this field are more pessimistic than others who perhaps take a slightly more optimistic view to the possibilities? - I think that is true, but I think the research is suggesting with the correct techniques we can always improve, but there is always a barrier beyond which you cannot go.

Would it be accurate to say that when professional people such as yourself are dealing with a specific individual, the emphasis is upon management rather than prediction? - Yes, there are/

are two elements; risk assessment entails prediction, but if you are, say, suggesting release of a prisoner on parole and you think there is a potential for danger, you build in treatment and management in the Community.

And that would involve for example, if we discuss someone who is or has been in a psychiatric clinic, then their illness and their history will be well known? - That is correct, yes.

And it will be managed by a multi-disciplinary team? - In the ideal world they will have, yes.

And tell me if it is just the ideal world, but usually at least, would there be features such as monitoring of the individual? - Yes.

Discussion with him and between the team managing his.....? - Yes, there would be regular contact with the patient and monitoring of the individual and his symptoms.

And from time to time, positive intervention by perhaps hospitalisation, medication, discussion with relatives and so on? - Indeed.

The purpose of it being hopefully to head off or prevent crises and problems? - That is correct, yes.

So in so far as there may be a predictive element to the management of the patient, no doubt amongst other things that would be based upon the in-gathering of a large amount of information about that person? - You require information, a large amount, yes.

And hopefully a good working relationship between the doctor and his patient? - That is correct.

And again, preferably, would I be right, short time spells between one appointment and the next? - Indeed.

I think you touched upon in your report the question of the extent to which predictive assessment/

assessment can be carried out by self-assessment by the individual himself? - Yes.

Would I be correct in understanding that there are very serious limitations about the use of questionnaires and the like? - Definitely; certainly that is my opinion. Many of the characteristics we are interested in cannot be measured reliably using self-report measures.

Not only do they rely upon the accuracy of the responses? - Yes.

Necessarily they involve a pre-determined set of questions rather than perhaps one which would arise if one was speaking to the person? - That is correct, yes.

Also, they omit observer judgment? - Yes, which is critical.

And again, by their very nature, do not permit the therapeutic or management intervention, or may not do so? - May not do so, but often these are used as part of a screen before you engage in more detailed interview of the individuals, but one has to make judgments about the reliability in each individual case.

So in the context of firearms licensing, you perhaps would not be an advocate of psychometric self-assessment? - Certainly not.

Am I correct in understanding from your evidence and from what we have heard from others, that so far as mental illness or a change from a peaceful to a violent person is concerned, this can happen in unforseen and unexpected ways, sometimes over a relatively short period of time? - That is possible, even whether there is mental illness involved or not, I think.

And of course, peoples own domestic situation may change quite dramatically over short periods of time? - Yes, and that can cause an increased risk of future violence.

And I take it depressive illnesses and the like can come on almost at any time over a short period of time? - Some illnesses can on-set rapidly,/

rapidly, yes.

So a firearm in one individual's hands today may be satisfactory, but next year the position may be very different? - That is correct, yes,

Which in itself may give rise to concerns if firearms licence holders are reviewed only every five years? - That is correct.

But it follows from what you have been saying, even a reversion back to the old system of three years, or perhaps even yearly reviews, nonetheless would not necessarily identify the problems we have just been discussing? - I would agree with that, yes.

Stop me if this is outwith your area, but in general terms, would I be correct in understanding that many deaths from firearms include suicides? - I wouldn't claim to be an expert on that.

But it is presumably common knowledge that a proportion of suicides have been committed by firearms? - Yes, indeed.

So any improvement of controls on firearms, in addition to perhaps having an effect on gun homicide, may also have some knock-on effect on suicide rates? - Potentially there is some evidence in the studies I quoted which suggested that may be the case.

Am I correct in understanding that fortunately very few suicides are also what is known as an extended suicide or someone who takes other individuals lives along with his own? - Yes, that does occur, but again I am not an expert in that particular field.

So as to whether Hamilton fell into that category, that is not a matter for you? - No, but I should say that suicide following murder is not an unknown phenomenon. There is literature on that.

So one question that may arise in that context is whether the decision to commit suicide was formed in advance of the murders or immediately afterwards?/

afterwards? - Yes.

As to which category Hamilton fell, that is not something that you have applied your mind to? - I would speculate that he formed the intention before he killed the other people, and that is purely speculation.

Based upon what? - Primarily the fact that he changed weapons before killing himself, which seems ritualistic in some way, but it is speculation.

I won't press you on that because I think another professional may touch upon that, but thank you for your comments; so one conclusion we may draw, that might be drawn from your evidence is that psychological assessment is not a complete answer to any public concern following upon Dunblane? - Yes, I would agree with that.

Therefore, if that public concern is to be addressed, one needs to consider other methods of control? - Indeed.

With regard to your first report, in that context one alternative method of control which you point to is situational control? - That is correct.

The most obvious of which, if I have followed you correctly, is the restriction of the availability of lethal weapons? - Yes, indeed.

Can I ask you to turn to Page 22 of the first report please? Is that a passage in your report headed "Not all errors are equal"? - Yes.

You tell us that "The available evidence suggests that mental health professionals are conservative and tend to recommend the detention of patients who in actuality have a low likelihood of violent recidivisms"? - That is correct.

"That is, mental health professionals tend to make 'false positive' errors rather than 'false negative' errors"? - Indeed.

Could that be described as, for obvious reasons, a safety first philosophy? - That is correct,/

correct, yes.

You go on "In the context of a secure psychiatric facility a high 'false positive' rate has to be carefully monitored as significant issues are at stake; the decision must balance the liberty of the patient with the protection of the public"? - Yes.

You go on "In the current context, where decisions may have to be taken regarding access to handguns or access to children's activities, judgments about acceptable errors may be easier to make. In this case public safety is not being balanced by the unreasonable detention of an individual in a secure facility, but merely by the removal of the opportunity to engage in interests, namely shooting or running children's organisations. If screening is introduced it should be designed to have a low 'false negative' error rate even, as is inevitable, this is at the cost of a high 'false positive' rate"? - Indeed.

Do I correctly understand that as a recommendation that in this particular context, the philosophy should be safety first? - Absolutely.

So that is both in the context of running children's organisations and firearms licensing? - Indeed.

And would I be correct in assuming that safety first philosophy should apply to the general regime of firearms licensing and also to dealing with a specific individual? - Could you clarify the question for me? I am not absolutely sure what you are asking?

I will take it out and start again -- a safety first philosophy may have effect in considering what the overall regime of firearms licensing ought to be? - Yes.

Would that be an appropriate approach? - In my opinion it would be, yes.

Similarly, once a firearms licensing regime is in place, it requires to be implemented or enforced in a particular individual's case. Would the same safety first philosophy apply? - Very much/

much so, yes.

So would that suggest that in the context of a specific case -- I am not meaning to talk about Hamilton particularly -- but just generally, there may be considerable benefit if those involved are alert to any personality trait or characteristic that might be a cause for concern? - Yes indeed, it would be helpful.

And putting the matter at the very minimum perhaps, it may at least suggest the need for further careful consideration and investigational examination? - Yes, other examinations.

Your report dealing with Hamilton himself, while subject to the various caviats which you have made very clear, you appear to have reasonable confidence that he did demonstrate paedophile tendencies? - Yes indeed.

Bearing/

10.20 a.m.

Bearing that in mind, could we look at page 16 of your report, the more general report? - Yes.

In the middle of that page you have a little diagram overlapping some ellipses; psychological factors in one ellipse, situational factors in the other, then an overlap headed "Violence"? - Yes.

One situational factor I take it we will have in mind in the generality is whether or not the individual has ready access to weapons? - That is correct.

Let us assume for the moment that so far as psychological factors are concerned that individual is a paedophile or has paedophiliac tendencies? - Yes.

Let us also assume that he runs boys' clubs and let us assume those boys' clubs have given rise to numerous complaints by parents and others in society? - Yes.

Might that give rise to other relevant situational factors in relation to paedophilia or in relation to violence?

I am thinking primarily in terms of risk of violence. Is it possible for example that a parent outraged by what has happened confronts Hamilton? - Yes, and that might escalate into violence.

If the paedophile is confronted by an outraged parent and the paedophile has ready access to firearms, that is a situational factor which one requires to bear in mind? - Yes.

So it is perhaps not possible to put paedophilia into a separate category from any concern over violence where there is ready access to weapons? - Yes. As with all human beings, we have to consider a whole range of factors when making a judgement.

We have heard some evidence -- I am not sure/

sure if it has been communicated to you -- to the effect that at his clubs and summer camps Hamilton appeared to display no -- and I stress "normal" in this context -- no normal kindness or affection towards the boys, even if they were homesick or upset, whereas you or I might comfort a child in a perfectly normal way. There did not appear to be any characteristic of this nature in Hamilton's make-up? - I was not aware of that.

If that is the position does that add anything to your knowledge of him? - It adds weight to the view that he lacked empathy, which I have stated in my second report.

Turning to page 10 of the second report, you are dealing here with sexual sadism? - Yes.

In the middle of the paragraph you make reference to a work by Brittain in 1970? - The first report?

The one on Hamilton specifically which I have been calling the second report, because it is the second one you mentioned? - Yes. On page nine?

Page 10? - Yes.

Just to avoid any confusion, this is the report dealing specifically with Thomas Watt Hamilton, page 10? - Yes.

In the context of sexual sadism you make reference to some work by a gentleman or lady called Brittain in 1970? - A gentleman; yes.

This suggested that sexual sadists' interests in weapons is unusual? - Yes.

It says ".....they" -- that is the weapons -- "have an attraction for him far beyond what they have for an ordinary collector, and he may 'love' them, handling, and in the case of firearms, dismantling them and cleaning them for long periods of time. He has strong feelings about them, they have special favourites, and he can even have 'pet' names for these".

LORD CULLEN: I think you are quoting quite correctly, but from the other report, Mr. Campbell./

Campbell.

MR. CAMPBELL: Am I? Oh, dear. The confusion is entirely mine. I do apologise.

CROSS-EXAMINATION CONTINUED BY MR. CAMPBELL: I am sorry, Professor. It is your report on the psychological perspective? - Yes.

Page 10? - Yes.

The question I want to ask you is this. In the case of a person such as this is such a person more attracted to guns in the first place or does his attraction come after the guns have been made available to him? - It is difficult to know. As I tried to indicate yesterday, these conditions are relatively rare, and I think it is most likely that the interest in weapons is there first, and people seek access to them.

If I revert again for a moment to Hamilton as an individual, you told us he had paedophile tendencies? - Yes.

And you told us a considerable amount of other things about him? - Yes.

Is it a pure coincidence that he was also interested in guns? - Because he was interested in paedophilia?

Yes? - I think the majority of paedophiles would not necessarily be interested in weapons.

So there is some other trait or aspect to his character which explains his interest in guns? - Yes.

We have heard some evidence that he occasionally called his guns his friends or his babies? - Yes.

Does that seem to bear some relationship to what Brittain was talking about? - Yes, it seems to fit with what Brittain is describing.

We also have heard evidence that Hamilton would occasionally talk about his guns or his clubs and/

and rifle clubs, ammunition and the like, to the children in his care. We know of at least some instances where he has gone out of his way to show his guns to children in their homes? - Yes.

From the child's perspective, would that have any influence upon how they regarded Hamilton and his behaviour towards them? Not only did he run these clubs and camps in the way in which we know you have told us about, but these children knew he was a man who had guns. Would that have any bearing upon how a child viewed him? - It is difficult to know, to speculate on that. Many young boys are interested in weapons and guns, and they may have been fascinated by what he was showing them.

If we have agreed this is -- and there is just some evidence of this; I appreciate not a lot -- somebody who has exhibited paedophile tendencies towards young children, might the fact they know he also has a gun have some influence on the way they respond and react, or is this just too speculative? - I think it is just too speculative.

Still on the same report we were looking at a moment ago, and still on the context of sexual sadism, over the page at page 11 we read this: Brittain again in 1970 indicated that murders carried out by sexual sadists are generally planned days or even weeks ahead. "They frequently have low self-esteem, and Brittain contended that their acts of violence frequently occur when their self-esteem is challenged"; is that correct? - Yes.

According to Brittain they "May be vain and egocentric: 'He would rather be notorious than ignored'. His acquaintances may consider him to be 'strange', 'off-beat', 'twisted', 'a loner', 'kinky' or 'a weirdo'"? - Yes.

Here again do we have echoes of some of the material known about Hamilton? - Yes, I think that is the case. The evidence suggests that there were witnesses who felt he was strange. I can't remember the phrase that they used. Secondly, there seems to be good evidence that he was planning or he may have been planning this several months beforehand.

I think there is also, would you agree, some/

some evidence that his self-esteem may have been challenged by the rumours and gossip and police investigation into his conduct? - Yes. The fact that fewer boys were going to his clubs, he had been refused access to places to run his clubs, all these things would have an impact on his self-esteem.

It does appear he took considerable offence at, for example, the police investigation into his conduct; is that correct? - As far as I understand, yes.

Likewise, there would appear to be a degree of social ostracism in his immediate community? - Yes.

At the foot of page 11 in the text of "Poor Anger Control" you tell us that certain individuals may be provoked by for example frustration, perceived injustice or by the perception that they have been treated without due respect? - Yes.

You say "Their responses may be in the form of angry thoughts, physiological arousal or angry and violent behaviour, or indeed combinations of these three classes of response"? - Yes, indeed.

Again does the evidence concerning Hamilton indicate somebody who was constantly conversing in a somewhat unreasonable and aggressive fashion? - Yes. I suppose in terms of the number of letters of complaint he wrote it suggests he was somebody who complained a lot when he was angry.

So when it comes to not only assessing the personality of an individual but more generally in the context of assessing for example his fitness to be entrusted with firearms, would it be important to have regard to the cumulative picture built up over the years about that individual, rather than concentrate on individual episodes? - Yes, it is important to have the history.

And that would be of importance when assessing for example risk factors arising from his possession of weapons? - Yes.

CROSS-EXAMINED BY MR. GIBB: Just one point/

point that has not been covered. GPs are at the moment sometimes asked to be counter-signatories? - Yes.

And one recommendation from the Chief Police Officer is that a medical report should be provided with any application? - Yes, a medical report.

Over and above the question of counter-signatory, that medical report would require some sort of professional capability on the part of a GP to assess personality and psychology. To what extent do you think GPs have that training and ability? - It is not only personality and psychological characteristics that need to be assessed; you would need to have knowledge of all risk factors of violence of paedophilia, which is not part of the training of GPs, and I doubt whether they would have the expertise to carry out the task.

So you think the position of a medical report from a GP in itself would be relatively worthless, because they would not have the training to assess particular characteristics? - I don't think they have the training to assess the risk of violence.

I suppose it would be very difficult in terms of the psychology for a report to be prepared by a specialist such as yourself? - Yes. I tried to make clear in my report that we probably do not have enough trained people to carry out risk assessments in relation to people being released from special hospitals or even from prison, so I don't think there are available experts to do this at the moment.

How many meetings would you need with an applicant to carry out a risk assessment? - In what context?

For the purposes of a firearm certificate, if an applicant was required to produce a medical report, and that included a risk assessment? - I think I have tried to indicate this. It seemed very difficult to predict within the community, where the rate of violence is very low. If one was to interview someone you would need several sessions and access to lots of collateral information/

information before I could make a realistic estimate: but then there is always errors.

So would you think the practicalities of producing a medical report with every application or renewal of a firearm certificate -- do you think it would not be practicable? - That is correct.

CROSS-EXAMINED BY MR. TAYLOR: If you would have the report which you prepared in relation to Mr. Hamilton with you, I am interested in what you say at the top of page three in the first paragraph on that page. You say that there is a natural human tendency to explain events, and you refer to "effort after meaning", which you say may result in significant distortion in the recall of events? - Yes.

In what way is the recall of events likely to be distorted? - Memory processes are active processes. It is not like putting information into a computer, which should come out the same way as it goes in. Things which happen subsequent to memories can change the memories, and they can come out in a different form. Can I give you an example of one of them?

Please do? - One study was looking at the cases of Downs Syndrome. This was in the days before people knew it was a chromosomal abnormality. They asked mothers of Downs Syndrome children to count how many frightening experiences they had had, and shocks, during their pregnancy, and they found these mothers had three times as many shocks as people who had no Downs Syndrome children. Now, these mothers were trying to explain what had happened by reorganising their memories. This is a well-established phenomenon, which has been recognised for 60 years.

Applying that to the particular events that we have been looking at at this Inquiry, how do you consider if at all the witnesses' recollections will have been affected by the events of the 13th March? - It may be they can selectively recall parts of Hamilton's behaviour. One witness I think described him as cold, unemotional, like a robot. Now, if you have heard what he has done you may re-interpret what his behaviour was like. Of course, psychologists are not immune from it either, or anyone/

anyone else for that matter.

In a sense, what you have been asked to do in the course of this exercise is different from that which you would normally do? - Yes, indeed.

We have been dealing with an event, and we have asked you with hindsight to go back through the personality of an individual and make some sense of it? - Yes.

Whereas normally you would have the personality and try to predict what the future would be? - Yes.

Just how difficult does that make your task in doing what you were asked to do in the second of your two reports? - It makes it quite difficult. You have to balance the evidence as it is presented as I say in my caveats to begin with. It is a difficult task, and one cannot be expected to explain the whole lot.

Yes? - It may have been different if during the risk assessment Hamilton had shown some evidence of threat control mechanism or clear psychopathic traits, but there doesn't appear to have been that in the evidence.

I was interested in some of the descriptions or the labels which you attached to Hamilton? - Yes.

And one of these labels which appears from time to time in your report is that of him being a loner? - Yes.

What do you mean by the use of the label "a loner"? - He seemed to have very few relationships outside his family. His adult relationships seemed very tentative relationships, and they were not close relationships. From the evidence it seems he did not necessarily disclose things to other people, he did not seem to share his thoughts of violence with other people.

We have heard some evidence to the effect that he visited certain individuals on a very regular basis, to the point that they called him I think a pest. Were you aware of that? - Which people?/

people?

In fairness, I will refer you to the transcript. If you could have the transcript from Day 5 available, and look at page 593? - Yes, I have it.

Right down at the very bottom of the page, the witness, who was a Mr. Anderson, is asked "How often did he call at the house?", and the answer is "To the extent where he began to become a bit of a nuisance, like three to four nights a week"? - Yes.

If you could put that to the side and look at the transcript for Day 3, and in particular page 287, this is the evidence of a Mr. David MacDonald, and in the middle of the page just before the letter C he is asked "Did he phone quite a lot?", and the answer is "He" -- that is Hamilton "did phone me quite frequently, yes, and eventually it got a bit wearing having so many phone calls"? - Yes.

Then if you jump to the bottom, just after the letter E, "So from 1990 right up to 1996 did he continue to keep in touch with you?", and the answer is "Yes". Then he is asked "And how frequently during that period did he speak to you on the phone?", and the answer was "It was maybe a couple of times a week, something like that"? - Yes.

And/

10.40 a.m.

And if we could then look at one more transcript in this connection and that is Day 16 and page 1985. I think this will be a transcript which you will not have had sight of? - No.

You have had sight of the transcripts of Days 1 to 5? - That is correct, yes.

This is Mr. MacFarlane giving evidence and just above letter B he is asked "Q.- Through the 1980's did Hamilton continue to call on you from time to time? A.- Yes, he did.", and then at letter C, "Q.- What about the length of time? A.- Well, they would sometimes go on for about three or four hours in which time he consumed about half a dozen cups of tea and I think every chocolate biscuit you had in the house."? - Yes.

Now, if one takes those passages of evidence and looked at them, does one still become entitled to consider Mr. Hamilton as being a loner? - I think so, because I think we are looking at the quality of the relationship as much as the contact. I mean, there doesn't seem to be any evidence of a close, confiding relationship. At page 1985-B he says "You couldn't carry on a conversation with him". I think Mr. MacDonald referred..... if I have got the correct witness but I may not, I think he referred to it as a telephone relationship at one point.

Yes, that is correct? - So he appears to talk at some people but he doesn't seem to have a close, confiding relationship where he discloses things. In a sense that is what I conceive as an important element of a relationship with other people in regard to forming a relationship of a meaningful type.

Now, in your report you indicated that you considered that there were some traits of him having a sadistic personality disorder? - Yes, indeed.

And I think we will find these traits set out at page 8, is that correct? - Of the report on Hamilton?

Yes, the Hamilton report? - Yes, indeed.

And/

And am I right in thinking that these are the traits which are set out in the first complete paragraph of page 8, the paragraph starting "There is evidence that....."? - Yes.

And where does the evidence conclude in relation to ascertaining whether or not he had this disorder? - Page 9. The second paragraph.

I wonder if we could just look at some of that evidence. You indicate that as part of the examination one has to draw that Hamilton has become amused or gained pleasure from the suffering? - Yes, that is one of the characteristics one might look for.

And is that the characteristic which you were looking at in respect of the analysis of his behaviour? - Yes, that is one of the characteristics.

What were the other characteristics? - Well, for example, restricting the autonomy of other people. The interest in guns and so forth.

I wonder if you could look at the transcript for Day 3, Volume 3 at page 276. This is the evidence of Mrs. Ogilvie who was one of Mr. Hamilton's neighbours. Just below letter C she is asked first of all "Q.- So that on the occasions when there was some conversation between you, who was it that started the conversation off? A.- It was him and I nearly jumped out of my skin. Q.- Can you remember the first time that happened? A.- Well, if I was maybe out the back hanging out my washing, he was there. I never heard him coming but he was there and he would speak and I just got a fright and I would talk but then I just left him."? - Yes.

What in that passage which we have just looked at gives rise to the view that Hamilton derived amusement or pleasure from any conversation or interaction which he had with Mrs. Ogilvie? - It is ambiguous but I thought there was perhaps a possibility he was doing this deliberately but I admit it is ambiguous.

Well, where in that can one define that Mr. Hamilton might have been doing it deliberately? - Well, when she said "he was just there", it sounds/

sounds as if he had come up behind her and surprised her.

The other aspect which you talked of a few moments ago was the way in which he restricted his grandfather's or adoptive father's movements in the house? - Yes.

Did you read the statement from the grandfather, the adoptive father, Mr. Hamilton? - Yes, I did.

I wonder if we could look at that. It should be in one of the volumes which you have before you. It is in the second day. We have already referred you to Day 2. I think it is set out on page 210? - I have it, yes.

Page 210 just at letter E I think the passage which you might have had in mind can be found. Mr. Hamilton says "On 24th August, 1992 I moved out of Kent Road and into sheltered housing accommodation. The reason I moved out was that Thomas began to take over the whole house, he moved all my personal possessions and items of furniture into my bedroom, some pictures I had on the wall and my telephone and other personal items. I just could not be bothered with it all and went to Stirling District Council and they arranged for me to move". Is that the passage you had in mind? - That and also I think there was a witness who suggested that Mr. Hamilton's adoptive father was restricted in terms of his access to the house. He would come home at night and would be kept outside for 20 minutes and so forth. So that together.

Yes, that was Mr. Dewar? - Yes.

Considering these passages did you also have regard to the evidence given by Mrs. Watt and Mrs. Watt's friend, Mrs. Sutherland? - Yes, I'm aware of that.

You see, on page 204, and I don't think it is necessary for you to have this passage before you, Mrs. Watt indicated that.....she is asked "Q.- In general terms what was the cause of the disagreement? A.- I can't tell you, I don't know, they just kept arguing; you see, my Daddy drinks and he used to come in and Tommy would be in his bed and/

and he used to wake him up and start arguing with him"? - Yes.

And Mrs. Sutherland was asked a similar question at page 207 on Day 2. "Q.- Did you ever see him in recent years in the company with Thomas Hamilton?", he being the adoptive father? - Yes.

And the answer was "No, never". "Q.- What sort of relationship did you understand they enjoyed? A.- Very bad. Q.- What was the cause of the problems? A.- The father's drinking."? - Yes.

Couldn't we find another explanation, perhaps a perfectly innocent explanation, for Hamilton's conduct towards the adoptive father? - That is one possible explanation, yes.

And is it just as likely an explanation as the explanation which you advanced, being a function of his personality trait? - No, I think the evidence of the personality trait is based on more than just, you know, the relationship with the father. I mean, it is the interest in guns and I think the lack of empathy which we have heard evidence of and so forth. So, I mean, in all human situations there are complex factors involved. Drinking might have been a factor and personality might have been a factor but again we can't necessarily add weight to which one is the most important but probably a combination of things.

In attaining the Degrees and qualifications which you have told us about yesterday, you would have spent a considerable amount of time in study and learning presumably? - Yes.

Can you say for how long you studied? - Six years full-time and five years part-time doing a Ph.D.

Would much of that training have been directed towards analysing the behavioural patterns of individuals and drawing conclusions therefrom? - Much of it would be, yes, and in the treatment and management.

And thereafter the treatment and management,/

management, I appreciate that? - Yes.

So you would be looking at events and drawing conclusions from them, which perhaps I might not be able to do, as a consequence of the training which you have had? - Perhaps, yes.

You have been asked to paint a picture of Hamilton and you very fairly told us of the difficulties in so doing, given the manner in which one must now do it. Can you tell me what base information you had about him? What material did you have before you when you were trying to paint a picture? - Essentially I had the transcripts from the first five days of the Inquiry, I had access to the video tapes, extracts of video tapes of Hamilton and I had access to some of the summaries produced by the police during their investigations and I think I note this in the introduction to the second report.

I beg your pardon, if you have done that I apologise if I have overlooked it. Yes, I do beg your pardon. I see that there? - I also discussed the case with Detective Chief Superintendent John Ogg to get an over-view of the evidence.

BY LORD CULLEN: Just one matter perhaps I can ask you about before you are re-examined. You were asked some questions by Mr. Campbell dealing with the matter generally about situations where violence might erupt and one situation would be in the process of confrontation? - Yes.

I can see how a person might react in some situations where he was faced with somebody else who was, let's say, beligerent or complaining? - Yes, indeed.

Now, in the case of Hamilton we seem to have a number of insights suggesting that in confrontation he was extremely cool, if not cold and highly controlled. I hope I am correctly representing the evidence. For example, I don't know if you have read about this but we heard of evidence where two women deposited rubbish, noxious substances, on him? - Yes.

And his response was extremely restrained. No/

No complaint, no kind of reaction at all? - Yes.

Do you know the incident I am talking about? - No, I am not aware of it. Oh, yes, I am. I beg your pardon. Yes, I know the incident.

The two ladies, Mrs. Haggar and somebody else? - Yes.

Now, does that tell you anything about his characteristics in that situation for a start? - It is quite interesting to Megargee, who I refer to in my report, who has classified different types of violent offender and describes people who are what he calls over-controlled personalities. These people are often timid, unassertive, individuals who don't appear to react in the way that Hamilton didn't appear to react. They can tolerate or they appear to tolerate a lot of provocation without reacting but when they do react they react in a very dramatic way. Megargee describes this and the evidence for it in the literature is not very convincing and certainly clinically I think I have only seen one case in my career.

Is he one of the authors in your report? - Yes, Megargee. He describes an over-controlled personality. There is not full agreement that this exists in the psychological community but he insists that it does.

We have also had him described as being somebody who planned things very carefully? - Yes.

Perhaps I should not extrapolate this too far but would that tend to suggest that in his case if there was violence it arose out of calculation as it were? It was fairly cold and calculated? Is that a fair reading rather than an instinctive response? - Yes, it appears from the evidence I have that it was planned and it was cold and calculated.

I don't want to misrepresent what you have said? - No, I would agree with that.

RE-EXAMINED BY MR. LAKE: Just to return to a matter which was raised as possible confusion yesterday afternoon. In the conclusion of your first report you conclude that psychological risk assessment/

assessment would not provide a satisfactory basis for the prediction of violent behaviour in individuals of a community, is that correct? - That is correct, yes.

That is both because of the accuracy rate of such tests in a community setting? - Yes.

Or because of the practical difficulty in carrying out sufficient tests? - That is correct.

At the same time, I think you said in your evidence that certain factors, the ones you take into account in assessing that Hamilton could suffer from a sadistic personality disorder, might have been sufficient to ring alarm bells in relation to both the possession of firearms and having care of children? - Yes, indeed.

In a situation where you might not regard these as being sufficient to permit you to predict violence, on what basis do you consider that they would have rung alarm bells for you? - Well, I would be concerned that someone like that would have access and the opportunity to engage in paedophilia or to have access to handguns.

On/

On what basis would you be concerned that they had access to handguns? What would your concern be if they had access to handguns? - Are we talking about sadistic characteristics?

Someone who displayed the characteristics which you have taken into account? - What characteristics? Say psychomatic personalities?

If I refer to the characteristics in particular, I think they are contained in the second of your two reports and they run from the foot of Page 7 through Page 8 to the top of Page 9, and I think those are matters I put to you yesterday in regard to ringing alarm bells, and you said yes? - Yes.

Why would someone who displayed those characteristics give you concern if they were to hold a firearm? - Well, it seems to me that they enjoy dominating other people and humiliating other people, and the use of the firearm potentially could be used for that purpose.

And is that because all the characteristics come together or is it any one of them would produce that? - The characteristics of sadistic personality disorder?

The ones enumerated here? - Well, they are all linked; they are all inter-correlated; they tend to occur together because it is a cluster syndrome, so the fact that he has a particular way or style of inter-acting with other people would make me concerned.

And that concern would exist notwithstanding the fact you didn't feel able to say that you would predict this as being someone who would commit a violent act? - Yes; it is a different threshold of concern.

I think you said in response to a question by my learned friend, Mr. Campbell, we are dealing with two different things here, and these two different things you have in mind, on the one hand predicting violence and on the other hand safety/

safety with a firearm? - Yes, I think these are two distinct concerns, yes.

I don't want to push you into saying more than you wish here, but do you feel able to say that even although you might be able to provide an accurate prediction of violence, you could identify people who would raise concerns that they would have firearms by psychological means? - Yes, I think you could, but you would have a very high "false positive" rate. Supposing someone comes along and they are experiencing major psychotic symptoms or are psychopathic, psychopathic people don't always go on to be violent, but would be a risk factor, and I would suggest that those people should be excluded from having firearms, but it doesn't mean that I would necessarily predict that that individual would go on to be violent, but that class of individual is at a higher risk than other people.

I may be asking too much, but could you estimate what proportion of "false positives" might arise if such a broad approach was to be taken to excluding people from having Firearms Certificates? - I don't have the necessary information about personality disorders in the general population.

Is that something which might be available in the document that is published next week? - From the American situation, but I think those are different. We know there is great cross-cultural differences in the rate of psychopathic personality disorders, much higher in North America than in this country, fortunately.

Fortunately for us? - For us.

If I could refer you now to the report on Hamilton? - Yes.

On Page 8, at the end of the paragraph relating to Hamilton getting amusement or pleasure from the suffering of others, you say in the sentence there "There is no evidence of cruelty to animals"? - That I am aware of.

Is that actually a matter that you were aware of, because there has been some evidence arisen in transcripts which was not sent to you, that there has been some evidence that Hamilton used to/

to engage in something called "bunny hunts" where he would go out in his car trying to catch rabbits in the headlights trying to startle them and then run them over? - I wasn't aware of that.

Would that be a material factor in your consideration? - He was doing this as an adult presumably?

A young adult? - Yes, that would cause me some concern, yes.

Do you consider the events of the 13th March indicate a sudden and dramatic deterioration in Hamilton's -- it might be colloquially said that he had flipped -- or part of a continuing process? - I think it is probably part of a long-term process. I think he had personality difficulties. There was evidence that he was planning this at least two months beforehand, tentative evidence of that, so I don't think he flipped, no.

Taking the factors you do know about Hamilton's behaviour in relation to children? - Yes.

Which I think we have had referred to as being elements of cruelty in hitting them, a lack of care, if those matters were made known and referred to a Council, would you be able to advise them after an interview or certain other investigations as to the suitability of that person having access to children? - It depends on the quality of the information you get and the extent to which the person being interviewed cooperated at the interview. I think, as I indicated yesterday, paedophiles, even those who are convicted, will deny their behaviour, so it is very difficult to determine from an interview.

If it is a matter on which the local authority had expressed some concern, and said to someone he would not be permitted access to children unless he were to submit to interviews, and he would not be allowed access until someone in your position expressed that they were satisfied that it was safe for him to do so, do you think you would be able to express such satisfaction that it was safe for him ever? - In a sense it depends what investigations I am allowed to do.

What/

What investigations would you require to do? - I would need detailed information from background sources and I would need to be able to interview the individual for some considerable time and I would need to use some indirect measure of sexual arousal such as we referred to.

And that was quite intrusive? - Yes; penile measurements in response to pornographic pictures.

LORD CULLEN: Thank you, Professor. I am very much obliged to you for your evidence and the very great amount of work you have put into your two reports.

HUGH DILAHAY DAVIES (67), Sworn:

EXAMINED BY MR. BONOMY: Are you Hugh Dilahay Davies? - I am, sir.

And are you the immediate past President of the Association of Police Surgeons? - That is correct, sir.

What age are you? - 67.

What are your professional qualifications? - Master of Arts; Batchelor of Medicine; Batchelor of Surgery, and holder of the Diploma in Medical Jurisprudence.

How long have you been practising medicine? - Since 1955.

And how long did you practice as a police surgeon? - 37 years.

Have you now retired from that? - I am retired as the Principal Police Surgeon to the Northamptonshire Force, but I am still used as consultant by Northamptonshire & Warwickshire Police, and occasionally other police forces.

Are you used independently as a consultant by those acting for say the defence of an/

an accused? - Oh yes.

In that capacity, do you describe yourself as an independent consultant forensic medical examiner? - I do.

That is an expression I don't think we are very familiar with in Scotland. Is it an expression, "Forensic Medical Examiner" which is used commonly in England? - It's now becoming more common. It started with the Metropolitan Police about 10 years ago when they re-named their police surgeons forensic medical examiners because the doctors and the police did not want to be seen as being too partisan to the police.

So it was a cosmetic change of name? - A cosmetic change of name; I think up here in Scotland they are still called police surgeons.

To be a police surgeon, do you need to belong to the Association? - No. The membership of the Association is for police surgeons, but there are a large number of doctors who are in general practice, and unfortunately do not do much police work and they do not need to join the Association. This is a view of course with which I do not hold.

Are your members largely full-time police surgeons then? - No; our doctors are generally medical practitioners who have taken extra post-graduate study in forensic medicine in order to deal with the work that they do.

So is there a normal additional qualification to do the job of police surgeon? - Yes; the qualification which you should have is the Diploma in Medical Jurisprudence.

And is that organised by one body, or can that qualification be obtained in a number of places? - No, it's only obtained in London through the Society of Apothecaries, but they do also -- the Society does have examinations in Australia, and they are this year having an examination in Hong Kong.

So can I take it from what you have said so far that the majority of police surgeons in the country are General Practitioners who do the job of police surgeon part-time as an additional element in their/

their practice? - That is correct.

Their experience will therefore vary according to where they are really? - It will indeed.

Can you tell me the size of the Association, the membership? - Yes, just over 1,000.

And can we compare that with the number of police surgeons there are in the United Kingdom? - Well, it is difficult to be accurate on this, particularly as in some areas the police do not appoint police surgeons with a contract, but they call on the occasional general practitioner to come occasionally to do the work. We estimate that there are something like 2,000 members who are called upon by the police to render medical aid.

The reason you have been invited to give evidence here is to see whether there is a role for the police surgeon and indeed the general practitioner in the process of deciding whether or not a person should have a Firearms Certificate. Now, you will be familiar yourself with the role that a general practitioner, quite apart from a police surgeon, may play in that process at the moment. He may be in the category of person who might sign or countersign an application for a Firearms Certificate in the sense of supporting the application, but we have heard some evidence already in the Inquiry that there are circumstances in which the police may obtain consent from an applicant or holder of a certificate and approach his general practitioner for information. Now, do you have any direct experience personally of dealing with applicants for Firearms Certificates and either supporting their application or providing information to the police for their consent? - Yes, I have, considerable, because I live in a country area outside Northampton and I think I have been signing and countersigning applications for Firearms Certificates for many years.

Does the role of the doctor as a potential countersignatory create any difficulty for him in his practice? - It isn't personally to me, but I could quite easily see how it could, and I personally would be -- I agree with doctors that we really/

really shouldn't do this job of countersigning.

Why do you say that? - Well, it could upset the doctor/patient relationship. If one of the people that I have signed certificates for -- if I had said to him "Look, I don't think you should have a certificate because you are mentally unstable; you have got a short fuse", he may well
-- it would first of all break up the relationship, but he might even be the sort of person who could take revenge on me.

So/

So it then places us in an uncomfortable position. I think the only thing you can do under these circumstances is make up some excuse as to why you can't do it.

You will be aware that the medical profession in general through the BMA in particular have expressed concern about being involved in some positive role in the process of certification for firearms holders, and I take it you understand that concern? - I do.

We will perhaps explore later this morning whether there is a negative rather than a positive role for the doctor. Am I right in saying that the Association which you represent see a role for its members in the process? - Yes, we do.

Will you tell us what is the role that you envisage for your members? - Have the Court got the document I handed in this morning, the flow chart of our ideas?

Yes. This will be R66. Do you have your own copy? - Yes.

That is the one which shows the things which you envisage taking place? - That is correct.

Would you find it best to use this in illustrating how you see the police surgeon playing his part in the process? - I would like to refer to this.

Please do, and take us through it? - We see in the Association that the police surgeon or forensic medical examiner, that is the medical examiner to the Chief Constable, can play a useful role as a preliminary medical screener. By this we mean that when the person applies for a firearm, in his application form it would include the bona fide reason for the need to have a firearm, such as occupation, field sports, member of a gun club. In addition to including that reason the application form should have a medical questionnaire which the applicant can fill in.

Yes?/

Yes? - This medical questionnaire would be similar to the type of thing which was filled in when you apply for a life insurance or a sickness insurance policy, and of course there would be legal penalties for false declarations or failing to disclose? - Yes. That questionnaire would be seen by the police surgeon, and with that he would write to the person's general practitioner or any other appropriate doctor who is mentioned in the questionnaire, and get a medical report.

Yes? - We envisage that the vast majority of medical reports, there will be no problems, and we can inform the Chief Constable that there are no problems, medical problems, with this application.

Can I interrupt you at that point to establish what information you envisage getting from the named doctor at that stage? - Any serious illnesses, particularly illnesses which might affect one's mental capacity. Also, there is an advantage. If one is writing to a general practitioner, that general practitioner as a family doctor has an insight into the personality of the person making the application. For instance, he may, to use a phrase I have used before, have a short fuse, he might lose his temper quickly, he might beat up his wife or kids, there may be something about him which the GP would like to communicate to another doctor, but at the moment under the present system he is unable to do so.

Now, this would require a specific form of mandate to be completed in the application form; is that correct? - That is correct.

And it would also involve the GP or family doctor not having to make a judgement himself? - That is correct.

However, it does also involve inviting him to say things about his patient which are to some extent based on general experience of him rather than answering a medical question; is that right? - To a certain extent, yes.

Now, whether or not you get that information I presume might depend on the particular general practitioner? - Yes; there would be some variety./

variety.

There could be no way of compelling the disclosure of that sort of information? - No. I think GPs as a whole take their public duty seriously, and as with people who drive cars who are medically unfit, they do tend to try and persuade the patient to report his medical condition to the DVLA at Swansea, or if the patient does not do so the GP does it himself.

I think we are envisaging here a mandate authorising the GP to disclose information to you as a police surgeon; is that right? - Yes.

And therefore once the mandate goes to the GP you would expect him to answer that question, I presume? - I would. And if he felt uneasy, if the GP felt uneasy, I would expect him to tell me. But it is on a doctor-to-doctor basis; there is nobody else involved. Quite often doctors do talk between themselves. In fact when you are referring a patient to a specialist you quite often say things to the specialist you wouldn't say or wouldn't necessarily say to the patient you are seeing.

Now, if we have reached the stage that there are no problems, as you have described it in your flow chart, I take it by that you mean there is no obvious reason to suggest the applicant is unfit to hold a firearm certificate? - That is so.

It is a negative statement rather than a positive one, to the effect that he is fit to hold a certificate; or do you envisage going that far? - I would say from the past history. I don't think it is practically possible to have a full medical examination of every person who applies for a certificate. Apart from the logistics of the thing there is the fact that even a full medical examination by one doctor cannot visualise how a person is going to turn bad later and do something, as has happened here.

Yes? - What I can say is that at least we have done a medical screening, and we have not let somebody through who has got a history of mental illness, schizophrenia, many of the things that would in my opinion be an indication against holding a firearms certificate.

We/

We have been listening to some psychological expert evidence in the last few days telling us how difficult it is to forecast that a person might be violent and how difficult it also is to forecast that a person might demonstrate paedophile tendencies towards children. Bearing that in mind, it is quite difficult to imagine a doctor, even a police surgeon, being able positively to say "This is a man who is fit to hold a certificate", whereas it is easier to understand him saying that there is no obvious reason why he should not hold one? - You have summed it up very well. I entirely agree you cannot say this person cannot turn violent; you can't.

We have got to the stage where the person at the initial screening has demonstrated no obvious signs which render him unfit. If that is not easily determined, what further stages do you envisage in this process? - I think further changes would be either any medical records from a hospital, hospital records, reports from specialists he has seen, and it might be necessary to examine or interview the applicant yourself: I have left that open.

What do you mean by that? - I visualise that possibly rather than one doctor doing it the appropriate specialist might be involved as well, so that there is some further diagnostic exercise.

I think you have actually gone as far as to put in a suggestion of a final medical panel? - That is what I would say, a specialist and a police surgeon. For example, in a case where I suspected there was some mental instability or a short fuse I would sit with a forensic psychiatrist and interview the chap with the forensic psychiatrist probably taking the lead.

Now, you have suggested also in your presentation here the change in the way you envisage the law working at the moment? - Yes.

And you suggest it should be incumbent upon an applicant to prove positively that he is fit to hold a firearms certificate rather than incumbent on the Chief Constable to be satisfied he is not fit; is that right? - That is correct.

And I take it that that suggestion is there/

there because of this whole scheme that you propose, which involves a fairly detailed examination of the fitness of the individual? - Yes.

So that if he fails he does not get the certificate because he has not passed the test, the onus on him, to demonstrate his fitness; is that correct? - That is correct, yes.

All right. So we go through the whole screening. There are a number of possible results at the end of the more detailed process that you envisage. Can you tell us what the possibilities are? - The possibilities are that somewhere along the line you may decide there are no medical problems, and you will inform the Chief Constable that there are no medical problems.

Yes? - There are of course other investigations going on on the police side, and it is the Chief Constable's decision. He has got his police evidence to weigh up as well, and he will certainly have yours, that there appear to be no medical problems.

Yes? - On the other hand, if the medical panel felt that there was a risk or that the person was not medically suitable to hold a licence we would tell the Chief Constable that he was not medically suitable. Now, because of the point of confidentiality we would in these circumstances not give a reason: all we would say is that the patient is not medically suitable.

Now, these are two fairly clear-cut situations. What about the position where you could not put your finger on medical unfitness: you have a plausible applicant -- we have heard psychological evidence that if he is a paedophile he will be plausible and that he will lie to you -- but you have got this gut feeling that there is something there that you cannot nail. How do you deal with that? - That is a difficult problem. I see no answer to it. I am sure you will get cases like that, and I honestly cannot answer that question. But at least you have made some medical enquiry; you have made an effort.

I wonder if the answer is not in your scheme at the moment. If the onus is on the applicant/

applicant to demonstrate his fitness and he has not satisfied you, but you could not actually pin down a specific medical reason, do you see a basis for you, acting responsibly, still saying that you are not satisfied of his fitness? - I think so.

Or is that one that would present your members with real difficulty? - I really don't know the answer to that question for my membership. Speaking for myself, however, I think I would certainly err on the side of caution.

Now, can I ask you to look at the second page of your submission? - Yes.

You have actually told us more or less what is here. In the second numbered paragraph you mention the way in which the material would be obtained from the GP, by using a form similar to that currently used for life assurance medical reports or by the Driver and Vehicle Licensing Authority, but tailored specifically for the purpose of firearms licensing? - Yes.

Now, can you help us with information about the sort of form used by the Driver and Vehicle Licensing Authority? - I have not filled in one of these for many years now, but to the best of my memory the form is filled in by the applicant, and it asks various questions, such as "Do you have any loss of consciousness?" and things like that.

Yes? - This form goes to the DVLA. The DVLA doctors then write to the GP, and they write specifically, saying that the person has mentioned this on his application form, "Can you elucidate further?".

So it is a form used and triggered by the applicant himself disclosing his medical condition? - Yes, indeed.

Now, in relation to firearms licensing am I right in thinking that you envisage the automatic use of this form of enquiry? - Yes. Not necessarily the same form as the DVLA, but one tailored for this situation.

But they are only dealing with particular cases; you would be dealing with every applicant for/

for a firearms certificate? - Yes.

In paragraph 3 you mention at the end that in your assessment you should also be supplied by the police with any other non-medical evidence thought to be relevant? - Yes.

So you envisage the police providing you with information before you advise the Chief Constable? - Yes. The two investigations are going on in parallel, the medical investigation and the police enquiries, and again the police may have some information which is relevant.

And you also in paragraph 5 mention the need for frequency of examination; is that right? "This system should operate as frequently as reasonably practicable"? - Yes.

And it is suggested at one stage that an annual renewal is one possibility, or legislation could be framed so as to place the onus on the GP to advise the police surgeon if the holder of a certificate became for example mentally unwell, or other circumstances had changed? - Yes.

So you envisage either a more regular renewal of the certificate than we have at present or a duty on the GP to tell the police surgeon if certain things change? - Yes.

Now, that raises difficulties of defining the circumstances you envisage having to be disclosed. Is there some easy way to identify these? - First of all, it is very much a matter of political will: but the most important thing is that they have been granted a certificate, and if there is any medical condition that comes up during the time, whether it is for one, two, three years, that medical information should be divulged, preferably by the applicant, but if not, as with driving cases, if the patient does not divulge it then the GP has a duty to do it himself under the provisions.

If we take driving as an example for the moment, is there some sort of recognised category of conditions that have to be disclosed? - Oh, yes; epilepsy is one, loss of consciousness and sudden loss of consciousness, eyesight changes.

Now,/

Now, in relation to firearms what sort of information do you envisage having to disclose, starting with the applicant disclosing them? - Treatment for any mental illness.

Anything else? - Severe body illness, not mental illness, which might affect his clear thinking.

Now,/

11.40 a.m.

Now, one of the problems you have identified about this whole area is that there are statutory obligations nowadays on doctors to tell patients what they are telling other people? - Yes, that is Access to Medical Reports Act and the Access to Medical Records Act. We feel that anybody involved in this process should have exemption from those Acts.

The very last thing you mention in your submission is a central firearms licensing and registration agency similar to the DVLA. Now, what advantage do you see in the process that you envisage for having such a centralised body? - Well, I think if for example you are refused a licence in Scotland and you come down to Northampton then we would be able to, through a central agency, find out that you had been turned down by another authority.

Firearms registration is dealt with according to where a person resides? - Yes.

People quite frequently move from one area to another. Do you envisage that to present a problem unless there is some centralised way of recording information which has been obtained about individuals in the course of the licensing process? - Well, yes, particularly travelling communities. People travel all over the country and move from place to place. This would be a way of keeping a check on them.

Do you think police surgeons with their current experience are well placed to do this job or are we talking about starting now a long learning process? - Well, I think in the position they hold and have held for many years as medical advisers to their Chief Constable they are in a good position. I think there will have to be some learning process but I think at least you have got people in the position physically, also being almost in the same office as the Chief Constable. You have got the people there who can be trained further. When eventually the procedure is decided, they can be trained to put it into operation.

Do you visualise perhaps certain police surgeons becoming specialised in this type of examination/

examination or do you think that it is something that should be done by all of them? - No, I think it will be the equivalent in the Police Forces to myself. I was the principal police surgeon of the Northamptonshire Police. It would be myself and my depute rather than every police surgeon in Northamptonshire.

I think there are examples in Scotland of full-time police surgeons, in Strathclyde in particular? - Yes. I think in that situation of course a full-time police surgeon would do it. There are in England some, not officially full-time but they spend more time on police surgeon work than any other work. There are more and more of them now, particularly in the larger cities. About three-quarters of their time is spent with Police Forces.

One other problem I would like to ask you about is we have heard some evidence already of cases where individuals who don't hold Firearms Certificates do do things which have an obvious relevance to whether or not in the future they should get a Firearms Certificate. For example, they make threats to use firearms against animals or people. Do you see any way of keeping tabs on that type of information if it comes into the hands of either a general practitioner or a police surgeon and relating it then to any future application for a Firearms Certificate? - It is very difficult to keep tabs on that sort of information. Probably the police are more experienced at that than we are because of their contacts with people and domestic violence.

So that depends on relaying information through the criminal intelligence system? - Yes, indeed. Mind you, there could be a contribution certainly in the domestic violence situation that general practitioners could make because we do occasionally deal with families where there is quite a bit of domestic violence and threats going on.

Yes, I am envisaging a situation where either something about a firearm crops up or you know that the person is likely at some future stage to apply for a Firearms Certificate. Then it might be appropriate to expect somehow or other doctors to relay that information to police intelligence? - I would/

would hope so and that could be done without them breaking their confidentiality by them contacting the police surgeon on a doctor-to-doctor basis.

Now, the only other particular issue I want to raise with you is the extent to which you envisage surgeons being capable of making assessments about a person's mental rather than physical state in an examination because I assume that while you will all receive some general training as students in psychiatry and psychology, is that right? - Yes.

Very few will have any specialist knowledge of these subjects? - Well, I think one would have to admit the level of one's own competence or incompetence and if you have a case where you are uneasy about this then that is a case that should be referred to a psychiatrist. A forensic psychiatrist preferrably.

And that is why you envisaged this panel of interviewers including a forensic psychiatrist? - Yes.
Or perhaps a psychologist? - Yes.

CROSS-EXAMINED BY MR. CAMPBELL: Can we look for a moment at R66, the flow document. Has this document been circulated amongst other members of the Association for their comment and approval? - The document itself has not. The original document was a working paper produced by one of our members and was debated at the Council of the Association on the 9th of May at which I was present. I was Chairman of the Council. That is the paper that we based it on. This flow chart is a simplified version of that.

So is the answer to my question no, it has not been circulated? - No, it has not been circulated to all 1,000 members but the Council of the Association has met the Regional representatives which is 20 strong. There are representatives from each Region and we discussed it at the Council meeting. The Annual General Meeting was the day after the Council and they voted that we should proceed with it.

So how many out of the thousand members would be present when that was debated? - There were/

were 20 at the Council meeting and the Annual General Meeting I think was about 200. Well no, 150.

Has there been any consultation with other interested parties, for example the BMA? - Yes, we brought it up to the Forensic Medicine Sub-Committee of the BMA and they were in general agreement with us. There was some concerns expressed about confidentiality but I think the BMA delegation representative will deal with that. The BMA are happy as long as communication is on a doctor-to-doctor basis.

And would the exercise be carried out by any qualified police surgeon? - I don't envisage that. I think we envisage it to be carried out by the senior police surgeon, the principal police surgeon in the Force. Senior, whatever you like to call him. Each Force has got one. The leading or principal police surgeon and his depute.

You have told us that you have counter-signed applications for Firearms Certificates for many years? - Yes.

What was it that resulted in you counter-signing applications for Firearm Certificates for many years? - Well, because the doctor is one of the named Council signatories and for some reason they don't want to go to someone responsible like their bank manager or the other people named on the list. They always tend to choose the doctor and I was a village doctor so naturally the farming community and the villagers around used to come to me.

If we look at R66 for a moment on the second page and paragraph 3. The advice is that there should be a reversal of the presumption of law which at present assumes a person is a fit and proper person to hold a licence unless determined otherwise. Can we infer from that that it is your experience that the law is operated at present on the basis that there is a presumption in favour of granting? - Yes, that is what I feel because I do know that in the County of Northamptonshire that sometimes where a person is not granted a certificate then they do appeal to the Crown Court to see if they can have that reversed. It doesn't happen/

happen often but it does happen.

So the system is operated with that in the back of the policeman's mind? - Yes.

We have heard evidence that Hamilton had not been to his G.P. for more than 20 years so the system which you are discussing would not have played much of a part in this particular case? - It would seem not to be, no.

BY LORD CULLEN: Just to take up that point. How would you cope with a situation of that sort where a patient had been rarely in contact with his doctor? - If the patient had been rarely in contact with his doctor I think this would be a case where I would want to meet him and see him. You know he would be one of the cases that I would call up for interview.

CROSS-EXAMINED BY MR. GIBB: We have heard from Professor Cooke this morning, a forensic psychiatrist, that his view is that four or five meetings at least would be needed before it would be possible to do any risk assessment on the psychiatric side. I mean, physically is it possible if a police surgeon is involved in that amount of involvement with so many firearms applications? - No, it is not physically possible but I think if you do interview somebody and, as you say, four or five times to do a proper psychiatric assessment, I think that is where I would refer them to a psychiatrist.

BY LORD CULLEN: Presumably you would not go on to that stage unless you had sufficient concern to advance to that, is that right? - That is what I mean, yes.

RE-EXAMINED BY MR. BONOMY: Simply one question on timing here. In your experience is it the fittest members of the community who don't see their doctors very often or can you draw any conclusion about fitness from the fact that a person does not go to his doctor? - That is a very good point and I have not really thought about it until now but in my experience I have a regular number of people that I have signed certificates for. They are usually fit people, farmers and gamekeepers, and so I very rarely see them as a doctor. I usually see/

see them socially. So, yes, some of my people I only see when I sign their certificate.

BY LORD CULLEN: Just one point; I know to some extent you have touched on this already but can you perhaps sort of crystallise for me what you think would be the merit of introducing police surgeons or forensic medical examiners into the scene that we are discussing? - Well, I think it is not a perfect screening system but at least it is an effort at doing medical screening without involving the patient's general practitioner in a face-to-face confrontation with his patient and also giving at least somebody that the Chief Constable can turn round to for medical opinion.

Of course, I suppose you could have a system in which every G.P. was required to submit the kind of report that you were talking about to the Chief Constable and what you are talking about is what is done with it, is that right? You say that is where somebody in your position would have a role to play? - Yes, because the G.P. cannot do a report on his patient to the Chief Constable because of medical confidentiality.

Well, would there be a difficulty about obtaining consents, if there was proper consents given in advance, for the applicant to agree to that being done, or do you see that great difficulties woud arise there? - I can foresee difficulties in getting consent for medical information to be divulged to a non-medical person, namely the Chief Constable. The parallel is insurance companies. They insist on medical information but at least the patient, when he fills in his insurance application form knows it is looked at by the insurance doctor, a doctor in the insurance company.

So you are keeping it so to speak contained within a system which does not mean that the information is fully divulged but that it will eventually come to the Chief Constable as a statement as to whether a person is or is not medically suitable? - That is how we envisage it.

And you are acting as a means of determining to what extent any further action is required and if so, what that is? - Precisely.

ARTHUR MORRIS, (55), Sworn,

EXAMINED BY MR. BONOMY: Are you on the Council of the British Medical Association? - Yes, I am.

Do you hold a position as Chairman of a sub-committee? - I'm the Chairman of the Scottish Council of the British Medical Association. That is the Council for the Scottish BMA. That in itself I think is a sub-committee of the main Council of the BMA U.K.

And are you actually on the main Council? - Yes.

How long have you been a medical practitioner? - For 30 years.

What are your professional qualifications? - My professional qualifications are M.A., M.B., B.C.H.(I.R.), F.R.C.S.(Edin.) and F.R.C.S. (England).

Are you currently in practice? - I am currently in practice.

As? - As a consultant plastic surgeon.

Can you tell me what the BMA is? - The British Medical Association is a professional organisation representing and having as its membership medical practitioners. It is a large organisation. It represents or its members constitute over 100,000 doctors and it is a very sizeable proportion of the whole medical practitioners of Great Britain. It is probably over 80 per cent plus. In some speciality divisions it is more. Almost 90 per cent.

And that means that it represents not just general practitioners but it represents specialists such as yourself? - Yes, a whole range of medical specialists, what we call crafts. That representation, if I can just enlarge, is done via a divisional system basically which is arranged into divisions locally throughout the United Kingdom and this divisional system is represented in two ways; directly through committees but also through annual representative meetings where one or two representatives/

representatives of each division can put forward discussion.

And that is going on this week? - This week in Brighton.

Has it finished? - It finished yesterday, yes.

There/

There is also a body called the General Medical Council; can you tell me what that is please? - The General Medical Council is the statutory body which registers medical practitioners for them to be able to undertake their job as doctors.

Are they the disciplining body at the end of the day? - Disciplining is part of their remit, yes.

Now, you have had the opportunity of listening to the evidence this morning for, I suspect, fairly obvious reasons, and I think it has been of some assistance to you to have heard particularly Dr. Davies. Have you found that helpful? - Yes.

One of the things I asked him about was the difficulty a doctor might experience because he is asked to be a countersignatory to an application for a Firearms Certificate. Do you know if doctors generally find some difficulty in having to fulfill that role? - Yes; in the first place, doctors when acting as a countersignatory have to be seen as acting not in a purely medical capacity. They are acting in a personal capacity by reason of their standing as one of the eight listed professional groups that can countersign an application, and it is very important to make a distinction when doctors are acting in that capacity. Our concern, or the concern of a lot of doctors, is that by virtue of the doctor being a doctor, and having access to other information, that it should be thought that extra weight can be given on the opinion of the doctor who countersigns that signature, that application, and I would say that in Brighton there was considerable discussion about this particular problem in terms of one motion that was discussed, and that there is considerable division of opinion within the profession.

Did a policy emerge on this? - Yes.

What is the policy on countersignatories? - The motion that was carried by a very small majority was that this meeting believes that doctors should not endorse gun licence applications./

applications. Now, the problem about that was that this was discussion and it was not -- there was no distinction made in the debate about the precise definition between personal capacity of a general practitioner and acting in a medical role in this process.

It might be complicated a bit further by the fact there are couple of medical questions on the application form? - Yes.

About mental fitness and epilepsy? - Yes. I don't have a form in front of me, but I think the doctor has to just countersign, and the applicant themselves fill in the 15 questions, or the 14 questions that's on it, and one of those is that the applicant has to show that they are not suffering from epilepsy and diabetes, I think it is.

Yes, but I think you have to countersign that you have no reason to..... We will get the form in a moment? - Yes, but a bank manager could do that as well, and a bank manager is one of those countersignatories.

Do you think a doctor is in any more invidious position as a countersignatory than for example a Member of Parliament in the sense of giving special endorsement to the applicant? - I would imagine that for example people that apply for gun licences would be youngish, fittish adults, and these are precisely the people that don't go to their general practitioner with illness generally in the main, and therefore I think the general practitioner may have no greater knowledge of the patient in that sense.

No, which is the difficulty that you are mentioning at the moment that I am concerned about, that you feel that you may be viewed as giving added weight over other types of people who are countersignatories simply because you are doctors, and may be expected to know a little more about the person, but you have to know the person to be a countersignatory and to know him for a certain length of time? - Yes.

And many other professions are asked as well to sign these, including Members of Parliament? - Yes.

Now,/

Now, do you think that your difficulty is not really one that is suffered by others as well in a slightly different way? - Yes, I understand the point, yes; I would agree with that.

You can perhaps have a look at one of the application forms, D91L is the one I have here, in L3. It will just be a moment in coming to you. Now, D91, if you have it there, that is an extract of an application form, and it has got a letter unfortunately in the middle of it, but if you can go past the letter, you will find the page with the countersignature at the bottom, Part F. Do you see that? - Yes.

And at the foot you will see that the countersignatory is certifying that "To the best of my knowledge and belief, the information given in answer to questions 1 to 15 above is true". Have you got that? - Yes.

And if you go back to the first page and look at Question 14, you will see mention of epilepsy and mental disorder? - Yes.

So I suppose you are being asked in a professional capacity as well as a personal capacity to say something about the applicant, and that is putting an extra burden on a doctor? - That is the concern of the profession.

You will see also that the second statement is "I know of no reason why the applicant should not be permitted to possess a firearm". Do you see that as perhaps expecting a doctor to say something professionally rather than simply personally? - This is the concern, that it might be seen as that from the public perception point of view, but technically the doctor is signing in the same status as any other professional.

One other difficulty Dr. Davies mentioned was in the relationship between patient and doctor, that because a doctor might from time to time on a personal basis have to say no, that that can cause difficulties in the professional relationship. Do you see that as a problem? - I could envisage that as a problem, yes indeed.

Have you yourself ever signed these forms?/

forms? - I think I have once signed a form.

Now, Dr. Davies has also outlined a proposed scheme in which contact would be made between a police surgeon and a general practitioner or other named doctor that an applicant had referred to in his application. Without really having to spell out what you have already heard this morning, can I have your reaction to that please? - Could you just repeat the precise point?

Yes; he outlined in his evidence this morning a scheme which would involve a police surgeon obtaining information from a patient's general practitioner, or other doctor that the patient has had contact with, named in his application form as a result of mandate to provide information. What did you make of that idea? - First of all, it would obviously require the patient's complete consent to any confidential matters of that nature.

That is probably not a problem because he will just be told he's not getting his Firearms Certificate unless he cooperates, so it is therefore fairly easy to get consent? - Yes.

So assuming we have got that? - Disclosure of the information -- it would then be very important that what happened to this information afterwards, because if this information was given from one doctor to another, as in for example an application for life insurance or something of that nature, it is specifically given to the medical officer employed in the Life Association Company rather than in general to the other employees in that Company, and it is very important that specific medical details are kept confidential. It is a very very important point.

I think he envisaged that happening also, so assuming that we can cope with that difficulty as well, could this work? - Well, I think the problem is that all one could say is it would have to be an extremely well constructed form, and all one could then talk about is what has happened up until that time. It's not a certificate of sanity for example. It cannot say that in the future something else might not happen, or something might change.

You/

You might have detected in the questions I put to Dr. Davies that I don't envisage for a moment a certificate that is framed in a positive way, that a person is positively okay to have a Firearms Certificate? - No.

I am talking about something that might say that "I don't know of anything that is obvious that renders him unfit". Now, assuming we are looking at it from that point of view, has this got some potential? - I think that would have -- yes
-- you would have to err on the side of safety, I would think, and if the doctor basically had the slightest reservation that there might be something there, I think he would have to very carefully weigh up the position you have to put to the applicant that he might not be a suitable person to want to do it, or possibly to consider withdrawing the application, but if the applicant persisted, you can envisage a system where you might go through the system; you might try a separate route, and that would put you as a general practitioner in an extremely difficult position.

You mean go elsewhere? - Yes, try again elsewhere.

BY LORD CULLEN: So you would end up with the same problems as the countersignatory? - Yes.

EXAMINATION CONTINUED BY MR. BONOMY: That would be of course because of the way you envisage actually trying to persuade the patient first of all to withdraw his application rather than give an adverse report to the police surgeon? - Yes. In this envisaged scheme, would every single applicant have to get a report made on them? This would be a routine thing?

That is what Dr. Davies had in mind; is that another difficulty? - It might be a logistical problem; it might involve a large amount of extra medical work.

Am I right in saying that the way you are looking at this, namely telling the patient first of all, or counselling the patient first of all that perhaps he should withdraw the application, is that the sort of thing you do with drivers? - With/

With driving licences, yes.

Who have come across a change in circumstances that renders them unfit? - Yes.

And your system there is to try to persuade them first of all, and only as a last resort to go over their heads and tell the Licensing Authority that this person suffers from a condition? - Yes, that is correct. There is the difficulty that the registered medical practitioner is registered with the General Medical Council and there is quite strict guidance on that. I understand some copies of that Guidance were sent?

We will come to that in a moment because I do want to ask you about it, but I suspect that bearing the events of the 13th March in mind, that if we are looking at such a scheme as this, some would suggest we should be looking at it in a very peremptory way so that when the consent for the disclosure of medical information is given, it should just be implemented rather than implemented only after a process of counselling the applicant to withdraw his application. If that were envisaged, do you see difficulties for doctors in the patient/doctor relationship? - Yes, I do. If the doctor was to say to somebody "I'm sorry, I can't agree to countersigning that", that could leave the patient, and in this case the applicant for a gun licence, with very little room for manoeuvre, and if it was the sort of person who might not be suitable to get a Firearms Licence in the first place, I think one could feel for the general practitioner putting himself at considerable risk in this type of situation.

It is important not to confuse the role of countersignature with this. We are talking about a quite separate report after the application form has been lodged when the police surgeon would contact you for information and send you a form? - Yes.

As he envisaged already happens in relation to insurance? - Yes.

And you would complete the form? - Yes.

He/

He also envisages you giving him information that you wouldn't be comfortable giving to the patient, your own views to some extent, your own anxieties about a particular patient. Would doctors be comfortable about relaying that type of information to another doctor? - Again, that would have to come under the General Medical Council type of Guidance on relaying information about that, because if that was not being disclosed to the patient what you were doing, and yet you were doing it to another doctor?

So that does present an ethical problem, does it? - No, it doesn't. The difficulty is it depends on whether there is an immediacy of danger or concern, and that would have to be weighed up by the individual practitioner.

So that would be the qualification. There would have to be an immediate danger? - No, not necessarily, but there would have to be justifiable reason. If we could refer to the actual.....?

Yes, I was going to give it an R number, which was going to be R68. The document has been circulated to Parties, and if you have it, it refers to the Guidance? - Yes, this is Guidance, confidentiality from the General Medical Council.

And which part are you referring to? - One section of the whole.....

Paragraph 18? - Paragraph 18, yes, "Disclosure in the interests of others".

And can you read that to us please? - "Disclosures may be necessary in the public interest where a failure to disclose information may expose the patient, or others, to risk of death or serious harm. In such circumstances you should disclose information promptly to an appropriate person or authority".

Is that what enables you to disclose information to the Driving and Vehicle Licensing Authority? - Yes, it is, yes.

The/

The test at the moment would be the same? - The test would be similar, yes.

He also suggested that it would be helpful if doctors were under an obligation to disclose changes in the patient's condition that might affect their fitness to hold a firearm, and a disclosure might also be made to the police surgeon? - Yes. I think that would fall completely within paragraph 18.

So it would have to be on that basis? - Yes.

One of the submissions you have presented to the Inquiry is a letter sent to the Home Affairs Committee investigating similar issues, which refers to the guidance from the General Medical Council and points to circumstances actually occurring, particularly in rural areas, where doctors do learn of the development of deteriorating judgement in patients and do disclose this information? - Yes.

That submission goes on to say that it would be helpful to have a scheme similar to the one which operates for drivers with the DVLA? - Yes.

It talks about a confidential telephone advice and information service. How does that operate? - That would be similar to the driving licence one.

How does that operate? - The driving licence one operates -- there is a helpline which is available, and the medical practitioner rings up the helpline and asks to speak to one of the medical advisers. They can speak to one of the medical advisers to discuss the medical condition of the patient. Following discussion with the doctor, if appropriate the medical adviser sends an application form to the patient to complete, and if that is not returned to the DVLA then the licence is revoked.

Do you envisage an identical arrangement in relation to firearm certificates? - Yes, the same in principle.

I think the crucial difference in what Dr./

Dr. Davies was proposing was that all of this disclosure would be with consent, that you would really not be into the area of the application of the GMC guidelines at all; you would be operating in a situation where the patient has said -- obviously, because he is not going to get his firearm certificate otherwise -- that you can disclose anything? - Yes.

Now, why should that simply not be done? - Yes, you could do that. There might be something in that. There is talk of this gut feeling that something else might be there. To put that down in writing would be extremely difficult.

It is a matter for a doctor's judgement about what he can disclose within the terms of the mandate; is that not right? - Yes.

Some doctors will be more comfortable than others about disclosing certain types of information, as in any other area of human experience? - Yes. From discussion this week at the BMA, some doctors expressed the opinion that they should be conscientious objectors, as it were, and not have anything to do with the signing of applications. Now, that would create difficulties again for getting in the medical report. In that case it would have to go to an independent person, not the GP.

If we assume for the moment that there will be a form of regulation of firearms that involves the applicant obtaining a certificate, and if we assume for the moment that a person should only get a certificate if there is no obvious reason or no reason established from a medical examination why he should be regarded as unfit, then would the person who is the current general practitioner not be the doctor best placed to advise of problems? - In some respects yes, but in some respects no.

If he has not seen the patient I can understand him saying "I cannot tell you"? - Yes.

But we have heard Dr. Davies say in that situation he would have to do the job? - Yes. I think there is a case for having an independent person, not the registered medical practitioner, fulfil this role.

You/

You mean in all cases? - In all cases, yes.

BY LORD CULLEN: How would that independent person be briefed about what the medical history was? - I think an independent practitioner would have to be briefed, but with access to medical records, in order to do that effectively.

So the GP records you would assume would be made available? - Yes.

And nothing more than that? Is there any possibility of discussing the matter with the GP? - I think we have to have the ability to discuss it with the GP as well.

In that case is there a problem? Because we were talking about a problem of consent. Even with consent there seemed to be a difficulty in the view of the existing guidelines, but what about discussion between the independent person and the GP? - I think if the original application is done with the patient's consent this removes a lot of the constraint on the individual medical practitioner.

EXAMINATION CONTINUED BY MR. BONOMY: That is what he was putting forward to us? - Yes.

If that is right do you see a difficulty? Is it not caught by the strictures and the guidelines? Does it not go outside these? - Yes. The medical practitioners want to take part in the process for the sake of all individuals. They don't want to come across anything else like this. Doctors are feeling extremely strongly that in general they want to avoid the misuse of the firearms and the possession of firearms being misused. That is the over-riding factor.

You have made your position clear in your statement to the Inquiry, that you want to play your positive part in this. Can I be absolutely clear about the position of the confidential guidance? Paragraph 18 does not apply in circumstances where informed consent had been given by the patient for the disclosure of his medical history by his GP? - No, not if the patient has given his informed consent.

I/

I can see that you may in your representative capacity have difficulty for definite in speaking for all doctors today: but perhaps some of that is influenced by the views of doctors on handguns, which we should perhaps try to lay aside for the moment, and look at the problems which might be created for doctors if there remains a certification process which had to be carried out? - Yes.

Now, did your meetings this week pass any resolutions which would inhibit a doctor from participating in the process which Dr. Davies mentioned this morning? - Yes. This Motion 62 stated that "This meeting believes that doctors should not endorse gun licence applications", and if you take that to mean doing a secondary report, that would be it. But I could imagine it would not necessarily cover that.

Was that resolution related to being a counter-signatory? - It was related to the whole point of counter-signatories, yes.

But it would still have to no doubt receive the support of your membership, wouldn't it? Or do you think it is something you would have to go along with if that happened? - One problem is that this has arisen in a relatively short time scale to get full consultation. If this recommendation came out this would have to be discussed at future meetings. As it stands at the moment, it was a very small majority that carried that motion, and therefore I can foresee that a large body of the medical profession would be -- if it reflects the vote, roughly half the profession would carry out endorsing gun licences.

So this is not a motion which binds all members? - No. Because of the wording of it, really.

Now, do you have there a letter which was sent by your secretary to the Home Affairs Committee, dated 23rd April, 1996? - Yes.

On the second page of that you express concern about the relationship which is perhaps in the public perception between psychiatric illness and being a public danger with weapons. Now, is there such an obvious relationship as a layman think there/

there ought to be? - Between medical illness and danger?

Yes? - Not at all. I am talking here about representing practitioners in the BMA, not as a forensic psychiatrist. I think it is very important that we do not ally mental disease necessarily with a slur which suggests that people might be a danger to the public. I think there is a complete distinction between the two, and it is very important to make that clear.

Does that not point out the importance of involving doctors in the whole process of firearms specification? - I think a very important point to remember is that the general practitioner is a generalist; he is not a specialist in the risk assessment of the danger of someone carrying weapons. The general medical practitioner who signs the form is doing that on the basis of a generalist, who does not necessarily have any specialist training. Even if he had specialist training the prediction level is very uncertain. Even at the time when this is signed it is all right, circumstances can change that afternoon or the following morning.

That is why I think no one would ever ask you anything other than to say you know of no reason why a person is not fit to be entrusted with a firearm? - That is correct.

I take it a doctor can go that far? - Yes.

You have mentioned in the next paragraph anxiety about the relevance of many conditions that doctors see to firearms fitness, and these are some cases and conditions that a layman might suppose would have relevance to the fitness to hold a firearm certificate, and one you mention there is depression? - Yes.

What is the difficulty the doctors are expressing there? - I think the problem is that it is a question of what sort of depression, how deep is the depression. Again, to lump together a range of different conditions very broadly, I think everybody here would say they had at some stage been depressed. It is a sort of comparative term.

Does/

Does that not emphasise that if we are going to look to doctors to assist at all in the process there can be no boundaries or limits to the areas they are asked to comment upon? In other words, they should if asked be able to comment on the whole medical history of the individual, insofar as they consider it relevant to the question they are dealing with? - Yes, but I think it would be fair to say that specific questions would have to be framed. It would need almost a check-list in order that you did not miss one particular aspect.

I take it you would expect the police surgeons to devise a form and then consult you about its appropriateness? - Yes.

I don't remember if I have used this expression already, but we have heard the expression used certainly by Dr. Davies and others that in the circumstances we are envisaging here you ought to err on the side of public safety. Do you agree with that? - Yes.

I think in their submissions the BMA have been anxious to stress their concern for public safety? - Yes.

You have also I think made submissions to this Inquiry through your General Medical Services Committee? - Yes, that is correct.

And one of the things you have dealt with there is the logistical difficulty you mentioned earlier, that particularly in relation to the number of psychologists and psychiatrists that would be required to do psychometric testing of applicants? - Yes.

You will appreciate today we have been looking at a slightly different arrangement, in which a police surgeon would initially screen the applicants and the psychologist and psychiatrist would only become involved if he thought that was necessary? - Yes.

Obviously that is not as ideal as the full testing, but we have heard that psychometric testing is unlikely to be of particular assistance if done on a general basis? - Yes.

Do/

Do the BMA have any views on that? - I think one would have to go back to the distinction between the generalist nature of the GP and the police surgeon and their specialist knowledge. I am sure that workload is a problem. If you can imagine a general state of awareness after tragic incidents like here, I am sure GPs would look at things in much more detail, and much more doubt would arise in their mind, and I can envisage a situation where more second opinions from forensic scientists or psychiatrists would be sought. There could be a big logistic problem.

I wonder if you could look at R67, the interim firearms guidance note which the BMA have issued: have you got that? - Yes.

Can you tell me when that was issued? - It was issued in March, 1989, and it was revised in April, 1996.

Has the revised version been issued to your members, do you know? - It is available, yes.

Is it not issued automatically? - I don't think it has been posted out to each individual member.

But if someone wants guidance, that is the guidance they get? - Yes.

I am confused about one particular part, which is paragraph 11, under the heading "Patients who may be dangerous if controlling firearms": do you see that? - Yes.

Can you read paragraph 11, which is the guidance you give to doctors at present? - "In these circumstances doctors should consider breaching confidentiality and telling the relevant officer (The Chief Constable of the County or the Commissioner of the Metropolitan Police) of their disquiet. In keeping with other situations, in which a doctor may consider breaching confidentiality, doctors must be prepared to justify their decision before the GMC or a Court, if necessary. The GMC guidelines of September, 1995 on confidentiality say that rarely, cases may arise in which 'Disclosures may be necessary in the public interest where a failure to disclose information may expose/

expose the patient, or others, to risk of death or serious harm. In such circumstances you should disclose information promptly to an appropriate person or authority'".

So that is guidance that you have given which reflects the GMC guidelines we were looking at earlier? - Yes.

Now, separately you have commented on the checking of adults who may seek to work with children? - Yes.

And you deal with this is in a letter dated 24th May, 1996? - Yes.

And you say in that that you feel at present systems for checking whether an adult should be permitted to work with children are inadequate, as it is possible for a suspected individual to move from one Authority to another, and you are suggesting the establishment of a national register of suspected persons? - Yes.

So/

So the principal concern there is obviously with the problem that comes when people move from one area to another, having been detected in one area possibly and moving into another one?
- Yes.

A national register of suspected persons; what do you have in mind? - Well, if I can perhaps enlarge on that?

Yes? - When this was done, the line of enquiry on what was going to happen was a little bit less sure. I think again there has to be a distinction between convicted persons, persons who have actually been convicted of some offence, and suspected persons because I think when we talk about suspected persons you are in a very grey area as to whether you suspect somebody or not and how severe the suspicion has to be before you can do something and this would be for debate. We feel that there would be some merit in having some sort of co-ordinating body who could collect, gather and accumulate information. It would have to be done on a totally confidential, very independent basis. It would of course have to be done very, very carefully and it would have to be done in such a manner that if anybody was wrongly put on such a list that there should be a way in which they can make sure that their name was completely expunged from a list of that nature.

Well, do you have in mind any way in which you could determine whether a person was satisfactorily recorded as a suspect? - Very difficult. No. It is totally prediction.

It is quite a desirable proposal you have. What I am trying to do is to establish whether there is any feasible way of implementing it? - Well, I think to err on the side of safety first. That would be one part of it.

Bearing in mind all you have said today, though, about the need for consent from patients before you disclose anything and the confidentiality guidelines you have, what you are really suggesting is a scheme which has no regard to that sort of thing at all and relies on no doubt rumour and speculation about individuals on the basis of untested/

untested information? - Yes, I think one would have to make a distinction there between this sort of register not being medically driven as it were. Not necessarily based on the doctor/patient relationship. We are not talking about a doctor taking a major or a part in this. We are talking about the sort of public. I can see that that does open up a completely different type of thing.

Well, the closest we have at the moment is police intelligence? - Yes.

Which is confidential information gathered by the police from all sorts of sources? - Yes.

And there may be something to be said for making that nationally available, to the police nationally? - Yes.

I wondered if you have something else in mind beyond that and a feasible way actually to implement it which I think we are all having difficulty identifying? - No. I mean, I don't think we could come up with a blueprint to give you a scheme to do that.

CROSS-EXAMINED BY MR. CAMPBELL: Do you still have before you the submission to the Home Affairs Committee of the 23rd of April, 1996? - Yes, indeed.

I think you were asked in the course of your evidence-in-chief for the purposes of the questions you were being asked to put to one side the more general position adopted by the BMA in relation to these matters. I wonder whether it is possible to do that for these purposes. So let me approach the matter in this way. If we look at the second page of that document, the third-last paragraph, the last paragraph at the foot of the page, we read "In the absence of any clear scientific evidence upon which to base discrimination between persons who are and persons who are not likely to behave anti-socially while in the possession of firearms, it follows that any firearms policy needs to take account of the fact that in the present state of knowledge it is not possible from a medical viewpoint to assist in any real way with the prediction of those positively safe with firearms, nor those who are unsafe". Now, does/

does that point of view play any part in the BMA's response to the suggestion that G.P.'s should be brought into the licensing process in a more direct fashion than they are at present? - Yes, it does because I think, as I said earlier, G.P.'s by their position are felt to have an extra knowledge which a generalist would not necessarily possess and that knowledge itself of forensic prediction is in itself an imperfect science. Very large margins of error are possible.

My learned friend, Mr. Bonomy, puts to you that this problem can be resolved by ensuring that the general practitioner is simply asked "Do you know of any reason why this person should not be given a Firearms Certificate?" as opposed to "Is it all right for this person to have a Firearms Certificate?"? - Yes.

Well, no doubt sitting round this table and thinking about it we can readily appreciate the difference between these two questions and the answers to them but is there a concern that these differences may not be appreciated by everybody up the chain in the decision-making process? - There is concern amongst medical practitioners in general about that position, yes.

Is there a risk that any certificate by a general practitioner will be misinterpreted as a green light? - I think there is that risk and that is the reason why, when it was discussed this week, a large body of general practitioners or practitioners were concerned about doctors entering into this process.

So does that have a further knock-on effect upon how a G.P. would assess what he was being asked to do? In other words, would he approach the matter on the basis of well, never mind what the actual question is, I have to bear in mind that the mere fact that I am being asked to answer this question and to put my name to this application may in some minds give the application a legitimacy which strictly it ought not to have for the reasons that we have read in your report? - Yes.

And then the G.P. is in a very difficult position because you have told us that he cannot reliably, positively, certify that person X will never/

never act inappropriately with a firearm? - That is correct, yes.

So still on that paragraph that I was reading from before, do the considerations which we have just been discussing lead at least in part to what we read in the rest of that paragraph, "Our conclusion, sadly, is that until such time as methods are developed to provide reliable predictions, firearms policy needs to be based on the understanding that from time to time unpredictable behaviour will occur? - Yes.

And if we look at the letter which was sent to Mrs. McKeane on the 24th of May, 1996, do these considerations play any part in the view expressed in the short third paragraph on the first page of that letter, that the BMA would like to reiterate the point made to the Home Affairs Committee that members of the public should not be permitted to possess handguns personally? - Yes, the point made was that persons possessing them and retaining them was a risk.

Now, as the BMA points out in the remainder of that paragraph, whether that risk and tragedies such as Dunblane will be the price which should be paid in allowing legal access to firearms is something upon which presumably views will differ but the BMA recommends that the Government considers further tightening of the regulations? - Yes. If I can add again that there was another discussion at the meeting in Brighton and a motion was passed by a very large majority that it should be illegal for private individuals to use or possess automatic or semi-automatic weapons or handguns other than in establishments licensed for that purpose.

So bearing that in mind, is there another concern on the part of doctors that they might be asked to perform the impossible in effect? - There is a very considerable concern, yes.

And asked to do this in a context which might simply be facilitating something which they regard as inherently undesirable? - Yes.

And I take it doctors are fairly hard pressed, overworked individuals I suppose? - Yes. I think also you have to bear in mind that doctors themselves/

themselves form a very wide group in society and some will own guns themselves and have gun licences and some will be at the other end of the spectrum and don't recognise that anybody should hold a weapon.

Conscientious objectors? - Yes.

RE-EXAMINED BY MR. BONOMY: When you are asked to complete a medical examination and report in relation to insurance, are you giving a positive declaration that the subject will survive for a number of years? - I would have to say that I'm not a general practitioner. That is not my specialist subject at all but I have signed these forms as part of doing locum work. From my recall of that, you are actually signing to medical details and examination and I don't think an opinion is formed by the person filling in that form. That is performed by the company itself.

So you are answering details of what? - Details of the patients, their height, weight and previous medical history. The forms vary in their complexity. There are some simple ones but there are more detailed ones where they want a full medical examination, a sounding of the chest, blood pressure and a test of urine.

So you don't have to say whether there is any reason why a person should be denied insurance? All you do is answer straightforward factual questions? - I think again it depends on which type of form. They will be formed to different degrees. In some forms you would be asked to say there is no reason to believe. Some of them are just simply certificates where you just fill in and corroborate the details.

What I want to know is why a doctor may have difficulty in understanding the difference between saying positively that a person is a suitable and reliable person to have a gun and saying on the other hand that he knows of no reason why he should be declared unfit? Why should the doctor have particular difficulty understanding the difference between these two? - The difficulty between saying that the patient is unfit or saying that he knows no reason why not?

No,/

No, saying he is positively fit and ought to be given one and on the other hand saying you know of no reason why he should be regarded as unfit to have one? - Well, the difficulty there is that sanity or ability to do something is not a finite thing.

No, I understand that but why should a doctor find difficulty in understanding the difference between these two propositions? I am not suggesting you determine his sanity for all time? - I am sorry, can you repeat the point?

Well, you have just said to Mr. Campbell that there is some perceived difficulty amongst doctors. Well, I see heads shaking. I seem to have misunderstood this but I got the impression you were indicating that doctors felt they would be giving a positive endorsement seeking a gun licence if they answered any medical questions about him? - Yes, I think the point was, wasn't it, that the doctor by giving that was seen to be giving an extra type of endorsement, an extra approval.

I can understand that in the counter-signatory area but what Mr. Campbell then moved on to, away from the counter-signatory, forget about that, was into the area of the medical history of the individual being disclosed to a police surgeon. Now, where is the difficulty there that doctors would feel about somehow or other giving a positive approval to the applicant? - Well, I think the doctor would always feel a difficulty, even if he was trained in forensic psychiatry because it is a very inexact science. To give a positive approval that somebody is fit is an extremely difficult thing to do and a generalist couldn't do it.

I'm not suggesting that. All I am saying is that if you are posed with some questions about a person's physical fitness and these questions are designed to establish whether you know of any reason why he should be declared unfit and you answer these questions, how is that seen as giving some sort of positive approval of the person as being fit for the next five years to hold a licence? - Well, that is the thing. It would depend on what the form was you were actually filling in and signing. It is agreed you could only do it at that time and not reasons in the past. There is no difficulty about that./

that. The difficulty is a feeling amongst doctors that the fact a medical person has done that gives some extra substance to it. That is the point I was trying to make.

But is that you referring again to the counter-signatory? - Yes, the counter-signatory.

I am trying to get away from the counter-signature and to ask you about providing information to a police surgeon? - Yes.

Now, if you provide information which is factual and all you are additionally asked is to say that you know of no reason why the person should be regarded as unfit at present, at this minute, unfit, where do you see a difficulty? - No, I don't see a difficulty with that.

After/

2.00 p.m

After an adjournment for lunch.

LORD CULLEN: Yes, Mr. Bonomy?

MR. BONOMY: The next witness, sir, is Robert Moir.

ROBERT MOIR (52) Sworn

EXAMINED BY MR. BONOMY: Are you Robert Moir? - Yes.

Sergeant? - I am now Acting Inspector.

With Central Scotland Police? - Central Scotland Police.

What age are you? - 52.

And how long have you been with Central Scotland Police? - 25 years.

What was the first you ever heard of Thomas Hamilton? - Back in 1979. I was transferred down from Lochearnhead to Stirling and I heard him being discussed in general terms within the office, that there was some innuendo and suggestions that he may have been involved with young children, but there was nothing concrete.

Do you remember who was making the enquiry? - I think it was D.S. or D.C. Kindness at the time.

Did you speak to him about Hamilton? - Just in general terms.

Did you know whether anything was established at that time? - As far as I was aware, I was told that there was nothing concrete at all, nothing.

We have heard evidence from Kindness that he put an entry on the Intelligence system about that time. Were you aware of that? - No.

Did/

Did you know that Hamilton had a shop in Cowane Street in Stirling? - It wasn't until after a few years after that that I heard that he had a shop in Cowane Street.

After 1979, when was the next contact you had with him? - It was when I had become Chairman of the Dunblane Community Centre Council, which was responsible for the letting of the community halls within Dunblane, and he ran a youth club.

Was that a Council that dealt with letting within Dunblane High School? - High School, and the Braeport Centre.

Beside it? - No; the Braeport Centre is at a different part of the town.

So you dealt with both? - I dealt with both at that time.

When did you first go on to that Council? - I think it would be about '81/'82, round about then.

And were you working in Dunblane at that time? - Yes.

Were you stationed in Dunblane? - I was stationed in Dunblane.

So when did you first move to Dunblane? - I actually stayed in Dunblane when I moved down from Lochearnhead in 1977, but I worked in Stirling for a year and then I moved back up to Dunblane to work.

Do you still live in Dunblane? - Yes.

And have you lived there since you moved there from Lochearnhead? - I have.

Did you become Chairman as soon as you went on to that Council? - No.

When did you become Chairman? - That would probably be a couple of years after that.

In what capacity did you understand you were taking up office on that Council? - It was after/

after I went to Dunblane, they received a letter from the Youth and Community Officer who was based in the Braeport Centre, a full-time Council employee. They wrote to the police asking if they could send a policeman along to be part of the Committee dealing with the youth of Dunblane.

And you were sent along? - They asked for volunteers. I have been involved with youth groups before, so I volunteered to do it.

And when do you reckon it was you first encountered Hamilton in that connection? - He never turned up at the meetings. He would only occasionally turn up at the AGMs more or less and that would be it.

Was he on the Council? - Each user group had a representative. That was how the Council was made up, of user groups.

So when did you first meet him again, or when did you first meet him? - I believe it would be about May. That's when we usually held our AGM, so probably about '82, '83, round about there.

Did you do any checking on him at that stage? - No, because I had heard that he had been involved just prior to that with the Ombudsman for the Council and won his case, but I didn't actually do any checks on him at that time.

So it was after the Ombudsman episode that you came across him in person? - Yes.

You can take it that it was probably into 1985? - I heard it was going on, but I was never actually spoken to about this with the Ombudsman at all.

So you didn't make any further enquiry with Kindness for example to check up on him? - No.

You would be aware though on the Council that he was running or was anxious to run, rather, clubs within the High School? - He was, yes.

Do you know whether, when you first went on the Council, he was actually doing that, and it stopped after you went on the Council? - I believe he/

he was started because it was the policy of the Council that the youth clubs got priority of lets over anyone else, adult groups.

But we know his lets were suspended for a period? - Yes, and shortly after that, they came back on, but it was the full-time leader more or less dealt with the lets at that time and it was only when any problems arose he would maybe raise it at an AGM or meeting.

But can you remember whether, when you first came on the Council, he was actually using premises? - I think that was the period he was stopped.

Who was the person responsible for deciding whether or not a group should get the use of either part of the school or the Braeport Centre? - At that time it was the full-time Youth and Community Officer.

Who was he? - Jim Gardiner at that time.

And preference had to be given to youth groups over adult groups? - That is correct.

After Hamilton won his case with the Ombudsman, how did the matter arise with the Council? - There was very little said about it other than he had went and he had to get the lets, which were granted, and I believe it was a Thursday night he got an hour and a half or two hours.

When the club resumed, did he advertise it? - Yes, there were letters went round.

Did you get one? - Yes.

Was there any anxiety among local people at that stage about resuming the club? - There was one -- I got several phone calls from residents, but I had spoken to someone and he said there was still nothing concrete against him.

Do you know who you spoke to? - I think it was the Criminal Intelligence Officer at the time, but I can't remember exactly who it was at that time.

And/

And what were the phone calls you were getting about? - Asking "This chap running the youth club, is it all right? We have heard a lot of stories about him".

What was your reply to that? - I said "To my knowledge I don't believe he has been convicted of anything", and left it at that.

Were you yourself running a club in Dunblane High School at that time? - Yes.

When did that start? - I got involved -- just after I went on to this group in '81, '82, I went along to help. They were short of leaders. It was a Monday night for younger children up to about 13 years of age, and I got involved with them, and it was about a year or two after that the older ones -- we started a Tuesday club which was for children from 14 up to 17, and they were running short of leaders so I went on and started running that.

So were you running both? - No, only the Tuesday club. I left the Monday club and went on to the Tuesday one.

Are you still running the Tuesday club? - No, I stopped.

How long ago was that? - Just over a year ago.

Did the Monday one continue? - Yes.

Did it do activities similar to those Hamilton claimed to be doing? - No, I wouldn't say we did the same.

What sort of activities were they? - They were doing like art work, handicrafts, as well as some gym, but the gym work wouldn't be physical training as such. It would be more like playing football, hockey, indoor hockey.

You moved to Balfron as an officer; when was that? - It would be about '85/'86; no, it was after that.

Roughly? - Yes, roughly about there.

Did/

Did you stay on in the position of Chairman of the Council? - Yes.

You encountered Hamilton in connection with your service at Balfron? - That is correct.

And that related to the camp at Loch Lomond in 1988? - Yes.

Between his getting the lets back in 1985 and 1988, was there anything happened in the running of his club that caused the Council concern? - No.

Tell me how you encountered him in 1988? - I was at Dunblane and we got a call from Dumbarton Police.

Were you at Balfron? - I was stationed at Balfron at the time, the Sergeant there, and we got a complaint this camp was being run for youths by a chap Tommy Hamilton, but they didn't say where he had come from. I didn't relate it was the same Tommy Hamilton I had known from Dunblane at that time, and he just said "We've got some complaints; they are out on one of the islands; could you send two officers out to check the island and the camp and see what it's like and report back", so there was a PC Gunn and a PC Sloan -- no, Duncan -- Sloan is her married name, and they both went, and reported back what they saw.

Have you any recollection of what their view of the camp was when they came back? - When they spoke about it when they left I said "Well, try and look at it how you feel with your own children". PC Gunn had children, but PC Duncan didn't have any so I said "Try and look at your own boys going to a summer camp, how would you find it and react if your own boys were at the camp", and left it at that, and they came back and said it wasn't the worst; they seemed to be running about; they were quite cold, in shorts all the time.

Their report would have to go back to Strathclyde Police? - That is correct.

Were you aware of action taken by Strathclyde Police? - Yes; they phoned us up and I made some enquiry. They phoned up again and told me they had done it, roughly a brief description of what/

what had happened over the phone, and I was told by PC Hood where Mr. Hamilton was at this time.

Were you alerted to the fact that Strathclyde Police made arrangements for parents to come if they wanted to take their children home? - I didn't know that until later on. I was doing split shifts and I had left after a while quite early in the evening as I was coming back out at night.

But around that time, did you learn that? - Yes.

And you learned about the children being taken from a cinema? - The next day they arranged to go, they said they were going out to the island, and never told us. It was the boatman that contacted us, but Hamilton had left with the boys.

Now,/

2.20 p.m.

Now, we have heard evidence of a complaint against Constables Duncan and Gunn which arose out of this incident. Were you roped into that complaint? - Yes.

To what extent? - I believe we had a committee meeting of the Centre Council just after it, shortly after that, and Hamilton came up to me and said "You are at Balfron now I understand", and I said "That is right". He said "You will know about my complaint". I sayd "What complaint?" and he said "P.C. Gunn put in a bad report about me. What is in the report?" and I said "It is sub judice. I can't discuss it". Thereafter he kept phoning my house virtually daily.

What was his purpose in so doing? - He wanted to know what the contents of the statements were that were made by P.C.s Gunn and Duncan so he could sue the police for breaking up his camp. He said he had lost money -- he said he had lost his camp, it had cost him money, because he had to give money back to the boys.

Did he write to you at all? - Numerous letters.

About what? - About the camps, complaints. Every letter he sent to various persons, I got a copy of it.

There is no sign you were formally complained about, but was your understanding that he did complain about you? - He did complain about me.

What did he complain about you in relation to? - He went into Headquarters. He phoned one day shortly after asking if he could come and speak to me again. I said "I have nothing to speak to you about. I can't discuss it. It is sub judice". He said "I will need to speak to you about something else". This was a Saturday, and I said "If you call about 1 o'clock I should be free, saving anything unforeseen happening". Now, unfortunately a couple of incidents arose at Dunblane at that time, and I had to attend to them, and I didn't get back till 4 in the afternoon. He thought I was evading him, and he went in and complained/

complained about me.

But there was never any formal police procedure about you? - No.

When he contacted you did he ever try to justify himself? - Yes, he tried to say he was running good youth clubs, he was a responsible person.

Did he ever show you documents to try and justify himself? - Yes, he heard that some of the children were alleging there was a lack of food. On one occasion he was in my house -- I had been out to call at Dunblane for mail, and I just phoned my wife and said I would be back in five or ten minutes. In the interim he arrived in my house to speak to me. My wife told him to come in. When I arrived home he was in the house. I wasn't very pleased about that. He tried to discuss it, and I told him I was not discussing it. He went on about the food. He produced a bill he had got from one of the supermarkets "See the good I bought for the kids. That shows you how much I paid". I said "That doesn't prove anything". I looked at it, and near the bottom was an item for two or three cans of beer. I said "Were you buying drink for the kids as well?" and he just snatched it back from me and put it in his pocket.

There were suggestions to this Inquiry that he was a tee-totaller? - I have never known him to have a drink; but it was certainly on the itemised bill.

Did it get to the point where he was making complaints about the police persecuting him and associating you with these complaints? - Yes, just about simply rumours. Every year he would put round letters about his youth club in Dunblane saying he was also a photographer, and he had been involved with the police at Loch Lomond at his camps.

Did he ever show you photographs? - He did some, and he also invited me to the camps, "I will show you videos", which I also understand he went into headquarters and spoke about as well.

What about the photographs he showed

you?/

you? - It was just photographs of a camp in Loch Lomond.

Now, did there come a stage when the arrangements for letting the premises were changed? - Yes.

When was that? - Just about three years ago now.

What was changed? - There was a new management in the Council's Youth and Community policy, and the female that took over though it was up to the committee to agree the lets, not the full-time officer.

That was Jackie Cowan? - Yes.

She followed Mr. Gardiner? - No, Mr. Sutherland came after Mr. Gardiner.

She had his job? - Yes.

She decided the Council should negotiate the lets? - Yes.

Hamilton started having camps at the high school? - That is correct.

Do you know when he started that? - I think that was the year after he did his Loch Lomond one. They were stopped. I believe they would not allow him back on the island. He applied for a camp and was given it.

How many camps do you reckon he had in Dunblane High School? Over how many years? - I think three or four.

Did you go to any of them? - Yes.

How many? - On two of the years I was up and I attended. He asked me to attend to make sure everything was okay, to pop in any time, which I did, in and out of uniform. I would just walk in initially when I was out walking as well.

Do you know what years you visited his camps, what two years? - Say about three years ago and the year before.

Did/

Did you go more than once in each year? - Yes.

Was there anything wrong about what was he was doing on these occasions? - No, I couldn't see anything wrong.

What about the dress of the kids? - When they were in the gym -- I also dropped in when he was running his youth club on a Thursday night. He also asked me to go to this. In the gym they were all just dressed in shorts and trainers, and they were running about doing keep-fit, exercising, running, and there was nothing I could see that was wrong other than that all the boys were always stripped to the waist. His idea, however, was that they were always sweaty, and it was to stop them getting dirty.

Were you concerned about the fact they had nothing on on top? - No, because there was a parent -- because I stayed in Dunblane they all knew who I was, the locals and the parents, and one or two spoke to me about it, and one of the parents of one of the boys went along quite regularly to it just to make sure everything was okay, because his son wanted to go, and he wanted to make sure there was going to be nothing untoward happening.

Did the amount of interest in these clubs and camps from Dunblane residents decline? - Yes, the number of pupils dropped until at the end just before I finished with it he was bussing kids in from Balfron.

Now, there was a dispute we have heard about in relation to the let he got for one of the camps being interrupted in part by a let to another group. Can you tell us something about that? - To the Quakers' Church group?

Yes? - Yes.

Could you tell us something about that? - We had agreed we would be the ones responsible for the lets. Since the Loch Lomond incident he turned up at nearly every meeting we had. Prior to that he was very seldom there. It was discussed, and one of the Quakers, who was also a committee member, said "Could we have a let for the Sunday School?/

School? We finish by half past 12", ad he objected, and I said "I thought you only used the kitchen down at the other end of the school, not in the community wing?", and he committee agreed they could get it on a Sunday up till half past 12, this community wing, where there is a small kitchen with one cooker. I don't think he was present at that meeting -- or was he? I can't recall now.

Yes? - Anyway, I got a telephone call shortly after it from him objecting to us cutting his hours on a Sunday because of this church group. He said every year which passed the church group stopped taking their services on a Sunday, and I said I wasn't aware of that at all. I said "Put it in writing, and we will discuss it". He went to his councillor and the next thing I was told it was granted.

He went to more than his councillor, did he not? - Apparently he always went through this councillor, then it went through the Education Committee.

Who was the councillor? - Ball.

Was that issue ever resolved? - Yes, it was taken off our hands. We understand the let was granted the previous year, which Miss Jackie Cowan had not told us about.

We may see in the correspondence that he had been asked to apply yet again shortly before the camp began? - We did not know he had applied.

So there were two separate lets at different specified times? - Yes.

Now, was that the only major issue of complaint he had at the Council? - He always thought we were against him, trying to cut his hours. I think the previous year on a Thursday evening one of the adult badminton groups approached us and said "He is finishing early on a Thursday night. Is there any chance of us getting half an hour of his time so we can run a junior badminton club?". We spoke to the janitor of the school, who said he was leaving early. In fact I went up on one occasion, and he had gone about half an hour prior to his let terminating. It was therefore discussed/

discussed at the next meeting.

Yes? - Before we had the next meeting I got in touch with Jackie Cowan. I said "You better check with the Council's Legal Department, because you know what Hamilton is like and we will get letters of complaint about this". He always told us about him winning his case with the Ombudsman against the Region.

So that is another problem for him relating to the time he was being allocated in the High School? - Yes.

Any other complaints? - The only other thing was, he was accountable to no one. He charged so much a night. Other people that were running youth clubs, like judo and dancing, they had to pay for their lets. Even the churches paid for lets, but Hamilton got his free.

Was this because it was a youth club? - It was a private club. The youth clubs on a Monday night and a Tuesday night had to produce books and accounts to the Council: they got to look at the books and everything else. Hamilton was accountable to no one.

Yes? - Initially he was charging 50p per night per boy. When he started his youth club he was getting 60 ot 70 boys there, and 60 or 70 at 50p is a lot of money.

Were you aware of a policy of discouraging his youth premises if alternative uses could be found? - No. We were always told it had to be for youth, that youth had to have the priority. Other groups were told -- as the years went on we got busier. Now, between 7 and 10 is the busiest time for these community halls to be used, and we had to turn down other groups.

Did your Council consult the Legal Department at all? - Only when we stopped his half hour meeting, or reduced it by half an hour. We contacted him regarding that. That was done through the full-time youth leader.

So throughout the time you were associated with the Council was the policy or attitude that if Hamilton/

Hamilton applied and the premises were available he would get them? - Yes.

Did you ever hear any positive information about him on which you as a police officer might have acted to try to stop his activities? - No.

You went on to the Council as a police representative. Did you remain throughout your period as a police representative? - No. At the very end after all the complaints and letters going back and forwards from Hamilton to the Chief Constable, 18 months or two years ago I was told to say I was not a police officer.

Do you know why that was? - No, I never got a satisfactory answer yet.

I would like you to look at one or two documents. The first is D83/K, which I think we have: do you have that? - Yes.

Can you see that is a letter dated 16th January, 1991 to the then new Chief Constable, William Wilson? - Yes.

Does it mention there at the second page of the first paragraph "In fact, when your officers eventually visited the camp on Wednesday, 20th July, 1998, even their sergeant, Bob Moir, and their Inspector, Mike Mill, did not know that they were visiting our camp or their whereabouts"? - Yes.

Can you confirm the impression from your evidence that you sent Gunn and Duncan to the camp?
- Yes, we said it was on this island in Loch Lomond.

But you sent them? - Yes. The phone call came in. It was the girl that took it. I spoke to them, and they left to go.

You will see in the last paragraph he described what happened as "An arbitrary condemnation of our 1988 summer camp by your officers, without knowing or checking the facts", and he says ".....it was a deliberate and malicious attempt to cause maximum disruption and damage to our group, which it did"? - Yes.

Now,/

Now, that doesn't sound as though that is what you had in mind? - No. I explained to them just to go and see it "Treat it as if your own child was there" to P.C. Gunn. That is the only way I believe you can do it, because everyone has different standards.

I would be grateful if you would look at the Minutes of the Council, DDH29, the Minutes of the 12th May, 1994: have you got them? - Yes.

You appear as one of the persons attending Dunblane Centre Council Annual General Meeting. Do you see that? - Yes.

Look to item 5, the name of the Council changed at that meeting to Dunblane High School Wing Council? - Yes.

Do they still seem to be responsible for Braeport Centre? - No. What happened here is that -- we have a lack of facilities in Dunblane. We have been pushing for a new community centre through the Region for a number of years, and we had an open meeting in the Victoria Halls in Dunblane, and it was agreed that a Steering Committee would be set up to look at the possibilities of sites, costs and that type of thing, which was done. When this was done, Jackie Cowan and her superiors decided themselves that we would have to split the Council, with the Dunblane Centre Council looking after the Braeport and the Dunblane High School Wing Council being responsible for the Community Education Wing at the high school, which was two different identities. This new Steering Group which was set up to look after the new community centre took over the running of the Braeport.

But/

But this meeting would be after you had already decided that it was the Council who were responsible for dealing with lets, is that correct? - It was just about this time it then became the responsibility of the Council to deal with lets.

Then if you look at DFU27 which is a series of four letters all dated 30th May. You will see the first of these is to Michael Forsyth? - Yes.

And the Heading is "1994 Summer Camp 10th-24th July 1994", is that right? - Yes.

And the letter is signed Thomas Hamilton? - Yes.

And this is about this problem you have just mentioned about the let for that camp, is that correct? - Yes.

Do you see in the second paragraph he says "It comes as no surprise to me that a member of Central Scotland Police has been involved in this. Central Scotland Police have taken every arbitrary opportunity to disrupt our camps and Clubs all, in my view, as part of an ongoing conspiracy". Is that what he says? - Yes.

Now, were you in any way involved in trying to disrupt his camp when that decision was taken? - No.

And in the next pararaph he says "I have spoken to the police representative who signed the restriction to ask why such a last minute decision was taken". Now, that would be a reference to him speaking to you? - Yes, this was raised. As I said, Jackie Cowan had agreed that we would now be responsible for the lets and this let came in and we changed it. Well, the Church group would have it on a Sunday morning up to 12.30.

But all I want to confirm is this is you he is referring to? - Yes.

And he did speak to you about it, is that right? - Yes.

And/

And you tried to explain it to him? - Yes.

And he didn't accept the explanation basically? - Yes, that is correct.

Can you confirm he also at the same time wrote to Mrs. Cowan setting out his case? - Yes.

And that he also wrote to the Commissioner for Local Administration in Scotland, affectionately known as the Ombudsman? - Yes.

And that he also wrote to the Chief Executive of Central Regional Council? - Yes.

To state his case to each of these people? - Yes.

All on the 30th May, is that right?
- Yes.

Now, would you look please at D196K which is a memo. It may be there separately. It is dated the 1st June 1994 from the Depute Chief Constable to Inspector Barker. It is also DCD229. Now, you will see that is a short memo from the Depute Chief Constable to Inspector Barker at Dunblane dated 1st June. Do you see that? - Yes.

And we can take it that some of the last correspondence I have just referred to had reached the Depute Chief Constable's hands and he is asking "Can you assure me that Bob Moir is involved in Dunblane High School as a private citizen and not as a police officer" and does that date the time at which you have a change in status? - Yes.

And if you look at D197, the next item, do we see Inspector Barker's reply? - Yes.

Now, if you look at the second page of that, does it say "The allegations made and aspersions cast by Hamilton regarding a police conspirary in respect of this matter appears to be totally without foundation in that Sergeant Moir was acting in a completely voluntary capacity"? -
That is wrong. I told him. I said I was asked to go along as a police representative a number of years previous and when I moved away from Dunblane to/

to other stations I phoned the various different inspectors who took over in Dunblane and I explained to them who I was and what I did and I said "Do you want to send someone else or do you wish me to carry on?" and they just said "Carry on yourself and keep on doing it". When I saw this I said "You are just going to get another letter back from Hamilton". When I saw that.

Well, you don't need a crystal ball for that one. If you look at D200K you will see that Inspector Barker there confirms that you had undertaken to make it clear in the future that you were there as a private citizen? - That is correct.

And you did undertake to do that, is that right? - Yes.

Now, can you look please at a letter which I think has been copied for everyone which is DDH308. It is dated 10th June 1994 and is from Central Scotland Police to Councillor Ball. It's the last sentence in the second paragraph of that letter "My Sergeant Moir, who is involved in a wide range of community work in the area, has been the Chairman of this body for more than 10 years, but purely as private citizen, not in his capacity as a police officer"? - That is right.

That is not your understanding? - No.

And that is signed by Mr. McMurdo, is that right? - Yes. I got copies of these letters sent as well. Every letter that Hamilton received or sent, he sent me copies and whenever I saw this I explained it to the Inspector. I said "That's wrong".

If you look now at the letter of the 16th June from Mr. Hamilton to Councillor Ball which is DFU29. Do you see in the second paragraph there that Hamilton says to Councillor Ball "I have to say that contrary to their letter....." -- that is the police letter we have just looked at -- "....
Sergeant Moir is and has always been clearly defined in Minutes etc. over some 10 years or more as being the police representative and not 'purely as a private citizen, not in his capacity as a police officer'"? - That is correct.

So/

So you and Hamilton are at one on that, is that right? - Yes.

I think in the last paragraph of that letter he thanks Councillor Ball for his interest in this further unfortunate matter, is that right? Does he say "I thank you most sincerely for your interest in this further unfortunate matter and your kind help in other related matters"? - Yes, that is right. "I thank you most sincerely".

"I thank you most sincerely for your interest in this further unfortunate matter and your kind help in other related matters"? - Yes.

Go back to the front page of that letter and tell me what the heading is at the very top? - "Boys' Sports Club Group Committee".

And Thomas W. Hamilton, Group Chairman? - That is right. Well, he said he was.

That is what it says? - Yes.

Now, go to the second sentence in the last paragraph and read it please? - "Both the Committee and myself are, as always, impressed with your competence, honesty, integrity, sense of fair play and dedication to all of your constituents. In my own findings over many years of practical experience, these qualities are unfortunately not found among officers of Central Scotland Police -- in fact, quite the opposite!".

But he is writing there on behalf of "The Committee and myself"? - Yes, that is correct.

Now, attached to that there are copies of Minutes in 1992 where you are designed as Chairman/Police or Police/Chairman? - Yes, that is the police representative chairman but I also could have signed, with me running the Youth Club at the time, I was a representative from the Youth Club because as I said earlier, I was a representative of the different groups which made up the Committee of the Centre Council.

I think it would be fair to say, though, that this sort of petty problem was meat and drink to/

to Mr. Hamilton? - Yes.

And it indeed gets on to the agenda of the Council and if you look at DDH311, which is a Minute of a Council Meeting on the 28th June 1994, and look at Item 6. Do we see there that the problem over the let was raised at the meeting, is that right? - Yes.

Now, was it a question of resolving responsibility for the lets or was it a complaint by Hamilton that brought it on to the agenda? - Not only Hamilton raised it. It was only raised with others because the School Boards then took over and we were left with the problem of conflict. Were the School Boards letting out the rooms and were they responsible as they were responsible for the school and also were we then responsible. It was to avoid any clashes. You know, avoid double bookings etc.

Now, can you look please at letter DFU30 which is a letter of the 5th June from Hamilton to Councillor Ball and if you look at the second paragraph do we see there that the issue is not going to go away where he says "Robert Moir's role on the Centre Council has suddenly switched from Police Representative to Senior Youth Club Representative and not as 'purely a private citizen'. Indeed under the Chairmanship of Robert Moir this incompetent action is one of a series of decisions which has undermined my group on an arbitrary basis"? - Yes, that was when the initial letter went in. I said that I have been representative as far as I have been aware when I first went along to these Centre Council meetings and it was only when I was told I had to stop I said "Well, I am also representative for the Youth Group".

Now, we could spend many enjoyable moments going through the rest of the correspondence and Minutes about this but to no particular effect. Can you tell me whether you got to the stage ever of saying as a Council "Hamilton is not getting our premises"? - No, we never ever said that.

Did you ever get to the stage of being so concerned even about him that you debated whether or not he should get the premises? - No.

Was/

Was your Council privy to information that was causing it at any stage concern about his having the premises? Concern as a Council? - No.

Well, did you know anything else about Thomas Hamilton that you think might be of assistance to the Inquiry? - The only thing, as I said earlier, was that he was accountable to no one and I think with Youth Clubs, whoever is doing it should be accountable to someone.

You have been identified as a person that a number of people are concerned should give evidence to the Inquiry because they are worried that perhaps we are not getting all the information we should be getting so I invite you to tell me anything you know that you think the Inquiry ought to know about Hamilton? - Nothing other than this.

No cross-examination.

KATHERINE MARY ANDERSON (59), Sworn:

EXAMINED BY MR. BONOMY: I think you stay in Dunblane? - I do.

And we have already heard evidence from your husband who is Ewan Anderson? - That is right.

When did you first know Thomas Hamilton? - Well, I can't really remember the exact dates but I think it was in 1982.

How did you get to know him? - Through his association with my husband.

What was his connection with your husband? - It was the rifle shooting.

And was your husband a member of the Dunblane Rifle Club? - Yes. Well, he was. He isn't now.

He was at the time? - Yes.

Did/

Did Hamilton become a visitor to your home? - Yes.

Was he a frequent visitor? - Not to begin with. It was usually once a week.

And was that connected with going to the rifle Club? - I couldn't really tell you if it was or not. I don't think it was, no.

In your statement you indicated that he started coming to the house on Friday nights before and after going to the rifle range. Is that not right? - I thought it was Thursday nights. I don't think it was a Friday. My husband doesn't shoot on a Friday.

But was it in connection with going to the rifle Club that he came to the house? - I don't think so.

Well, can you remember in what connection it was? - Well, I think he started coming because of the connection with the rifle Club but it was just a friendly call to begin with.

Did you actually on any occasion visit a boat he had at Loch Lomond? - Once I think. Twice maybe.

So how friendly were you around that time? - Well, as I say, I think he called about once a week.

Did he ask you and your husband to help him in connection with this Boys' Club? - He asked us if.....he was thinking of forming a Committee and he asked us if we would go on the Committee.

Did he tell you why he was forming a Comittee? - I don't think so. I think he just said that he was starting up the Boys' Club again and he was forming a Committee.

Did you have family at that stage? - Yes.

Boys or girls? - Girls.

What were their ages at that time? -

In/

In 1982 one of them would be 11 and the other one nine.

Now, that is when you first got to know him. Could it have been a bit later than that that the question of helping out with his Club arose? - Yes, much later than that.

Could that have been in 1984? - Well, I can't remember if it was 1984 or 1985 but it was when he got the let renewed to start up the Boys' Club again, Dunblane Boys' Club. I think it was probably 1985 but I'm not sure of the date.

Now, did you agree to help him? - Well, he said that he was trying to form a Committee and could we go to a meeting about forming a Committee which we went to.

Where was that meeting? - In his house.

Do/

3 p.m.

Do you remember who else was at the meeting? - Yes. Do you want names?

Yes, please? - There was Mr. Williams. At the time I gave my statement I thought he was at the meeting, but when I discussed it with my husband I thought Mr. and Mrs. Williams were there, but it was only Mr. Williams, because I couldn't remember; it was so long ago.

Is that Mr. James Williams? - Yes.

Had you met him at that time? - No, I hadn't met him before that.

Who else was there? - Mrs. McFarlane, my husband, myself, and there was another lady there who at the moment I can't remember her name, and Mr. Hamilton was there. I think that was all, but I am not very sure.

What was decided? - It was decided that these people there would form the Committee.

Did you have a particular position on the Committee? - Yes, I agreed to be Secretary.

What was the Committee called? - The Committee?

Or the club? - It was just the Committee.

What was the club called? - The Dunblane Boys' Club.

Was there a discussion about the activities of the club? - I presume so. I can't remember.

Was there a discussion about why this Committee was being formed? - It was because a new club, the Dunblane Boys' Club, was starting up.

Were you aware at that stage of some difficulty Mr. Hamilton had encountered about running his club at Dunblane High School? - Yes.

Were/

Were you aware the Committee had something to do with trying to resolve that difficulty? - I think we were made aware at that meeting that he was getting the let renewed from the Council.

So you knew he had lost it? - Yes.

Did you know you were on the Committee to give some sort of either control or respectability to his club? - You mean at that time?

Yes? - No, not at that meeting. We were just asked to form a Committee, which we agreed to.

He didn't tell you he needed a Committee for the Council to agree to reinstate his let? - No.

Did you have to attend any official meeting as a result of being on this Committee? - Yes, we were told that night we agreed to form a Committee that the Council would like to meet the Committee, which we did. We went to the Council Chambers, and we went to that meeting, those people I have already mentioned.

What happened there? - I can't remember everything that happened, but I remember the Council saying they were putting a certain onus on the Committee to see it was run properly.

So by this time you knew there were particular reasons why he needed a Committee? - Well, I would think any club would have a Committee.

But here you have a club which gets a Committee, and the first thing it has to do is go and meet the Council? - I thought that was because of the rumours that had gone before.

What were the rumours about? - As far as I was aware, the boys' club he had had before, which was called the Rover Club, I understand the Scout movement had objected to the name because of the Rover Scouts, and that club had been disbanded. I had heard a couple of rumours by then.

I don't want you to give me any names of boys, but what were the rumours? - I heard two rumours; that on one occasion two boys had been left/

left on the island with just a tin of mince to eat, and the other one was that one boy had been left with either a tin of mince or a tin of beans.

Had you heard any stories about kids being homesick? - One of the boys I mentioned -- I knew the boy and his parents, and after I heard that rumour about the boys being left on the island I heard from the boy's mother that the boy -- this was a different occasion -- the boy had been at his aunt's for a holiday, and the mother had to go and bring him back after two days because he was homesick.

Yes? - At the time I was asked to go on the Committee I asked Mr. Hamilton about that incident, and he said the boy was homesick, but he said if boys are homesick they are not going to tell their parents, they are going to tell a different story. That tied in with what I had heard from the mother of the boy, and I thought it must have been just rumours.

Following the meeting with the Council did you take any active part as a Committee member in the physical running of the club? - No.

Did you do anything as secretary? - I did correspondence.

Was there much of that? - I would say there was quite a bit. There were letters. I was only involved at the one summer camp, and there were letters about that. There were letters I think about obtaining grants for equipment, but I really can't remember. It was just general correspondence.

We have had a lot of evidence about his writing to all and sundry on numerous occasions. Was that his practice in the time you were secretary? - No.

So the letters you are describing sounded as though they had some purpose? - Yes. They were to do with the running of the club.

They were not letters of complaint, for example, or letters of contention with other bodies and complaining about other people? - I don't quite follow you. You mean that the club was complaining?

Yes?/

Yes? - No, not that I recall.

After you were on the Committee did Mr. Hamilton continue to visit your home? - Yes.

Did you visit his home on any occasion? - Not socially. I don't think there were regular Committee meetings. I think there was one other Committee meeting in his house. We did not visit his house socially, no.

Did you meet his mother, at that time known as his sister? - Yes, at the first meeting to form the Committee.

Was she on the Committee? - No.

Did you meet his father, whom we now know is his grandfather? - No, I met who I thought was his sister, although it was his mother, and I met who I thought was his mother, who has turned out to be his grandmother.

But neither was on the Committee? - No.

How long did you remain secretary? - I can't remember whether it was 1984 or 1985, but it was in the autumn of that year. If it was 1984 it was from the autumn of 1984 to the spring of 1985; if it was 1985 it was the autumn of 1985 into the spring of 1987.

If I say to you the meeting with the Council was in the autumn of 1985.....? - Well, it was from the autumn of 1985 until the spring of 1987 I was on the Committee.

What led to you resigning from the Committee? - I changed my job. I had only been working a few hours a day, and when I changed my job I felt I did not have the time. It was not so much the quantity of the work, it was the inconvenience of it. Mr. Hamilton would just come up to the house just after tea time saying he wanted letters done, and he would wait and take them with him to post or to photocopy.

Did your husband remain on the Committee after you resigned? - Yes.

For/

For much longer? - I couldn't tell you. Less than a year, I think.

Throughout the period up until your resignation was your husband still going shooting with Hamilton from time to time? - They did not actually go shooting together on a regular basis. I think my husband maybe went with Mr. Hamilton twice, but not at the Dunblane Club. It was at a range that Mr. Hamilton used: I don't know if it was Dechmont.

Did Hamilton ever bring any weapons to your home? - Yes.

On more than one occasion? - I remember just one occasion.

What did he bring? - I don't know. I think it was two firearms, but I don't know what kind they were. I am not into firearms.

Do you remember if any of them was a rifle? - I think one was a black thing about <u>that</u>. I remember at the time thinking it was a terrible looking thing, a terrible looking piece of equipment.

You were indicating 18 inches to two feet? - Yes.

Did he say anything about that particular weapon? - No.

In your statement you have referred to him coming to the house and having a gun in a case and taking it out to show you and your husband? - Yes.

And saying it cost over £1,000, and he was told he was only getting £100 compensation back when it was handed in, because of Hungerford? - I do know he told us at the time of Hungerford that he had -- was it a Kalashnikov?

It could have been? - He was having to hand it over. I asked him would he get compensation, and he said he would get about £100. I asked him how much it cost, and he said about £1,000./

£1,000.

After you and your husband were off the Committee did Hamilton continue to visit you? - Yes.

Until when? - I think it must have been during 1989. I think it must have been before the summer of 1989.

What brought matters to an end? - I didn't realise this at the time; we only discovered this after this happened. We wondered why he had stopped coming, and my son-in-law told me one night when we were out and he was in the house Hamilton called, and my son-in-law told him not to come back, that he was making a nuisance of himself.

And he didn't? - He didn't re-appear after that.

Was he a nuisance about that time? - He was. When he started coming at first I didn't see him as much as my husband, because it was always on a Thursday night, and I was always out when he came. But he started coming two, three, sometimes four nights a week latterly.

Did he continue to use your name as a Committee member after you had resigned? - I didn't know if he did.

Did it come to your attention that he still had your name on a leaflet? - That was my husband's name. I found out at the time of this that he had both my husband and myself down as members of a previous club, which we had never anything to do with.

Now, prior to the formation of the Committee you have been telling us about he had his dispute with the Council over the letting of the premises at the High School, and in connection with that there was a petition presented to the Council to try to keep the lets going. Did you have any part to play in that petition? - I don't remember a petition.

We have had evidence in the Inquiry that you were actually round doors collecting signatures for/

for a petition? - That I was?

Yes. You went to George Robertson's door? - I don't remember that.

You stay quite near him? - Yes. I had been round with a petition round Dunblane to do with the rates, but I don't know when it was. That was the only time I remember going round. I also collect for Christian Aid in Dunblane. I don't remember going round with a petition.

When was the petition about rates? - I don't know.

Was the Council Labour or Tory? - I don't know.

I am just trying to work out whether you would go to George Robertson's door? - I had an area to do. George Robertson lives just up the hill from us. If there was someone collecting or going round that would include the area.

If he was within the area.....? - Yes. I went to people's doors with a petition about the rates, and they said they wouldn't sign it as they were employed by the Council. I was employed by the Council as well.

If you look at D50/H(v) -- have you got that? - Yes.

You will see that is a letter headed "Dunblane Rover Group"? - Yes.

And under that "J. Williams, representative of parents"? - Yes.

And you have told us there was a J. Williams at your meetings? - Yes.

His address is 3 Murdoch Terrace, Dunblane? - Yes.

This is dated 2nd November, 1983, addressed to the Director of Administration and Legal Services of the Council? - Yes.

It reads "We as parents of the boys attending/

attending the Dunblane Rover Group wish to appeal against the decision taken by the Education Authorities (following a sub-committee recommendation), to terminate the lease of the Dunblane High School"? - Yes.

It talks about Mr. Hamilton, the group leader, and all the other voluntary helpers having given a great deal of their time and resources to ensure that members find a healthy outlet to their boundless energy by channelling it into a constructive form? - Yes.

And then if you go down to the bottom of that paragraph it says "We believe that Mr. Hamilton is the victim of malicious back-stabbing by a person or persons unknown possibly calculated to cause disharmony"; is that right? - Yes.

Then he says "We are all proud to have Mr. Thomas Hamilton in charge of our boys. He is a man gifted with excellent qualities of leadership, integrity and absolute devotion to his lads. Above all, he cares"? - Yes.

Then it has "Yours faithfully, the parents (as listed over)"? - Yes.

Then there is three pages of signatures? - Yes.

I can tell you there are 70 signatures there. Now, did you gather these signatures? - Not that I remember.

It is headed "Dunblane Rover Group"? - I had nothing to do with that.

These forms say "Management Committee, Dunblane Rover Group". Do you see that? - Yes. I was never on the Committee. I had nothing to do with the Dunblane Rover Group, although when this Inquiry was coming up I was shown a letter that had been sent to the Council where my husband's name and my own name were on as being members of the Committee, but I was not there. I was not involved with the Committee until 1985 when the Dunblane Boys' Club started up. That was when I became involved. I had nothing to do with the Rover Group, and I can't see my signature on this petition, so I would/

would imagine if I had been round collecting signatures I would also have signed the petition.

Well, you were not the parent of a child who would be attending the group, so it may not have been appropriate for you to sign it, the way it is worded? - No.

I may have given you wrong information about the time of the formation of the Committee. Perhaps you can clarify this for me. If you go to D53 in that volume, I think you can see this is a letter of 24th February, 1984 to Mr. Buchanan, the Director of Administration and Legal Services, headed "Dunblane Boys' Club"? - Yes.

It says "We.....are pleased to supply the information that you request" in the first sentence? - Yes.

And the Management Committee is set out there, including your own name as secretary? - Yes.

And your husband is there, and some of the other names you have mentioned are there? - Yes.

If you go to the end of that letter you will see that you appear to have signed it? - Yes.

Do you remember signing it? - I don't really remember the letter, but I presume yes. No, I don't think so.

Is it your signature? - It looks like my signature, but I certainly did not type it.

Did you sign it? - Well, it looks like my signature.

I take it you would not sign a blank? - No.

3.20 p.m.

If you go to the second page and in the middle you will see a heading "Difference between Dunblane Rover Group and Dunblane Boys' Club" and it says "1. The Committee is agreed to disband as Dunblane Rover Group; 2. The Committee is agreed to form as Dunblane Boys' Club; 3. The Committee is agreed to a new constitution as enclosed", all suggesting that this is a replacement of the Rovers Group, to give it a different identity. Were you not party to this letter? - I don't recollect it.

Can I ask you then to look at another item which I think may have been copied. It is a letter of the 31st of October 1983. It is also in.....? - Sorry, I was still looking at this other letter. Which one are you on?

Another one will be given to you and it is also in D21/J(i) and it has got a number 28. There is a whole series of these letters but one of them has the number 28. It will be put in front of you. Now, you will see that that is a letter of the 31st of October 1983 to Mr. Buchanan again and the heading is "Dunblane Rover Group -- let of Dunblane High School" and you have signed it? - I am just reading the letter.

Well, before you do that, can you tell me if that is your signature? - Well, it looks like my signature.

All right. Now, yes, please read the letter? - No, I didn't sign that. It looks like my signature but I didn't sign it because it says in it "Firstly, as an interested member of the Management Committee of the Dunblane Rover Group" and I wasn't a member of the Dunblane Rover Group. I wasn't associated with it at all.

It also says in the second paragraph "All activities are well supervised, as I myself have been present on various occasions at meetings and outings". Had you been present at any? - I was at one. I don't know if it was with the Dunblane Boys' Club or if it was when he was with the Rover Group but we were invited. I think it was maybe when he had the Rover Group. He asked us if we would like to go one Sunday on a swimming outing to/

to the Commonwealth pool but that was not in an official capacity. He was taking the boys and asked if we would like to go and take our two daughters. It wasn't official.

The letter in the second paragraph says "I have accompanied the boys from the group on outings to places of public interest when the behaviour of the boys has made me proud to be associated with the group. This, nowadays, cannot always be said of large groups of children out in public"? - Yes. Well, I was at the Commonwealth pool on one trip with the boys.

It then goes on to say "As a parent of two daughters, my children naturally are not members of the Dunblane Rovers but they have had the pleasure of being invited on several occasions to sail with Mr. Hamilton, my husband and myself"? - Well, that is true. We did go sailing with him.

"The care and safety shown to my family, especially the two children, in these instances, was of the very highest standard", is that right? - Well, yes, it says that.

The next section says "Secondly-I come into contact daily with many of the boys from the group in the course of my duties as School Helper at Dunblane Primary School, and I know how much they enjoy the groups activities"? - Yes, well, I have lost you now.

If you look at the word "Secondly"? - Yes.

And then the next bit says.....? - Well, I was a School Helper at Dunblane.

And did you come in daily contact with many of the boys from the club? - Well, I wouldn't have known the boys with the Rover Group because I wasn't associated with the Rover Group.

You might have known them if you had been to the Commonwealth pool with them? - On one occasion.

You would probably know the boys if you saw them at school and then at the pool. Would you not/

not recognise them? - If you ask me now to name the boys who were in the Dunblane Group that I was associated with I could probably only name two at the moment.

Is it not possible even that you wrote this letter? - Not when it says "Firstly as an interested member of the Management Committee of the Dunblane Rover Group" because I was never involved with the Dunblane Rover Group.

Are the rest of the contents largely accurate? - Well, I wouldn't know about "all activities are well supervised" because I was never there. I was never even at a meeting of the Dunblane Boys' Club although I was the secretary. We went sailing twice with Mr. Hamilton.

If you go forward now please to D78/J(i) you see there this is an excerpt from a Minute of a meeting of the Further Education and General Purposes Sub-Committee of the Education Committee. Have you got it? - Yes.

Held on the 23rd of September 1985 and if you could go over two pages.....? - Excuse me, but was this the meeting held in the Council Chambers?

Well, this Minute relates to a meeting which you were not at but you were at the earlier meeting which is referred to there as a special sub-committee and if you go over two pages you will see the Minute of the sub-committee meeting which was actually held on the 4th of September? - 1985?

Yes? - Yes, that is when I became involved.

And you will see your name near the top of that page? - Yes.

As one of the people coming to the meeting? - Yes.

And the others there were Mr. Hamilton, Mrs. McFarlane, your husband, Mr. Williams and a solicitor. Do you remember that? - I don't remember the solicitor. Probably because I didn't know the man.

Well,/

Well, it is a woman? - Oh, sorry. I remember Mr. Hamilton, Mrs. McFarlane and it has got Mr. K. Anderson. It should be Mr. E. Anderson. Mr. Williams.

Were these people, apart from the solicitor, you do remember being at the meeting? - Yes.

Now, we know that there was correspondence about the possibility of such a meeting for quite a long time and we have seen a letter dated the 24th of February 1984, you saw it earlier, in which you are listed as a member of the Committee? - That was of the Rovers?

No, the new group? - Sorry.

If you go back to D53 in H(v). You have seen that already but just to remind yourself, this is a letter your signature appears on and that one is dated February 1984 so it is quite difficult I suppose to date exactly when you first got involved in this Committee? - I got involved in the Committee when he got to renew the let and the name was then the Dunblane Boys' Club.

But can we date it to the letter which is the same idea or the meeting with the Council which is a year and a half later? - Well, it was the meeting of the Council because we had a meeting at Mr. Hamilton's house to ask the people that were present if they would form a Committee and then I think it was that same week or maybe the week after that we had a meeting in the Council Chambers.

Well, if the date on the letter is accurate then the presence of your signature on it is a bit of a mystery? - Exactly. I mean, I don't really know it is my signature. It looks like it.

I suppose you might say Hamilton writes in a similar way to you on the face of the signatures. Does the signature look like yours at all? - Well, if you look at the signature on my cheque card, it is not my signature that is on that letter. If you want to look at that?

I think his lordship might want to look at it? - And compare it with the signature on that letter./

letter. It is not my signature I would say.

It might be as well if you look in that connection also at the other letter, the one which was in D21/J(i) which had the 28 at the top of it. The other place that we had your signature, apparent signature, the letter of the 31st of October? - Well, as I say, it looks like mine.

Does that look like your signature? - Similar but if you look at it with the cheque card, it is not.

Well, does it look different from the cheque card signature? - Yes.

CROSS-EXAMINED BY MR. JONES: Can I try and be clear about the sequence of events. You knew Thomas Hamilton before the let of Dunblane High School was stopped by the Council? - Well, I wasn't aware of that being stopped. As I say, my husband was more involved on that side than I was up to 1985 because when he called, I'm sure it was a Thursday he normally called and I go out every Thursday night and have done for the last 30 years so I would only see him for a few minutes and when I came back I would say to my husband "Was Tommy up tonight?" and he would say yes and I would maybe say "What was he saying?". As I say, I didn't often see him at that time.

I just want to be clear about this. Were you or were you not aware that the Council had stopped Mr. Hamilton's let at Dunblane High School? - I wasn't aware of it.

Were you never aware of it? - No, I thought it was when he went.....I thought he had been asked to disband the Rovers Group because of the name and that when he went to re-name it the Dunblane Boys' Club, that is when the Council had problems with renewing the let.

And you look again please at D78/J(i). That is the Minutes of the meeting that you attended at the Regional Council in September of 1985. Do you have that document? - D78/J(i), yes.

And that is the Minute of the meeting? - Yes.

Now,/

Now, can you turn to the third page, at the top of which you will see X-219? - Yes.

And then you see the words "Confidential-Not for Publication". Do you see that? - Yes.

You are then recorded as being present. Do you see that? - At that meeting?

At that meeting. Is that right? - If that was the meeting.

Well, do you see your name? - Yes.

And your husband's name? His name is amongst those who were there? - Yes.

Just below the names do you see it says "During a wide-ranging discussion with the Representatives of the Club the following specific points were raised by the Sub-Committee:-" and then there are eight points? - Yes.

Now, do you remember while you were there being asked a number of questions? - No, I don't remember it.

But you accept that you were because that was the purpose of the meeting? - Probably, yes.

And do you see the third question was "During the period since the let for Dunblane Rover Group was terminated had the Committee made any attempt to find alternative accommodation in Stirling, Dunblane or any other area?". Do you see that? - Yes.

Now, if this Minute is accurate, you were at least aware in September of 1985 that the let for the Dunblane Rover Group had been terminated? - Well, I understood it to be that the Rover Group had been asked to disband because of the name.

Well, it says here that you were asked about something happening after the group was terminated. All I am asking you is if this Minute is correct then it must mean that you knew at least in September 1985 the let had been terminated? - I am not saying it wasn't. I am just saying I don't remember it. My recollection is that the Rover Group/

Group had been asked to disband because of the name.

Well, I think that is really what I am trying to get at. It may be your recollection now is not perfect. We are talking of events that happened between 11 and 15 years ago? - Well, I don't remember because I don't even remember the exact date. Until the gentleman there said it was 1985, I couldn't remember the date.

But you accept there is a difference between things not having happened and your not remembering whether they happened? - Well, yes. I suppose so.

Now, do you see that the first point that was put to the people who were there was this; looking back at this document, "Of the Committee membership detailed in the letter dated 24th February, 1984, from the Secretary of the club, only three were residents in Dunblane". Do you see you were asked that? - Well, as I say, I don't remember it. You know, when we had the meeting.....

If you just answer me. Do you see that is in the Minute? - Yes, I see that.

Now, we have heard that one of the papers that was available to the Council was the letter that you have been shown, the letter which bears your signature of the 24th of February 1984. Now, can you have in front of you again please D53 of H(v)? - Yes.

Can/

3.40 p.m.

Can you accept, although you may not remember it, this letter of the 24th February, 1984 was in front of the committee when you attended this meeting in September, 1985? - I cannot answer that, because as I say, I don't think that signature on that letter is mine.

Leaving aside your recollection, I am just asking you if you can accept the Minute is aware of a letter dated 24th February from the Secretary of the club? - Yes.

And the only Secretary of the club you have ever known about is you? - Yes.

Could you look at another document, which is in the other bundle in front of you, D.....? - If I can go back to that, Dunblane Boys' Club was not effective until after this meeting, or at the time of this meeting.

I think you have already seen that the letter of the 24th February, 1984 records the change of name from the Dunblane Rover Group to the Dunblane Boys' Club? - I thought it was at this meeting we were at at the Council Chambers.

If you look at page X-220, you see just below halfway down there is a paragraph which does not begin with a Roman numeral? - Yes.

It begins "In closing their remarks..."?
- Yes.

You see it says "In closing their remarks the representatives from the Dunblane Boys' Club referred to the change of name of the club from Dunblane Rover Group. The club representatives felt they would prefer to revert back to their original name and wondered if the Regional Council would find this acceptable". Do you see that? - Yes. Can I just read that?

Yes? - Well, this was the representatives of the Dunblane Rovers Group I presume saying they would prefer the name to be the -- the Dunblane Boys' Club rather -- saying they would prefer the name to revert to the Dunblane Rovers Group, but that didn't mean the representatives/

representatives there were representatives of the Rover Group.

I am putting this to you because you said it was at this meeting in September, 1985 that the name was changed from the Rover Group to the Boys' Club? - No, I didn't say that. I said that my understanding was that when the Rover Group was disbanded it was because of the name, and that I became involved with the Committee of Dunblane Boys' Club, which was in 1985.

Now, you told us I think that the signature on the letter of 24th February, 1984 is not yours. Could you say which one this is? D53/H(v)? - Yes. If you look at my credit card it is not.....

I am not interested in your credit card. The question is whether you are saying the signature on the letter of 24th February, 1984 is not yours. Is that what you are saying? - Just let me read the letter. I am not really sure.

It may be yours? - What I cannot understand is why I would be typing that at the time when I was not the Secretary.

I am not asking you that. I am simply asking you about the signature, and I am asking you to say whether or not you think it is yours? - Well, I would say it looks like mine, but I am not sure.

Could you look at another document, D74/J(i)? - Yes.

This is a letter which bears to come from your organisation, dated 21st August, 1985. Can you see that? - Yes.

And it is handwritten and appears to be signed by your signature, Katherine M. Anderson? - Yes.

Was this written by you? - Yes.

And that is the same style of signature we have seen both on the letter of 31st October, 1983 and the letter of 24th February, 1984? - Similar, yes.

Can/

Can I ask you to look at one further document? If we go to D49/H(v), this is a very faint photocopied letter. Do you see that? - Yes.

Can you turn from that, turn from the second page and go on to the third page which has "7b" at the top right-hand corner. Have you got that? - Yes.

This appears again to have your address in Dunblane in the top right-hand corner? - Yes.

And that appears to have your husband's signature on the bottom, Ewan Anderson? - Yes.

And that bears the date 6th November, 1983? - Yes.

Do you see the text "Dear Sir, As a fair-minded person I feel obliged to write to you to protest about and to condemn the Director of Education's handling of the Dunblane High School let to the Dunblane Rover Group.

"Firstly let me refute the allegations made about Mr. Hamilton's character and his parting company with the Scout Movement"? - Yes.

And then if I can take you on to the fourth paragraph "I had no personal connection with this group until recently, when due to an injury the sports coach could not attend the Thursday meeting. Mr. Hamilton asked for my assistance to run the five-a-side football. I thoroughly enjoyed the experience and was astounded at the manners and good behaviour of the boys"? - Yes.

Do you remember an occasion when your husband helped out with the five-a-side football? - He did with the Dunblane Boys' Club occasionally, but I could not differentiate.

He stated, "My wife, daughters and myself then assisted with an outing to the Commonwealth Pool in Edinburgh, and can honestly say that we were proud to be seen in their company"? - Yes.

And you remember a trip to the Commonwealth Pool? - Yes. As I say, we were not involved in the running of the club. Mr. Hamilton invited/

invited us to go one Sunday.

And that was with the Rover Group? - Yes. Not as part of it. It was a social invitation.

It goes on "In fact we have been so impressed that my wife and I have volunteered our services as members of the Management Committee, now acting as Secretary and Treasurer respectively"? - Yes.

And that is what happened, isn't it? - Yes. Not with the Dunblane Rover Group; with the Dunblane Boys' Club.

Is it just that you do not have any recollection of the club being called the Rover Group at that time? - No. I was not involved with the Dunblane Rover Group; I was involved with the Dunblane Boys' Club.

How do you explain this letter? - I don't know. Mr. Hamilton had put down on a letter that we saw that the CID had produced, he had us put down as members of the Management Committee of the Rover Group, and that was not true. What I am saying is, is this letter true? Did my husband sign that? Because we were not members of the Management Committee of the Rover Group; we had nothing to do with the Rover Group. We were not involved with the Rover Group.

If that is right it must follow that the letter which appears to be signed by you on the 31st October, 1983 is just false? - That is what I am saying.

And the letter which appears to be signed by your husband a week later is just false? - Yes.

And the letter dated 24th February, 1984 is just false? - Well, I would say that because I was not involved in the Dunblane Rover Group.

And although there is reference in the letter dated 24th February, 1984 in the Minutes of the Committee meeting you attended it must be a reference to some other letter? - Maybe this is a letter that my husband didn't sign and that is a letter/

letter that I didn't sign: but I know I was not involved with any club until the meeting at the Chambers, which appears to be in 1985.

CROSS-EXAMINED BY MR. TAYLOR: You may be relieved to know that I do not propose to ask you any questions about letters or Minutes, but I would like to ask you some questions about meetings which you had with Mr. Hamilton: do you understand? - Yes.

You have told us that when he came to your house it was in the order of once a week at first, usually on a Thursday, when you were out; is that correct? - Yes, as far as I remember.

Can you say what year he started attending your house? - I don't remember, but my husband dated it to 1982, because he was unemployed at that time.

Your husband was unemployed? - Yes.

You have told us that the frequency of the visits increased from once a week to eventually three or four times a week, and finished when? - 1989.

At first you would not have had much contact with Mr. Hamilton if you were out on Thursdays when he called? - Yes.

But you would have been in the house on occasions when he started to visit more regularly? - Yes, I was in when he called.

And when you were in the house with him did you form an impression as to how he looked on you and your husband? Never mind how you might have looked on him, but what was your perception as to how he looked upon you? - We were friends.

What sort of topics would you discuss with him? - Just general topics of conversation. We talked about the clubs, we talked about general topics of conversation, about games, board games, etc.

Would there be any distinction as to what you would speak to Mr. Hamilton about and what you would/

would speak to your neighbour about? - No.

At what stage did the visits increase from once per week to something more frequent than that? - I think it was the fact that one of the other members of the Committee whose two sons were in the boys' club moved away from Dunblane, and he had visited them, and when they moved away he started visiting us so often.

Can you say when that was? - No.

Who were these other people he visited? - The name of the family?

Yes? - The Williams.

Do you know how often he attended at their house? - No, but I know it was on a regular basis.

About once a week? - Probably.

Other than the Williams was there any other family who he visited, to your knowledge? - In Dunblane?

Anywhere? - He did speak about a friend he had -- his name escapes me at the moment: he was something to do with one of the gun clubs. I only knew his first name.

Was that a Mr. Woods? - Can you tell me the first name?

Clive Woods? - Yes.

Taking these two groups separately, how did you perceive Mr. Hamilton saw the Williams? - How did I perceive Hamilton's view of the Williams?

Yes? - Just as friends, the same as we were.

In relation to Mr. Woods, how did you perceive he thought of Mr. Woods? - He did not mention him so often. He knew we knew Jim Williams, but I had never met this Clive, so he didn't talk about him so much.

Did/

Did the name Williams come up reasonably frequently in your discussions with Mr. Hamilton? - Just as a topic of conversation.

Would you describe Mr. Hamilton as a loner? - I suppose so, yes.

In what respect? - Well, I suppose apart from the visits to us and his club meetings I don't think he had other social.....

Yourself, the Williams and Mr. Woods? - I don't know how often he visited Mr. Woods, but he visited us regularly and he visited the Williams regularly.

You told us about two instances where there were rumours that some boys were left on an island, and one rumour was that they were given only a tin of mince and another rumour was that they had only been given a tin of beans; is that right? - Yes.

Were you able to make enquiries as to whether that was true? - No.

Did you believe that rumour? - No.

But it was a rumour which you were able to check upon, if I have understood your evidence correctly? - No, I didn't check up on it. I had heard the rumours, and I knew one of the boys concerned, and a while after I had heard the rumour just in conversation the boy's mother in general conversation said to me that her son had been at his aunt's for a week's holiday, and she had to go and pick him up after two days, because he was homesick.

And it was rumoured he had been somewhere other than his aunt's? - No. He was homesick.

And he had been homesick at one of Mr. Hamilton's camps? - I heard the rumour, then I had a discussion with the mother.

What was the rumour? - There was a rumour that the boy had been left on the island with a tin of beans. I heard that conversation, and then in general conversation with the mother, nothing to do with the club, she said that her son had/

had been away up at an aunt's for a week's holiday and she had to go and bring him back after two days, that he was homesick.

Was this the same week it had happened? - Yes, she had just gone and brought him back. But it was months after the rumour; it was quite a while after that. After that I said to Mr. Hamilton what was the story about this rumour, and this was when he said to me that the boys were homesick but they didn't want to go home and say to their parents they were homesick, so they made up stories.

Do you know why Mr. Hamilton brought round weapons to your house? - Because of the common interest with my husband. When they had gone shooting it was pistol shooting, which my husband doesn't do; he shoots .22 target. I think Mr. Hamilton took my husband to Dechmont on one occasion I can remember.

So he has taken guns round to your house on the way to the pistol shooting? - No, this was a different time. The times he went with my husband he called the house. I didn't see the firearms. They just went away. On a different occasion he brought the guns, yes.

This was because of their mutual interest in guns? - Yes. Not me, but my husband.

RE-EXAMINED BY MR. BONOMY: I got the impression initially you didn't now Mr. Williams. How well did you know him? - I didn't know him until I met him at the meeting in Mr. Hamilton's house.

That was the first time you met him? - Yes.

How/

4.00 p.m.

How long after that was it he moved away? - I can't remember when he moved away. It was after I came off the Committee. He was still on the Committee when I, you know, resigned.

The letter which you were shown by Mr. Jones, which is signed by your husband, your husband has already told us he wrote or at least was responsible for. Did you and your husband get involved in the Committee at the same time? - We joined the Committee at the same time but I resigned before my husband.

So if your husband accepts his involvement in 1983 around the time the lets were lost, does that help you? - Well, my husband was involved, as I say, with Mr. Hamilton. I am not saying on Committees but he was involved, you know, more on that side of it than I was. I wasn't involved until the 1985 but I know my husband was involved before that because he was able to say to me that he had tried to get to the bottom of the rumours and nobody would do anything. You know, they would never name names. Because my husband told me he had gone to this one and that one and people just said that so and so told me that and my husband tried to get to the bottom of it and wasn't ever able to do so because nobody would come forward with any names. They would say "Oh, I don't know. I just heard it". So my husband was involved with Hamilton but I'm not saying on Committees but involved with talking about it with him before I was.

Well, you will see or you will remember that the letter which he signed said that he had no personal connection with the group until recently when due to an injury the sports coach could not attend the Thursday meeting and Hamilton asked for his assistance in running five-a-side football? - Yes, but that was on one occasion. If that letter was genuine.....

Well, he has told us it was? - I know, but did he read it?

Well, he took an oath like you did? - Yes, but did he read the letter? He may have looked/

looked at the bottom and thought it was like his signature but, as I say, it says "In fact, we have been so impressed that my wife and I volunteer ourselves as members of the Management Committee now acting as Secretary and Treasurer" and that would appear that is to the Dunblane Rover Group, wouldn't it?

It could be? - Well, I mean, the letter was headed the Dunblane Rover Group and my husband and I were not involved on any Committee with the Dunblane Rover Group although I was shown a letter by the CID Detective who came to the house when I was interviewed and she showed me a letter that Mr. Hamilton had written to the Council and our names were on it and we were not members of the management group for the Rovers.

I follow all of that but take it from me that your husband did see the letter and did have the opportunity of reading it here and did confirm his agreement with its contents? - Yes, but I am saying did he read it or did he look at it?

Well, would you listen to what I am saying please. Take it from me that he did have the letter and he did have an opportunity of reading it here and certain parts of it were subsequently put to him with which he agreed? - Well, my husband.....

Just give me a moment to finish the question. In the light of that he confirmed that this letter was his. Now, if that is the case and he is referring there to the two of you becoming involved in the Management Committee and you agree you both got involved at the same time, does that help to confirm that you actually were involved in November of 1993? - No, because I know that I wasn't involved with the Committee until it was the Dunblane Boys' Club in 1985 and neither was my husband. We were not involved with the Rovers Group at all and I can swear that on oath, that I wasn't. I had nothing to do with the Dunblane Rovers Group. Nothing.

MR. BONOMY: Now, sir, that completes the oral evidence I propose leading today. I anticipate certain further oral evidence, in particular the evidence of Dr. Baird, Consultant Psychiatrist./

Psychiatrist. He unfortunately will not be available to give evidence until a week on Monday which is the 8th July. That may not present any particular difficulty in view obviously of the need of parties to consider the volume of evidence that has been led over the last 23 days in preparing Submissions they propose to make to you.

I have some written evidence which ought to be lodged now I think in the form of Productions largely. Not entirely but largely in the form of Productions which should be given R numbers.

Before I do that, I tender a letter from Her Majesty's Chief Inspector of Constabulary dated the 25th June 1996 to the Procurator-Fiscal confirming the status of the draft Thematic Inspection Report and in the last paragraph it says, "I understand that you already have a copy of the draft Thematic Report and I would confirm that the decision on whether or not it should eventually be published will be taken when Lord Cullen's deliberations have been completed" and that is signed by Her Majesty's Chief Inspector.

The other items which I suppose, sir, should be Productions are first of all a document headed "Lord Cullen's Inquiry-Firearms offences" giving certain statistical information about the commission of offences with firearms.

Secondly, a series of four documents which are covered by a summary or description of them. These are documents relating to the form of inquiry form used by Police Forces in England and Wales. They were handed to me by an interested observer at the Inquiry. They do seem to be of some value, sir, and I thought it might be of assistance for you to see forms that are used elsewhere.

The next set of documents.....

LORD CULLEN: Before you go any further, can we just check what numbers we are clocking up as we go along. The letter with the statistics would, I suppose, be 68, is that right?

MR. BONOMY: No, I think 69. The GMC Guidelines are 68 and the BMA Guidance was 67. So the/

the statistics becomes 69. The four forms with the accompanying note becomes 70.

The next one, 71, is the Precognitions which the Procurator-Fiscal obtained in relation to the investigation of the 1991 camp. So these are the Precognitions the Procurator-Fiscal at Stirling had. The Inquiry has already seen the police statements and the information before the Inquiry would be incomplete, in my submission, without this additional material which was before the Procurator-Fiscal.

Then lastly, a document headed "Violence to staff in the Education Centre" produced by the Health & Safety Commission and referred to by Mr. Gibb in the examination of a witness earlier and one which you, sir, expressed some interest in and which ought to be before the Inquiry.

With that, I complete the presentation of evidence so far.

LORD/

LORD CULLEN: Thank you very much, Mr. Bonomy. There are a few matters I would like to deal with.

Since the last list of written submissions, further submissions have come in or at least have been recognised to be submissions to enter the evidence. There will be a list which will be issued later today. I understand that a number of written submissions are still, so to speak, on their way here. These include I think supplementary written submissions from the British Sports Council and a joint submission I think by the Callander and also Stirling Rifle and Pistol Clubs. That may be of interest to those who are here.

Now, can I check on one point. I'm not sure whether parties have any intention of lodging any written submissions in regard to possible recommendations between now and the resumption of proceedings. Can I ask parties in turn what their position is. Mr. Campbell, what about you?

MR. CAMPBELL: Sir, my intention, if it is acceptable to you and obviously if it is not then I will think again, is to present submissions orally when it is appropriate but they could then be put into written form if necessary thereafter.

LORD CULLEN: The only thing about that that slightly concerns me is whether there might be a problem if you were to take some line which is not indicated by any of the existing submissions. Maybe that doesn't arise.

MR. CAMPBELL: Well, sir, you have indicated that concern to me informally before and you did indicate that it might be helpful if I was to speak to another party and that has happened and I think I have given him an assurance which should be satisfactory but certainly if there is any written information of that nature being circulated to one party, I will make sure that it comes to you and others.

LORD CULLEN: That is helpful. Thank you. Mr. Gibb, what is your position?

MR. GIBB: My position is that I have really been hanging on Mr. Campbell's coat tails to some/

some extent over the last few days and I may end up duplicating a certain amount of his verbal submissions but if the general view is that verbal submissions are appropriate, clearly I can excise what I need to on the day but I would be happy to make written submissions if you wish.

LORD CULLEN: It is entirely a matter for you. I don't think I have any great need for that except if there is any risk of you raising a point nobody else had yet raised in writing, in which case it might be fair if some notice is given of that.

MR. GIBB: I am quite happy to go along with verbal submissions.

LORD CULLEN: Thank you. Mr. Jones?

MR. JONES: Sir, I would not be making any recommendations and therefore I am not covered by the enquiry your lordship is making.

LORD CULLEN: Mr. Taylor?

MR. TAYLOR: There is still an outstanding document I promised to your lordship some time ago and that is in a fairly advanced stage of preparation and should be available some time towards the end of next week. It is a different form of submission, however, from what has been discussed up until now because it is a document from the Chief Constable. Insofar as there is a submission on the evidence then if the view is that the submission should be delivered orally then I will go along with that.

In my submission, it is on occasion of considerable advantage for the written submissions to be prepared and exchanged at a point of time in advance of the oral submissins because that affords an opportunity to make some preparation in response to any criticisms which might be made.

LORD CULLEN: I think at the moment all I am talking about is written submissions in regard to possible recommendations because the invitation that was made to the world at large was also extended to the parties and I simply want to know whether the parties are going to take up that invitation by giving me written submissions as distinct from making/

making oral submissions when we resume. You have something in preparation?

MR. TAYLOR: Something in preparation coming not from my pen but from the pen of the Chief Constable.

LORD CULLEN: Well, that is very helpful. Thank you very much.

Now, as far as oral submissions are concerned, obviously parties will wish to devote some attention insofar as interests extend to (a) the circumstances that we have had explored over the last so many days, as distinct from secondly the possible area for recommendations. So far as the circumstances are concerned, I don't think I would want parties to feel that they have to prepare elaborate statements of fact as to what should be found established. I think that would be far too large an imposition. I am much more concerned with matters of fact to which observations or comments may be directed. I am not wishing to prevent anyone from presenting any presentation on the facts they want to but I am most particularly concerned with matters of observations or comments on the evidence that we have heard. There are a few instances in which evidence has been conflicting or uncertain and I think there are one or two instances where questions of credibility arise and I won't say what that is but I would like to hear what parties have got to say about that.

As regards possible recommendations, I don't think I need to add to what I have said earlier.

I don't at the moment, Mr. Taylor, feel any need to require any advance notice to be given. Are there any particular matters which are concerning you as to the future?

MR. TAYLOR: If I knew of the matter I would not be asking for the submissions in writing, sir.

LORD CULLEN: I think we should take things as they come. I think that somebody in your position will have a fair idea of what some other party might want to say in due course.

MR./

MR. TAYLOR: Yes.

LORD CULLEN: So far as the order of submissions is concerned, it might help if I said a bit about that now. I would intend to call on Mr. Bonomy to speak first insofar as he feels it necessary to address me on matters. Then I will call on the parties in the order in which they have been questioning and when that is done it may well be that Mr. Bonomy will wish to give me some further assistance in the light of what parties have said.

There is one other matter which has given me some concern. I have a strong impression that at least one of the parties here will wish to make certain submissions as to recommendations in regard to restriction of availability of firearms and ammunition or the like. I am quite anxious to make sure that I have a proper debate in which there is a proper contradicter so I have decided, and I have been thinking about this for some time, on my own initiative to invite representatives of what I might call the umbrella bodies to be present so that if they wish they can have their interests responded to in whatever submission may be made in that direction. I have therefore invited, and this invitation has been accepted, any legal representative of the British Shooting Sports Council and the Scottish Target Shooting Federation to be present whilst the submissions are taking place. This is an invitation which, as I say, I have made entirely on my own initiative. They don't come as parties to the Inquiry. They come here to assist me in trying to make sure that any submissions that are made are fully scrutinised and it is of course a response rather than to advance the case which they have already set down in their written submissions.

One other thing. Mrs. McKeand has reminded me to tell you that the Inquiry office will remain open here next week in the usual way so that if any party requires to be in contact with her, that can be done as usual.

Very well, we will now adjourn until Monday the 8th of July at 10 a.m.

Adjourned until Monday, 8th July at 10 a.m.

TWENTY-FOURTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

MONDAY, 8th JULY, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., with Mr. M.J. WOOD, solicitor, for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

.....

I N D E X.

Page.

JAMES WILLIAMS,
Examined by Mr. Bonomy..... 4
Cross-examined by Mr. Wood..... 20
Cross-examined by Mr. Taylor..... 22
Re-examined by Mr. Bonomy..... 24

JOHN ALEXANDER BAIRD,
Examined by Mr. Bonomy..... 26
Cross-examined by Miss Dunlop..... 60
Cross-examined by Mr. Gibb..... 65
Cross-examined by Mr. Taylor..... 68
Re-examined by Mr. Bonomy..... 78

.....

MR. BONOMY..... 80

MR. CAMPBELL..... 101

MISS DUNLOP..... 118

_____

MONDAY, 8th JULY, 1996.

TWENTY-FOURTH DAY.

JAMES WILLIAMS (51), Sworn:

EXAMINED BY MR. BONOMY: Do you live in Galashiels? - In Galashiels now, yes.

Do you work as a computer consultant? - Yes.

You used to live in Dunblane? - Yes.

When was that? - l982 to l985.

And you have two sons who were quite young in these days? - Yes.

Their names? - Stephen Charles and Andrew James.

When you first lived in Dunblane what ages were they? - (No answer).

For a computer consultant it shouldn't be too much of a problem? - I think Stephen was l0 and Andrew was eight.

So they were in the age group what we have heard Thomas Hamilton ran boys clubs for? - Yes.

Did you first hear of Hamilton from them or did you meet him yourself? - No, I first heard rumours at work.

Even before the kids mentioned him? - Yes.

Where were you working then? - Burroughs Machines, Cumbernauld.

That is some distance from Dunblane. Were there other people from Dunblane working there? - Yes.

And/

And what kind of rumours did you hear? - Just that he was strange.

Anything more specific than "strange"? - Well, I used to travel down with three men to work, after I first moved to Dunblane, I travelled with three men and I think the words were "pervert".

How did the subject come up? - When we moved to Dunblane I think it was just talk, you know, in the car, and on the way to work. I don't have a great recollection of anything but.....

You can't focus on what may have been the common interest of three men in a car going to work that would raise the subject of Thomas Hamilton? - Not at the moment. I don't remember, sorry.

What school did your two boys go to? - Started off at Dunblane Primary.

How did they get to know about Hamilton? - Well, when they started at Dunblane they came home one night and said that at Assembly they had been warned about Hamilton who ran boys clubs, to avoid him. I mean, this may be not the correct words, but that sort of -- to avoid this man.

That message had been given to them at school? - Yes.

Did they say where in the context of the school that was given to them? - They said it was in the Assembly in the morning.

Can you tell me whether mention was made of him running clubs in that context? - Oh, yes.

So it was 'stay away from his club'? - More or less, because when Stephen that night, after he had been told, said that he wanted to join the club, and Andrew, who was a bit younger, he wasn't so sporty, but because his brother was doing it he wanted to do it.

In your original statement to the police you gave the impression that your sons had actually been attending the club before they were warned off, as it were, at school? - No.

What/

What is your best recollection of that? - No, I am sorry, they were warned at Assembly and they came back and said they wanted to join this club.

Did you allow them to join? - Yes, but only on the condition I could go up and see for myself.

When they first went did they go together or did one start before the other? - No, they both went together.

And did you go with them? - I went with them, yes.

Where was the club held? - Dunblane High School, in the gym.

Is this fairly shortly after you first moved to Dunblane? - It wasn't long after we moved. I can't be specific but it wasn't long after we moved to Dunblane.

The first time they went did you go with them? - Yes, I did.

Did you speak to Hamilton? - I did speak to Hamilton.

Have you any clear recollection about whether he was there in the supervisory capacity on this own? - He was there on his own that first night, because I went up and said that my kids would like to join, but I was a bit perturbed with what I had heard, and that I wanted to see what was going on in the club for myself.

Did you tell them what you had heard? - I said I had heard rumours I didn't like, and he seemed to respect me for that, because he already knew what people were saying about him.

Was the word "pervert" used in that conversation? - No, oh no.

Just rumours? - I said I just heard rumours I didn't like, to that effect, and I would like to see what happened for myself.

What/

What was his reaction to this reference to rumours? - He was quite happy I was up-front with him.

Did he say anything to explain himself? - No.

Did your two boys participate in the club that night? - They did, yes.

Can you remember how many children were there? - I think there was about four or five from Bannockburn, maybe two or three from Stirling, and there was probably about 12 including my two.

Did Hamilton say anything about what he was trying to achieve in these clubs? - What he said to me was he tried to get the boys a little discipline. His theory in life was if you can learn discipline now it will help you later on in life.

How long did you stay the first night? - I stayed all night.

Did you watch the activities? - I did.

Could you describe what you saw? - Just mainly gym, press-ups, the vault and the horse, the bars -- I can't remember what you call it, the bars, press-ups on the bars.

Did the work that you saw the children doing seem within their capabilities? - Yes. He did watch that. Where he found -- if he thought it was too much for them he put them into the second group. There was actually two groups, one group that did exceptionally well and the other group that was not quite so good.

Was the session well disciplined? - I thought it was.

What were the children wearing? - T-shirts, shorts and plimsolls, because it was a gym floor; they couldn't use their shoes.

Was there any conversation with him that evening about how well the club was doing? - He was always very excited about his clubs and he -- the/

the first night I was there there was talk about myself sort of joining with him as a parents' representative.

Did he say why he needed your help? - He thought it would help if there was a parent with children helping him with the club.

Did you do that? - Yes, I did.

How quickly after your first visit did you get involved? - Really it was after the first visit.

In what capacity in the club did you help him? - I was just there as a helper and also -- if I can go off the subject a bit for a second: he seemed to have a problem communicating with parents and he could communicate with children but he seemed to have a problem communicating with parents. Now, on that first night we seemed to communicate quite freely, and I could communicate with parents and I could also communicate with him, so I was I think the sort of middle man between him and the parents, if that makes sense.

Did you have any particular duties as a result of being the middle man? - After that, what he said was he wanted to make it well, legal. I am afraid I did leave a lot of this in his hands. He said before I could work with children I would have to have a police check and I would have to get in touch with Central Region to see if that was acceptable. Now, I think it was three, four, maybe five weeks after that he said "Everything is acceptable. You are now a representative of Dunblane Boys Club". This had nothing to do with the rest of his clubs, only with Dunblane Boys Club.

Did that mean that you did anything in particular so far as talking to parents was concerned? - Yes.

What did you do? - If parents had any worries they couldn't ask Mr. Hamilton they asked myself. They could talk to me because I was a parent, I had children too, and if they had fears I could talk to them as a parent -- sorry, they asked my opinion about it, being a parent, how I felt the club was run, was there any problem, and at the time I/

I had to honestly say I could see no problem.

What was the problem they were hinting at or specifically mentioning? - The rumours about him, about being a pervert.

So parents did come up with that to you and ask you what you thought about the running of the club? - After I was involved, yes, they would say: well, you are involved, how do you find it, what is your view of it, because I had two boys there at that club.

And what was your view? - As I say, I found nothing untoward, just that -- he seemed to think it was quite a good idea, he was just trying to get some discipline into the boys.

Did you actually do any work in the club during the evening? - Not myself, no, because I am not qualified.

You didn't catch boys or help with exercises? - No, just sort of overseeing, if you like, and there was another person there.

Did you wear a tracksuit or anything like that so that you might look like a coach? - Never, no.

Did you transport any of the kids back and forward? - Yes.

Apart from your own? - Yes.

Use your car for that? - Yes, I used my own car or the Transit van.

Whose van was that? - That was Thomas Hamilton's, because this was -- he used to pick up boys from Bannockburn and Stirling and take them across.

Can you remember what the name of the club was when you first became involved with it? - Dunblane Boys Club.

Was it after you were involved that he ran into difficulty with the let of the premises he had with Central Regional Council? - I think that was/

was about a year after I started.

And there was a period when he didn't have use of the High School? - That is right.

The evidence so far suggests that up until that point at least the club was called The Rovers, and following that problem the name was changed to Dunblane Boys Club? - I pass on that one.

You have no particular recollection? - No, it was always Dunblane Boys Club. There was the other one, Bannockburn Rovers, but I had nothing to do with that one.

We have seen the name Dunblane Rover Group in correspondence and we have seen the local authority Minutes where one problem they say was the use of the words "Rover" suggesting a link with the Scouts. Now, you don't remember anything about that? - Sorry, no, I can't recollect that.

When you ran into difficulty with the use of the premises did you become involved in helping him out? - Yes.

What was your involvement there? - We did a -- we went round collecting -- we did a petition and collected signatures from parents.

You will be given a folder with some documents in it which is HV and you will be shown E50 in HV which is also DCRC/AL/F1/15. You will see that is a hand-written document to the Director of Administration and Legal Services at Stirling dated 2nd November l983? - Yes.

Does your home address appear hand-written on it? - Yes.

Whose writing is that? - My ex-wife's.

You will see the heading on the paper is "Dunblane Rover Group"? - Yes.

And under that "J. Williams representative of parents"? - That is right.

Then your ex-wife's writing with your home/

home address? - Yes.

And it is a petition by parents of the boys attending the Rover Group asking for reinstatement of the use of the High School? - I remember that, yes.

So that is what you were telling us about a moment ago, gathering a petition? - Yes.

In support of Mr. Hamilton? - Yes.

And if you look at the second page you will see it does end up with "They are all proud to have Mr. Thomas Hamilton in charge of their boys"? - Yes.

And it is signed "Yours faithfully, The parents listed over"? - Yes.

And there are I can tell you 70 signatures but I don't think that yours is actually one of them. Could you just have a look and tell me if your signature is there? - Yes, mine is the bottom of the second.

On my copy it is obliterated? - It is very, very faint.

And I think your ex-wife is the third one on that page? - Yes.

Do you remember actually going round doors and collecting these signatures or was it she who did that? - If I remember correctly we both did.

Do you remember whether or not you went to doors where people refused to sign? - Offhand I would say I can't remember any refusal.

These documents have "Dunblane Rover Group" at the top. Does that help you to remember whether or not the group was actually called Dunblane Rover Group when you started? - No, I don't remember "Dunblane Rover".

But this is a genuine petition that you recollect? - Yes.

Either/

Either that or is it a major forgery exercise, but we have 70 genuine-looking signatures and what looks like your ex-wife's handwriting? - That is right. But I don't remember the heading.

But it appears on every one of these pages; is that right? - Right.

And the ones with the signatures are headed up "Management Committee - Dunblane Rover Group"; is that correct? - Yes, that is correct.

Did you also write a letter of support for Mr. Hamilton? - I can't remember.

Well, if you look also in the same volume to D49. There is a series of letters and there is one from you which is 7AF. Have you got that? - Yes.

Did you write that letter? - Yes, that is my writing.

Dated 2nd November l983? - Yes.

If you look at the third line of the actual text, referring to the let of Dunblane High School, "This was formerly used by Dunblane Rover Group on a Thursday night"? - Yes.

You have actually written that? - Yes.

So/

So it looks as though you must have known it as the Rover Group at that time? - Yes. I must apologise for that; I totally forgot.

Well, it is a long time ago? - I can't remember it being called the Rover Group. I take your point. It could have been the Rover Group when it first started, and according to this it was.

In the last sentence of the second page you say "I frequently helped out at various activities and have seen for myself the standards achieved by the boys"? - Yes.

"Also, as Chairman of the Parents Committee and answerable to the same I would greatly appreciate a written explanation of why the let was terminated so suddenly and without proper consultation with any of the group"? - Yes.

Was there a Committee at that stage? - As far as I know it was just Tom Hamilton and myself.

Is it possible you wrote this out on the basis of what he suggested to you? - I have no answer for that.

If you look also at 7A(I) which should be just after your letter, you will see another one, written by your son Stephen, a short one? - Yes.

Does that look like his writing? - Yes.

That starts off "Please would you ask the Council to give us our Rovers back?"? - Yes.

Do you remember that being written at all? - Not now, no.

Anyway, you got support in the petition, and you and a number of people you would be aware wrote letters? - Yes.

Was there eventually an arrangement arrived at to enable the club to resume its activity? - Yes.

Now,/

Now, can you tell us what you remember of how that arrangement was arrived at? - It was a meeting of Central Region, but I can't remember that meeting at all.

Do you not? - No. I must have been there. My name is on the Minutes. I have a recollection of a room with some people in it, but it is too long ago now.

A different volume of papers will be put in front of you, J1D78. Now, these pages reflect the Minutes of meetings of the Regional Council Education Committee. If you look at the page headed X-219 you will see a list of people who are welcomed to the meeting by the Chairman, and one of these is Mr. J. Williams? - Correct.

But you don't remember the meeting? - I remember we had a meeting to discuss trying to get the let of the High School back for the club.

Around that time do you remember a group of people meeting in Hamilton's house to discuss this subject? - No, because I was never at Thomas Hamilton's house.

Never at all? - Never at all.

Do you remember meeting anywhere else with any of the people named in that group, Hamilton, Mrs. McFarlane and Mr. and Mrs. Anderson? - Offhand I can't remember.

Do you remember any of these people? - The names don't ring a bell, no.

You don't remember for example Mrs. Anderson being the secretary of the Committee for the Dunblane Boys Club? - No.

You don't remember meeting in the home of any person who was along with you a member of the Committee of the boys club? - No.

We can perhaps now go back to the previous volume, HV, and if you would look at D53, you will see that is a letter dated 24th February, 1984, and it is written to the Director of Administration and Legal Services, and sets out the names/

names of the Management Committee of Dunblane Boys Club? - Yes.

I see your name is there? - Yes.

And we now have the same names as we had on the previous Minute, with some additional names, such as McKenzie -- there is two persons called McKenzie on it -- and there is also a Mr. McDonald, a Mr. Gillespie and a Mr. Stewart? - Yes.

Do any of these mean anything to you? - The only one I remember slightly is Norman McIntosh.

He is down lower down as the leader and club coach? - Yes.

Where did you meet him? - If memory serves me correctly it was at the High School.

What did he do for the club? - I think he only popped in twice.

Do you remember the meetings of the club resuming in the High School after the problem was resolved? - It would be wrong to say yes. I don't remember.

Over the whole piece do you remember whether Hamilton ever had coaching or leadership assistance in the running of the classes, the club meetings, when gymnastics were going on? - Not that I remember. The only people that were usually present were the boys, Tom Hamilton, myself and any parents who stayed on to watch.

Were you a regular supervisor? - I was a regular overseer, yes. I had no qualifications to coach, so I was just an overseer.

Do you remember an arrangement which involved the boys stripping their tops off and having the lower part of the body covered? - No.

You don't remember the use of swimming trunks rather than gym pants? - No. It was on the list that they had to bring -- if they came without their shorts, without their T-shirts or without their plimsoles they had to sit at the side. They/

They had to be properly attired to do the gym.

Did you ever see anything that you could describe as untoward or improper done by Hamilton with any of the boys? - No.

Was he interested in photography at this stage? - Yes, he used to take photographs of the boys throughout the night, or throughout the session, and he said to me he was keeping a weekly record of the boys' progress, and the parents if they wished were welcome to have the photographs.

By "progress" do you mean what they could do or what they looked like? - No, stature when they came in, the build they were that week, and after exercise each week he had some of the boys developed quite well, and muscular.

What did he do with the photographs? - I don't know.

Did you ever see any photographs of your boys? - He took photographs of my boys along with the other boys.

Did you ever get copies of them? - I think we had some, but I don't know where they are now.

Did he take any of the photographs in order to give to parents to show them the progress of their child, or did he keep them for himself? - The parents had to request them, but they were there if the parents wanted them.

Did your own boys ever complain about anything? - No.

Did you ever get involved in the summer camps he ran? - Yes.

Do you remember when you got involved? - It was just after I joined. He had summer camps over July and August in Loch Lomond.

How many did you attend? - I attended the three years I was there; 1982, 1983 and 1984. Now, I was working, so I could only get three weeks off, but my ex-wife used to go across, because our boys/

boys were at the camps.

What did you do at the camps? - Overseer, really; nothing else. They used to do their exercises in the morning, and he used to go across first and get everything set up.

Did you go with him? - No, I was working then. He was in a different situation; he had spare time. He used to go across and set up bars and horses and that sort of thing so that when the first group went across all the gym stuff was there already.

Did he leave them outside? - On the island, yes.

Can you do that with gym equipment, just leave it lying outside? - Well, he did.

Where did he get it from? - A good question. I always assumed it was his own.

Now, were the camps properly run, as far as you were concerned? - I would say yes. There were always at least three adults there.

What about discipline? - Discipline?

Yes. You would have a chance of watching him at close quarters at the camps. How did he keep control of the boys at that stage? - Raised his voice.

Anything else? - No; all he had to do was raise his voice.

Did he ever raise his hand in your presence at all? - No.

During these camps apart from gymnastics what other activites were there? - There was the steamer on the loch; he used to take them out on that. He took them up to Luss. If it was bad weather he would take them to the pictures at Luss.

Did he have a boat of his own? - He had a small cruiser called The Lady Sheila. He also hired two or three row boats with outboard motors from/

from Balmaha.

Does the name Tropical Linda mean anything to you? - That was the boat he had before The Lady Sheila. He had The Lady Sheila when I knew him, but I have heard that name before.

Do you remember a boat going on fire? - The Lady Sheila went on fire after he sold it.

What about Tropical Linda? Did it go on fire? - I don't know. I have heard that name. I know The Lady Sheila he had, and he sold it, and I think it was vandalised and set on fire.

Did you as a parents' representative ever get any complaints from any parents about his conduct towards the children? - No, not that I remember.

Did concern about rumours persist throughout the period you were involved? - No. Once -- okay, somebody you would talk to -- it seemed only to be a lot of fears.

Do you now know the names of any of the people who helped out at the camps? - No, not now.

You have told us you didn't go to Hamilton's home? - That is correct.

Did he visit yours? - Yes.

Was he a regular visitor? - Yes, quite regular.

Your son Stephen eventually began to help Hamilton in the camps; is that correct? - He did, yes.

When was that? - After he was 16.

When was he 16? - Six years ago. About 1989, 1990.

He might have been there in 1988, in fact; is that right? - I lost all contact with Tom Hamilton in 1985, but my son Stephen did not. As far as I know, he knew him right up till about two/

two or three years ago.

So he remained in contact with him; is that right? - Yes, because they had the boating in common.

Did you know that Hamilton had an interest in shooting? - Yes.

How did you learn about that? - He used to take the boys down to the Dunblane Rifle Club for shooting practice, and he used to talk about his guns. He just had a fascination for guns. He was seemingly a member of a few clubs.

Did you go at all to the shooting with the boys? - I went to the shooting, but I never went to any of his clubs.

The shooting you did with the boys you went to? - Yes.

Where was that? - I think it was the Dunblane Rifle Club. It is just on main street in Dunblane, or it was.

What were these wee boys shooting with? - Air rifles.

Did/

Did it look well ordered to you? - It was a proper shooting range.

Was Hamilton's behaviour well ordered? - Yes, and there were actually two adults. Only two boys were allowed to shoot because you had an adult with each boy or a leader with each boy as they were shooting.

So when was it your connection was ended? - It was 1985 because I was made redundant and I moved from Dunblane to Hawick. I can't give the exact date at the moment but it was 1985.

Was it a relief to you to get away from the Club or were you actually quite disappointed to have to give it up? - I was sorry in a way to give it up because it is a useful pastime. You know, working with kids is always.....it is always good to work with kids.

So was there nothing ever happened in the whole of your involvement that caused you any concern? - Nothing ever caused me concern, no.

By that I mean concern about Hamilton's activities? - Yes.

Nothing? - Nothing at all. Can I just say one thing? We had the boys swimming at Stirling and one of the weaker lads, the other boys got all his clothes and everthing and threw them into the water and of course he was breaking his heart. I made the bad mistake that I took my towel and started drying the boy's hair. Being a parent, you can appreciate you would probably do the same. Tom Hamilton got rid of the boy and came down to me and said "You never do that. You touch that boy and he goes back and you get yourself reported for abuse". He said "Never ever touch these boys again" and all I was doing was drying his hair. He was breaking his heart. If it had been my own boy I would have done it.

CROSS-EXAMINED BY MR. WOOD: Can you look please at D78 in J1. This is the Council Minute and can you look at Page X-219. Have you got that? It will be a couple of pages over? - Yes./

Yes.

Can you then turn over the page to X-220 and the fourth bottom paragraph and does it say there "In closing their remarks, a representative from the Dunblane Boys' Club referred to the change of the name of the Club from Dunblane Rovers Group. The Club representative felt that they would prefer to revert back to their original name". Does that also confirm your current recollection now that when you were first involved it was with the Rover Group? - No, I am sorry. I know it is there in black and white but the Dunblane Rover Group just doesn't ring a bell.

Moving to another matter. You said you attended some summer camps? - Yes.

You could only get three weeks off. Do I understand that when you were off work you attended the camps? - I did attend the camps, yes.

For three weeks? - I was there for three weeks.

And that would be in each of the three years? - Yes, but my ex-wife was there longer than that.

That is how there were three adults, when you weren't there there would be an adult in your place, is that right? - Somebody else would be there and also the parents went across at the weekend, the parents that wish to come.

Just one other matter in the set of papers you were looking at, H(vi) and if you look at D53 within that. Now, on the second page of that, at the top of the page, does it say "Mr. James Williams is the official representative of the parents"? - Yes.

Would you accept that that was your position? - At that time, yes, but I never saw anything in writing or.....

But in a practical sense that is how you regarded yourself? - Yes, that's right.

And finally if you go back through that set/

set to D49 and that is your letter, 7AF, within D49. Do you see the letter? - Yes.

And again on the second page of that your attention was drawn to the final paragraph where you wrote "As Chairman of the Parents Committee" and I think you said there was not a parents committee, is that right? - Not really.

What I was going to ask you was when you wrote that letter did you regard yourself as being the official representative of the parents? - Well, yes. I was the only sort of representative at that time and if that is right, at that time I was going through the procedure.

Just on that, Mr. Bonomy asked you a question. When you wrote that letter, it was suggested to you that Mr. Hamilton might have suggested to you what to write and I have you noted as saying "Yes, there is no other answer to that" and I am unclear what you mean by that. I mean, are you suggesting Mr. Hamilton dictated to you what to write there? - As far as memory recollects I would just have to go for it was dictated.

You think so? - I will go for that because I just have no other answer for it. Not at this stage in time.

Well, if you are the parents' representative, does that really square with having it dictated to you by Mr. Hamilton? - It doesn't square with it but there again, he was the leader. He at that time had more experience in it than I had. That was the first time I had ever done anything like this. Everybody has to learn so you take advice. Good or bad, you take advice.

CROSS-EXAMINED BY MR. TAYLOR: Did I form the correct impression that your children attended summer camps in those three years during the whole period of the holidays? - Yes, the whole eight weeks.

How did they find the camps? - Well, they loved them. Steven, the eldest boy, loved it because it was just up his street, the physical side and enjoyment side and pleasure side. That was when they did their work. As you do in camps, you/

you all work together, washing, cooking, collecting firewood and doing your gymnastics and then getting out in the boats in the afternoon and swimming and they were encouraged to do snorkelling. Andrew was not quite so keen because he was not the sort of athletic type. He liked to be more sort of laid back and sunbathing, if you know what I mean. Out of the two of them Steven was the one that was all for it.

What was it the boys were wearing when they were at the camp? - Normally they had T-shirts, shorts and plimsoles except when they were swimming.

When they were doing their exercises, were there occasions when they were wearing nothing but their shorts? - It would be shorts, yes. If it was brilliant, if the sunshine was good, yes.

That would be without T-shirts? - Without T-shirts, yes.

Did you consider that there was anything untoward or improper in the manner in which they were dressed on any occasion? - I wouldn't say so. I never saw it personally. I mean, I never had any qualms about my boys being there, even being in their shorts. I mean, I just never saw anything untoward. Remember we are going back about 12 or 13 years ago and a lot can happen to a person.

You mentioned that you had not been to his house? - That is correct.

Had he ever been to your house? - He was quite a frequent visitor, yes.

Can you say how frequently? - Two or three times a week.

And that would be during what period of time? - That was over the time that I was with the Club. Probably he would come back to the house after the Club and probably sit there and say "How do you think it went tonight?" and, you know, "Were things all right?". You know, just discussing what happened at the Club.

Did he ever call on occasions other than after/

after attending the Club? - Oh, yes. If he had been in Dunblane he would pop in to see if we were in. You know, pop in on the off chance.

Did you look upon him as a friend? - That is difficult because he was a very hard man to get to know.

Well, can I ask you this; how do you think he looked upon you? - I don't know. I would say he was an acquaintance because to me he was a loner, you could never get like through to him. But, I mean, he never did us any harm. He was always very pleasant.

Did the topics of conversation which you had with him range beyond just those relating to the running of the Boys' Clubs? - It was the Boys' Clubs and Loch Lomond and what could we do for camps. It revolved around the Boys' Clubs.

RE-EXAMINED BY MR. BONOMY: The letter that you have there that you wrote and on the question of how it was written, just read through it and tell me if it expresses your views at the time. It says 7AF in the top right-hand corner? - The question was again, please?

Does that express your views at the time? - I would say it expressed my views with more than a little help.

Well, if you look at the second paragraph there it starts off "A group catering for some 70 boys in the area under the leadership of Mr. Thomas Hamilton and is of great value to the children"? - Yes.

Was that your opinion? - Well, it depends on what the children want out of it.

Was that your opinion, that it was of great value to the children? - At the time probably, yes.

And was it catering for some 70 boys at that time? - That was the number I got.

Well, did you see 70 boys coming to it? - Never at one time, no.

Over/

Over the piece there were 70 different boys who went? - Yes, but I think the numbers he was picking up there was the ones he had from Bannockburn and Stirling because remember he was running about three or four Clubs at the one time.

The next sentence says "I have two boys who have previously attended the Cub Scouts and Shipmates without enthusiasm but as for the Rovers, it is much more than just a weekly meeting, more a training course for life itself". Now, is that what it was and is that a reference to the position at the time? - Well, at the time, yes. The Club was very good.

So do you agree with what is in the letter? - Yes, at that time.

MR. BONOMY: Sir, on the 1st July further inquiry was made on my instructions into the evidence given by Mr. Mercer who is the caretaker at Menstrie Leisure Centre. When he gave evidence to the Inquiry he indicated that he had a telephone conversation with Thomas Hamilton on Tuesday, 12th March. On checking his police statement I noted that he then, when interviewed by the police, gave a date for that conversation of Thursday 7th March.

Normally such discrepancies in dates are not terribly important since it is not unusual for a witness to give an accurate account nearer the time and not quite such an accurate account when asked a bit later and the date may not be terribly important but bearing in mind the suggestion in evidence was the day before the incident at Dunblane, I thought it appropriate to have this matter checked again.

Having had time to think about it, Mr. Mercer wishes me to make clear to the Inquiry that the version he originally gave to the police, that is Thursday, 7th March, is the accurate version, to the best of his recollection, of the date on which he had the conversation with Hamilton. You will remember, sir, that was about Hamilton's efforts to book the mini-bus for the following week.

Now, I don't consider it necessary to re-call Mr. Mercer but it is something which one can fully understand happening in the context of this Inquiry and I think that that at least provides some clarification/

clarification about when the last contact with Mr. Mercer was.

LORD CULLEN: Thank you. I am content to take a note of that.

MR. BONOMY: Thank you, sir. The next witness then is John Baird.

JOHN ALEXANDER BAIRD (48), Sworn:

EXAMINED BY MR. BONOMY: Are you a Consultant Forensic Psychiatrist? - Yes.

Presently based where? - At Leverndale Hospital and the Douglas Inche Clinic in Glasgow. I work at Barlinnie Prison and Greenock Prison.

What are your professional qualifications? - M.D., F.R.C. Psyc. and D.C.H.

How long have you been a qualified medical practitioner? - 24 years.

And how long have you been practising psychiatry? - Psychiatry, 20 years.

And forensic psychiatry? - 15 years.

What is forensic psychiatry? - It is the branch of psychiatry which deals, to a very considerable extent, with people who are involved in the criminal justice system at some stage or another and may suffer from mental disorder.

Your experience in that field has been varied I understand, is that right? - That is correct.

Can you give us a brief outline of your experience in forensic psychiatry? - In terms of where I worked?

Yes? - For 12 years I was at the State Hospital at Carstairs. For seven years of that time/

time I was the Physician Superintendent at the State Hospital.

Does that mean you were in charge? - Yes, and also during the last 15 years I have been a member of the Parole Board for Scotland, I have been the Chairman of a Committee called the Standing Committee on difficult prisoners which deals with particular groups of prisoners in the prison system. I am a member at the moment of the Advisory Committee on prisoner management which is another group which deals with particular types of prisoners.

Now/

Now, when was it you left the State Hospital? - l993.

And what have you been doing since then? - I have been a consultant forensic psychiatrist in Glasgow.

And does that mean that your experience more recently has been of a wider nature? - Yes.

Your instructions to become involved in this Inquiry came from the Procurator-Fiscal at Stirling? - That is correct.

And you were asked to become involved before there was evidence led? - That is correct, yes.

And I think that as a result you had to set about putting together for your own information as much information as you could get from a number of sources? - That is correct.

What were your initial sources? - My initial sources were Thomas Hamilton's mother and the lady with whom she was living at that time, Miss Sutherland; documents provided for me by Mr. Miller.....

That is the Procurator-Fiscal? - That is the Procurator-Fiscal at Stirling, yes, and these consisted of letters written by Thomas Hamilton over a number of years; and the third main source of information came from the police in Dunblane. I visited Dunblane Police Office and the deputy officer in charge there gave me full access to the material that they had gathered. But because of the volume of it he really dealt with questions that I put to him about what had happened, and from him I was able to form details about Thomas Hamilton's background and also get a considerable degree of information about what had happened on the l3th March, and the build-up to it.

Is that Mr. Holden you are referring to? - I am referring to Mr. Holden, yes.

I think at a later stage you were asked to/

to read the transcripts of the first five days' evidence? - I was, yes.

And you provided a report -- well, we better take the order before that. You provided first of all a report based on the information you have just described and then a supplementary report taking account of the first five days of evidence? - That is correct.

I think you were also provided with a statement of a person who claimed to have been abused by Thomas Hamilton, whose evidence was given to the Inquiry in an anonymous form, and I think you wrote a further report taking account of that material? - That is correct.

So we have a total of three reports? - Yes.

You have your own copies of these reports? - I have my own copies in front of me.

We will need to number them for the purposes of the Inquiry. They will be R74 for the one you originally did, which is the lengthy one, and dated 20th May l996, R75 for the second one, which runs to a few pages and is dated 12th June l996, and R76 for the one dated l3th June l996, which is only one page. Now, I think the first one, R74 records your interview with Hamilton's mother, with Miss Sutherland, the history of his life as you were able to get it from these sources, and the other sources you have referred to? - Yes.

If you then go to the top of the third page please, in that paragraph where you are talking about his mother and Miss Sutherland's recollections, you say "They were aware that he had always been in the Scouts. They were aware that he had been put out of the Scouts as a Scout Leader some years ago but had opened his own boys' clubs, but they did not know any details of this although they did know that one of the clubs was held in the gymnasium of Dunblane Primary School". Now, was that their understanding? - That is the information that they gave to me, yes.

You can take it from me there is no evidence before the Inquiry that there was a club in Dunblane/

Dunblane Primary School. I think that paragraph goes on: "They told me that it was about a year ago that permission was withdrawn from him to organise boys' clubs, but I could not clarify from them what had taken place or how permission had been withdrawn". So is that an accurate reflection of what they told you? - That is an accurate reflection of what they told me, yes.

You can take it from me that Hamilton was still running boys' clubs at the time of the incident at Dunblane, just so you don't have a false picture of this. If I can go back to the other point when I say there has been no evidence before the Inquiry about a club in Dunblane Primary School, there is no evidence that there was a club in the last l5 years or so in Dunblane Primary School? - Yes.

If I can now take you in your account to a visit to Dunblane Police Office, which is on the next page, in the second paragraph under that heading. You say "Mr. Holden himself had met Thomas Hamilton on a number of occasions over the years". Now, that is not consistent with the evidence before the Inquiry. What is your recollection of that? - I certainly recall Mr. Holden telling me that he interviewed Thomas Hamilton on one occasion.

Well, that certainly is consistent with the evidence before the Inquiry? - That is all that I can recall.

Right, thank you. If you go down a few paragraphs, another one, two, three, four, it says "Regarding his letters of complaint, I noted that in about l989 consideration had been given to dealing with him as a vexatious litigant, but in the event the decision was taken not to do so since his complaints were neither irrational nor without some justification". Where did you get that information? - That was information which Mr. Holden gave to me when I asked him, on the basis of his complaints, whether consideration had been given to the procedure for deeming someone to be a vexatious litigant, which I don't have any detailed understanding of, but which I understand is used in very persistent cases.

So/

So you had raised that with him? - I had raised that, yes.

If I can then take you to page 5, and the second-last paragraph, and you are referring there to the types of ammunition which were in the magazines that Hamilton had, and you describe, or you are dealing with the order of loading of different types of ammunition in the magazines, and you say "The last three or four being hollow-nosed bullets specifically designed to inflict very serious injuries". I think you should understand before we come on to questions of opinion that hollow-nosed bullets do have specific legitimate purposes, so that you are not considering them simply from the point of view of having been specially designed to inflict very serious injury, although they do inflict very serious injury? - Right.

Then in the next paragraph you note that his entrance into the school showed considerable planning and local knowledge, and he took a direct route to the gymnasium which must have been previously planned by him. Once in the gymnasium it appears that he began shooting almost immediately". You also should know that there is some evidence that he went to the Assembly Hall which was next to the gymnasium, because there was a shot fired into the stage in the Assembly Hall, although no one was injured and no shot was aimed at anyone there, and therefore it may not be as clear as you have recorded here that his intention was to go to the gymnasium, it may have been other, and that would be a matter obviously for Lord Cullen to consider in due course on the basis of the evidence? - Right.

Now, with that clarification can I ask you to tell us then something about the conclusions you reached? The next page, page 6, deals with information from correspondence, and you describe some of the contents of the correspondence. Can you tell us in general terms what you made of the correspondence? - What I was really looking for were patterns of a trend or a change, and really there didn't seem to be that, because one of the two remits that Mr. Miller had given to me was to try and form a view as to whether Thomas Hamilton might have been suffering from a mental disorder of some sort/

sort prior to the incident. So I was looking for changes in pattern which might have suggested he was suffering from a mental disorder.

And you were dealing with the whole sequence of events from l988 onwards? - Yes, I was told there was a very considerable quantity, so Mr. Miller gave me selected items.

Your conclusion about the general tenor of the evidence from the letters, in the last paragraph in that section -- can you tell us what your conclusion was? - As I have written there -- may I read it?

Yes, please? - "There was no evidence in any of his letters that he was making the threats either direct or implied to anyone or to any organisation, and the letters, although rather tedious and convoluted, were not irrational or disjointed. Nor is there any impression that the style of his letter-writing altered between l988 and l996".

What are the threats you are referring to there? - I think the verb probably shouldn't be there. I wasn't aware of threats.

So there was no evidence he was making any threats? - That is right.

There has been some hint in the evidence of people with whom he did correspond that there is a measure of despair or resignation creeping in towards the end, that there might be signs there that he saw his clubs and his life generally beginning to fall apart -- no hint of that in the way you viewed the correspondence? - I must say I didn't really see anything very persuasive along those lines, no.

You then set out in the report what mental disorder, personality disorder are, and you go into some detail. Perhaps you could just tell us very briefly, what is the difference between a mental disorder and a personality disorder? - Mental illness, which is the relevant issue here, is when a condition develops with features which are qualitatively, not merely quantitatively, different from normal, and there is almost always a change, as with/

with any illness, a change from the time when a person was considered to be well to a time when they are considered to be ill. And if you look back at the history of a person who has become mentally ill, then that change, which may be a gradual change in some cases, or may be more abrupt -- that change can be found from the background history.

That is different from having a personality disorder? - Yes. The concept of personality disorder is really a way of classifying features of a person's behaviour when these features are very prominent, and when they lead to problems of one kind or another; and there is a continuum between people with extreme forms of personality disorder and the general population, there isn't an abrupt distinction; and these features of personality disorder tend to be life-long.

So a person may have an accumulation of personality traits, I suppose, that point to a particular definable personality disorder? - Yes, that is right.

But he is not, in the view of the psychiatrist, mentally ill? - That is correct, yes.

And does that mean that he has got something that cannot be treated really, or at least treated in a different way? - Well, it is not so much that it cannot be treated, but it would render psychiatrists of the view that the man was not mentally disordered, but really personality disorders manifest themselves in the way that a person behaves, and in particular the way they relate to other people. And at interview in a clinical setting there won't necessarily be any abnormalities which can be elicited at all. So to say that there is a personality disorder on the basis of the way a person behaves, and then to say that their behaviour is explained because of the personality disorder from which they suffer, is a logically flawed way of approaching the problem. And in many respects the personality disorder labels are shorthand ways of describing people with extreme personality types who behave in particular ways.

Now, I think that mental illnesses are classified and that personality disorders are classified/

classified; is that right? - That is correct, yes.

And when you are examining a person's history, as you must do in this case without having the opportunity of interviewing him, you are looking at all the information you can put together about his background and life to try to establish whether he fits in to any of the categories? - That is correct.

So far as mental illness is concerned, what conclusion did you reach? - I did not find anything which would have suggested that he was suffering from a mental illness at any time in his life.

He did something extreme? - He did indeed.

In the most extreme sense of the word? - Absolutely.

And it might be very easy to say "He must have been nuts at the time, he must have been insane to do this"? - Yes.

Could something have happened to him that you wouldn't be able to detect from the material available to you, and could he have developed a sudden mental illness? - I considered that possibility. I really don't think that it is one that I could support. The reason for that is that mental illnesses when they are significant are severe conditions which can be really quite disabling in the way that a person functions in a day-to-day sense, and I think for someone to suggest that Thomas Hamilton had developed a severe mental illness during the days before the terrible events of the l3th March wouldn't fit with the accounts which I was provided with of the way in which he related with a number of people -- not just his mother, who he visited the night before, but a number of people in shops, acquaintances who he met in the street and so on. If somebody was suffering from a severe degree of mental disorder, and if they engaged in some sort of interaction with someone else then that person, I would say, would almost certainly notice something strange about the individual, notice something was different or wrong. So/

So that the apparent normality of Thomas Hamilton up to really the tragic events themselves rules out, in my mind, the possibility that he was suffering from a serious mental illness.

So when you give that opinion as you taking account of the five days of evidence that you also read? - Yes, yes, I am.....

At the moment we are looking at the report before that, but you seem to be referring also now to the evidence that you read, that is the five days' transcript; is that correct, you are talking about the contact he had with people in shops and acquaintances and so on? - I had obtained information about that at the time of preparing my first report.

And your opinion didn't change on that subject after you read the evidence? - It didn't, no.

So if there is something in there, in his behaviour, that might be identifiable by psychiatric examination of the information available, it must be a personality feature rather than an illness? - Well, taking the illness first of all, there was no evidence of illness.

You have excluded that? - Excluded that.

So we are in the bounds of enquiring whether there is some personality disorder involved or not? - Yes, right.

Did/

Did you identify features about him which pointed in the direction of certain identifiable or recognisable personality disorders? - Everybody has features in their personality so that there is nobody who has no personality. So really starting from that point, I tried to form some sort of view about what sort of man Thomas Hamilton was, and if there were very prominent features in his personality in the way he related to other people and the sort of life that he led. It did seem to me there was some indication that he could have had psychopathic personality traits and he also could have paranoid personality traits.

If a personality has psychopathic tendencies could they be such that they could ultimately be described as having a mental illness,
or is that something quite distinct from mental illness? - That is a matter of very considerable debate. Certainly in modern forensic psychiatry practice the two concepts are kept separate -- they look for features of mental illness and also have regard to what sort of person this is that he is dealing with.

However, the concept of paranoia or paranoid personality may involve certain features that may also be the features of mental illness? - That is correct.

Can you also see a difference between paranoid personality and paranoia in the sense of mental illness? - Paranoid personality is really a shorthand way of describing someone who is by nature suspicious and mistrustful and who feels that life doesn't deal with them in the way it deals with other people and they are forever being discriminated against and forever being treated unfairly. That is an attitude of mind which is probably not particularly uncommon in the general population although the extent to which people display these traits obviously varies, and they vary in the same individual with time and they vary from one individual to another. Whereas paranoia, or to use a more detailed label paranoid psychosis, is a quite different condition and that is when a person has delusional beliefs and perhaps other disorders of thinking or perception which are quite outwith normal/

normal experience and of a varying nature hence that term "paranoid psychosis". I give an example of the distinction between that and paranoid personality in my report.

Yes, could you give us that example then? - The example that I gave -- it is one that I have just made up for this case and it is an illustrative example -- it would be an employee who had a paranoid personality would feel that his employer was forever giving him tasks which were more difficult and more demanding and less rewarding than his colleagues and he was being passed over for promotion and passed over for other benefits, and he would feel this to an excessive degree: whereas if the employee thought his employer was an agent for some sort of political force and had agents spying on him and bugging devices in his house and so on, had fantastic beliefs of that kind, which had no basis in fact whatsoever, and which were quite inaccessible -- that is another feature of psychosis, they are quite inaccessible to reasoned argument -- then that person would be considered to be suffering from paranoid psychosis. It is the fantastic and unreasonable and bizarre nature of the psychotic phenomenon which distinguish them from attitude of mind which is a personality trait when you consider someone with a paranoid personality.

If you look at the last paragraph on page 7, I think you deal with persons of paranoid personality and you describe them as over-sensitive to setbacks and difficulties in their lives, tend to bear grudges and are habitually suspicious and mistrustful? - Yes.

I think you go on to say, "They can have a tenacious sense of their own personal rights which is out of keeping with the actual situation and can believe that others around them are conspiring against them"? - Yes.

And these are features that can occur which point to a person having a paranoid personality? - Yes, these are features, symptoms of a paranoid personality.

So far as a psychopathic personality disorder is concerned, you describe that as a person who can show callous unconcern for the feelings of others,/

others, an incapacity to maintain enduring relationships despite having no difficulty in establishing them; is that right? - Yes.

And a low tolerance to frustration and a low threshold for aggression or violence? - Yes.

These are forms of a psychopathic personality disorder? - Yes.

Then I think you have a third concept under the heading of personality disorder. What is that? - Can I ask.....?

I think you go on to deal with paedophilia? - Yes.

Would you describe that as a form of personality disorder? - No.

How do we classify it? - Abnormal sexual orientation would be one way. I describe it I try to give what I took to be paedophilia because of this case.

Well, can I be clear first of all however we are talking about something that is a recognised mental illness? - Paedophilia is not a recognised mental illness.

Is it a recognised form of personality disorder? - It is not considered to be a recognised form of personality disorder.

So what is it? - It is an abnormal sexuality.

You have defined it as you understand it; is that right? - Yes.

By way of a generally understood definition? - I would feel what I put there would be a general view of what paedophilia is and how it manifests which is really what I was trying to say at the finish of my report.

Can you tell us just in general terms either by reading the report or telling us what you consider to be the features of paedophilia and how they manifested themselves in this case? - Taking/

Taking the first bit first may I read the report: "Regarding paedophilia, this is an emotive and complex entity, the simplest definition of which is sexual interest by an adult in children. It would be mistaken however to assume that the sexual interest and activity displayed by paedophile adults is abnormal only in terms of the person to whom it is directed. The sexual activity does appear to be significantly different involving control and power on the part of the adult and is very different from heterosexual or indeed homosexual activity between adults. It appears to be either children or more commonly particular categories of children, either boys or girls and only boys or girls of a particular age and appearance, who paedophiles are attracted to. The incidence of paedophilia is not known and it would be wrong to assume that all paedophiles behave in the same way towards children. While some paedophiles have physical contact with children and while the range of physical contact which they seek can be considerable, there must be others who have paedophile inclination who have not had physical contact".

In the following paragraph you deal with the ways in which paedophilia manifests itself? - Yes.

Can you tell us something about that then? - Can I read the report?

If that is the easiest way to tell us? - "Since interaction between adults and children is part of human life, it follows that where there is anything sinister in something that an adult may be doing in relation to a child depends on what is going on in the mind of the adult as much as the incident itself. A person of paedophile orientation would manifest this in one or more of the following three ways. Firstly, by having improper physical contact with a child, secondly, by having writings and photographs of children which could be viewed as being inappropriate or pornographic and, lastly, in the nature of their sexual fantasies. If a person is known to be of paedophile inclination then any contact with children is ominous and potentially dangerous and in addition for such a person, photographs of children which would seem innocuous such as class photographs, can serve the same purpose as pornography./

pornography. The only sensible approach is for contact between adults and children to be monitored in a reasonable manner by other adults. Since most, but not all, paedophile behaviour is displayed by men this applies particularly when men are in contact with children. Some paedophiles can devote very considerable energy over a very lengthy period and in a very carefully planned manner to secure the contact with children which they desire".

You then deal with a separate concept called fetishism. What is that? - Fetishism is when a particular object or type of object or material is sexually arousing to an individual. I particularly considered this matter because of the fact that Thomas Hamilton seemed to insist on the boys in his boys clubs wearing black shorts and I just wondered whether black shorts had some sort of fetish aspect for Thomas Hamilton.

It is a possibility with boys clothing and clothing of this type? - Yes.

Just going back slightly into that paragraph where you deal with the ways in which paedophilia manifests itself, when you say, "The only sensible approach is for contact between adults and children to be monitored in a reasonable manner by other adults". Do you mean that in a general sense of all contact between adults and children or are you talking of contact where a paedophile has been suspected? - I am really talking about all contact between adults and children because, as I say there, if a person has a paedophile inclination then what may appear to be totally innocuous and harmless contact has got other significance.

So where the activities of children are being conducted in an organised way then you are suggesting that there should always be more than one adult involved? - That is sensible practice, yes.

Then, in that section you deal with your opinion from the material you had initially. You think there is no evidence of mental illness and we have heard with that. Then in the second paragraph you deal with personality features. Can you tell us your conclusions about that please. You can read it if it is the easiest way? - "Regarding his/

his personality type I consider that he had features of paranoid personality and psychopathic personality and was also as a person rather obsessional. If I exclude from consideration the terrible crimes which he committed on 13th March, 1996 then his life up to that point would suggest that although he did have features of a personality disorder this was not of a particularly gross or severe degree".

Can you tell us what features of paranoid personality and psychopathic personality you are particularly thinking about? - Paranoid personality relates to his persistent beliefs that others were thinking ill of him and not giving him the status and the trust that he deserved. His persistent complaints about the ways that people were talking about him. As regards a pyschopathic personality it did seem to me that at no time during his life did he form any particularly close relationships with anybody. He seemed to use people -- he seemed to use his mother as well, he didn't express any close relationship, he seemed to use her -- and he seemed to use other friends he was involved with. I got the impression again it seemed to be rather empty rather than looking to the need to form any kind of network of social relationships.

We have heard some reference in the Inquiry to another concept called sadistic personality. Is that related in any way to what you discovered? - I must say some of the features which emerged particularly during the second part, the preparation of the second report, would have suggested that he was rather indifferent to the suffering of others and those he had charge of. I am thinking of the reports that he was supposed to have thrown boys into Loch Lomond with a rope tied around them and that was some sort of training exercise, and the other times he punished boys by getting them to stand at attention. So there were these features, but I don't think I came across ones that were particularly prominent.

To go back to your opinion. In the third paragraph you then deal with the conclusions about paedophile tendencies. Could you read that? - "I do consider that his behaviour raises considerable suspicions in my mind that he had paedophile tendencies. His interests in boys of a particular/

particular age and physical appearance, his apparent pre-occupation with their physique, his photographs of them and the way he made all dress is, in my opinion, excessive and abnormal and gives grounds for concern. I understand that there is no evidence that he ever had physical contact with children. This does not of course exclude that he had paedophile tendencies. His endless protestation, particularly towards the end of his life, resenting the allegations about him that he was in his own words a 'pervert' could in psychological terms be viewed as a defence on his part against his own awareness of his perversion".

So it would be consistent with having paedophile tendencies that a person may get pleasure from photographs of a particular type or seeing boys dressed in a particular way or say a particular shape of boy at a particular age? - Very much so.

Without having direct contact with him in the sense of touching him? - Yes.

Or physically abusing them in any way? - Yes.

Now, you also deal with the question of whether he had a fetish for something. What are your conclusions there? - There also exists the possibility that he had a fetish for black trunks and boys wearing them.

You then deal with some different issues, that is whether the evidence you had seen at that stage gave any hint or clue about what he was likely to do? - That is correct.

What conclusions did you reach there? - The conclusion I reached was that the only indication that something of the nature which did happen was going to happen was his stockpiling of ammunition. There was nothing else which would have led me to believe that in the period leading up to the tragedy the tragedy could have been anticipated, and that was the other thing that Mr. Miller, the Procurator Fiscal in Stirling, asked me to consider.

You actually say "stockpiling of ammunition/

ammunition and the purchase of semi-automatic weapons". We had evidence that he had bought two more guns between September and January. So did you take account of that as well? - Yes.

"Stockpiling" is quite an emotive expression I suppose. I take it you do appreciate that he never had any more ammunition than he was entitled to have under his firearms certificate. Did you not appreciate that? - I didn't enquire as to why he should. I was considering the reports that whereas his buying pattern had been fairly low there was a very marked increase and that is really what I was referring to.

Then in the next paragraph, the one at the foot of page 9.....

BY LORD CULLEN: You were saying there was no indication of any kind that was going to happen; is that right? - That is correct, my lord. Mr. Miller had asked me to consider that point.

I think you are also recognising, particularly in the first part which Mr. Bonomy has not referred to, there are things known now which could be linked together to show deliberation; is that right? - Can I ask what you are referring to.....

Looking at the reference when you were talking about conversations with individuals and sightings and so on? - Yes.

There are indications which we can put together now? - Absolutely.

Indicating deliberation and pre-planning; is that right? - Yes.

But you also make the point there was nothing which could have given an inkling of the kind of act which in fact he perpetrated; is that right? - That is my position, my lord. It seemed to me these various events which have come to light, have come out, would be events which at the time wouldn't really have been considered to be of particular significance by the various -- that is my impression.

That/

That is looking at the position of the people involved, each of whom had a different piece of information? - That is correct.

But you say there is no reason why they should not have been put together so as to form a kind of warning? - Yes.

EXAMINATION CONTINUED BY MR. BONOMY: On the question of the benefit of hindsight and the point his lordship initially raised with you there, you say that there are matters now known which point towards what he was planning? - Yes.

Do you also however conclude that part in the last sentence in that paragraph by saying "Each on its own and at that time was trivial and unremarkable"? - Yes.

Even with the benefit of hindsight are we looking at a series of apparently trivial and unremarkable features which only take on significance if we put them together? - That is correct.

I think the next paragraph deals with one thing at least on which you have a firmer conclusion? - Yes. That deals with what he did on the day and what his intention was. It was my opinion, which I reached based on the very detailed information which Mr. Holden gave to me from the information which the police had, that it did seem that Thomas Hamilton's intention on the day was to commit suicide. He seemed to have taken very considerable precautions to ensure that he was successfully committing suicide, and I could list those for you if you wish.

You say "When he embarked on his crimes his single specific intention was to kill himself, and all the preparations were to ensure that nothing went wrong"? - Yes.

You also say "But perhaps as some sort of final revenge, he decided to kill others first"? - Yes.

There is a bit of speculation on the second/

second part of that answer? - Yes.

But a lot more surety about your view that he planned to kill himself? - The details given to me were that he meticuously planned what he did in order to ensure he was not prevented from killing himself, that he was not overpowered or apprehended, for example.

What preparations did you have in mind? - The amount of ammunition he took with him, the way that he supported his ammunition bags with cardboard to stop them collapsing and also tied the flaps of these ammunition bags back with string in order that they would not close, all done with considerable planning: the fact that he committed suicide when there was no particular reason it seems for him to have done so.

Yes? - Had his intention it seems to me been to have engaged in some sort of killing spree then he could have continued that for longer. There was no reason when he killed himself or him to have done that.

Yes? - Even his choice of weapon was interesting; the fact he used a different weapon when killing himself than the weapons he had used in his terrible crimes. When I spoke with Mr. Holden, who was able to advise me on this, he told me that the semi-automatic weapons which Hamilton was using had a very light trigger, and it occurred to me it was possible that he consider that if he used a weapon such as that to kill himself, that if he did it too hastily he would injure himself rather than kill himself, whereas with the weapon he used that was less likely to happen.

At the end of the third line on that paragraph you say something else about your views on what happened that day. Can you read the rest of that paragraph? - Yes. "He appears to have taken pride an almost to have enjoyed the preparation for his crimes, but once he embarked on his murderous spree his victims appear to have been entirely random. It is possible that he selected a school because of his association with schools or it is possible that he selected a school because, unlike with adults, he would be much less likely to experience opposition, and his victims were the most vulnerable/

vulnerable and most defenceless he could have selected. It may also be possible that as a paedophile his particular style of relationship with children was one of power and control and that this also influenced his choice of victim. It was not my impression that he particularly relished in the killing spree or wanted to prolong it, as there was no reason for him to have killed himself at the moment when he did other than to avoid running the risk that emergency services might arrive on the scene and prevent him from killing himself".

Now, the next paragraph goes on to deal with his having the opportunity to do this. What conclusion did you reach on that? - It seemed to me that he would not have been able to do what he did had he not had his firearms, or perhaps it just occurred to me as I was preparing the report explosives might have given him the same opportunity, had he had access to them and been able to use them. Without something of that kind he could not have done what he planned to do.

From time to time one reaches suggestions that such as that if he had not got a gun he would have got a lorry and mowed down a queue of people at a bus stop, or something like that. Are you suggesting otherwise here? - It comes across to me very strongly in the sequence of events that he was very determined he would kill himself and not be taken into custody or apprehended, or anything of that sort. To have done what was suggested, taking a lorry and driving at pedestrians, I couldn't be sure he could have ensured his own immediate and certain death in the same way.

So you put access to guns as a very important feature in what Hamilton did? - It does seem to me that if my opinion of what his motivation was was as it was he could not have done what he did without firearms.

And then on reflection either firearms or explosives? - Yes. He would have to know how to use them and have expert knowledge and so on. He would have to have someway ensuring his own death, or something similar.

From a common sense point of view it sounds/

sounds like there is more certainty in using a gun as he did to kill himself than relying on an explosion? - Absolutely.

That is why I am asking you whether you are really saying here that the fact he had got access to guns was a vital feature in the whole events of the 13th March? - I am sorry. You said that explosives might ensure the same effect and what?

And access to guns appears to be absolutely vital to the events of the 13th March, on the basis of your opinion? - That is correct.

In the second last paragraph you say something about his sexuality. Could you read that? - "Although the exact nature of his sexuality remains unclear, it is very probable that he was a paedophile, and he may in addition have had a specific fettish, but I do not consider that his sexuality provides any direct explanation for his heinous crimes".

And then lastly? - "Finally, I remain unconvinced that if it had been possible to examine Thomas Hamilton either psychiatrically or psychologically prior to his crimes, that any grounds for concern would have been elicited which could have alerted anyone to what he was planning to do. The only indication that he was planning something terrible is provided by the fact of his stock piling of ammunition".

If we then go on to the second report which you wrote, which is R75, you were given the transcripts at that stage; is that right? - Yes, that is correct.

And you have re-counted a record of various features in the evidence which is considered to be particularly significant; is that right? - Yes.

You then tell us your opinion as a result of that, and I think the best way might be for you to read your opinion? - Yes. Is this in the middle of Page 5?

Yes? - "Opinion. I consider that this/

this additional information has broadened my knowledge of Thomas Hamilton and has caused me to revise certain of the opinions which I expressed in my earlier report of 20th May, 1996".

Yes? - "Regarding his mental state prior to his offences, there is some indication that he was low in spirits, although not to a severe degree. Even although there are two separate references to him making statements regarding ghosts in the home in which he lived as a child, I do not consider that there is any convincing evidence that he was suffering from a mental disorder such as could have formed the basis for his compulsory committal to hospital either prior to his offences or on the day of them".

Yes? - "Regarding his sexuality, on the basis of the information which I now have there really can be no doubt that he was a paedophile. The nature of his sexual fantasies can still only be a matter of speculation, but his Boys' Club activities were not innocent, had sinister undercurrents and were unhealthy. The decisive and early action taken by the Scouting Association in 1974, even before to Hamilton's terrible offences"
-- could I say that that phrase does not seem to tie in.

So we can take out "Even before Hamilton's terrible offences" out? - Yes. You will note that this report was dictated by me but was signed in my absence, because I was away on leave.

If there is anything that needs corrected please do it as you go along? - Yes.
"This action was taken primarily because of Hamilton's gross incompetence as a Youth Leader rather than on account of his paedophilia. It is a recognised and important aspect of many paedophiles that they can be very persistent, plausible, persuasive and manipulative in the way in which they can distort the truth about themselves and persuade others round to their way of thinking. Hamilton displayed at this trait prominently when he won his case with the Ombudsman, by the manner in which he relentlessly argued his case with parents, causing them considerable disquiet, as the letter indicates, and by apparently being able to persuade prominent individuals/

individuals that he was the victim of an injustice. There is no indication whatsoever that at any time Thomas Hamilton was subjected to anyone who confronted his paedophilia or challenged him about it. Indeed, from what is written of him this would not have been by any means an easy task, and he would have probably tirelessly argued his own position. I do not know whether if his paedophilia had been confronted his terrible crimes could have been prevented, and in order to undertake this with any hope of success, a criminal conviction is usually required in the first instance".

What nature or type of criminal conviction did you have in mind in that sentence? - A conviction for a paedophile offence of some kind.

Bearing in mind what we have said about paedophilia, what about slapping children for what might be said to be disciplinary purposes, or not providing adequate food at a camp for children? Would they fall into the category you are thinking of? - No.

Would you give us an example of the specific type of offence which you are meaning? - A conviction for some sort of offence involving inappropriate conduct towards a child of a sexual nature.

So lewd, libidinous and indecent practice? - Yes, that sort of thing.

What about taking photographs of a boy wearing swimming trunks so he is not indecently exposed in any way? Is it easy to draw a conclusion that they are indecent? - No. If photographs of that sort led to a conviction that would have given a starting point. From what you have described, it is in my experience very unlikely that photographs of that kind would lead to a conviction of a sexual nature.

Have you come across any cases like that, where the subject of the photograph has been clothed, but something might be made of the pose or the exercise being done, as somehow or another conveyancing indecency? - I've not come across that as being the process alone for conviction.

Can/

Can you carry on now, please? - Yes. "Whether any of the paedophile allegations which have now come to light regarding Thomas Hamilton could have formed the basis of a successful criminal prosecution is for others to judge. It does occur to me that if paedophilia could have been confronted by someone, such as a member of Social Services, then this could at least potentially have assisted Thomas Hamilton in a very isolated position in which he found himself during the period leading up to his death, when he was continuing to protest his innocence but was witnessing the decline of his Boys' Clubs and also his financial collapse. He never had many friends or associates, but even those few he had, such as James Gillespie, had parted from him. Contact with someone dealing with his paedophilia could have been a life line for him".

Can I stop you there? One idea -- and it is no more than an idea -- which has been suggested is that where you get rumours, suspicions, about someone who is dealing with children, you might think of confronting him on the basis of suspicion, telling him he would not have any more contact with children unless he could give some sort of vetting process, which involves perhaps someone like you, perhaps a psychologist, and only if he satisfies that process will he be allowed to resume his contact with the children. There is no point in doing that unless that is likely to achieve the same result. You have said something about the tendency of paedophiles to justify themselves and lie to that end. Can you think of anything or any way of dealing with this problem where there is no conclusion along the lines I am suggesting, or is that just something that would not be likely to give a satisfactory result? - I can fully appreciate the reasoning behind what you propose is a possible way of dealing with this. I do feel in practical terms you would be unlikely to be successful because of the plausibility.

Yes? - The approach must involve you telling the person to start with that you believe the person has got some sort of paedophile tendency.

And until he accepts that you will get nowhere? - If the member of Social Services or the psychiatrist are too uncertain the paedophile is likely to persuade them of his way of thinking.

Does/

Does a paedophile have to accept their problem before progress can be made? - It is very important that they did accept there is a problem. What makes asking a paedophile so difficult is that they continually assert their innocence and the injustice of the whole matter. Normally you would keep confronting them with what is known about what their beliefs are, and that is a quite different relationship from the one which is suggested as a possible way of dealing with this problem.

You/

You could of course simply tell a person who was the subject of some rumour and suspicion that he was not getting any contact with children unless and until he satisfied the person who had to vet him and therefore you have at least got a starting point but the point I am making to you is that is there any purpose in this if you cannot be satisfied or you cannot rely upon the results that you get when you carry out the vetting process? - I would be wondering about the vetting process. I feel that mistakes would arise.

Now, can you go on to deal with the next part which I think starts to deal with the video you saw and we have seen part of it here? - Can I add another sentence to my answer to your previous question about the vetting process?

Yes, please? - If it was simply vetting on the basis of proven facts and if someone was going to be having contact with children, scrutiny of their background to find out whether they had convictions in the past, that kind of vetting I would consider to be entirely appropriate.

Yes, we have heard something of that. I am thinking more of a situation where you don't have firm information about the past. You have only got rumour and suspicion and you are trying to satisfy yourself that the rumour is unfounded. Now, do you think you could rely on the results of investigating a paedophile who is the subject of rumour and suspicion by either psychological means or by interviewing by a social worker or something of that nature? - My answer, my feeling about that, is that a much more reliable method of vetting would not be one that relied simply on a psychiatric or psychological or social work assessment in an interview setting but rather an examination of the facts of the person's contact with children and I think facts are a much more satisfactory means of forming opinions in a situation like this rather than in a kind of interview setting.

Can we carry on then with the rest of the opinion please? "Watching the video....."? - "Watching the video I was impressed that so much of it filmed children in the gymnasiums of school, some/

some of which bore a resemblance to the scene of his crimes. I had not previously been aware of the extent to which his behaviour at gun clubs was eccentric and unusual. He appears to have had little or no interest in conventional target shooting and I wonder how it is that a man such as Hamilton who over 20 years ago had attracted attention to himself as being unfit for positions of responsibility in the Scout Association, and who subsequently had become a persistent litigant, could have been considered to have been a suitable person to hold firearms and thereafter was allowed to retain his firearms certificates when he was behaving at gun clubs in an odd manner and not taking advice".

Can I stop you there? If we take out from the sentence at the moment the reference to his behaviour at gun clubs which, you can take it from me, does not appear to have been known to the authority responsible for giving him a firearms certificate, what else in there is there that leads you to the conclusion that he should not have held a firearms certificate? - It is his behaviour at the gun clubs. If you take that out then I would not hold the same view. It was accounts of his conduct at gun clubs which I learned from the second piece of information that was given to me.

That is the transcript? - Yes.

And you do also mention there the fact that the Scouts had acted so promptly, that he was a persistent, you say, litigant but complainer might be the better expression? - Yes.

And if we take these but don't have the question of his odd manner or behaviour at the shooting club, do you still have the opinion you expressed? - I was not aware when I was reading the information from the transcripts that that was not known, that that was information which was not known and because it was known to me I was taking it into account and I was expressing the view that the Scouts in l974 had concerns about Hamilton's conduct at the weekend at Aviemore and had taken a decision and stuck by it, whereas the conduct at the gun clubs seemed to have been going on but no action had been taken but I'm saying that ignorant of the fact that it wasn't known.

Yes/

Yes, you would maybe also have to throw into the equation in relation to the Scouts that when Central Regional Council took prompt and effective action the Ombudsman overturned them? - Yes.

And thereafter hung like a cloud over the rest of the attempts that they considered to get rid of Hamilton so you would have the view that the Scouts have to be in a rather different position from authorities such as the local authority and the police who are subject to appeal. You see that? - Yes.

This is not the first time you have remarked on the actions of the Scouts which clearly did impress you? - Yes, and it was because of consideration of the difficulties which you had raised in the earlier question about how people should be dealt with when there are concerns and I was impressed by the way the Scouts had acted in that situation. That is really why I referred to them.

Now, can you read the last sentence of that paragraph? - "Not only did Hamilton retain his firearms licences but the weapons in his possession were described by one of the....." -- I would like to take the word "expert" out there -- "..... described by one of the witnesses as being weapons predominantly used by criminals".

Well, the witness you are referring to must be Mr. Chisholm who is the ballistics examiner, the forensic scientist, who examined the scene and the weapons and I think you are referring to a passage where he said his only experience of these weapons was in the hands of criminals, is that right? - Well, that is a sentence which I would have changed if I had been able to sign the report myself. What I was referring to there was when I met with Mr. Holden at Dunblane Police Office and he told me that his experience was that these were weapons predominantly used by criminals and I also understand that Mr. Holden was a witness here so I would have rephrased that to take account of this because I am really just reporting back on what others have told me about firearms because I don't have any expert knowledge of firearms myself.

I think you can take it that while these weapons/

weapons are used in crime in the experience of police officers or retired police officers who have given evidence here, they are used in the country for target shooting and Hamilton had them on the same basis as many people in the country have them, for target shooting purposes? - Right.

Does that affect anything you have said in your report? - Well, that statement was based on my impression that these were predominantly weapons used by criminals. If that is not the case then I would have taken that out.

Does that affect anything earlier? It doesn't appear to but.....? - The earlier bit, as I have indicated, is with regard particularly to his behaviour at the gun clubs so it would not affect what went earlier.

Now, can you read the last paragraph please? - "I concluded my earlier report with the view that either psychiatric or psychological examination prior to his crimes would probably not have alerted anyone as to what was about to happen and I remain of this view, but what has impressed me from the material more recently provided to me is the fact that there were items of behaviour displayed by Hamilton in relation to firearms and in relation to paedophilia which, had they been taken seriously and had they been set alongside the disquiet of parents, did indicate that there were deep-rooted and long-standing problems with this man. It was, if anything, his tireless and plausible campaigning so characteristic of the paedophile that prevented decisive action being taken in respect of him after l974".

And again of course you are relying there to some extent on the idea that the police would know about his odd behaviour in relation to firearms? - Yes.

Now, can I ask you to look at the third report which I explained to you earlier was prepared on the strength of information which has been presented to the Inquiry in anonymous form. Now, you have provided an opinion having read that statement, and that is the statement of the person who claims to have been abused? - Yes.

And/

And having assumed that it is accurate, is that right? - Yes, that is correct.

Now, assuming that, what opinion did you have as a result of reading it? I think it is in the last paragraph? - Yes, it confirms the opinion that Hamilton was a paedophile. Would you like me to read the last.....?

No, I think the last bit would not be appropriate to read in view of what I have said to you about anonymity but you do go on to say "These are further items of information which, if they had been uncovered at the time and if they had been taken seriously and followed to their conclusion, could have led to decisive action being taken against Thomas Hamilton as long as 12 years ago"? - Yes.

But of course this information came to light only as a result of this Inquiry? - Yes.

Now, I want to ask you just about one other matter. We have been trying with some witnesses to find out whether it is possible to predict that a person will behave violently and apart from a psychic, I suppose you must be as good a person to ask how easy it is to read the mind or intention of a person before he does something. Can you tell us what chance there is by examining a person in some sort of detail, psychologically or psychiatrically, on the strength of detailed questionnaires or interviews of working out in advance that he might be violent? - My own view, and I feel it is the view generally of forensic psychiatrists, is that an approach of that kind would not give anything like the reliability or consistency or accuracy which would be required if it was to be worthwhile.

Now, from that are we to draw the conclusion that as long as there are weapons of violence or weapons that are capable of committing violence or being used for violent purposes would be a better way of putting it, as long as there are weapons available which are capable of being used for violent purposes, there will be a risk that they will be so used? - Yes.

And you and other experts in similar fields/

fields or other related fields could not confidently predict which people in the community are likely to use those weapons for violent purposes? - Not with the degree of accuracy and consistency which would be required for it to be a worthwhile exercise.

Assuming that there is a risk associated with having guns at all in the community and assuming for present purposes that we continue to have guns in some form, what assistance can a psychiatrist give in the process of assessing whether a person is suitable to hold a firearms certificate? - If a person had a mental disorder then obviously a psychiatrist in that situation would be able to express an opinion about that particular individual. But as regards the population in general, I feel that a psychiatric examination within a clinical setting would play really a very minor part, if any part at all, in assessing the suitability of a particular member of the public.

One view that was put to Lord Cullen was that a police surgeon might initially interview people and identify those about whom there might be a question mark and then call in a psychiatrist to conduct a further interview with him. Now, if the person being interviewed is not suffering from any mental illness, would there be any useful purpose achieved in having him interviewed or examined by a psychiatrist? - I would very much doubt that. In the psychiatric examinations which I undertake of individuals, they are most often individuals who have already done something dangerous or violent and that is a much more common situation. The most important source of information about them is factual information about their past and what they have done so in assessing an individual, the facts about the person's past are crucial and the clinical examination such as you have described, I would have very considerable reservations about.

Do you have many dealings with police surgeons in Scotland? - Yes, from time to time, not on a regular basis but I do work from time to time with police surgeons.

In your experience, are they in quite a good position to judge whether a person might be suffering from mental illness? - Often the police surgeon/

surgeon is in the first line, is the first clinical contact with the person, yes.

Yes, that is usually, though, in the sense of dealing with an accused or a suspect? - Yes.

In the sense, though, of dealing with a person who is an applicant for a firearms certificate who might be apparently an upright member of the community, would a police surgeon have at least some experience that would enable them to identify those that might have mental illness and then sort of weed them out with a view to someone like you interviewing them? - If I may just clarify for my own mind so that I know the question you are asking me. If the question is to determine amongst those applicants for firearms certificates those who have mental disorders then that is a much more clinical exercise and one I am more comfortable with but I think your question is not so much whether or not they have a mental disorder but whether or not they are suitable to have a firearm.

No, I am talking about the strict question of whether there is mental disorder? - Right.

We have heard some evidence and seen submissions to the effect that there are not enough psychiatrists or psychologists in the country to examine everybody who applies. So let's assume that there is a process whereby an applicant is initially interviewed by someone such as a police surgeon and if it is thought that he may have a mental illness he is then examined by someone like you. Would the police surgeon be a person that you would expect to be able to identify someone who was a mental illness suspect? - Yes.

And therefore there might be some value from the point of view of identifying those with mental illness in bringing a police surgeon and a psychiatrist into the process of certification? - Yes.

BY LORD CULLEN: I have a few questions before you are cross-examined. The first question I think you have effectively dealt with already but I would like to get it quite explicitly in the Notes of/

of Evidence. You said you found no evidence that Hamilton was mentally ill. I did hear evidence quite some time ago from a police officer, of course speaking as a layman, who referred to Hamilton as schizophrenic with latent violent tendencies. Can we effectively dispose of schizophrenia? - I found no evidence whatsoever of schizophrenia.

That is a point which has been drawn to my attention by those representing the interests of schizophrenics and I think it is quite important that should be eliminated? - Yes.

The next matter was the question of classification. Mr. Bonomy told you that some reference had been made to a sadistic personality disorder, if that is the right expression, in terms of classification. Is that separate from what you have referred to as psychopathic? Is that a separate set of traits or does it overlap to some extent or what is the position? - My understanding is that it overlaps with a psychopathic personality disorder.

Therefore it is possible that you might find traits which suggest to you a psychopathic personality which someone else might prefer to categorise as sadistic? - Yes.

The/

12.20 a.m.

The other matter was this. We have heard some evidence suggesting that Hamilton had a very close relationship with his firearms, perhaps referring to them as his babies or his children. Now, does that kind of relationship, does that ring a bell with you in terms of the kind of cases you have come across, people having a close relationship with their guns -- anything of that sort? - In terms of particular.....

Yes, having what you might describe as almost an abnormal relationship with weapons. Is that something you have ever come across in considering cases of abnormal personality, personality disorder? - I haven't encountered it frequently. I am familiar with that sort of concept from the popular Press and the media, but in clinical work.....

Not in clinical practice? - That is right.

So I take it you wouldn't be able to help in any way as to whether that could be of significance in the present case? - I wasn't aware of any features of that kind in the present case.

You see, you were asked certain questions as to what Hamilton might have done if he hadn't had his weapons I wonder if you have any view as to whether it is of any significance that he seems to have referred to his weapons on one occasion at least as being his babies, in other words, if they had been taken away from him whether he would have been more or less likely to resort to some alternative means of causing harm? If you don't feel able to comment.....? - I am not sure there is anything else I can say in addition to what I have said.

CROSS-EXAMINED BY MISS DUNLOP: In relation to the overlapping terms about which his lordship has just asked you, that is sadistic personality disorder and psychopathic personality disorder, you gave some examples earlier in your evidence about this type of disorder, and the examples I am thinking of were punishing boys, throwing/

throwing them into the water with a rope tied round them, and this sort of thing? - Yes.

We have heard evidence of other types of behaviour, for example what could be described as cruelty to the parents -- to his adopted father by not allowing him to watch television, to his mother by playing practical jokes on her that she was to be sent to Inverness. Would this type of behaviour fit into that disorder that you have been describing? - Yes, but I think only to a relatively mild degree. Sadism, I think -- if people were considering whether or not an individual was a sadist, they might well look for more extreme forms of behaviour than that. That is certainly describing someone who has a disregard for others, is not a particularly likeable individual, and is a bit cruel and insensitive.

What about the "bunny hunts"? I don't know if you are aware of him taking young boys out in his car late at night and attempting to catch rabbits in the glare of his headlights and attempting to run them over? Does that fit into the same kind of description of being to a minor degree? - I think so, yes.

Would you use the term "lack of empathy" in relation to these features? - Yes.

Another characteristic of Hamilton which has been described by several witnesses is a particular calmness -- for example we heard evidence about the incident at Linlithgow Academy in 1989 when the two ladies threw buckets of gunge over Mr. Hamilton, and he was described afterwards as being very calm, of not manifesting any reaction. How, if at all, does that fit into your assessment of his personality? - That and other features I think would fit in with someone with a psychopathic personality -- lack of emotional response is one of the features.

So it is not just lack of, as it were, positive emotional relationships with other people, but it can also be lack of appropriate negative emotions? - Yes, yes.

You talk in R74, that is your first report, in the section on the penultimate page dealing/

dealing with paedophilia, of the sexual activity appearing significantly different, involving control and power on the part of the adult. What I was wondering was: these examples of cruelty towards boys, throwing them into Loch Lomond, particular physical punishments, making them do very strenuous exercises and so on -- do these examples fit into the paedophilia or do they fit into the sadistic type of personality, or both, or is it impossible to say? - I think they overlap a bit really. I am not sure if I could give a very clear answer to that.

It may be that the question is attempting to compartmentalise a person to too great an extent? - I think you have summarised it very concisely, yes.

Really my reason for asking that was in relation to the possibility of Hamilton's being convicted of any behaviour like that, of him being convicted for cruelty in relation to the children or of violence towards them, if that kind of controlling, domineering behaviour towards children may be part of paedophilia? - Yes.

Is it still the case that that wouldn't provide any route to addressing the paedophilia? - I am hesitating because I am thinking how someone like Hamilton would be challenged. I can imagine he would put up a very plausible and very longwinded defence of why he was doing what he had done, even if he had been convicted. Since it was the paedophilia, I would suggest, that was causing him to seek repeated contact with children, and although if he had been convicted of something of that kind it might have given social services or psychiatrists an opportunity to confront him, it is equally possible that an offence like that would simply have attracted some sort of punishment and he would have served his sentence or paid his fine, or whatever it would be, and that would be that. There might not have been the involvement that really I was referring to here. That is speculation on my part, obviously.

I suppose it might have provided an opportunity for a more general examination of his relationships with children? - Yes, yes, yes.

But that might, I suppose, depend on whether/

whether any reports were called for by a Court? - Yes.

And the particular form of disposal? - Yes.

Following any conviction? - Yes. It would, as you say, have put a conviction against his name, which would have been a very significant event, yes.

Is it just a coincidence that Hamilton, with the type of personality that you have described, and also with paedophilic tendencies, was interested in guns? - I believe that it was, yes.

You spoke about Hamilton's intention on the 13th March and you gave some evidence that he, if he had intended to pursue an even greater killing spree than he perhaps did, he could have gone on; and you seemed to derive from it having stopped a conclusion that he didn't intend to go further. I may be misrepresenting your evidence. But is the fact that he stopped at an apparently inexplicable moment, for you, evidence that he didn't intend to do much more damage? - As I indicated earlier it was for me a suggestion that he was determined to succeed in killing himself, and he didn't want to run any risk that that might not happen; and I was impressed with his planning about the event, the ammunition and so on, the bags, the way they were tied and everything of that kind, with what seemed to be an almost indiscriminate, almost totally random, it would seem to me, behaviour on his part. He didn't say anything, I understand. He wasn't selective in any way.

Presumably it is possible that whatever intention he had when he arrived at the school could have been altered by how he felt once he began? - Are you referring to his intention to commit suicide?

No, really his intention with relation to what he was going to do before he committed suicide? - I am not sure I fully understand your question.

Well, I am simply wondering if it is necessary/

necessary to see his intention about what he was going to do before he killed himself as remaining constant? - My impression was that it wasn't particularly well formed. It doesn't seem to have been well formed in his mind, apart from in general terms. That was my impression of it.

Of course, it may also have been altered by his, for example, having found a different situation from what he expected once he arrived at the school? - Yes, certainly.

So if for example he expected to find an assembly in session then it would be reasonable to conclude that he had expected to do even greater damage before he killed himself? - It is possible to speculate that, yes.

Am I correct in understanding your evidence about his intention to kill himself, that that intention was formed first, or is it not possible to say? - I don't think I could answer that.

Right. Let me put it another way. Is it correct to say that that intention was his clearest intention? - That was my impression, yes.

You commented at the end of your first report, R74, that you did not consider that his sexuality provided any direct explanation for his crimes. Can you see a way in which it would provide an indirect explanation? I am thinking perhaps of the way in which it led him to be regarded in his community? - I think what I was meaning there was that although we were considering whether or not he was a paedophile, we were considering whether or not he was mentally disordered, there is still the fact of the terrible crimes that he committed, and even having read all the information that I have and spoken to people, I am still at a loss to express any reason which would satisfy myself as to why those crimes were committed by him. It is possible, after the event, to formulate explanations. That can be done, but I am still really at a bit of a loss.

It would be fair to say, would it not, that his sexuality certainly led him into conflict with/

with the community in Dunblane? - Yes.

You were asked about the view which you have expressed about his continuing to hold weapons? - Yes.

And you said that, extrapolating from the known facts, his behaviour at gun clubs? - Yes.

You would not continue to hold the view that you have expressed? - That is correct.

Can I take it, however, that you are not expressing a view that he was fit to continue to hold firearms? - My view is that based on the way he was behaving at gun clubs, that would seem to me to have raised very considerable concern about his suitability.

And can I take it that you weren't asked to address the question of whether, on all the information which was known about him, he was a fit person to continue to hold guns? - I haven't been asked to address that, that is correct.

Or that he was unfit, on all the information that was known about him? - Yes. I wasn't asked by Mr. Miller specifically to address that question.

CROSS-EXAMINED BY MR. GIBB: You talked about the role of the police surgeon in answer to Mr. Bonomy, and you indicated that you thought a police surgeon might be able to assess the question of mental illness? - Yes.

Would that require a meeting with any intended applicant? - Yes.

So the police surgeon would need to meet every applicant? - Yes.

And have some sort of pro forma available beforehand dealing with any physical illnesses and the like. How easy would it be for a police surgeon to identify any personality disorder? - Personality disorders are a very difficult area. I don't think that an assessment of personality could reliably or satisfactorily be undertaken in a situation/

situation like that.

So looking at Hamilton, who suffered from personality disorder as opposed to having a mental illness, a police surgeon wouldn't have been able to identify that? - He would find no mental illness, and personality disorder in my opinion would not have been found.

And of course paedophilia, which is neither a mental illness nor a personality disorder -- would a police surgeon be able to identify that? - No.

And so far as the question of acceptance of guilt is concerned, is it right that in fact many convicted sex offenders take years to accept guilt? - Absolutely correct, yes.

So in fact a short period of counselling or the like would have no impact on many of those who are convicted sex offenders? - What I would say in response to that is that although some convicted sex offenders persist with denial of their offending, nevertheless there is an interaction with those who are counselling them or working with them which is different from the interaction they have with anybody else, because that person, as I have indicated earlier, starts from the assumption that the person has behaved in the way they are convicted of having behaved, so that they don't accept their denial and keep persistently working away at them. So I think that kind of confronting is something which paedophiles get from no one else. So even although the person is denying I don't see that contact as being without value.

Yes, but here we have Hamilton who blamed everyone else for the problems he got himself into. That is very common in paedophiles? - Yes.

And indeed in those with a personality disorder who have been convicted of sex offences? - Yes.

Even if a police surgeon were to have a preliminary assessment that there was an element of personality disorder -- a gut feeling of that -- how long would it take a psychiatrist to form a view -- how/

how many meetings would be needed before a psychiatrist could form a view as to personality disorder or not? - It would be a lengthy and labour-intensive exercise, because what would be required would be a very thorough assessment of an individual involving not just interviews with them themselves but information from other sources, which is crucial; and all that could take a lot of time.

So on the basis that there are thousands of people who have firearms certificates, it is a task which would be virtually impossible? - Yes.

CROSS-EXAMINED/

12.40 p.m.

CROSS-EXAMINED BY MR. TAYLOR: I wonder if you could have the first of the reports which you prepared before you, R74. In particular I wonder if you could look please at the second last paragraph in the report on Page 9. I just wonder if you could expand on that, what you mean by saying you don't think his sexuality provides any direct explanation for his heinous crimes? - Well, as I have indicated earlier, I felt in this case that there was considerable attention devoted to Thomas Hamilton's sexuality, and in particular whether or not he was a paedophile, but alongside that there were these absolutely unspeakable crimes. And while, as I have indicated in answer to an earlier question, while it would be possible to speculate retrospectively as to why he did what he did, I don't feel that I myself had any explanation which I felt particularly comfortable with or satisfied with. Explanations were, as far as they could go, were retrospectively making sense about what had happened, but this is always a rather risky thing to do.

You do, however, consider that he has a psychopathic personality disorder? - Yes.

Is that something which is measurable? - I don't think so, no, no, not in any reliable sort of way.

I may have misunderstood this, but I understood from other evidence we have heard that there is something called a psychopathic check list. There is a screening version of that which has something like 12 items which are capable of measurement. Is that not something which you have come across? - I have come across, yes, approaches, particularly used by psychologists for trying to classify personality, yes. I am aware of that. But I feel in general clinical practice that, although quesstionaires like that are obviously helpful, they only go so far. If people can be categorised and classified as straightforwardly as that life would be very much easier than it is, and if we could anticipate and predict with these classifications then again life would be very much easier than it is. So that I would say I didn't disregard them, but I feel that they/

they play a part as opposed to giving the whole explanation particularly in individual cases.

They are not tools of the trade, if I can put it that way, which you would resort to? - I personally wouldn't, but that doesn't mean that others wouldn't, particularly psychologists. Their approach is much more based on that kind of method than mine is -- and other psychiatrists.

The other item which we have heard mentioned at the Inquiry is the diagnostic and statistical manual of the American Psychiatric Association. Is that something which you have experience of? - Yes, I am familiar with that book.

Is that well respected? - Oh, yes.

Would one find in that volume any definition for psychopathic personality? - I would imagine you would. I can't quote it to you just now but I am sure you would because it is a diagnostic manual.

Is that a manual that is of use to a forensic psychiatrist? - It is certainly one I would have regard to. My own preference is for the equivalent manual from Europe which is ICD10 which is more European based than the DSM4, but it is a matter of preference. The both manuals are highly regarded and widely used and a basic bench mark for people.

Did it occur to you when you were giving your view as to whether Mr. Hamilton was suffering from either a paranoid or psychopathic personality disorder to have resort to that manual or to its European equivalent? - I did refer to its European equivalent the ICD10, I referred to it when I was considering the two personality features. I thought that was the best way of doing it.

I wonder if you could just remind me what it is in relation to the psychopathic personality diagnosis that you had the particular regard for in relation to Hamilton? - It was his lack of social contact, his emptiness as a person, the way he seemed to use people. I got no impression from anyone I spoke to of him as a person;/

person; he seemed to be rather an empty shallow individual who didn't appear to have any particular need for the kind of social contacts and supports which many people feel the need of, which is really the basis of society. It was just one of the features that struck me about him -- his house, for example, seemed an empty and untidy place with very little in the way of personal effects one might expect in some psychopathic individual's life and that sort of way is a reflection of the sort of people they are themselves.

Would a description of him as being someone who was a very quiet kind individual fit with the diagnosis which you made? - It wouldn't necessarily be at odds with it. It wouldn't necessarily be at odds.

Why would that be? - Well, I can imagine situations in which he would appear to be quiet. The impression I got of him was that he, apart from with certain individuals when he became rather long-winded and tedious about his interests or about his feelings of injustice, in other situations he would be quiet and he did appear to be good natured and humourous. His mother and friend spoke about the jokes that he would engage in. I can well imagine that his descriptions of his Boys' Clubs would give the impression that he was someone who was concerned about the youth of tomorrow and what he could do to help them out. He was concerned with their welfare. I don't feel that cuts across other opinions which have been expressed about him, and which I have expressed myself.

In relation to the paranoid personality disorder, again could you just summarise as briefly as you can the elements of his behaviour which go towards the diagnosis which you made? - It would be his view that everyone else was out of step except him, he was being ill-treated, treated unfairly and discriminated against, and there were no grounds for this. There was no conspiracy in the sense of believing some sort of psychotic belief; nevertheless, people, agencies like the Scouts, the Regional Council and the Education Department were all against him.

You made reference to the shooting behaviour which was undertaken by him. I don't want/

want to spend too much time on this given the evidence which you heard this morning, but can I ask you, are you yourself a marksman or a shooter? - No.

In order to assess the nature of the behaviour which one saw from time to time and descriptions in relation to shooting, and put that into context, do you think one would need to have some knowledge of shooting to see how far out of the accepted norm his behaviour was? - Yes, I would accept that, yes.

You may have seen in the transcripts, for example, the suggestion there was a meeting held after the events of 13th March by various members of the Stirling Rife & Pistol Club, and they couldn't look back to anything which he was doing at the range and link that behaviour into the events of 13th March. Were you aware of that?

MR. BONOMY: Just to be quite clear, sir, what evidence we are actually referring to; it may be important to be precise about this. I have a recollection of some evidence about Callander Club meeting after the event. I don't have for the moment have a recollection about Stirling.

MR. TAYLOR: It may well have been the Callander Club, sir.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: If you can just say a Club rather than being specific about the nature of the Club and then change that question, if you can still remember that? - Yes.

Delete the reference to it being one particular Club? - Your question was did that alter my views about his suitability and his conduct?

Well, if shooters themselves were unable to look back from the events of the 13th and identify anything untoward in his conduct which would have led them to believe he may have done what he did on the 13th is that not of some relevance? - Yes.

Would that be something which you would have/

have weighed in your assessment of the position? - Yes. I am aware after reading the transcript of the first five days that there were different opinions expressed about him. I do remember reference, expressing an opinion about firearms in the evidence of one or two witnesses who did express concern and used words like "very unusual".

I think Mr. Crawford's evidence perhaps has some.....? - Can I refer to the report to see. It was Mr. Crawford who was the main witness who I was considering, whose evidence I was considering at that time; that is correct.

But I think there was evidence from others who shot with him quite regularly to the effect that they were relatively silent about any abnormal behaviour on his part? - I am perfectly willing to accept that was the position.

We discussed a few moments ago the diagnostic and statistical manual of the American Psychiatric Association. Does that manual also provide a definition for paedophilia? - I would suspect that it does. I can't say with certainty but I would suspect that it does. I honestly don't know.

It is not something which you had made a check of? - No, I didn't refer to the DSM4.

Would you agree with me that paedophiles normally are quite well organised in the manner in which they go about their activities? - Are you referring to their paedophile activities or the way they lead their general lives?

No, their paedophile activities? - I think it would be difficult for me to agree with a generalisation like that because paedophilia covers such a multitude from one extreme to the other, so that a generalisation like that would be difficult. I would accept that some paedophiles may be organised.

Do you accept a definition of paedophilia as being over a period of at least six months there has been a recurrence of intense sexual arousing and fantasy of sexual origins or behaviour involving sexual activity with a pre-pubescent child or/

or children, and fantasies of sexual origin or behaviour cause clinically significant distress or impairment of social interaction or other important areas of functioning. Thirdly, a person of at least 16 years and at least five years older than the child or children is a criteria? - Right. The first one sounds a very good definition. The second part I would have some reservations about, fantasies are not by any means distress. I think you inferred that persons were distressed.....

That is correct, it is suggested fantasies or behaviour cause clinically significant distress and impairment of social functioning or other important areas of functioning? - I don't see any clinical experience they are distressed necessarily. Five years -- again that seems reasonable on common sense grounds, yes, and 16 as well.

Other than the video which you have seen one came across no other evidence of there being paedophile pornography in Hamilton's possession? - No, I didn't.

Is that something which one may normally expect in paedophiles? - When you go so far as to say expected, it would certaintly be a relavent link. It was strange to me Hamilton must have known that his house would be examined in very meticulous detail and I wondered whether he hadn't disposed of what he may have had, but that speculation on my part.

He hadn't disposed of the videos? - That is right.

So would that suggest the videos at least by Hamilton were not seen as pornography? - I don't think I can go as far as that. I think Hamilton's position seems to have been that these videos demonstrated the high quality of the Boys' Clubs he ran.

You heard the evidence this morning from Mr. Williams, didn't you, which was roughly along these lines? - Yes.

It showed the development of boys as they progressed through his CLubs? - That is correct./

correct. So that I don't feel because Hamilton didn't destroy them -- I have no evidence -- the police gave me no information to suggest they were aware Hamilton had destroy anything and he may have done. I am not aware of that or had any evidence to suggest that he had. But I don't feel that rules out the effects of serving that function of pornography for Hamilton.

Taking such a view of the videos, is that something you think one person may consider them to be relatively innocuous and another consider them in the manner in which you think of them? - I think whether someone considers them to be innocuous or not would depend on the context and what other information, because, as I indicated earlier, material which can seem perfectly innocuous in one situation would against a different background be seen quite differently. If I can give you an example: the Brownie Annual I understand is pornography for paedophiles. I would never have believed such a thing was possible but I believe that it is. The Mothercare catalogue as well. This is an example of how items must be approached with suspicion.

After/

1.50 p.m.

After an adjournment for lunch.

CROSS-EXAMINATION CONTINUED BY MR. TAYLOR: Over the lunch adjournment we have been able to check this. For the record, we can confirm that the club which did have the meeting following the events of the l3th March to consider the behaviour of their club member was the Stirling club. You didn't know about that, I take it? - That is correct.

Before we broke for lunch we were talking about paedophilia. Am I right that the only evidence one can find in the documentation of any potentially inappropriate physical contact was the incident where a 12 year old boy mentioned that he had had the inside of his leg rubbed by Mr. Hamilton? - Yes. Is that the information provided from an anonymous source?

Leaving aside what has been provided from the anonymous source. I should have prefaced that question by inviting you to do that. Is one then left with just the one incident, a 12 year old indicating that the inside of his leg might have been inappropriately stroked or rubbed? - That is as I recall. There were allegations running through all the information. The precise nature of the allegations was not always entirely clear, but there were nevertheless allegations, suggestions, that he was "touching kids"; so those accounts were going through it as well.

Did you notice anywhere any of those concerns taking some form of substantiation, or did they just remain as rumours? - In answering that question there is a distinction which a psychiatrist would draw in terms of substantiation and legal proof, which as I understand it is a rigorous proof; whereas in a clinical assessment a clinician would not subject reports to the same level of scrutiny: they would have regard to them and certainly if there was a succession of allegations they would have regard to them. That would be my clinical approach, and it would be the clinical approach of my colleagues, I know.

That/

That would be the approach taken by a forensic psychiatrist? - Yes, that is right.

If we move on to a different topic, would you accept that past behaviour is very often the best predictor of future behaviour? - Yes, that is a very good generalisation.

If someone has been violent in the past the likelihood is that they will be violent in the future, if one was predicting into the future? - Yes: the past is very important in relation to predicting the future.

In relation to acts of violence, does one often find that the disinhibiting effects of alcohol play a part? - Yes, very much so.

Is another factor in relation to violence the propensity of an individual to react with physical violence to insults or differences of opinion or such matters as are put to that individual? - Yes. Someone who had a tendency to be explosive could be considered to be at risk of violence, if they had displayed violence in that situation in the past.

Such a person is more likely to lose control of his emotions than somebody who is able to withstand the insults and things which might be thrown at him; is that fair to say? - Yes. In the assessment of violence, if someone has become violent in the past in a particular situation that would increase the risk that they might behave in that way again.

It is also true that violence tends to be associated more with the male of the species than the female? - Yes.

And more with youth than with, say, middle age? - Statistically, yes.

In these factors which we have just gone through have we really summarised the factors most likely to be predictors of future violence, or are there others which have not been referred to? - I think factors of the kind you have described are very important but I think it is also important to draw a distinction between factors which indicate general/

general trends and the situation as it affects a particular individual. To give an example of that, which I don't think is of relevance in this case, there are for example individuals who seem to become violent when they, men, form a relationship with a woman, and they become jealous and possessive. The men who have that pattern of relationships tend to become violent in the domestic situation. That is another factor that has to be considered. Ultimately, however, in assessing a particular individual it is that individual's traits and background which have to be taken into account, as well as general trends such as the ones you referred to.

You were asked some questions about the stock-piling of ammunition. If I have noted your evidence correctly do I understand what happened is that when you met Mr. Miller he asked you to have particular regard to this aspect of Hamilton's behaviour? - I should have clarified this. Mr. Miller gave me two briefs. One was to express an opinion as to whether or not there was any evidence of mental disorder in relation to Thomas Hamilton; the second was to give an opinion as to whether there was anything in the build-up to the tragedy which could have predicted it was going to happen.

Do I understand correctly that you had your attention drawn to this aspect, ammunition and stock-piling? - When I visited Dunblane Police Office I was given information about his pattern of buying ammunition.

So it was not Mr. Miller who provided you with that steer; it was from another source? - Yes, it was. I visited Dunblane Police Office and was asking questions about a number of aspects building up to a number of events.

You were also asked to give a view on the importance of Hamilton possessing a gun to enable him to do what he did. I think I remember that particular passage in the evidence? - Yes.

And one of the factors which you considered relevant to answering those questions was that you had formed a view that Hamilton had decided he was going to commit suicide? - Yes.

Assuming/

Assuming that he did not have a gun just for the moment, would there be anything to stop him having taken one of the buses which he hired and driving it off a bridge into a river, or similar? Would that not achieve the same effect? - Yes, that would have killed himself; but I did get the impression that he was very anxious to kill himself immediately, and it is possible, given the level of planning -- I was very impressed with the tying of the flaps and the supporting with cardboard and the labelling of the magazines with a sticker so he didn't put them in the gun the wrong way round and jam it. That all seemed to be planning on his part which he seemed to take pride in, and all of which was designed to ensure there was not any hitch got in the way of things. If he was as meticulous as that it might have gone through his mind that an incident such as that could have been fatal, but might not necessarily have been fatal.

RE-EXAMINED BY MR. BONOMY: Were you aware that Mr. Hamilton referred to his guns as his babies? - I believe that from some source I had heard that said. I must say I have not gone into that in great detail, but I have heard it referred to at some point.

You took account of that factor when you were writing that report? - Yes.

You have dealt with a number of possible revisals of a minor nature to your second report? - Yes.

I think it would be helpful if you were to revise your report and submit it to his lordship with your own signature at the end of it as your final view. If you do that that would be helpful? - Yes.

Can I take it that subject to these minor revisals these three reports accurately reflect your opinion? - They do. Can I just add that the revisions would be revisions essentially of grammar, not of content.

MR. BONOMY: Sir, that completes the evidence I have to submit to the Inquiry.

LORD CULLEN: I take it there is no other/

other evidence which any of the parties seeks to put before the Inquiry?

MR. TAYLOR: There is, sir, a precognition which came into my hands in the course of this morning, which I gave to Mr. Bonomy just before lunch. The witness is not here, I have to say.

LORD CULLEN: I don't think I was aware of this, Mr. Bonomy. Has this matter been discussed? What is the outlook?

MR. BONOMY: What happens here depends on Mr. Taylor's position, which has not actually been made clear to me.

LORD CULLEN: Do you wish to have an opportunity to discuss the matter with him?

MR. TAYLOR: That might be more appropriate.

LORD CULLEN: I will rise for that purpose.

After/

2.05 p.m.

After a short adjournment:

LORD CULLEN: Now, we are at the stage of submissions and as we start the submissions now perhaps I can just confirm, Mr. Scroggins, I think you are present here at my invitation representing the BSF?

MR. SCROGGINS: Yes, my colleague Mr. Colin McEachran will be attending tomorrow for the Scottish Shooting Federation.

LORD CULLEN: I don't know if you were present the other day but my intention in inviting you was in case any of the submissions made here call for any response by you which is not covered by the very full written submissions which your clients have submitted. So that is the purpose; to deal with anything which has not already been dealt with in writing.

MR. SCROGGINS: Yes, sir, we understand.

LORD CULLEN: Well, we can follow again I think the order which we indicated the other day. Mr. Bonomy, I call upon you first.

MR. BONOMY: Thank you, sir. The hearts of the world went out and continue to go out to the victims of the Dunblane massacre and to their community and no words I have are adequate to add to the many words there have already been to express a world wide feeling of grief and support, feelings shared by all of us here.

I do wish, however, as counsel representing the Lord Advocate to pay tribute in a number of areas. I wish first of all to recognise the fortitude, dignity and restraint of the families of the victims throughout this Inquiry.

I also wish to acknowledge publicly the magnificant work done by the staff of the school in coping with the events of the disaster on the 13th March and thereafter for making the life of the school go on.

I/

I also wish to recognise the work done by the emergency services in dealing with a situation they could never have dreamt of occurring. It is important to distinguish areas in which there are lessons to be learned about how to respond to and deal with unique problems arising from a disaster of that magnitude from the way in which all personnel, admittedly professionally trained but still human beings, threw themselves into the task of coping with the plight of the victims.

Little has been said in this Inquiry of the work of the paramedical and medical services, including the local Dunblane doctors and those from the surrounding area, who set up the initial triage system for identifying those who most urgently required treatment. They are all unsung heroes. A decision was made to present sensitive, private information in confidence to you, sir, and as a result the work done by those services has not been publicly highlighted in the Inquiry. I hope that has not diminished the public recognition of the marvellous service they gave on that day, the succeeding days and in the still continuing treatment and rehabilitation of the victims.

Public recognition should also be given to the support services for continuing the dedicated work aimed at making life go on. I also wish to commend the work done by Central Scotland police in the investigation of the events of the 13th March and the circumstances leading up to that day. The investigation appears to me to have been thorough, including into sensitive areas where the incident Inquiry team was investigating the work and actions of their own Force. Every Inquiry instructed by me or on my behalf has been dealt with urgently and effectively. The demands on the officers involved in the Inquiry have been considerable.

In the end of the day, it has been my decision in consultation with you, sir, whether to lead any particular evidence which emerged as a result of these inquiries. I mentioned a moment ago the presentation of private evidence in confidence to you. In the early stages of the Inquiry the evidence about the events of the day was presented in a restrained and what I hope was a sensitive way to avoid exposing those most directly affected to further distress. The full horror of the 13th March/

March was not explored in any detail. However, the Inquiry must never lose sight of the enormity of what Hamilton did with his self loading pistol and particularly the 84 gunshot wounds he inflicted. The picture we must have in all our minds is the little shattered bodies, the permanent physical results of the use of that weapon and the widespread enduring mental agony suffered by his victims, direct and indirect. These are the matters that brought us here.

You will wish, sir, to make certain formal findings about the place and time at which Hamilton's victims, both dead and injured, were shot and the 17 victims were unlawfully killed in a way which, on the face of it, amounted to murder.

You will wish to consider evidence pointing to factors which may have motivated him to do this and what his state of mind was on the 13th March. You will be able to point to a number of factors affecting him and indeed putting him under some pressure. However, I doubt if you will ever find anything approaching an adequate explanation for what he did. While one might be forgiven for expecting insanity to be such an explanation, the evidence of Dr. Baird and Professor Cook appears to rule out that simple explanation. They have however provided very helpful guidance about identifiable features of his personality such as paedophile tendency, paranoia, a psychopathological personality, obsessional behaviour and others which may have contributed.

Such evidence as is before you that he was a pervert in the sense of abusing children you may consider to be not entirely reliable. There is, however, clear evidence that he was odd, eccentric and creepy. Mrs. Ogilvie, his neighbour, found him creepy and was uncomfortable in his house when part of a video of boys at Hamilton's club was shown and she saw photographs of boys on the walls. Other neighbours and acquaintances have confirmed that view. On the other hand he ran well disciplined or regimented activities for boys there and during the summer holidays. However, his insistance that none wore tops or in some cases all should wear skimpy swimming trunks and the way they were filmed indicated a peculiar fixation or attraction at least for the appearance of the bodies of boys between the ages of 8 and 10.

The/

2.20 p.m.

The signs are that most boys did not feel threatened by his behaviour. In these basic directions, which gave rise to suspicion from the late 1970s onward, lie the roots of the problems faced by the authorities which have the responsibility for regulating Hamilton's affairs.

He clearly felt victimised by obstacles placed in his way, or which some endeavoured to place in his way. I suggest he felt there was nothing wrong with, and a great deal right about the clubs that he ran, and that prompted him to battle against authority. He largely resented criticism and tended to challenge it.

He was fighting a war from about 1983 onwards with mixed but diminishing success. Interest in his clubs in his chosen area of operation around Stirling had declined and he had to turn to other areas. He was clearly under financial pressure and that was mounting.

He resumed his interest in shooting. There are elements of resignation and despair in some of his conversation and in some of his letters latterly, but we have heard evidence today that that layman's submission on these two particular aspects is not confirmed by psychiatric opinion.

The evidence this morning from Dr. Baird is that he was clearly intent upon suicide when he arrived at Dunblane Primary School. Other evidence suggests his attack on personnel at Dunblane Primary was premeditated and planned, and either the assembly or the gymnasium was his target.

Sir, we have listed the evidence particularly relevant to his motivation and state of mind under a number of headings in a document which has been presented to you. The headings used are "His financial position", "The changes in the club acitivity", "His revised interest in shooting", "His attitude to those who questioned him", "The evidence of his mood and state of mind in the period prior to the 13th March", and lastly "The evidence pointing towards premeditation".

I don't consider it necessary to rehearse/

rehearse the parts of the evidence to which reference has been made in the document. I simply invite you, sir, to consider these as factors which do cast some light on his motivation and state of mind prior to the 13th March.

Because of the unusual dual role that I have had in the Inquiry, first of all acting as your arm in identifying and leading relevant evidence at the Inquiry, and secondly as representing the Lord Advocate in respect of his responsibilities before the Inquiry, it is not appropriate for me to propose recommendations.

You have already had many submissions made to you and you will hear further submissions from parties around the table. What I now intend to do is to identify certain issues which do emerge from the evidence.

I don't for a moment pretend that this is a complete list of all issues that will be focussed in the submissions which are made to you. I confine myself at this stage to trying to identify the issues arising out of the evidence which has been led before the Inquiry.

I also at this stage confine what I have to say to the question of Firearms and the regulation and control of the possession of Firearms.

I think logically the first area to which I should turn in trying to identify these issues is that of the procedure followed in dealing with an application for a Firearms Certificate or for the renewal of that certificate, and I will largely identify these without commenting further on the arguments that have either been advanced or will be advanced in respect of them.

First of all, the inquiry that ought to be made of an applicant either in the form or during the process of dealing with the form. There has been a fair body of evidence pointing to the possibility of information being provided by clubs of which the applicant either has been a member or proposes to become a member; and to the possibility of police officers making specific inquiry at these clubs.

If/

If you consider making recommendations along these lines or on these issues, you will also wish to consider whether clubs ought to keep records in respect of various matters that have been dealt with in the evidence, and ought to be obliged to report certain matters to the police.

You may wish to consider whether the civilianisation of the inquiry process is something that ought to be encouraged, at least so far as checking on and identifying the weapons involved, and the good reason proposed, are concerned.

You have heard a good deal of evidence about the procedure followed in the office in Stirling in dealing with the applications of Hamilton, and indeed the current position in regard to dealing with any applications for firearms certificates. You may consider, for example, the procedure that ought to be followed for keeping a firearms file on an individual up to date, who ought to get the file when the application is being considered by the police, what ought to be done about police intelligence so far as the file is concerned.

You may also wish to consider whether, if the decision remains that of a senior police officer, in this case the Deputy Chief Constable, what material he should have before him before he makes a final decision, and whether indeed he ought to have the applicant before him before he makes a final decision.

These are all issues arising from the evidence. Of course, in this case the Deputy Chief Constable has given evidence that he knew Hamilton's whole background in any event, but I suggest that in the broader picture that particular feature of this case is largely irrelevant.

What the evidence does point up is in my submission the need to consider whether the person making the decision ought to have certain material before him, and whether he ought indeed to have the applicant before him.

There is an associated issue of the part that might be played by the medical profession in the certification process.

The/

The evidence on that has been largely negative. You may however consider there is at least a need to investigate the matter further bearing in mind that the Association of Police Surgeons, through their witness, Dr. Davis, did make certain constructive suggestions which are perhaps worthy of further consideration, although it has to be observed that those who have been asked to comment on these have been able to point to a number of difficulties about implementing the suggestions made.

You will also no doubt, sir, wish to consider the question of the period between renewals of firearms certificates. Prior to the 13th March it certainly appeared to be the case that there was a move towards a slackening of the regulation of the possession of firearms: the period was extended to five years between renewal; postal renewals were being encouraged; and there was a proposal to abandon counter signatories.

You will no doubt wish to consider all these issues. That of counter signatories has been explored also in the evidence. The particular question of the interpretation of a person of similar standing to those listed in the guidance has also been considered, and the question of whether one counter signatory or a number should be involved, is again a subject to which you will wish to pay some attention.

That also raises the question of the type of information and whether that information should be provided on a confidential basis.

There is I suggest certainly scope for considering alternative use of the counter signatory procedure to that which has applied so far.

Mention has been made of the possibility of advertising applications and the issues associated with that, and in an application form the suggestion has been made that a person should be obliged to declare whether or not in the past an application has been refused or withdrawn, or whether a counter signatory approached has refused to counter sign the application.

In connection with investigating the conduct/

conduct of firearms certificate holders, and indeed an applicant, some reference has been made to the absence of a power on the part of the police to enter an applicant's premises without permission.

Reference has also been made to the possibility of a person who has either been refused a firearms certificate or had his certificate revoked being permitted to possess a firearm in an exempt category set out in Sections 9-16 of the Firearms Act 1968.

A great deal of evidence centred on the word "opportunity" appearing in the Home Office Guidance in dealing with what amounts to a good reason for possessing a handgun.....

LORD CULLEN: You don't suggest an interpretation of the guidance, do you?

MR. BONOMY: I am not suggesting any interpretation of the guidance. What I am suggesting is that perhaps the guidance ought to be reconsidered, and that the use of an expression such as "opportunity" is a word that -- that that particular word should be reconsidered.

There must be others who will wish to urge a definition of "opportunity" on you, but what I suggest is that so far as the future is concerned you will wish to consider whether the guidance should contain that particular expression.

LORD CULLEN: That is 6.8?

MR. BONOMY: It is, sir.

It was also clear in the police evidence that there was great potential for falling between stools. It was not clear that each officer understood precisely his part in the procedure.

Now, as I have already said, that may have had no effect on the dealings with Hamilton's applications, but there was clearly potential for an application not being fully considered because various people thought someone else would ultimately make a more informed decision than was clearly possible, on the evidence before you.

So/

So it may be possible, sir, to formulate some guidance on how applications should be dealt with from start to finish within any individual police office, and undoubtedly to make suggestions for improvement of the guidance so that a consistent approach throughout the country is followed in dealing with these applications.

Can I now turn to the question of clubs, which is closely associated with the question of applications for firearms certificates?

I suggested in dealing with certificates that there may be something to be gained by further inquiry being made at clubs, and clubs being obliged to keep records and report to the police to answer such inquiries as were made upon them.

For that to be effective it would be necessary for clubs to be identified, and one way of identifying all clubs would be to require them to be approved by the Home Office.

LORD CULLEN: How do you deal with the ones that were mentioned I think by one of the witnesses, a situation where you have informal arrangements.

MR. BONOMY: Well, what I am suggesting is that perhaps the time has come when there should be no informal arrangements such as the ones we have heard about, and that if target shooting is to be conducted that it ought to be done at clubs which are known, identified and approved.

LORD CULLEN: Of course, there could be an alternative way of approaching this, is to have a situation in which you have a core of approved clubs, and it is through these clubs the information is provided, and you might have a periphery of more informal arrangements which aren't relevant to the broader working of the situation.

MR. BONOMY: If the submission is made to you, and you accept it as having force, that it is important to know what a man is doing with his weapons on a fairly regular basis, then it is important to be able to identify where he is shooting, and have a report available to the police if they want to make that inquiry. Now, the more there/

there are informal arrangements the less such a system will work.

LORD CULLEN: Unless he was required to demonstrate good reason by reference to what approved clubs could deliver by way of information?

MR. BONOMY: Indeed.

LORD CULLEN: That might be a way of getting the benefits of the set-up without losing the availability of the information, which is essential?

MR. BONOMY: Yes, subject to this, that if Home Office approval was necessary for all clubs then the information might be more complete. But I do accept what you say, that there are ways of getting certainly far more information than is available on a regular basis at present.

If there was Home Office approval of a club, one club at least -- of which a person seeking a firearm certificate had to be a member -- then it would I think follow that there would have to be some Code of Practice setting out the requirements for such a club consistent with the other recommendations that you seek to make at the end of the Inquiry -- for example dealing with probationary members -- as we have seen, there is already guidance on that, but that would need to be part of, I would suggest, any code relating to approval.

Also, the position of a probationary member as not being in a position to be, for example, Range Officer -- and you have heard some suggestion that probationary members do from time to time take on responsibilities they perhaps ought not to have.

You may also consider in this connection as part of such a code, but also as a quite separate recommendation, the question of a person requiring a Firearms Certificate before he does become a full member of the club, and likewise, or as part of this process, requiring the club which has Home Office approval to report to the Chief Constable on the probationary member and his performance during that period so that in the end of the day the Chief Constable is the person who actually makes the decision,/

decision, or the Senior Police Officer is the person who makes the decision about whether or not the applicant should proceed to full membership with all the responsibilities that carries.

Now/

Now, I appreciate there is a reversal of the order of events as they exist at present, because as I understand the operation of the system at the moment, one has to be a member of a club before getting a firearms certificate. It may be there is something to be said for applications for firearms certificates preceding full membership of a club.

You may also want to consider whether there should be attendance and competing involvement imposed on firearms holders and whether or not the club should inform the police of members whose applications have been disapproved or of any expulsions which have taken place or any resignations which occur.

There has been evidence that Hamilton undoubtedly behaved abnormally on the range, but was never really regarded as unsafe, and it was only if he became unsafe that anything was likely to be done about it.

You will of course have to consider the effect of any restriction which might be imposed on membership of clubs on the genuine competitive target shooter and on international competition. You have heard evidence about the extent to which full bore and small bore competitive shooting takes place in this country.

On quite a separate but related matter, you may wish to consider whether clubs should continue to use human-shaped targets.

Now, sir, that takes me to the question of the weapons themselves. The handguns which have been the subject of the Inquiry were originally designed as killing instruments. They are still in the condition in which they were originally designed, although used for a wide variety of purposes. As has been made clear even in today's evidence, as long as these instruments are there there is a risk that they will be used for killing. In relation to the evaluation of that particular risk and how one begins to cope with it I certainly have no view to express. What I do intend to do, however, is to look at the various options which emerge/

emerge from the evidence.

Obviously one point of view is to ban the use of handguns altogether for target shooting. You have heard evidence about the effect that would have. There are, however, a considerable number of other possibilities that have emerged in the evidence, such as restricting the type of handguns that might be available, requiring the conversion of multi-shot weapons to single shot, although I know the evidence indicated that that was not a safe option; restriction of magazine size, where handguns are kept, how they are stored, where ammunition is kept, the amount kept, whether it might be kept at home, whether different amounts might be kept at home -- by that I mean small amounts at home. In that regard you will have to bear in mind how ammunition is made, much of it for target shooting; the majority of it -- some might say the vast majority of it -- for target shooting being home made.

An issue has arisen whether a firearms certificate should be required to purchase the component parts of ammunition, to purchase the magazines. A question has arisen as to how to define "a component part" of a firearm, and whether by defining that one should include such things as magazines.

You have heard evidence about the possibility of attaching numbers to magazines, so that they are recorded; but you may have found that that would present certainly a number of difficulties.

A national register of firearms has been touched upon but not explored to any great detail, but you may consider there is some value in that, in which case no doubt further exploration of the potential of such a register could be undertaken.

If consideration were to be given to separating the firearms possessor from his firearm by requiring the firearms to be stored elsewhere than at home, then consideration would have to be given to time limits or schemes covering the periods when the gun would require to be removed from its normal resting place for use in competitions away from the home club. The same would apply to ammunition/

ammunition, if that could not be stored at home.

You may also wish to consider whether limits should be imposed on the amount of ammunition held or the amount that may be purchased and whether there should be a requirement that the person who has purchased ammunition should have to prove that he has used it before purchasing more.

No doubt I have not identified all the issues which have arisen, even in the evidence: I have endeavoured to, but there may be others.

That takes me to an area of law, to an area of law on which a great deal of evidence has been led, and that is the various inconsistencies which exist in the present law relating to the grounds on which an application for a firearms certificate may be refused, or a firearms certificate may be revoked, or an application for a shotgun certificate may be refused.

Sir, I appreciate that the Inquiry has been about handguns largely, because of the events of the l3th March, but it is impossible to ignore other types of weapon in this particular context also.

I could not find any sound reason in the various submissions and other documents which I have read for the inconsistencies in the legal provisions relating to these various subjects. We have set out in a document which you already have the various inconsistencies which exist, when for example in relation to renewal of a firearms certificate it is for the applicant to satisfy the police that he has good reason for possessing a weapon and that he would not present a danger to the public safety or the peace. A senior police officer may refuse the application if he has reason to believe that the applicant is a prohibited person or is of intemperate habits or of unsound mind or otherwise unfitted to be entrusted with a firearm. On the other hand, if revocation is the issue, the chief officer of police has to be satisfied that he is prohibited or of intemperate habits or of unsound mind or otherwise unfitted to be entrusted with such a firearm. There is no reason I have been able to establish why there should be this distinction between the two.

Similarly/

Similarly, the rules in respect of the granting, refusal and revocation of a shotgun certificate are different, and again I can see no logical reason why that is the case. There are historical reasons why the firearms certification has been around in a form approaching its present since l920, whereas in respect of shotguns that was not the position until l967.

I suggest, therefore, sir, that the evidence has identified a number of areas in which consistency in the law would be of assistance; it would mean we would be in a far better position to understand exactly where we do stand.

If I could for a moment deal with the various tests which appear in Sections dealing with grants, renewals and revocations, at times the requirement is to satisfy the police, at others it is that the police have reason to believe that something be the case, and can act. There are good reasons why the test should be in certain areas different. For example, it seems sensible to expect an applicant to be able to satisfy the police he has good reason, and it is equally sensible to expect the police to be the ones to establish intemperate habits or unsound mind, which otherwise if the onus was on the applicant would be requiring him to prove a negative.

If you were to suggest improvements in the certification system which required a great deal more information to be provided by an applicant than is presently provided, if he was required to go through a far more rigorous process, for example, answering a much more detailed application form, in the shape of a questionnaire, having to have more counter-signatories and then to be the subject of an inquiry carried out by police officers in a form similar to RL3A, in these circumstances one could say that the onus should ultimately be on the chief police officer to be satisfied of certain things before he can refuse an application or indeed to believe certain things before he can refuse it.

The concept of making a decision because one has reason to believe it is a fairly unusual one; indeed it may be unique in licensing provisions. I do not know, however, whether it really is very different as an expression from "reason/

"reason to suspect"; "reason to suspect" is one with which the police are familiar in a number of contexts. "Reason to believe" is an expression with which I doubt if they are familiar or comfortable, and you may consider whether there is room for a different test to apply to some of the areas on the basis of which an application may be refused or a certificate revoked.

There has been some suggestion that the very existence of an appeal process may create difficulty for the chief officer of police making the decision. I note in the evidence submitted by the Home Office and the Secretary of State that in Scotland as far as they can tell only 5 per cent of appeals against decisions of chief police officers are successful, whereas in England 25 per cent of these appeals are successful. I don't suggest one can draw very firm conclusions from that, but perhaps one can at least draw a conclusion that in Scotland the test for success in an appeal must be different from the test in England, and indeed you have now been presented with English counsel's opinion which confirms that. In general terms -- I say "in general terms" because it is very difficult in my submission to detect in the Scottish cases a clear line of authority applying a consistent test to deciding whether or not to overturn the chief officer of police's decision. However, the cases do indicate that the Sheriff tends to enquire only if the decision cannot be justified: I am not suggesting that is true of all cases. The very fact it is not true of all cases means that there is a need for the law to be clarified.

LORD CULLEN: Would you say "cannot be justified" is the same as "is justified"?

MR. BONOMY: I think you are right, sir. It is "is justified". Built into that test as well there is some allowance for the exercise of discretion. It is not a question of a complete re-hearing of the case by the Sheriff and a different decision being made if the Sheriff considers the evidence to favour the appellant.

The/

The cases tend to suggest that the Sheriff accepts a decision if it appears to be a justified decision.

LORD CULLEN: What is your impression as to the state of the onus of appeal in Scotland? I can't remember if it is dealt with in your paper or not.

MR. BONOMY: My impression of the state of the onus is that the onus is on the appellant and not on the Chief Officer of Police to justify his decision. The onus is on the appellant to demonstrate that a decision is not justified.

However, it is the very lack of clarity about the law that makes it very difficult to draw firm conclusions and what I suggest is necessary is some definition of the grounds on which an appeal against a Chief Office of Police's decision might be taken and be successful.

LORD CULLEN: By definition, you mean restriction effectively?

MR. BONOMY: Well, indeed.

LORD CULLEN: Certainly so far as England is concerned.

MR. BONOMY: Yes, in Scotland also it would be helpful to have clear grounds on which an appeal might be taken. Now, we are increasingly familiar with the stating of a basis or ground for appeals to be taken in licensing matters or certification matters. Examples are quoted in the note you were given with regard to the Licensing (Scotland) Act and the Civic Government (Scotland) Act. However, there are many, many more examples set out in more or less tabulated form in chapter 27 of McPhail's book on Sheriff Court practice. A whole host of different administrative areas are dealt with there and a host of different appeal provisions.

For example, there are a number where a decision of the Sheriff is said to be final which of course leaves open only the further route of judicial review beyond the Sheriff. There are others/

others where there is provision for appeal beyond the Sheriff and indeed, as matters stand at present in relation to firearms certificates, there is room, there is now room, for appeal from the Sheriff to the Court of Session. Apart from looking at the other examples in that book, there is also the option open of removing the right of appeal at all, as a result of which the only basis for appealing against a Chief Officer of Police would be that it was ultra vires. That has a number of advantages. The test is clear. It is a speedy form of process.

On the other hand, it does involve going to the Court of Session and not in the traditional way of appeal to the Sheriff and therefore would be a major change.

There are submissions before you which deal with the question of a separate Appeal Board. That has been considered in the past. Even if you were to recommend it, there would still remain scope for resort to the Court by way of petition for a judicial review which makes one wonder if that is indeed the right way to go and whether in fact the right way might not be to retain the power to deal with these appeals in the Court process.

Now, sir, these are the main issues which I suppose arise as issues from the evidence which has been presented to you in relation to firearms. Before I turn very briefly to the other two subjects which you are considering making recommendations about, there is one piece of evidence or one chapter of evidence in relation to firearms to which I should give some attention.

I don't think it is appropriate for me to comment on whether the incident occurred in which Mr. Haggar claimed a gun was pointed at her by Thomas Hamilton from a vehicle but it is noteworthy that there is no evidence to confirm that she actually did report the incident to the police. As full an inquiry as could be made was apparently made of Lothian police officers to whom she could have reported the matter and no trace of any report was found. Now, at this stage I know of no further evidence that bears on this matter that could assist you, sir, in arriving at a conclusion about first of all whether the incident occurred and secondly whether it was reported to the police.

LORD/

LORD CULLEN: You made reference I think on one day during the Inquiry, in a different context altogether, to what the daughter might or might not be able to say. I don't have the reference to that particular page to hand but perhaps Mr. Lake could give me a reference for that later if that is germain to the same point. I think it cropped up in a different context altogether, if I recollect it correctly.

MR. BONOMY: Well, it did and having considered the position I was then and remain now satisfied that nothing she could say would add to the information you already have.

LORD CULLEN: Thank you.

MR. BONOMY: And I had in mind in particular the incident that I have just been dealing with.

LORD CULLEN: Yes.

MR. BONOMY: Now, sir, you have also indicated you intend to look at the question of school security and the vetting and supervision of persons having custody of children. So far as the evidence affecting in particular the local authorities involved with Hamilton is concerned, I have prepared summaries of what appears to be the relevant evidence so far as these issues are concerned. First of all, relating to Hamilton's involvement with Lothian Regional Council and secondly, his involvement with Fife Regional Council and I do not propose to go any further into these details here. Copies of these documents have been circulated to the parties.

So far as Hamilton's dealings with Central Regional Council are concerned, I anticipate Mr. Jones making certain submissions to you on behalf of Central Regional Council. They are also in written form which I have seen. At a number of points submissions or arguments are being advanced in that document on behalf of the Regional Council and it is not appropriate for me to be associated with those. However, I have had a chance to discuss the terms of this document and revise the factual content of it. So far as the facts are concerned as set out there, and by that I mean the narrative/

narrative of the evidence which is being founded upon, as far as that is concerned I am satisfied that the document accurately reflects the evidence, subject to one or possibly two areas on which I would propose to say something once I have heard how Mr. Jones approaches the matter and he knows the areas I am concerned about. So I don't see any useful purpose being served by going into this matter in detail at this stage, sir.

That takes me to the question of the issues arising from the evidence relating to school security. A number of ideas were suggested by certain witnesses and you have heard evidence about the installation of additional security measures locally. Very largely, the matter is one of resources and one of assessment of priorities.

You may, therefore, find it difficult to make specific recommendations but, for example, you may consider whether all schools should carry out a risk assessment, how that should be done or whether it could be done to a national standard. You may wish to identify measures which could be installed in schools subject to the results of the assessments and the type of school indeed because we heard in particular in this Inquiry that schools often have a very large number of entrances and exits, making it very difficult to impose security arrangements.

I don't propose to rehearse the various security measures which have been referred to in the evidence. They will be clear in your lordship's mind.

That then takes me to the issues arising in relation to the vetting and supervision of persons having custody of children. In certain areas it may be that you could make certain recommendations but that would have to be restricted to examining the feasibility of taking certain steps.

For example, we have heard that information from criminal records, the police national computer and police intelligence might be made more widely available but obviously a great deal of work is required to identify how widely available and how such information could be made available in the voluntary sector.

Reference/

Reference has been made to Department of Education Employment List 99 (p535C) as an example of how that type of information is made more widely available, whether it should be made even more widely available and more of it made available is a question I suggest might or would require further detailed consideration if you considered it appropriate.

There are other matters of almost commonsense that have arisen. For example, one that arose this morning and has arisen before, the question of whether one adult should ever be allowed to supervise a group of children in an organised environment on his own. I appreciate that there are many activities where one adult may be required to give tuition to one child. I'm not really talking about those. I appreciate there are limits to what might be done but there are certain basic commonsense ideas that you might consider worthy of making the subject of recommendation.

One area you may wish to look at fairly closely, however, is the use made of local authority premises. Because of the aura of respectability that appears to be given to an organisation by being in local authority premises, you may consider that because that aura of respectability does appear to be given to such organisations that local authorities may have to accept responsibilities commensurate with the accreditation they appear to coincidentally almost give to such bodies and a number of issues which arise such as monitoring of the operation of the clubs in their premises, the need to interview people prior to letting premises to them, the requirement for parental involvement, committees and constitutions.

Training has been referred, training given by local authorities to leaders of children's groups and how to deal with children. We have heard of some authorities having schemes for accrediting or validating particular organisations by registering that organisation, largely for financial reasons but the registration itself does provide certain other benefits.

I appreciate the matter is somewhat different in relation to premises other than those owned by local authorities. There may well, however,/

however, be some controls that could be applied in general to voluntary organisations through the various umbrella organisations that represent them. It may be that consideration could be given to the position of local authorities first with a view to such measures as are also appropriate to voluntary bodies being thereafter adopted by them.

Now, sir, that has simply been an attempt to almost provide a list of issues which have arisen in the evidence and to try to present them in some related pattern. I was going to use the word "coherent" but I accept that the evidence has not been led in the case in three separate sections but we are looking at all the evidence and trying to identify issues which arise under the three headings which you will consider recommendations on.

Obviously you may have questions for me which I shall be happy to deal with or there may be some issues that you consider have been omitted and you may wish to comment on them and I shall be happy to deal with that.

Beyond these submissions, I do not propose to say anything further at this stage. I anticipate that there may be comments made or submissions made by others around the table that I would wish to deal with and I would welcome the opportunity of making any further submissions that are appropriate after everyone else has addressed you. Thank you, sir.

LORD CULLEN: Thank you, Mr. Bonomy. Now, Mr. Campbell.

MR. CAMPBELL: Thank you, sir. Sadly, Scotland has experienced a number of major disasters and tragedies over recent years. That said, there was something uniquely awful about the 13th March of this year. The events of that day still numb the senses of all who remember them and always will. None of us can fully appreciate the devastation of those most directly affected by Hamilton's evil deeds but we all share the outrage and despair at the meaningless loss of 16 young and pure lives, the ruthless murder of their teacher and the serious injuries, both physical and mental, inflicted on their young classmates and the other teachers in the gymnasium./

gymnasium.

Those whom I represent welcome the setting up of this tribunal. It is a very fervent hope that it will lead to immediate and radical reform which will not only increase public safety in our country but will also be a fitting memorial to the victims of Thomas Hamilton.

Sir,/

3.20 p.m.

Sir, with those introductory remarks, I would intend now to outline to you the general order of the submissions which will be presented on behalf of the families and the injured teachers. There will be no attempt to provide you with a resume or summary of the evidence, in accordance with the indication which you gave last week. However, firstly, I will deal with the submissions on gun control reform. Thereafter my learned junior, Miss Dunlop will deal with the events of the 13th March, and she will then go on to provide a summary of some of the evidence as it bears on Hamilton's personality and character.

Thereafter I will deal with the acts and omissions of Central Scotland Police. Thereafter again Miss Dunlop will deal with some submissions relating to the conduct of the Fiscals' Service. Then there will be some concluding remarks.

I turn therefore, Sir, to the recommendations and submissions on the matter of gun control reform. In considering whether Dunblane should provoke Law Reform in the area of gun control, and in assessing the nature and extent of any change, it may be relevant to dwell, however unpalatably, on what might have happened on the 13th March of this year.

This is not in any way to minimise the horror of what did in fact occur. However, we know that Hamilton had enough ammunition and sufficient fire power to kill more or less every adult and child in the school.

There is evidence from which one can infer that he expected to find a school assembly in session when he arrived. Shortly before that he had attempted to cut off the school's telephone lines, presumably to prevent the summoning of help.

He went to the Assembly Hall first. Fortunately it was empty, but only a few minutes earlier it was packed with some 250 children and adults.

Hamilton discharged his first shots in the empty Assembly Hall before making his way to the adjacent/

adjacent gymnasium, firing another few rounds while doing so. The carnage in that gymnasium was horrendous, an evil crime of the very worst kind. However, when considering the need for any law reform it is as well to bear in mind that Hamilton might have murdered hundreds of children and their teachers that day. Had he arrived when the Assembly Hall was full, or had he not killed himself when he did, there is no knowing what might have happened.

Sir, 17 dead and many injured is more than bad enough to justify radical change, but these reflections throw into relief the dangers facing society if many of our citiziens are armed with weapons designed to kill and designed to kill with rapid and clinical efficiency.

One can recall Mr. McMurdo's evidence that there will be more Hamiltons at large in our society enjoying, if that is the right word, lawful possession of guns. Dunblane will happen again at any time unless decisive action is taken.

It is true that society faces a major problem relating to the use of illegal weapons. However, this should not in my submission provoke a laissez-faire attitude to the dangers from lawfully-held weapons. Illegal weapons are an important issue but they are a quite separate issue.

No doubt there is recognition of the need for tough measures to deal with the supply and the use of illegals guns. Also no doubt severe penalties for illegal possession of guns is both justified and widely acknowledged.

From the perspective of those whom I represent, however, a central and critically important fact is that the victims were murdered and injured by a lawfully-held weapon owned and used by someone sactioned by the police on several occasions, most recently just over a year before the murders. Inevitably, many of the submissions lodged with the tribunal discuss in detail various options for reform and improvement of the present system of Firearms Control. No doubt there is room for improvement in many areas, but on behalf of the families I would wish to pose a question: is this a time for tinkering with the present procedures or is/

is it a time for root and branch change?

One may think that the lesson of Hungerford and then Dunblane, and other such tragedies worldwide, is that the time has come for radical reform.

Sir, your recommendations to Parliament are a matter entirely for you, but it is the cry of the families of the dead and injured children and of the injured teachers that never again should we tolerate the possibility of crimes such as this being carried out with lawfully-held weapons. Their aim is that never again should anyone be murdered a lawfully-held weapon, hence the call for a complete ban on the civilian ownership, possession and use of all types of gun.

This call, Sir, is directed in the first instance to yourself, in the context of this Inquiry. It is the primary and most important submission of all those whom I represent.

Many may regard this as the only rational response to what has happened. No doubt some others will reject it as an emotional response to a hard case. However, in the context of gun crime there is no such thing as a hard case, or if there is, every case is a hard case.

My learned friend Mr. Bonomy has outlined a large number of issues which emerge from the evidence, but the primary and most important issue is the extent to which civilians should have guns.

Sir, I now.....

LORD CULLEN: Just before we go on, I wonder if I can be quite clear about that? When you talk about civilians, I take it by that you mean both individual ownership and what I might call Club ownership?

MR. CAMPBELL: Yes, indeed, sir.

Sir, I now propose to deal with a number of facts which in my submission are established in the evidence and which are relevant, in my submission, to the primary submission which I have just/

just made. The first of these is as follows: whatever improvements are made to the system of gun control in this country, the potential for another Dunblane will remain. If we are discussing simply improvements to the current firearms system, any new system will still rely to a very large extent upon human judgment and discretion, the adequacy or otherwise of enquiries and investigations, the reliability of references, the honesty and good character of applicants, etc., etc.

However, mistakes will occur, and even though the most thorough safeguards are put in place they will not, and cannot, remove the risk of another tragedy caused by lawfully-held weapons.

Mr. McMurdo affirmed his view that no system could guarantee public safety from undesirables possessing guns under a Firearms Certificate, no system could be foolproof. (Day 12, Page 1552).

Similarly, the Green Book, as I will call the submission on this area presented on behalf of the Secretary of State for Scotland and the Home Secretary -- the Green Book at Page 17, Paragraph 8.4, states "There are no licensing arrangements which could give an absolute guarantee that no legitimate gun owner will ever misuse his gun".

Secondly, Sir, there will always be a conflict or a tension between limited resources, on the one hand -- that is limited both in terms of money and manpower -- and on the other hand a rigorous and effective system of control.

Whatever the immediate impact of Dunblane, will the passage of time dim the memory? As after Hungerford, in due course will "administrative efficiency", to use Mr. Cameron's description of it, drive Government thinking?

Recent examples of this are the move towards postal renewals of firearms certificates and the proposed abolition of the countersignatory requirement which was introduced in the wake of Hungerford.

Sir, so long as the present system remains unchanged in its fundamentals the lesson of history/

history may be that in due course the memory of Dunblane will fade and other considerations will gradually but inevitably predominate. In my submission this is a cogent factor in favour of radical change now.

Thirdly, Sir, there is also a tension between on the one hand a police force seeking to regulate the shooting community, and on the other hand a police force under pressure to provide a good service to the same people.

Reference has been made in the evidence to what has been described as the Thematic Inspection, and Chief Inspector Robertson agreed in my cross-examination of him that this document read much like a Marks & Spencers' promotional feature designed to please the consumers of the service. And I noted that Mr. Penn in this context referred to the term "police service" not "police force".

Sir, so long as we licence shooters, can we be certain that public safety will always be the paramount consideration? The answer is "No, we can't be certain that public safety will always be the paramount consideration".

Fourthly, even if the new system is as good as can be, and even if no one makes any mistakes in operating it, the potential will nonetheless remain for an individual's circumstances to change, creating danger where none existed before -- for example, the onset of mental disorder, or unforeseen situational factors of the kind described by Professor Cooke -- a decision to commit suicide, or perhaps a decision to carry out an extended suicide.

We know from the evidence that there is no medical or psychological test which can predict such behaviour with certainty and thereby minimise the risk. Here I can refer to the evidence of Professor Cooke and Mr. Morris of the British Medical Association.

Thus, for example, we may find ourselves in a situation where we watch our neighbour's personality and character change out of all recognition either due to illness, bereavement, domestic or employment upheavals, or whatever. We may/

may see him become an unstable or violent man. However, we may never know until it is too late that he possesses in his home a mini-arsenal of firearms.

When our gun law was developed it was the context of a society where the civilian use of guns was limited to gamekeepers, game and bird shooting, pest control and the like. It may be that the laws were not designed to cope with the present relatively large number of urban residents who possess several semi-automatic handguns in our midst for no reason other than shooting at targets. It might be that we have found ourselves in this situation almost by accident, or at least without any fundamental review of the current position. Whatever else, this is the opportunity for that fundamental review. The tragedy is that it required not only Hungerford, but also Dunblane, to prompt it.

Fifthly, Sir, and looking to the future, if we assume no fundamental change, the continued institution of gun Clubs and the availability of guns through a licensing system, will continue to introduce many thousands of people over the years to guns -- people who otherwise would never become familiar with guns and their use.

Not all those users will be of the impeccable character and trustworthiness of someone such as Mr. Penn. Some, perhaps many, will be attracted by the guns themselves and the supposed glamour or ego boost derived from them. Therefore another benefit in the longrun of fundamental reform is to take away that opportunity for familiarity in the future.

Sixthly, Sir, there is an apparently reasonably-well established link between, on the one hand, access to guns, and on the other the rates of gun crime and gun suicide.

Professor Cooke spoke to this matter in some detail in his evidence under reference, among others, to the Vancouver and Seattle studies and to the Washington D.C. study.

Similarly, one can find a discussion of this in the Green Book at Part 1, Paragraphs 13 to 18, and at annexe G, and in the submission recently lodged/

lodged by Professor Gabor, the criminologist from Ottowa University.

The message is that the fewer guns in society then the less gun crime and the less gun suicide there will be.

Interestingly, the studies also demonstrate the absence of what is sometimes referred to as a displacement effect -- in other words, people deprived of guns do not turn to other weapons, and achieve murders or killing with these.

Professor Cooke agreed that the availability of guns was the most important situational factor in gun crime and gun suicide. It may be no more than common sense, but an obvious step to reduce the risk of another Dunblane is to remove the lawful ready availability of guns.

May I move on to, just a few general observations, but still in this same overall context? Firstly, in my respectful submission the debate should not be influenced by any notion of a presumption that individuals have a right to own or to use guns, nor by concepts such as civil liberties or freedom of the individual.

There is no inherent right to own, possess or use a gun in our law or constitution. If there is to be an overriding or paramount consideration, it may be that few would doubt that it should be public safety. The right to life is a fundamental right in the laws and constitutions of all developed nations.

And/

And if a safety-first philosophy, which has been discussed in the evidence from time to time, is to be adopted it leads naturally to radical change of the nature sought by the families and the injured teachers.

Secondly, sir, any decision to continue to permit lawful possession of firearms necessarily implies a willingness to tolerate an increased rate of gun crime and gun suicides. It also necessarily implies a willingness to tolerate that the risk of another Dunblane will continue.

Thirdly, sir, it may be thought that the shooting community do themselves few favours by their apparent reluctance to countenance any material change. The evidence is full of examples of this attitude and general approach. For example, the insistence that any restriction on the types of target shooting available to the shooting community would be unacceptable, and that again for example restriction to single shot .22 pistols would devastate the sport and render it more or less devoid of any attraction or meaning. Similarly, the desire to be able to keep ammunition and guns at home; the resistance to any prohibition on manufacturing ammunition at home rather than at the club.

Emphasis has been placed upon the speed of re-loading a single shooter, or at least the potential speed of re-loading a single shooter. No doubt that was done with a view to heading off a prohibition on handguns, but this equiperation of single shot and semi-automatic weapons may have the opposite effect.

We have had some insight into some gun clubs and some members of some gun clubs. It is likely that the clubs and the members of the clubs will vary widely in both their character and the activity carried on therein. No doubt many clubs are excellent and well organised, and no doubt most members are solid, dependable citizens: but it is quite another thing to devolve any responsibility for gun control to the clubs. Such a system would only be as strong as its weakest link. How many weak links there may be we cannot tell, of course, nor/

nor can we assess how weak the weakest link would be.

As a matter of small detail, one example of this might be, perhaps, the evidence that a gentleman was allowed to be the range officer at the Callander Club during his probationary period. Now, Mr. McCarthy could not envisage that such a thing would ever happen.

Sir, moving on from those general observations, if I may dwell for a moment or two upon the green book, of which I trust you have a copy, so far as the green book is concerned, it is difficult to know what the status of this document is or should be. No one has spoken to it or explained its terms.

LORD CULLEN: It is called evidence, and it has been accepted as evidence, so it is before me, like everything else, for what it is worth.

MR. CAMPBELL: It does bear to be evidence by the Home Secretary and the Secretary of State for Scotland. Nonetheless, I presume it is not in any way intended to inhibit or restrict the Tribunal; thus I consider it appropriate to make a few comments on some parts of it.

Sir, on page 3 at the very beginning it talks of "Firearms controls in Great Britain are among the strictest in Europe and indeed the World". Now, it is difficult to know what to make of this comment, in the absence of comparative material; but if true, in my submission it should not encourage complacency and self-congratulation in the light of not just Dunblane and Hungerford but also the correlation between gun availability and gun crime and suicide.

The section at paragraphs 65 to 67 at page l3 is in my submission worthy of comment. Paragraph 65, under the heading of "Personal Suitability" states: "In cases where the prohibition under Section 21 does not apply, the chief officer must decide on the circumstances of the case whether an applicant with a criminal record should be granted a certificate. The Rehabilitation of Offenders Act l974 does not apply to/

to applications for firearm certificates, and a person applying for a certificate must declare any conviction by a court at home or abroad, however old or minor". Surely the same applies even if an applicant has no criminal record, namely that the chief officer must decide on all aspects of personal suitability, on all aspects of the case.

This passage proceeds "The police are sometimes required to make delicate decisions about issuing firearm certificates to people who have criminal records or to people who are thought to have, or to have had, criminal associates but have no conviction. More difficult than these can be cases in which the individual is thought to be suffering from mental disorder of some kind, especially ones in which there is no formal indication of it (for instance, no admissions to a mental hospital or other medical evidence). The Government does not give the police central guidance about circumstances of that kind. It is up to chief officers to exercise their statutory discretion. An applicant who is dissatisfied with the police decision can take the matter to appeal, or seek judicial review of it".

Sir, it may be thought the area of personal suitability is one of the areas in most need of clear guidance as to how to go about an investigation of the matter. What is disturbing about this passage is the total concentration upon applicants who have a criminal record or who have criminal associates or who have a mental disorder.

The passage which I require to deal with perhaps most directly, given the submission I make on behalf of those whom I represent, is a relatively short passage at the beginning of Part II of the document at page l7, where the authors discuss the proposed reform and a complete prohibition on the possession and use of guns. I won't read it out, because we can read it for ourselves.

Sir, this Section does appear on the face of it to completely ignore the category of person who kills or who commits suicide, possibly even an extended suicide, using lawfully-held guns, but who nonetheless is a person who would probably not have done this if guns were not readily available. Hamilton in my submission was such a person/

person. Here I refer to the evidence of Mr. Joseph Jackson and also Dr. Baird regarding the matter of extended suicide. The Washington DC, the Vancouver and the Seattle evidence spoken to by Professor Cook is clear evidence that such people do indeed exist.

From all we know of Hamilton it seems inherently unlikely that if guns had been removed from him at an earlier stage that he would have nonetheless armed himself with revolvers and semi-automatic handguns. One may think that whether this was or was not a planned extended suicide, whether this was or was not a planned spree killing with a subsequent decision to commit suicide, it was the ready availability of those guns and ammunition to Hamilton which, coupled with the opportunity to use them in clubs in Central Scotland and thereabouts, particularly in early 1996, which inspired and cultivated the evil idea.

Sir, this passage on page l7 and the top of page l8 of the green book also ignores the fact that if a complete prohibition of this nature had been in place for example by l970 and thereafter, it is likely that Hamilton would never have become interested in and familiar with guns in the first place. A long-term view is necessary and justified. It is as important to stop another tragedy in 20 years' time as it is to stop another such tragedy next year.

This section of the green book also ignores the long-term benefits of reducing over time the demand and thus the supply of guns, and the desirability of taking all practical steps to prevent the gun culture, before the number of guns in our society makes it difficult if not impossible to reverse the process.

This passage in the green book ignores or hardly addresses the benefits of a complete prohibition. The only nod in this direction is one sentence at paragraph 8.2, which says "The aim would be to minimise the number of lethal weapons in circulation". It is not even conceded that a ban would achieve this, but surely this is unarguable, unless we assume that all current firearm certificate holders would immediately find a way to break the law.

This/

This passage ignores the logical result of the Seattle, Vancouver and Washington DC research that I mentioned earlier in my submission. This is also commented upon in Professor Gabor's submission and by Professor Cook in his evidence and also in the green book, in another passage.

This section of the green book appears on the face of it to emphasise that if you have a determined criminal he will still find a way to obtain a gun for use in criminal activity. What is one to make of this apparent emphasis? Is it that so long as a total absence of co-relation of activity cannot be achieved nothing can be done? Surely this is not the intended effect or impression? Presumably we can assume that the Government is determined to tackle the problem of illegally held guns with determination and that the Government will be keen to consider severe penalties for illegal possession or use of guns?

What about impulsive gun crime, suicide and the Hamiltons of this world, who are not of the criminal underworld, with access to guns? It is in my submission of some importance to remember that Hungerford, Tasmania and Dunblane were all murders carried out by persons with lawful possession of guns. There is no evidence that the criminal world are spree killers.

In the same passage in the green book reference is made to the economic benefits derived from the activities of the shooting committee. It states "These are considerable". No reference is made to the cost in terms of human costs, emotional, social and economic costs from gun crime and gun suicide. One assumes it would be readily accepted that no economic benefit outweighs the loss of even one of the young lives at Dunblane, that no economic benefit outweighs the benefits which could be derived from a reduction in gun crime and gun suicide, and not against the benefits which could be derived from the prevention of another Dunblane.

As to the recreational benefits of shooting, again one doubts if it would be suggested that these outweigh the benefits of public safety and public reassurance. Fortunately there are a wide variety of alternative leisure pursuits available for those who currently shoot for fun.

It/

It may even be possible to design non-lethal forms of target shooting. I think some of the documentation makes reference to such things as laser or computer-generated or Virtual Reality material.

At/

At the very least, the kind of reform proposed would provide the necessary impetus for such activities to be developed if there was a demand for them.

Reference is also made in this section of the green book to occupational requirements. Plainly, that is a more serious matter. Any exemptions would be a matter for Government to consider. If there were to be any exemptions it would be important that these were not so extensive as to defeat the aim of the legislative reform. It would be for Government to consider whether exemptions for occupational reasons were necessary and justified in the light of any case made out by, for example, vets and farmers.

LORD CULLEN: So what you say about civilians is subject to that qualification, is that right?

MR. CAMPBELL: No, sir, no it is not. I make no concession in that regard.

LORD CULLEN: I was not suggesting a concession but you accept there may be a case which maybe made out for certain occupational uses, is that right?

MR. CAMPBELL: I am accepting that that is a matter which will no doubt require to be given careful consideration by the Government and by you, sir, but I don't intend to dilute in any way the main message of those whom I represent.

Sir, consideration of whether or not any exemptions were justified would, in my submission, require to take place on the basis of a careful investigation as to whether or not alternative methods which would carry out the required task were available. For example, slaughter instruments other than firearms for vets and the like and also careful consideration of whether, if exemptions were to be made, acceptable methods of control could be devised. For example, access to guns from the police for a specified purpose for a limited period. For example, for the culling of foxes or vermin or whatever was required.

Sir,/

Sir, I therefore turn to my concluding remarks on this chapter, if I may. As indicated earlier, those whom I represent wish to see radical reform. They call for the banning of civilian ownership or possession and use of all types of gun. Within that overall aim, and without wishing to dilute the main message, some of the families would identify certain steps as matters of urgent and immediate priority.

Chief amongst these is the removal of handguns from civilian use. The Inquiry has heard evidence as to the concealability of handguns. Further, even a single shot pistol can be reloaded quickly in experienced hands. However, there is no denying the particular lethality of semi-automatic pistols and of revolvers. These weapons are devoid of social utility. They are used by a tiny minority of the population. No doubt some of those indulge in genuine competition but for many, Hamilton included, it amounts to no more than the enjoyment of using these types of weapons.

The retention of single shot .22 calibre pistols stored and secured in a centralised facility is recommended by some organisations in the submissions before you, sir. However, we have been told that without semi-automatic handguns, target shooting as an activity would hardly survive. Further, it is clear that centralised storage is not without its problems, problems emphasised by shooters who appear to be determined to retain residential possession.

Further, it is obvious that even a single shot .22 calibre pistol can kill and can kill numbers of people within a short time. Hence, for example, the English Police Federation see no logic in the removal of arbitrary exemptions for these types of weapons. Indeed, one of the submissions I think makes the point that the capacity of the firearm is somewhat irrelevant when only one person is armed. The result, sir, is that without prejudice to the primary submission that all guns should be banned, if this is rejected, the families seek as an urgent and minimum step the immediate banning of the civilian use of handguns. That said, they see no obvious reason to exclude rifles and also shotguns from the necessary legislation.

The/

The only obvious distinction between handguns and rifles in this context is that the latter are less easy to conceal and that automatic and semi-automatic rifles are already prohibited. However, rifles can kill and kill as effectively as other weapons and the same comment applies to shotguns, now the most common weapon used in organised crime.

It is true that Hamilton used a firearm, not a shotgun, but the critical issue is not merely the use by Hamilton of a lawfully held firearm but more the general use by Hamilton of a lawfully held gun. The families and the injured teachers see no real distinction in this regard.

If, however, for whatever reason it is considered inappropriate to ban shotguns, the option nonetheless remains to prohibit firearms, now a well recognised category of weapon.

That said, I would wish to end this chapter as I began, that it is the families' plea that the deaths and injuries of their children be not in vain and that in future Government will act to remove the potential for murder by the use of guns lawfully held under a civilian firearms licensing system.

Sir, that concludes what I wish to say in that context. The next chapter in the submissions on behalf of the families will be delivered by my learned junior, Miss Dunlop.

LORD CULLEN: Yes, Miss Dunlop, perhaps you could make a start on that.

MISS DUNLOP: Yes, sir. It will have been apparent from questioning on behalf of the families in the early days of the Inquiry that there are points to be made in relation to the police handling of the immediate aftermath of the tragedy.

The families note also the police view that there are lessons to be learned and that there is an aim to produce written guidance (p135 and p141). The sudden and terrible events with which the police and other emergency services had to deal on the 13th March clearly affected the officers personally and no one can deny that there were strategic/

strategic and practical difficulties.

Nevertheless, it is hoped that the following points can be accepted or if not accepted by all parties, at least respected. The points I would make are six in number. Firstly, it was suggested that the congregation of relatives was an unusual feature of this tragedy. It does not seem unprecedented or unforseeable that relatives hearing of a disaster will gather as close as they can to the scene. As a general principle therefore, high priority should be given to informing relatives as quickly as possible of what has happened to their loved ones.

Secondly, whilst such matters as erecting cordons and appointing a productions officer are important, the early designation of officers to the task of gathering information and passing it on to families would perhaps prevent the problem which occurred here of the media being able to tell the rest of the country what had occurred, with the families within the school being deprived of news. (p109, 118, 129 and 221).

Thirdly, it is clearly desirable that onlookers, particularly members of the Press, be kept at a distance from those in distress and waiting for news.

Fourthly, a considerable delay elapsed before the parents of injured children were given information and a longer time before the bereaved parents were given their news. Perhaps the length of the delay for each family is not as important as the fact that on any view they had to wait several hours for news. There was no consolation in that news but it is a form of torture to be kept waiting in the knowledge that something terrible has happened without having details of what or to whom.

Difficulties in communication by telephone and radio with Stirling have been mentioned and technical solutions to such potential problems in the future may require to be explored. It might, however, have been possible to send a radio message asking an officer to bring information from the hospital in Stirling to the school or to despatch an officer to the hospital to ascertain the position or simply to find another telephone locally./

locally.

Fifthly, the decision not to release any information until a complete picture has been assembled may be questioned where the identity of some victims has been established relatively early. Apart from confusion between two children, identification was complete by 12.04 p.m. (p 113). It is particularly unfortunate that the parents of the injured children were not able to be with them in these first few hours. The families are glad to note the concession by Chief Superintendent Ogg (p 118) that the names of injured children could have been noted as they left in ambulances.

Finally, the request of the families that a more senior officer than the officers with whom they were dealing came and spoke to them should not have been denied, particularly when the most senior officer in the Force was present. The manner in which those under stress and asking questions are spoken to should be as sensitive as possible. It should be noted, however, that the parents greatly appreciated the sensitivity and support of the members of the support teams allocated to each of them at that time.

That concludes that chapter, sir. Perhaps in rather a shorter time than anticipated.

LORD CULLEN: Yes, perhaps it was. Now, Mr. Campbell, you are to speak next, is that right, on another aspect?

MR. CAMPBELL: No, next will be Miss Dunlop dealing with certain evidence relating to Hamilton.

LORD CULLEN: That is right. Will this take some time and is this a convenient point at which to break off?

MISS DUNLOP: Yes, this is a more lengthy part, sir, and it may be better dealt with tomorrow.

LORD CULLEN: Yes, I think it might be best if we break now and resume at 10 o'clock tomorrow. Thank you.

Adjourned until tomorrow
at 10 a.m.

.....

TWENTY-FIFTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

TUESDAY, 9th JULY, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:- THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police;

Mr. C.B. McEachran, Q.C., for the Scottish Target Shooting Federation;

Mr. M.S. Scoggins, solicitor, (Davies Arnold Cooper) London, for the British Shooting Sports Council.

.....

I N D E X.

	Page.
MISS DUNLOP.....	5
MR. CAMPBELL.....	9
MISS DUNLOP.....	41
MR. CAMPBELL.....	51
MR. GIBB.....	59
MR. JONES.....	76
DEAN OF FACULTY.....	77
MR. McEACHRAN.....	88
MR. TAYLOR.....	94

.....

ERRATA FROM DAY 24.

Page 2921 "It is a very fervent hope" should read "It is their fervent hope".

2924B The word "by" should be inserted between "murdered" and "a".

2925D "paragraph 8.4" should read "paragraph A.4".

2926C "in this context referred to the term" should read "in this context preferred the term".

2927A "when our gun law was developed it was the context" should read "in the context".

2927C "the continued institution of gun clubs" should read "the continued existence of gun clubs".

2932A the word "to" should be inserted between the words "also" and "Dr." and the word "and" should be inserted between "Washington DC" and "the Vancouver".

2932D "all practical steps to prevent the gun culture" should read "all practical steps to prevent a gun culture".

2933B "is it that so long as a total absence of correlation of activity" should read "is it that so long as a total absence of gun related activity".

2933 "there is no evidence that the criminal world are spree killers" should read "there is no evidence that the criminal underworld arms spree killers".

2933D the words "shooting committee" should be "shooting community".

2933E the words "and not against the benefits" should read "nor the benefits".

2937B the words "but more the general use" should read "but rather the general use".

2929A on the second line the word "has" should read "had" and on line 4 the word "has" should read "had".

_____

TUESDAY, 9th JULY, 1996.

TWENTY-FIFTH DAY.

MISS DUNLOP: Before proceeding to the next part of my submissions if I could just make one final point in relation to what was said yesterday about the events of 13th March: as I said yesterday, the support of the support teams has been much appreciated by the families, but it may be observed that the main priority of the families on 13th March was to receive news and that time spent putting together the support teams at that stage appears to have delayed the imparting of that news. So that whilst the assembling of the support teams in the aftermath was important it is not as important as the receipt of news.

If I can move on to make some remarks on the life and character of Thomas Hamilton. A considerable amount of information has been assembled about Thomas Hamilton and about his life, especially from the age of 16. The only employment he ever held was with Stirling Burgh Council and this he gave up within about three years and ran a woodcraft and do it yourself shop. There has been suggestions that the business failed and that Hamilton himself attributed this also to rumours in the community, although it seems to have been more likely that it was due to competition, and the reference to that is Councillor Ball at page 1953. Doubt is also cast on his commitment to save the shop by his grandfather and others who said that all he really wanted to do was to run boys clubs. The clubs were used as a source of boys for his camps as described by the witness McGregor at page 1997 as even more important to him. That the running of such clubs and more particularly camps was one of his main interests in life is not in doubt.

Turning then to look at Hamilton's shooting history: he was a member of a rifle club at the age of 16 and he graduated to full bore shooting thinking that .22 was cissy, the reference to that is at pages 360 and 372 in Mr. Moffat's evidence. His shooting patterns were unusual, in particular he had his own targets with fluorescent stickers on part of the body. He took these targets/

targets and pinned them up at home. At the gun clubs he did not follow a course of firing, being interested really in firing off his bullets as quickly as possible. He did not take part in competitions. There is evidence about his interest in the Hungerford massacre and his liking for violent films. His guns were his friends. There were times when he brought together his two main interests in his life, by taking young boys to shoot or showing guns to children.

Turning next to look at his paedophilia: he was described in the evidence by Dr. Fairgrieve, by now Chief Inspector Hughes, by Dr. Baird and Professor Cook as a paedophile. He was constantly engaged in recruiting boys for his clubs and camps, and it is clear from the oral evidence and from his circulars that he pressed for club members to come away to camps. These were camps often in isolated locations where he could have unimpeded access to young boys, scantily clad, performing particular movements which he could record on film or video and watch at home, camps where he would have them rub suntan oil into his body and he could have his favourite boys sleep beside him.

He was adept at defending himself. You have the evidence of Mrs. Deuchar and Mrs. Ogilvie about burning material in his garden. He denied the existence of certain photographs in particular to the then Detective Sergeant Hughes and he often used attack as defence. He engaged in a great deal of self justification, one particularly notable moment being sending a pair of trunks to Central Regional Council. He was responsible for a barrage of correspondence not only denying in fact negative connotations but also stressing the value of his work. That there was a gap between his perception of his activities and the beliefs of the majority of others is apparent from references in the evidence to his delusions of grandeur (Dr. Fairgrieve page 425) and Mr. McMurdo referred to his lack of perception at page 1679 and the fact he considered himself to be persecuted.

His paedophilia seems to have been overt, and there are two pieces of evidence in relation to that, firstly from the witness Carruthers and secondly from the anonymous witness.

Turning/

Turning to look at his treatment of children: he exposed children to discomfort and at times danger. This was irresponsibility although there is reason to believe that it was deliberate and part of a regime. The physical welfare of boys in his care was jeopardised by over-strenuous exercise and by being taken in boats which had an inadequate supply of life jackets, by being pitched into the waters of Loch Lomond ostensibly to practice self-sufficiency. The boys were kept cold, with insufficient clothing, and were left to play with no supervision.

He was also careless about their emotional welfare. There was evidence of boys being upset and homesick and of bullying tactics by Hamilton. He denied them contact with home and refused to allow them to go back, and in the videos the boys often looked frightened.

It has been said in evidence, particularly by Dr. Baird and by Mr. McFarlane at page 1994 that he used power over boys.

He was deceitful in relation to his activities with boys. He appears to have misrepresented the circumstances of his leaving the schools. In relation to incidents in Aviemore and on Inchmoan Island he certainly made assertions to Mrs. Deuchars that he had been let down by other people although in particular from the evidence of Mrs. Deuchars it is apparent it was not so.

He engaged in deception of childrens' parents regarding his intended activity, and such matters as the reasons for children dressing in particular ways and the need for them to change in front of him in the gymnasium. He made untruthful allegations regarding the police evidence. He misrepresented the existence and membership of his committees and the number of helpers who would be joining him at the camps and other activities. He over-stated his qualifications. He implied that he had approval or support from the local authority or from other individuals, and you have the evidence of Inspector Mill and.....

LORD CULLEN: One point there about his qualifications. Just so that I can be clear, you say he over-stated his qualifications. Is that in some publicity/

publicity material?

MISS DUNLOP: He described himself to particular individuals, for example Mr. Moffat, as a gym teacher. He referred to himself as having qualifications in gymnastics when the evidence discloses in fact the only qualification he'd had was that of an assistant coach and.....

LORD CULLEN: Under supervision.

MISS DUNLOP: Under supervision of adult females.

He was also dishonest about other conduct. One notes that his Social Security benefit was terminated for working and that he mis-stated the amount he was charging the boys to benefit from reduced hire charges (page 2061). He appears to have adopted ruses to obtain discounts for camera and gun equipment. He distorted the facts in complaints he made and could reasonably be described as a manipulative liar.

His relationships with adults were generally unsuccessful. He was cruel to his family and in particular to Mrs. Watt and Mr. Hamilton senior. He was tedious with others who were prepared to entertain him. Dr. Baird offered the description "empty" which may be what was meant by other witnesses who described him as boring and uninteresting. He was seen as weird, as a loner, a creep, a misfit. He was described by Professor Cook and Dr. Baird as having no empathy. As well as lack of positive interaction with others there is lack of appropriate negative response. Several witnesses commented particularly on his calmness, and I am thinking here of his grandfather, Mrs. Butterwick, Mr. Holden, Mr. Hughes and Mr. George Robertson, although some of those witnesses, particularly Mr. Hughes and George Robertson, also got the impression of suppressed anger.

There is the question of the extent to which the events of 13th March were planned. There is evidence of his having quizzed a small boy about arrangements at Dunblane Primary School and he stockpiled ammunition but it may be thought that there was a degree of compulsiveness about the location. The evidence in this area is perhaps in some/

some respects contradictory. There is evidence from the witness McGregor (page 2001) about the statement about never having to pay for shirts.
There is, on the other hand, evidence that he attempted to pay for the hired van in advance and from the witness Gillies at page 259 which may be thought to cast some doubt on that view he had he could benefit in some way financially by never having to pay for things by events which he was planning within the next few days. It is difficult in fact to make much of the evidence about the shirts given that there was in fact the purchase of new shirts at all.

There is also evidence of his having booked the school for the Easter camp (page 2077) in the evidence of Mr. Mercer, although to a degree that may be, the actual date may be slightly confused given his revision which he indicated yesterday, but there is evidence of his attempt to book the minibus for the 14th and 19th March.

In conclusion, it has been suggested by at least one shooting group that society has some responsibility for what occurred because of the way it treated Hamilton. It is probably right to consider this suggestion but in my submission it does not stand up to scrutiny. The urge of parents to protect their children is utterly fundamental and the protection of children as a whole underpins our legislation and decision making in many areas of life.

Such censure of Hamilton which did occur and the limited restrictions of his activities which took place were because he was perceived, and rightly perceived, as a threat to children. He should not have been allowed free and sole charge of young children wherever and whenever he wanted to do whatever he wanted especially when he would not acknowledge that there was anything wrong with his methods let alone his motivation. It has emerged from the evidence that society should have interfered more with his sinister activities, not less, and that would not have allowed better integration or status for Hamilton in the community.

MR. CAMPBELL: Sir, I now intend to return to the evidence as it bears upon the conduct of Central Scotland Police. I would perhaps at the/

the outset begin with a brief summary of the main effects of my submissions in this regard.

Sir, Central Scotland Police were charged with the responsibility of determining in advance of granting or renewing Hamilton's firearm application whether there was reason to believe that he was for any reason unfit to be entrusted with weapons. This is a summary of the reference to Section 27 of the Act. This was a judicial or quasi judicial responsibility which required careful consideration of all known facts. That careful consideration required to be followed by an evaluation of Hamilton's character and his trustworthiness. Such an evaluation was a consideration of the implications, if any, which may arise as to whether Hamilton was deserving of trust in respect of possession of deadly weapons.

In addition, Section 27 necessarily requires a system of inquiry and information-gathering which would be designed to facilitate such procedures.

LORD CULLEN: I just want to be quite clear about that. Do you say that the proviso to Section 27(1) means that the police force have a responsibility to find out, make enquiry to find out whether the applicant is of intemperate habits or unsound mind.

MR. CAMPBELL: Or otherwise it would.....

LORD CULLEN: Let's deal with one thing at a time. Is that right? You say that is what they should be enquiring into and after that they should be responsible also for considering whether a person is unfit to be entrusted for some other reason?

MR. CAMPBELL: Yes indeed, sir.

LORD CULLEN: That imposes an obligation, a responsibility for enquiring into the sanity of the person who is applying; is that right. I want to be quite clear about your position on this because there are three heads to it. I can quite understand your concerns about the third, but I am not quite sure about the first and second. You say/

say it is irrespective of a grant to a person in respect of whom the Chief Officer of Police has reason to believe certain things. Now, I appreciate there may be some concern as to what extent that saddles the police with responsibility of continued investigation but I would like to understand really what your standpoint is about what this section actually means.

MR. CAMPBELL: Well, I think in the context.....

LORD CULLEN: It may be the way it is phrased but I would like to know what your position is. The responsibility for investigating what? Is it all three heads or is it less, something less than that?

MR. CAMPBELL: I would approach the matter on the basis that Parliament entrusted the police with -- moving away just for the moment from the precise terms of the provision -- Parliament has recognised the particular danger which flows from the possession of firearms and this is something which requires no elaboration.

It has entrusted the Chief Officer of Police with the responsibility of that licensing system. It has told the Chief Officer of Police not to grant a licence if there is reason to believe certain matters. In my submission, by necessary implication there is therefore a responsibility on the police to enquire and investigate.

LORD CULLEN: Of course, the regulations which underpin this are designed to provide certain information to the Chief Officer of Police: but you are saying it is not enough to rely on that input of information which comes through in compliance with the regulations, but there is some responsibility to see if there is anything amiss in respect of any of these three; is that your position?

MR. CAMPBELL: That is my position. There is the additional factor that once the information is ingathered, by whatever means, the responsibility is to assess it, evaluate it and apply one's mind to any implications which may arise.

LORD CULLEN: Yes. "Having reason to believe" means you have to assess the significance and value of what you know.

MR. CAMPBELL: Particularly in the light of -- in my submission it is important to notice the weight is put in the legislation "....any reason unfitted to be entrusted": so trust, character, suitability are the very essence of the exercise.

LORD CULLEN: There is another aspect. I don't know if you have a submission on this or not. I find the construction of provisions like that quite hard to follow, because the main part of Section 27(1) is concerned with the matters in relation to which positively the Chief Officer has to be satisfied. The second branch is "....should be admitted to have in his possession with danger to the public or to the peace", and then we have added on to this this proviso. Now, there may be areas where there is an overlap between these two expressions, and there may be areas where they do not/

not overlap, and if you have any submissions about what is implied by lack of fitness to be entrusted I would like to hear what you have to say. Does it go beyond matters of concern for safety, does it go beyond concern for the public peace, does it go into other areas? We did explore this to some extent in the evidence.

MR. CAMPBELL: Indeed. My understanding of this -- I would readily accept that the provision is not entirely clear, but while there may be an overlap in certain areas there may be other areas where there is perhaps less of an overlap. One obvious context of the first part of the provision -- if for example we related to the storage facilities available for the weapons and also the extent, the use to which they might be put.....

LORD CULLEN: Quite so. There are however many things, not only dealing with firearms but also shotguns, concerning the behaviour of the person, whether that behaviour does or does not give rise to concern about public safety or peace.

MR. CAMPBELL: Yes.

LORD CULLEN: If we recognise that, one might ask if we get to "Unfitted to be entrusted" what are we talking about now?

MR. CAMPBELL: I recall some questions you asked of Mr. McMurdo, where you asked him whether this provision involved any responsibilities.

LORD CULLEN: It was that kind of problem that was bothering me at the time.

MR. CAMPBELL: What the legislation is asking the police to do is consider: is this a man whose character would permit a reasonable degree of trust not only in relation to public safety but in relation to such matters as honesty and fair dealing, because this is essentially a preventative provision, recognising it would not always be possible to predict everything which may occur in the future. So it is a safety-first philosophy.

LORD CULLEN: That I can understand. The/

The only other point I would draw to your attention is that the company it keeps is people of unsound mind, people with intemperate habits, which seems to indicate something of a fundamental nature which indicates they are not safe to be entrusted; in other words, there is a "catch all" provision, which must imply some sign of a person's fitness. It may be much more general than just danger to the public, safety and to the peace. I am still uncertain, however, what the scope of this expression "Unfitted to be entrusted" is to be.

MR. CAMPBELL: It is focusing not so much on a prediction or a foreseeability that there will be danger to the public safety or peace; the focus must be on the character of the person.

LORD CULLEN: But it must be with some eye to what the object of the legislation is. It may be it goes more generally into the responsibility of someone to whom a certificate is entrusted.

MR. CAMPBELL: Yes.

LORD CULLEN: And that has a number of aspects, which I was trying to explore with Mr. McMurdo.

MR. CAMPBELL: Indeed. Sir, in my submission the evidence indicates that no one in the Firearms Department of Central Scotland Police ever closely applied their mind to the question of Hamilton's personal fitness in the sense required by Section 27. I might add there as well, no one applied their minds at the relevant time to the test required in a slightly different form in Section 30.

The only officer who did address the issue was an officer in the Child Protection Unit, Detective Sergeant Hughes. Although he had no direct responsibility for firearms, after a review of the results of his investigations in 1991 he formed the judgment that Hamilton was not a suitable person to be entrusted with a firearm. Given the known facts at this time, in my submission this judgment was clearly correct, and it is hard to countenance how any reasonable criticism of it can be mounted.

Even/

Even if one confines attention to Hughes' warning that Hamilton was a risk to children, a combination of this risk with the possession of weapons was surely stark and conspicuous. Of course, the terms of the memo went well beyond this simple message.

However, sir, we know that Hughes' recommendation was summarily dismissed, and Hughes' considered opinion is now categorised in a somewhat pejorative way as a "gut feeling". Whether one calls it a gut feeling or not, in my submission Hughes' conclusion and the process which created it was exactly what was required of Central Scotland Police under the legislation. If only Mr. McMurdo or someone else in the Firearms Department had done something similar it is hard to escape the conclusion that they would have been bound to reject the idea of trusting Hamilton with anything of any seriousness let alone entrusting him with these deadly weapons.

However, the evidence indicates that this was not the way in which the Firearms Department operated. The lack of a serious criminal conviction on Hamilton's record and the refusal of the Procurator Fiscal to prosecute killed Hughes' initiative at birth.

No one even considered it worthwhile to speak to Mr. Hughes. Mr. McMurdo did not think at any stage throughout the whole history of the matter to consult Hamilton's firearms file until after the 13th March, although one can note in parenthesis that if he had consulted it he would have found nothing to help us in that. Instead, Mr. McMurdo proceeded on the basis of a recommendation from the Divisional Commander, who had read Hughes' memo, and made a recommendation without even having met Hamilton. An extraordinarily narrow and legalistic, albeit administratively convenient, definition of "personal unfitness" prevented any serious scrutiny of the decisions required by both sections 27 and 30. One can be reasonably confident throughout this, because had there been any serious consideration of Hamilton's full circumstances the enquiring officer would surely have noticed that.

It is not surprising and no coincidence that/

that Hughes came from another unit, perhaps one more used to sceptical and enquiring police work and more experienced in independent valuation and judgment. That said, his recommendation was supported at the time by Detective Chief Inspector Holden, although Mr. Holden is now back-tracking on that position.

Thereafter, Hamilton's 1992 and 1995 applications for renewal of his Firearms Certificate proceeded as matters of pure routine. Even when WPC Anderson tried to sound the alarm in 1995 it was crushed by the unwillingness of the Department to make an independent judgment or take on board the responsibility entrusted to it by Parliament. So long as the Fiscals remained disinterested the Firearms Department would send up the forms for signing as a matter of pure administration along with the other 30 to 40 per week. It may be thought inevitable such a slack and complacent system would lead to real harm. Fortunately, Dunblanes are extremely rare events; but no one did or could have predicted the full horror of what happened on the 13th March.

It is not, however, the exercise of hindsight to say that Hamilton should have been identified as unstable well before the 13th March. Mr. Hughes and Mr. Holden had done so. The legislation enjoined the Chief Officer or his delegate to identify the potential for danger before it happened. Good reasons for revocation or refusal abounded. Very sadly, it is reasonably clear they were ignored. But for the Firearms Department's collective failure to remove weapons from Hamilton this terrible tragedy would not have occurred.

The overall system, such as it was, was riddled with defects and inadequacies. For example, reference can be made to Mr. Richardson's damning report. Many of these will have played a contributory role, but in the above brief comments I have attempted to identify the essential failure. With that summary, sir, I now seek to elaborate upon them even more.

At the outset, it is right to acknowledge that no organisation or person involved in the history of this matter carries anything like the same degree of blame worthiness and responsibility/

responsibility for this terrible event as that borne by Thomas Hamilton. That said, the relevant legislation placed a solemn and heavy responsibility upon the Chief Officer of Central Scotland Police in granting Firearms Certificates only to persons about whom there was no reason to believe they were unfitted to be entrusted with a firearm. The jurisdiction granted has been described judicially as a branch of preventative justice in the exercise in which Chief Officers are envisaged carrying it out, with additional discretionary powers for the maintenance of order and the preservation of the public peace. That is a reference to the case of AKERS v. TAYLOR 1964 1 Weekly Law Reports Page 415 and 410, discussed at Paragraph 10 of Mr. Carter Manning's opinion of 17th June, 1964.

The reason for this is not difficulty to understand. All guns are lethal weapons; they are designed to kill. They grant the possessor a unique ability to cause fatal injury. If used, they are more likely to kill than any other readily-available weapon. Especially, but not uniquely, automatic and semi-automatic weapons have the capacity to kill large numbers of people in a very short period.

Sir, killing can be carried out at a distance, with little or no physical contact with the victim. No physical strength, prowess or even bravery is required. Even a single shot handgun, as Mr. Penn told us, can be fired and re-loaded very quickly.

In summary, guns give people like Thomas Hamilton, who was an inadequate and pathetic individual, a capability of walking into a school and killing as many children and adults as they choose. In these circumstances it is not difficult to understand that the relevant studies demonstrate a direct relationship between the rate of gun crime and gun availability.

It is against this overall background that the operation by Central Scotland Police of the firearms licensing system must be considered. Did they discharge their heavy responsibility in a professional and reasonably careful manner? In my submission the answer is no, with the direct result that Hamilton was able to do what he did on the 13th March/

March of this year in Dunblane Primary School.

It is nothing to the point to stress that no one foresaw or could have foreseen that Hamilton would do what he did. The basis of the legislative framework and the premise on which the firearms licensing system should have operated is that it is apparent and obvious firstly that guns are lethal in the wrong hands, and secondly, people have and will continue to cause injury and death with guns, sometimes in the dreadful circumstances of Hungerford, Tasmania and Dunblane.

The/

The legislation speaks of reason to believe that a person is for any reason unfitted to be entrusted with a firearm. If any such reason exists, the certificate must be refused. For present purposes emphasis is on the trustworthiness of the individual, not on whether or not the person has in the past been violent or has acted in a dangerous manner with firearms. This applies to an individual's very first application as well as to subsequent applications, thus it is obvious that general character is to the forefront. In other words, this is or should be preventative police work.

It follows, sir, one might have thought that no police force would require hard evidence that a firearms certificate holder is behaving in a violent or improper manner with firearms before taking such preventative action. Such an approach is the very opposite to preventative justice. It is a locking the stable door philosophy on firearms licensing.

Further, one might have thought that no police force would proceed upon the basis of the supposed freedom of the individual to possess and use a gun. However, it is plain from Mr. McMurdo's statement to this Inquiry that this consideration did influence his thinking. (Day 12, pp. 1526-7).

One might have thought that no police force would delegate its responsibility to the public prosecution system with all the different criteria and responsibility carried by that agency. One might have thought that no police force would only act if the Fiscal acted. However, again it is clear that rather than exercising an independent discretion, the police in effect abandoned or delegated their responsibility to the public prosecution service in an apparent ignorance of the very different context and criteria in the Fiscal's responsibilities.

One might have thought that no police force would allow itself to be swayed by fear of having to justify its decisions in the Sheriff Court but Mr. McMurdo told us that he was always very conscious of how a Sheriff would react to a decision/

decision (p. l527 and p. l506D).

LORD CULLEN: Just to be clear about that point, Mr. Campbell. If the police force recognise accurately and correctly that there is no prospect of a Sheriff doing anything other than sustaining the appeal, do you say that they should disregard that?

MR. CAMPBELL: What I say, sir, is that they should apply their minds to the question and come to a judgment on it, free from any concern of possible embarrassment.

LORD CULLEN: Yes, I understand that. In other words, the risk is another thing but obviously they have got to apply the law just as the Sheriff has although their roles may be very different. So there is a sense, I suppose, in which it is perfectly appropriate for them to take cognisance of what the Sheriff may be thinking, meaning it is quite clear that the appeal will be successful, so is there any point in a Chief Constable, in fact is it proper for a Chief Constable to revoke in such circumstances?

MR. CAMPBELL: If that matter was quite clear, the issue of appeal to the Sheriff would never enter into one's thinking. One would simply decide.

LORD CULLEN: The true question would be that there were no ground for revocation.

MR. CAMPBELL: Yes.

LORD CULLEN: So what you are looking at is if there is no separate point with regard to the Sheriff? I mean, there either is or is not grounds for revocation.

MR. CAMPBELL: Yes.

LORD CULLEN: And what you are saying also I think is that the risk of adverse result in itself should not enter into the equation at all, is that right?

MR. CAMPBELL: Indeed. One might have thought that in considering whether a person can be trusted/

trusted with weapons, issues of general trustworthiness, honesty and reliability would not be dismissed as unimportant matters. However, Mr. McMurdo in his evidence to Mr. Taylor was at pains to downgrade such concepts (pp. l58l-5 and pp. 160l-2).

One might have thought that all those with responsibility for the system and procedures would have a reasonably clear understanding of the law and the statutory requirements or at least recognise when it was necessary to seek advice or further information on the facts. However, the evidence is peppered with incomplete or inaccurate statements as to the relevant legal tests by senior officers of Central Scotland Police. So far as Mr. McMurdo's evidence is concerned, I would refer to his evidence at l458E and l529-32.

One might have thought that some system would be instigated and operated to ensure that a complete picture of all relevant information relating to an applicant was available to those making the decision on his firearms application. However, Central Scotland Police's system in this regard was woefully inadequate. Worryingly, Mr. McMurdo appeared to show little understanding of why a complete picture was even desirable (p. l534).

What appears to have happened is that isolated incidents were considered on their own and then forgotten or at least ignored when further incidents occurred. In this regard, sir, I note, and indeed Mr. McMurdo agreed with this, that the bulk of what is now known about Hamilton after this whole Inquiry was known to the police before the l3th March. That is a reference to Mr. McMurdo's evidence (p. l547).

Sir, I now turn to a brief consideration of the factual matters known to the police about Hamilton before the l4th March. In my submission, the evidence discloses that they include the following: firstly, that on various occasions he had committed a variety of crimes, including the crimes of assault, child neglect, indecent behaviour and breach of the peace.

Secondly, that he was a scheming, vindictive, deceitful liar who harboured an obsessional/

obsessional grudge against the Scout Movement and was hostile to the police.

Thirdly, that he was the subject of rumours and gossip and frequent complaints by parents because of his abnormal and unhealthy conduct towards young boys, serviced by his obsessional organisation of boys' clubs and camps. The police were privy to information which confirmed that the rumours, gossip and complaints were all true and justified.

Fourthly, that he was a misfit, a loner, a weirdo or an oddball who repelled most who met him.

Fifthly, that he had been expelled from the Scout Movement in the early l970s for the reasons explained in the Scout Movement file upon Hamilton. That was a matter learned by D.C. Taylor in l993.

Sixthly, that he made a habit of unjustified and time-consuming complaints, both formally and informally, about the police and indulged in a series of false and defamatory accusations about police officers. Transparently that was done with one end in view. That was to tire and eventually deflate his accusers and throw a smokescreen over his own activities. It is noteworthy that these tactics were remarkably successful in preserving Hamilton from effective action by a large number of agencies.

Seventhly, he was the subject of a clear and unequivocal recommendation from experienced police officers that he was unsuitable to be trusted with a firearm.

Sir, I would not claim that the above is a comprehensive list but in these circumstances was it not remarkable that the Depute Chief Constable, Mr. McMurdo, claimed that there were no contra-indicators to Hamilton's renewal applications (Day 12, p. l505D).

Mr. McMurdo had sent Mr. Keenan's report a year or two previously and the Hughes' memo to the Fiscal at Dumbarton for reconsideration by the Fiscal there. Mr. McMurdo had written about Hamilton/

Hamilton to the Scottish Office in the letter of June l992, that is Dl33K, in the most uncomplimentary of terms, to put it at its very least, and this is just shortly before the l992 renewal of Hamilton's certificate.

Mr. McMurdo was familiar with the Hughes' memorandum and we are told that he had read the Hughes' report to the Fiscal and the accompanying material. In my submission, that claim that there were no contra-indicators to Hamilton's renewal application speaks volumes about Mr. McMurdo's competence and about the culture and ethos prevalent in the Firearms Department at Central Scotland Police.

It was Mr. McMurdo who rejected D.S. Hughes' memo without even speaking to him. Had he spoken to D.S. Hughes, Mr. Hughes would no doubt have explained to him why he had doubts about Hamilton's mental stability, to take but one example from his memorandum. D.S. Hughes explained to us his thinking (Day 8, p. 921 and following pages). He explained that Hamilton was a man who outwardly appeared to be calm but underneath was very angry. He told us that his concern about this stability was prompted by the nature of the photographs taken by Hamilton of young children. His evidence on these photographs was not based upon recovered photographs but upon the evidence about the nature of the photographs which he took from the children involved.

No doubt had Mr. McMurdo or anyone else spoken to D.S. Hughes he would also have emphasised that while Mr. McMurdo might dismiss his considered evaluation and judgment as a gut feeling, the ten recommended charges could not be so easily dismissed. Here I refer to Mr. Hughes' evidence (Day 8, p. 929E) and also Mr. Bonomy's re-examination of him (p. 930).

It is again, in my submission, eloquent that at no stage did Mr. McMurdo look in Hamilton's firearms file. When asked why none of the information about Hamilton was in the firearms file, Mr. McMurdo's reply was (Day 12, p. l5l4) "I didn't do the filing".

It was Mr. McMurdo who said, despite all the/

the evidence to the contrary, not least the numerous police recommendations for criminal proceedings and the Hughes' memorandum, "I don't think anybody could have done anything which would have weeded this individual out" (p. l55lD-E).

It was Mr. McMurdo who said that it would be expecting too much to expect an applicant to be honest in his dealings with the police (p. l601-2).

It was Mr. McMurdo who talked about firearms applications as uncontested and as purely an administrative process unless a subordinate made some adverse recommendation (p. l550).

Nonetheless, Mr. McMurdo sanctioned, not least by his decision on Hughes' memorandum, the ethos in the Firearms Department which inhibited officers from acting upon any strong feelings unless action could be supported by hard proven fact, most obviously serious criminal convictions, a strong pending case on medical evidence of mental disorder.

The clearest evidence of this is Chief Superintendent Miller's manuscript note to the Hughes' memorandum. This note plainly and unequivocally reveals the culture operating in the Department at the time, in reference to Mr. Miller's evidence (p. 940). In my submission, no amount of sophistry now can change the meaning of what he then wrote. Before recalling its terms, it is worth remembering that Mr. Miller had very long experience in the Firearms Department. He wrote in response to Mr. Hughes' considered views "I cannot recommend the action proposed for obvious reasons. Hamilton has not been convicted of a crime and it seems that the Procurator-Fiscal is likely to 'no pro' the recently reported case". That was written, sir, despite the fact that Mr. Miller himself had encouraged the Fiscal to mount a prosecution (Day 8, p. 94l). Further, Mr. Miller recommended no action notwithstanding the fact that he had never met Hamilton (p.944E), nor for example seen the witness statements compiled during Mr. Hughes' investigation (p. 953C).

In my submission, this confirms, if confirmation is needed, that both Mr. Miller and Mr. McMurdo were acting in accordance with a general custom/

custom and practice in the Firearms Department, namely that in the absence of something incontrovertible, in this instance a sufficiently serious conviction or a strong pending case, the police force would not take any responsibility. They would not even begin to exercise the discretion entrusted to them by Parliament in the interests of public safety to evaluate the known evidence and decide whether Hamilton was or was not fit to be trusted with a firearm. In my submission, that was a dereliction of duty of the highest order and can only be as a result of a slack and irresponsible culture built up over the years in which the firearms licensing system was operated on a purely administrative basis by administrators unwilling to take the responsibility entrusted to them by Parliament and upon which public safety depended.

When/

When Detective Sergeant Hughes from the Child Protection Unit did stand back and say "This man should not have guns", this whole exercise was so foreign to the Firearms Department that Mr. Hughes was rebuffed in the most summary manner.

Sir, a specific issue does arise as to evidence given by WPC Anderson, and I would like to spend just a moment dealing with that.

WPC Anderson was the inquiry officer who visited Hamilton in respect to his January, 1995 renewal application. She left her brief meeting with Hamilton feeling very uneasy about him. She had been intimidated by his behaviour towards her. She told us that she wanted to find a reason to recommend that Hamilton's application should be refused.

She raised her concerns with a superior officer, Mr. Anderson (sic). She tells us that she was told in effect to forget all about this, because Hamilton had no convictions it would not matter what she said, Hamilton would get his certificate.

Sir, one may think that after the events of 1991 all of this has the ring of truth. This was WPC Anderson's first firearms enquiry. Plainly it made a very deep impression upon her. It is very likely that she remembers it clearly. It is most unlikely that DI Anderson (sic) has any clear recollection of it.

Nonetheless there is a conflict in the evidence between them. In my submission not only is WPC Anderson's recollection more likely to be correct, it is supported by other evidence, for example, Mr. Millar (946-7) agreed that the system operated by the Department had no room for preventative measures. He agreed, he said, in hindsight it should have had such room.

In the same passage Mr. Millar said that Hamilton would have required to be a drunkard or a violent criminal who used firearms, or would do so, or a man of proven mental disability before anything would be done.

Mr. McMurdo (1508) told us that in his view to be unfit what was required was either a conviction leading to at least a three months sentence for assault, or if the sentence was lower one would require to assess the circumstances, for example whether the conviction involved threatening behaviour with a firearm. Alternatively, there would require to be a strong pending case, or (3) drunk driving convictions, or medical evidence of mental disorder.

At 1512 he agreed that great importance was given to whether the applicant had criminal convictions.

All of this in my submission goes some distance to supporting WPC Anderson's accounting for events, and more generally Chief Inspector Anderson -- sorry, Robertson, Chief Inspector Robertson in his evidence agreed that in general police forces place considerable emphasis upon the obtaining of what might be described as conclusive or hard and fast evidence.

So, sir, I invite you to prefer the evidence of WPC Anderson.

But the result of the attitude in the Firearms Department as revealed to WPC Anderson was that she felt compelled to sign a form expressing a view which in fact she did not hold.

LORD CULLEN: Just remind me, the person to whom she spoke -- what department was he in, what function was he fulfilling?

MR. CAMPBELL: He was DI Anderson (sic), who was described as her superior officer. I confess that I wouldn't want to just dogmatically assert that he was in the Firearms Department. I will certainly check it.

LORD CULLEN: I am doubtful about it. That is why I want to be sure.

MR. CAMPBELL: I will check it.

LORD CULLEN: Thank you.

MR. CAMPBELL: In any event, the result was/

was that WPC Anderson felt compelled to sign a form expressing a view which she did not hold, namely that Hamilton was a suitable person to possess a firearms certificate.

I now turn to another conflict which emerges in the evidence, and it arises in the context of Mr. Holden's evidence, and it relates to the question of whether he ever changed his view of Hamilton. Perhaps I can make one or two preliminary remarks regarding Holden's evidence?

In my submission Mr. Holder was a somewhat unsatisfactory and unreliable witness. He prevaricated upon the question of whether, in his view, Hamilton was fit to possess a certificate. Here I refer to the evidence at day 7 (871-3), although eventually (873E) he accepted that a deceitful liar should not have a certificate.

Further in my submission he gave a less than satisfactory explanation (884) about the terms of his own written statement which were written by him, in which he says that at the time of the Hughes' memo he believed that Hamilton was not a fit and proper person to have a firearm. You will recall that in his evidence to us he sought to distance himself from that statement.

I think earlier I may have misled the Inquiry about Mr. Holden's rank. He was a detective chief inspector then. He is now a detective superintendent.

But reverting to the specific conflict which I mentioned a moment ago in the evidence, both Mr. Hughes and Mr. McMurdo gave evidence to the effect that at the time Mr. Holden supported the appraisal and the recommendation in the Hughes' memo, D82L. Here I refer to Mr. Hughes' evidence (904C and 906) to the effect that Holden shared a view that Hamilton was not suitable to have a firearms certificate.

Mr. McMurdo (Day 12, 1548B and Day 13, 1593-4) provides support for this in the sense that he told us that Holden's view about Hamilton had changed in 1993. Mr. Holden's evidence as to his belief held at the time of the Hughes' memorandum is, as I have submitted, uncertain and unsatisfactory./

unsatisfactory. However, once again a written note on the Hughes' memo speaks for itself. In this note Mr. Holden supported Mr. Hughes, and this also provides evidence in support of Mr. Hughes and Mr. McMurdo's evidence to us -- to you, sir -- that Holden agreed with Hughes at that time.

The issue therefore comes to be whether Mr. McMurdo's evidence that Holden changed his view in 1993 is true. In my submission the important factor here is that there is nothing in Mr. Holden's evidence to support Mr. McMurdo on this. Here I refer to Mr. Holden's evidence (Day 7, pages 868, 880 and 883-4). This evidence related to his interview with Hamilton after complaints had been made about Hamilton's running of the 1993 camp at Dunblane. Mr. Holden told us that Hamilton refused to provide the names of the committee. He told us that his impression of Hamilton was that he was -- and I quote: "Quite obsessive, extremely obsessive", that he lied to Mr. Holden, and Mr. Holden told us that he was of the view that Hamilton may have been guilty of some sort of illegality, and that he was still a risk to children.

We were told that Mr. Holden reported back to Mr. McMurdo (869 and 879), but there is not even a whisper in his evidence of any change of view on his part. To the contrary, the account of the interview with Hamilton in my submission backs up and supports many of the features lying behind the earlier Hughes' memorandum.

It is noteworthy, but by now not surprising, that no one took any action in respect of Hamilton's firearms certificate after the parental complaints and the investigations in 1993.

What did happen was another fruitless attempt by DC Taylor and DS Moffat to obtain a positive response from the Procurator Fiscal's Service. By 1993 the general picture is of both DC Taylor and DS Moffat trying almost desperately to provoke the Fiscals at Stirling into action, without success.

However, for present purposes, I wish to draw attention to the attitude of both DC Taylor and DS Moffat towards Hamilton in 1993. Mr. Taylor made his views clear in his report to the Fiscal and in/

in his request for a search warrant.

Mr. Taylor, we can recall, was given access to the Scout Movement file and spoke to Mr. Brian Fairgrieve. The contents of the Scout file have been discussed at length in the evidence, and one may think that that file speaks volumes about Hamilton's bad character, his lack of trustworthiness, and the benefits of the early and effective action taken by the Scout Movement.

Even if Mr. Fairgrieve did discount the reference to mental instability in Mr. Jefferies' letter, there remained more than enough throughout that file to set alarm bells ringing.

So far as Mr. Moffat is concerned (Day 8, 1002), we learned that after obtaining more information about Hamilton he spoke once more to the local Fiscal and I quote "to try again".

Despite the Fiscal's rejection of his approaches, Mr. Moffat continued searching for more evidence in order to secure a form of prosecution of Hamilton.

More and more complaints were coming in (C1003-4). Eventually, a long time later, there was a joint investigation with the Social Work Department, and a meeting on the 21st August, 1995 (D229 of file J(i)), a meeting on 21st August, 1995 which we were told by Mr. Moffat was the culmination of a lot of concern held by many people.

What is noteworthy is that none of this had any impact upon Mr. Hamilton's firearms certificate. At 1010 and 1017 Mr. Moffat made it plain that he was of a view that a crime had been committed, and that Hamilton was a devious and deceitful man. Also he told us that people were guarded in how they dealt with Hamilton.

On that last matter, it is by no means possible to be certain about this, but one explanation, or at least partial explanation, if not justification, for the repeated renewals of Hamilton's certificate, and the rejection of calls for its revocation, just might lie in the history of repeated complaints to all and sundry about the conduct of the police.

Mr./

Mr. McMurdo denied this, but his lack of positive action may at least in part be attributed to a conscious or unconscious wariness of the inevitable consequences of crossing Thomas Hamilton.

That said, and whatever the true position about that may be, the evidence on other matters more than demonstrates that other more general failures in the system operated by the police led to Hamilton being permitted to retain lawful possession of handguns.

I have touched on some of these above, but will dwell for a moment on a further contributory factor, if I may. It is that it would appear that the decision maker would simply sign the form put in front of him, in the absence of any concerns raised by officers below, whereas those below assumed that the decision was not theirs, but that of the superior who would review all relevant facts -- or so it was thought.

I will attempt to illustrate this point by some passages in the evidence. On Day 9, (1077) Chief Inspector Mather, who was in charge of the Firearms Department, tells us that the file relating to an individual applicant was not considered unless someone below raised a concern, and otherwise it was just a matter of checking the form.

At Day 8 (955) Chief Superintendent Millar stressed that while the decision was a decision of a superior officer, the superior officer relied on the recommendations or the absence of recommendations from those below him in the chain of command.

We know that when Mr. McMurdo, for example, renewed Hamilton's certificate in 1995 he had only the form in front of him (Day 12, 1459 and 1487). He told us at 1503 that the renewal took
-- and I quote "a very short time", and he emphasised that he had 30 to 40 such applications to deal with a week, and that he had many other things to do apart from deal with firearms licensing matters.

Likewise Mr. Adamson in 1992, when renewing Hamilton's certificate, would simply sign the/

the certificate unless something adverse was mentioned to him. This was the way Mr. McMurdo put it (1484). Mr. McMurdo (1550) spoke of "uncontested applications" and "a purely administrative process". He told us (1504-5) that he relied on those below him in the chain.

If the decision maker is relying upon those below drawing problems to his attention, it is of critical importance that those below him know that this is the case. The evidence however gives the overall impression that those below considered that the decision was being taken by the superior officer rather than by them. Thus there was no overriding imperative for them to identify all or any contraindicators, or to ensure that any unfavourable impression or gut feeling, if one wants to put it that way, was conveyed up the line.

The unhappy result is that in fact no one was exercising the required careful judgment for a full and proper consideration of all relevant considerations, including the cumulative and complete picture built up over the years.

As/

As my learned friend Mr. Bonomy put the point yesterday, the matter fell between two stools. This theme is also to be found in Mr. Richardon's report at Page 14. Not only the spirit but also the letter of the legislation which requires the Chief Officer or his authorised delegate in terms of Section 55 of the Act, the Deputy Chief Constable, to carry out a careful evaluation. A very clear example is the renewal by Mr. Adamson in 1992. Mr. Adamson had never seen Hughes' memorandum but he told us that he was aware of its existence in 1992. He told us that he was also aware that Mr. McMurdo had not revoked Hamilton's certificate as a result of the Hughes' memorandum. It never occurred to him when the renewal application came in shortly after to do anything other than sign the form put in front of him. It was, one suspects, treated as a matter of pure routine with no independent judgment exercise whatsoever -- simply a rubber stamp was applied to the application. Mr. McMurdo tells us at 1484 that he would have expected no more from Mr. Adamson.

Sir, another factor that I would wish to consider briefly is the question of enquiry or the system of enquiry into Hamilton's personal suitability. In my submission, there was simply no system in force which would discover problems or prompt an active investigation and inquiry into the issue of, for example, personal suitability. The Home Office Guidance at Paragraph 6.9 stresses that character was the main concern. However, this main concern was in effect ignored by Central Scotland Police. Instead, more or less complete reliance was placed upon the heavily criticised form RL3a and the intimation to the Department of the relevant circumstances such as convictions or pending cases.

The Force standing orders and procedures and the level of inquiry and thoroughness of the investigation carried out in Hamilton's case over the years were heavily criticised in Mr. Richardson's report. I do not intend to repeat these criticisms but there are all of a piece with a picture of complacency, carelessness and poor management, a picture which emerges from the other evidence which I have already discussed.

Turning/

Turning now if I may to the question of information recording by Central Scotland Police: the constant theme of Mr. Richardson's opinion is the failure of any of the reports, memoranda etc. upon Hamilton, including those sent to Fiscals recommending criminal proceedings, to find their way on to either Hamilton's firearms file or on to the Force's Criminal Intelligence system. In my submission, in this context it is simply not enough for Mr. McMurdo to say that he knew Hamilton well. In my submission, it was unrealistic for him to proceed upon the expectation that he could and would recall all relevant matters in appropriate detail when sifting through the 30 or 40 applications when hard pressed by his many other duties.

In any event, the reality is, as he explained, he never went to look for Hamilton's firearms file, and in the absence of any recommendations from below treated all of this as a matter of routine (1515 and 1550-1).

It may be thought that many questions arose such as what about the lack of information available to those making or considering any recommendations below in the chain of command, or suppose that someone else was acting for the Deputy Chief Constable when he was absent, or what would happen when the Deputy Chief Constable left for another job. Further, what about looking at the cumulative picture as it built up over the years rather than focusing only on the immediate past.

Simply by way of an example of this problem, on more than one occasion DCC McMurdo said in evidence that were was no record of Hamilton having behaved inappropriately with firearms (1581-5). Presumably when giving that evidence he adopted the position he adopted also in 1991 and 1995 to the report made by Inspector Nimmo after Sergeant McGrain's investigation into the family visit by Hamilton with guns in late 1988. Those guns included a Beretta semi-automatic machine gun. We know that although the matter was relayed to Mr. McMurdo (the evidence of Inspector Nimmo at Pg. 819) this material did not appear in Hamilton's firearms file nor could it be found in the Force's Criminal Intelligence system. This is perhaps just a small example of the problem of relying upon fallible memory even assuming that fallible memory has had brought/

brought to its attention by someone all the relevant information. But, that said, sadly again when we come to the general approach of Mr. McMurdo and the Firearms Department, it is nonetheless unlikely that even if he had recalled and reconsidered this incident when subsequent decisions were taken, it is unlikely that this would have made any material difference.

Turning to Mr. McMurdo's evidence itself: Mr. McMurdo set himself the difficult task of explaining that no mistakes were made and that every decision could be justified. The plethora of adverse information available to him and known by him about Hamilton, the recommendations of Detective Sergeant Hughes were dismissed for a variety of reasons which I have touched upon already, and there was no evidence to support the view that Hamilton was unfit to be trusted with weapons. Mr. McMurdo placed emphasis upon the supportive and positive impression of some parents (1567) and that may be thought to be a somewhat inconsistent approach when Mr. McMurdo considered it appropriate to regard the adverse impressions by officers and others as irrelevant.

He also placed emphasis upon the lack of criminal record. Sir, it is of course possible that after the awful events of 13th March and when turning to consider the matters there was at least a degree of ex post facto rationalisation and justification taking place when Mr. McMurdo and others were giving their evidence. Indeed, the evidence of Professor Cooke in his cross-examination by Mr. Taylor, albeit in a very different context, did explain that after a tragedy such as Dunblane people may revise their recollection of events. It is therefore perhaps of importance to place more weight upon contemporaneous documentation and the conduct of those involved rather than their current explanation of past events.

In my submission, the reality may be that the thought processes and explanations given in some detail by Mr. McMurdo and others played little or no part in the actual events to which they are now attached, and that many of the decisions were taken and certificates granted as a matter of routine with virtually no care or consideration taken by any one. That said, there remains the difficulty for Mr. McMurdo and for the police force that/

that the explanations now given, even if accepted at face value, do not extricate the Force from criticism that they acted without due care and below the professional standards which the police are entitled to expect.

For example, the explanations proceeded upon the basis of such a narrow definition of personal unsuitability as to allow not only Hamilton but also one must assume others to escape any considered scrutiny and judgment of their character and its consequence for being trusted with weapons. The explanations not only lack this but also the rejection of the Hughes' memorandum amount to an unwillingness to act unless it is rendered more or less essential by prior conviction in a criminal Court or a decision by a public prosecutor to mount a case or by some other clear and uncontrovertible evidence. To dismiss, for example, Detective Sergeant Hughes' conclusions as no more than a gut feeling is itself in my submission a revealing approach. In fact, Mr. Hughes was doing what Mr. McMurdo was required to do -- that is to consider the known facts and apply his mind to the critical question, the critical question which inevitably requires the exercise of a matter of judgment, even one might say impression, in the light of the known facts, namely is Hamilton or was Hamilton a fit and proper person to be entrusted with weapons. There is no convincing evidence that apart from Mr. Hughes and Mr. Holden anyone else ever applied their mind to this question.

Perhaps one exception to this is the relatively little role of WPC Anderson after her unpleasant experience of Hamilton, but her questioning mind was soon overruled.

In my submission, the attempt which has been mounted to discredit Detective Sergeant Hughes' opinion lacks weight and credibility. Here I refer to the evidence from Mr. McMurdo at (1536-41 and 1581-5). If Mr. McMurdo had indeed analysed matters in the way which I now suggest in my submission this itself is clear evidence of extremely poor judgment on his part. If it was true that he concluded that there was quite literally no evidence to support Hughes' opinion, why did he not discuss the matter with him before rejecting his recommendations: or did he, as in so many/

many other cases, simply adopt the recommendations of Mr. Miller about the consideration he must attempt to justify that decision. Is it not the truth that in the absence of something like a serious conviction Central Scotland Police were not prepared to exercise the kind of independent and sensible judgment which Detective Sergeant Hughes, a stranger to the Firearms Department, brought to the matter.

Mr. McMurdo's difficulties in the witness box were apparent with his volte face as to whether the Hughes' memorandum, if accurate, describes someone who was unfit to be trusted with weapons. When this matter was put to him at (1509) his answer was a clear Yes and his explanation was that the problem was that there was no evidence, at least in Mr. McMurdo's view, to support the Hughes' conclusions. That position in my submission bears no scrutiny whatsoever. However, the next day in cross-examination by Mr. Taylor Mr. McMurdo changed his evidence to the effect that even if the Hughes' memorandum was true and accurate persons such as those described in the memorandum nonetheless could and should be granted firearms certificates (1581-5). That is, in my submission, an equally startling proposition: according to Mr. McMurdo, untrustworthy people of poor character would obtain guns unless they had already acted in a dangerous manner with the guns or had shown themselves to be untrustworthy specifically with guns.

This not only flies in the face of the Home Office Guidance at 6.9 but also the plain terms of the relevant legislation. Again this is an approach with bears little scrutiny. It does mean that in effect Central Scotland Police would wait until damage may be done before taking any positive action. The notion that Parliament and the public expected them to exercise a judgment as to whether an applicant should be trusted with weapons in the first place played no part in the Firearms Department philosophy.

This whole line of thinking led Mr. McMurdo into the surprising proposition that it would be expecting too much to expect a firearms applicant to be honest in his dealings with the police and that proven untrustworthiness was not a relevant consideration (1581-5 and 1601-2). When your/

your lordship raised with Mr. McMurdo the question that his responsibilities implied a reference to trust, and in particular honest when dealing with the police (1601-2) Mr. McMurdo appeared to be taken aback by this whole approach.

Mr. McMurdo of course required to deal with the terms of his own letter to Mrs. Hogg of the Scottish Office in January, 1992 (D133K). He faced immediate difficulty with that letter set out his own views and was signed by him and the thoughts in the letter could not be dismissed in the same way as the Hughes' memorandum. Further, Mr. McMurdo faced a problem that the known facts more than justified the views expressed by him in that letter. Nonetheless, there was at least an attempt to dilute the terms of the letter at least regarding the passage referring to irrational outpourings (1571). At (1524-5), although he accepted that the letter, with the possible exception of the irrational outpourings reference was factually correct, and he stood by it in general terms, this was a letter written by him in January, 1992 very shortly after the rejection of the Hughes' memorandum and just before the 1992 renewal and course before Mr. McMurdo's renewal of the certificate in 1995.

In my submission, the overall conclusion can be reached that the system of firearms control in Central Scotland Police was regarded as, and operated as, an administrative matter and only an administrative matter. There was no recommendation and appreciation of the task entrusted by Parliament to the Department to investigate and assess the personal suitability, to properly investigate and assess the personal suitability of each applicant before entrusting him with weapons.

Sir/

Sir, organisations are occasionally criticised for failing to act in what is referred to as a pro-active manner. To only react to events is often considered wholly inadequate. The Firearms Department of Central Scotland Police were clearly not pro-active; they were not even reactive to the events; rather, they were inactive, and that despite overwhelming evidence that positive action was required. This overall approach did not change even when Detective Sergeant Hughes recommended what was by then no more than commonsense and should have been obvious to the police, that is that Hamilton was not a fit and proper person and should not have been entrusted with weapons. The dead hand of a purely administrative system, incapable of independent judgment and unwilling to exercise the quasi-judicial function expected of it, failed to prevent the use of a gun by Thomas Hamilton.

Sir, earlier in my submissions I dealt with the causal link between that failure and what happened on the l3th March. The result is that but for that culpable failure by Central Scotland Police it is probable that the events of the l3th March in Dunblane Primary School would not have occurred.

Sir, before leaving the matter of the conduct of Central Scotland Police I wish to make a few brief submissions on another matter which relates to this incident, and that refers to the evidence given by Mrs. Doreen Haggar. You will have appreciated, sir, that none of my submissions in relation to Central Scotland Police depend on the evidence of Mrs. Haggar. However, I wish to say a few words.

In relation to the incident spoken to by Mrs. Haggar concerning the presentation of a firearm to her by Hamilton in the street, one question is, did this incident happen at all? In my submission the answer is probably yes. There is no good reason to reject it. One has the reference -- perhaps in connection to earlier incidents, but one does have the reference from Mrs. Haggar that Hamilton referred to his guns as friends, and that certainly has the ring of truth.

So far as the incident itself is concerned/

concerned, she described something at the end of the barrel which one might well think equates to the muzzle weight referred to by other witnesses. It may be, however, there will be no real challenge to whether the incident did or did not occur.

The other question that arises, sir, is, did she report the matter to the police? There is a considerable amount of evidence about this, which you will no doubt weigh carefully.

One possible explanation, sir, is that Mrs. Haggar did not present the incident to the police primarily as an episode involving alarm to her and the presentation of a firearm to her in a threatening manner. Maybe, from the overall thrust of her evidence, she was more concerned with the fact he should never have had guns there in the first place. There may be some support for this general approach in the ultimate response from the police officers, namely the explanation that everything was all right, because Mr. Hamilton was simply taking the weapons from Point A to Point B.

It does appear that Mrs. Haggar was at no stage frightened by this incident: indeed, she tells us she said effectively to Hamilton to put the gun away or she would simply stick it down his throat. She told the police officer she was not alarmed. Indeed, all her other behaviour appears to be concentrated on the threat of Hamilton to people other than herself, and it may well be that the police simply did not consider that the whole matter was worthy of further action.

The question does, however, remain as to why it is this incident has not been discovered in the police records. In that context, for wholly understandable reasons it is not possible now to put together a complete account of all the notebooks and to obtain evidence from all police personnel who might have been involved. It is also of course possible that the incident was never recorded, for example, and one notes the difficulty encountered in substantiating the "Inspector Ralph" incident, if I can call it that.

Be that all as it may, given I anticipate there would be some other comment about Mrs. Haggar, I would wish to say it appeared to me she/

she was a brave and determined lady, and to an extent effective, albeit by the use of somewhat unorthodox methods. However, again it appeared she was driven to these unorthodox methods by the inactivity on the part of a number of agencies. Mrs. Haggar joined the ranks of the very few who had sought to do something positive about Thomas Hamilton. Sir, that is all I wish to say about Central Scotland Police. The next chapter of submissions relates to the public prosecution service, and that section will be given by my learned junior, Miss Dunlop.

LORD CULLEN: Yes. Miss Dunlop?

MISS DUNLOP: Thank you, sir. I have summarised my comments on paper, primarily because I have identified particular children. This was necessary in connection with the question of whether or not there was sufficient evidence to support a prosecution. In accordance with our established practice I do not propose to read out the names of the particular children; I will attempt to identify them perhaps by initials, and other parties have a copy of these. I also wish to make some reference to one or two authorities, copies of which should be before you, sir.

There arises the question of whether or not Thomas Hamilton committed crimes in the course of his involvement with children prior to l3th March l996, both at his boys' clubs and at his camps. This question is of particular relevance in examining the occasions on which Hamilton was reported to the Procurator-Fiscal. Whether he was guilty of a crime is also of significance in assessing the attitude of senior members of Central Scotland Police to reports of Hamilton's conduct.

A number of possible offences have been referred to. It was suggested that Hamilton may have been guilty of assaults, of breaches of the Children and Young Persons (Scotland) Act, l937, of breach of the peace, of fraud, of embezzlement and of attempting to pervert the course of justice. There would have been difficulties in relation to the latter three offences, and it is therefore not my intention to make submissions in relation to possible charges of any of these offences.

Before/

Before turning to consider the particular evidence available to support any of these charges it may be helpful to set out some general observations regarding the law relating to this case.

Assault. It was clearly irrelevant that allegations of assault were made in connection with actions which Hamilton claimed were reasonable chastisement of children in his care. Now, there is a considerable body of case law in this area. The leading case is Wilson v. Norrie, in Parent and Child, l77 at l8l, to which I will refer. Some references I make are to cases and material published more recently, but that is purely for the purpose of evidencing principles as they already existed.

The summary on Wilson v. Norrie is an historical summary of information in this area. Looking at page l77, the authors begin discussion of the topic of discipline, and they set out in the first full paragraph on page l77 their comment that the object is the welfare of the child, and that that object, while it sanctions, also limits the right. It says "So punishment must be moderate and reasonable in relation to its end. If it is, then it constitutes a defence to a charge of cruelty to the child, to a charge of criminal assault and to a claim for damages for civil assault".

Then, under "Delegability of Disciplinary Power" it states that parents may allow others to discipline their children.

At page l78 in a section headed "Purpose" it states "The authorities bring out clearly that the power of discipline is related to and limited by the purposes for which a person has a child in his care and the resultant duties. The parental power to discipline a child flows from the duty to further the child's welfare and, importantly, to educate the child. For this reason the power vests in school teachers, though only as part of their educative function".

They then comment on the power of the teachers who administer discipline, but note immediately that there are now restrictions on the ability of teachers to administer certain corporal punishment/

punishment, and although it is not a crime for a teacher to administer corporal punishment, the Education (Scotland) Act, l980 removed the possibility of claiming reasonable chastisement in defence of an action for damages for assault.

Looking at page l79, in a section headed "Reasonable and Moderate Chastisement", it states "The problematic cases in the exercise of the power of discipline have been cases on the use of corporal punishment. This is because this form of discipline would, without the justification of being a parental right, amount to a civil or criminal wrong, which for example, imposing extra homework would not. It is only reasonable and moderate chastisement is permitted, and doubt may now hang over the traditional Scottish method of corporal punishment within schools. What is today acceptable punishment by parents may well be limited to slaps and the like that do not cause injury, extensive bruising or long-lasting pain. Excess constitutes an assault. Standards of reasonableness and moderation are subject to development, and for that reason the older cases may form an imperfect guide. What constitutes excess may, in any event, vary according to the circumstances of the case including the age, sex and any known disabilities or weaknesses of the child".

There is then a quotation from a judgment of Lord Justice General Emslie's: "To slap a child of two years old on the face, knocking him over, is an act as remote from reasonable chastisement as one can possibly imagine". There is then reference to a number of other cases.

Then, sir, moving to six lines from the foot of page l80: "An objectionable method of punishment may also constitute excess irrespective of whether physical harm results. Thus, in Ewart v. Brown, which is a l9th Century case, "Although the action failed because a causal connection between the condition from which the Pursuer suffered and the assault was not proved, the action of the Defender in striking a pupil on the head with a blackboard pointer was clearly considered to amount to a wrong". And in Ryan v. Fildes, which is l938, "Mr. Justice Tucker said of a teacher who had struck a boy on the side of his head with her hand: 'The blow struck was moderate in the sense that/

that it was not a very violent blow, but as punishment, it was not moderate punishment, because I do not think that the proper way of punishing a child is to strike it on the head or the ear'." The last sentence of that section is "In any event, it appears that there are certain methods of punishment that are to be regarded as in themselves improper, and a blow to the head generally comes into that category".

It is worthy to note that the focus of their discussion is the right of the parent or other person who had continuing responsibility for bringing up a child, such as a teacher, to use discipline in bringing up the child, but the right of a third party who has charge of that child for a short period of time rather than a continuing responsibility may be more limited.

Dealing next with the question of ill- treatment, Section 12 of the Children and Young Persons (Scotland) Act, l937 makes it an offence to assault, ill-treat, neglect, abandon or expose a child in a manner likely to cause him unnecessary suffering or injury. By Section l2(l) to (2) a person legally liable to maintain a child is deemed to have treated him in a manner likely to cause injury to health if he fails to provide adequate clothing. The most recent case on this is H. v. Lees and D. v. Orr l994 SLT 908, to which I would refer you.

LORD CULLEN: If you tell me the points you wish to draw from it, and I can read the case myself in what is left of my leisure time.

MISS DUNLOP: Yes. At page 9llE the Lord Justice General notes the distinction between Section 12(l) and 12(2), in other words, that by Section 12(2) where a person who has the legal right to maintain a child omits to provide certain things he is deemed to be guilty of the offence of neglect, or whatever. In my view that is of some significance because of this reference for example to adequate clothing is to be neglect.

At page 9l3A, this is a response to submissions that the Act is only directed at very serious assault; in 9l3C there is a quotation from R. v. Senior, again a l9th Century case, that "Neglect/

"Neglect is the want of reasonable care -- that is, the omission of such steps as a reasonable parent would take, such as are usually taken in the ordinary experience of mankind". I pause here to note the "reasonable parent" test, and to remark that the instruction given to Constable Gunn when he first went to Inchmoan Island by his sergeant "Apply your mind to whether you would be happy to see your own child in these conditions" seems to be a sensible one in the light of what the Courts have decided.

There/

12 noon

There is further reference to the reasonable parent at 913G-H and I also refer to what was said at page 914 in the right hand column where there is an examination of the case of the second child, who is a 13½ year old child, left at home in the evening and that conviction failed and fell to be quashed because of the lack of evidence that what was done was unlikely to lead to unnecessary suffering and I emphasise in particular the Sheriff had failed to make any finding that the fact that the child was in fact upset was connected with having been left and that is at page 914J. At 914L it is commented "If any harm had happened to the children while they were unattended, so that there was evidence of actual suffering or actual injury to health, it might have been a relatively simple matter for the Crown to establish that an offence under section 12(1) of the Act had been committed".

The other case to which I refer in connection with the 1937 Act is KENNEDY v. S. 1986 SLT 679. The most important passage in that case is in the left hand column of page 682 where Lord Hunter considered it to be a plain fact on the circumstances of that case that a breach of section 12 had been established and that notwithstanding the fact that the children were clean and well fed and that conviction arose out of an incident where children had spent the night in a cellar with inadequate cover.

Finally, breach of the peace. It is sufficient to make two points. The first is the breadth of the conduct which can be held to amount to a breach of the peace having been observed by Lord Justice General Emslie in MONTGOMERY v. McLEOD 1977 SLT notes 77, a copy of which should also be there, that "There is no limit to the kind of conduct which may give rise to a charge of breach of the peace". There is also D v. ORR 1994 SLT 624 which was an example of the breadth and types of conduct which have grounded convictions for breach of the peace. There is in that case emphasis of the point which I make as my second point, that evidence of actual alarm is not essential.

I have also referred to the case of WILSON/

WILSO v. BROWN 1982 SLT 361 and YOUNG v. HEATLY 1959 JC 66 as authority for that. I have omitted to say that breach of the peace certainly includes shouting and swearing and that there are a number of examples of prosecutions of people for shouting and swearing at police.

Turning then to particular episodes, I would submit that Hamilton could have been prosecuted for at least the following offences: firstly, in 1988 an assault of the child LD, aged 9. There is evidence from the child himself that he was struck on the face and back by Hamilton when he said he wanted to go home. The incident can be identified as having occurred on the 10th July, 1988 and as having given rise to a red mark on the child's back and is described in the statements of five other boys which I have identified there.

Secondly, the assault of the child DW, aged 9. There is evidence from the child himself that he was struck on the face for fainting while doing exercises. There is corroborative evidence from another four boys.

A breach of section 12 of the 1937 Act in relation to the enforced wearing of only swimming trunks. Virtually all the children refer to this and state that they were cold. Neglect in relation to carrying children on an overloaded boat without there being life jackets for them all. The particular incident where a member of the public pointed it out to Hamilton is described by four boys and the boys referred to other boys being assessed by Hamilton as being good swimmers who were denied life jackets.

In 1991, the charges framed by the then Detective Sergeant Hughes and the submission of his report and I identify the particular boys who support the main body of the charges in that report.

In 1993, the researches of DC Taylor revealed that Hamilton had deceived parents regarding his intended activities with their children and photographing the children while they were scantily clad and on one occasion alone. Detective Constable Taylor makes it clear on page 2 of his memorandum that the parents were alarmed, disgusted, angry and concerned. In his evidence to the/

the Inquiry he clarified that their concern related both to what had occurred and what might have taken place. In these circumstances, a charge of breach of the peace could have been brought.

In Mr. Vannet's report it is stated that in relation to the 1988 episode there were discrepancies between the accounts given by the boys and that these discrepancies increased after re-precognition. The further precognitions are not available to the Inquiry. There is no evidence to identify the discrepancies in the original material which was thought to be significant. It is also stated that the incidents for which there was corroborative and consistent evidence were very minor.

The 1988 camp was the subject of a further report to the Procurator Fiscal when Inspector Keenan remitted the material which he had uncovered in investigating Hamilton's complaints against the police. It is apparent that there was a failure in communication at this point. His report was not sent with a covering letter and as it was not read in any detail by the Fiscal, it was either not appreciated that the report related to Hamilton's actions as well as those of police officers or it was not appreciated that the matters referred to were different in relation to those which the Fiscal had already decided not to proceed upon. Mr. Cardle was unable to recall his thought processes at that time.

LORD CULLEN: I take it he is the Fiscal referred to in that paragraph?

MISS DUNLOP: Yes. The case of McLEOD v. TIFFENY 1994 SLT 53, which should be the last of the cases in the bundle, deals with the situation of a criminal charge and a complaint against the police arising out of the same incident and the need to ensure that the accused is not prejudiced at his trial by the Fiscal having information which has been gathered in the investigation of his complaint. In that case, the Court considered and approved the guidance on these matters issued in 1993 to Regional Procurators Fiscal, which guidance reflected developed practice. The comments of the Lord Justice General at page 537C-E appear restricted to the conflict of a complaint arising out of the same incident./

incident. It is doubtful whether the same restrictions would apply to the evidence of a crime committed after information which is uncovered during the investigation of a complaint, as Mr. Cardle himself recognised in his evidence.

In any event, as the material is very similar in nature to the material which had been contained in the earlier report, it appears unlikely as a matter of fact that the Fiscal would have raised proceedings even if he had appreciated that he was being asked to consider different matters.

LORD CULLEN: Just before you go further, in the paragraph at the top of the page you say that it is not appreciated that the matters referred to were different.

MISS DUNLOP: Yes.

LORD CULLEN: Where will I find some description of what the difference is?

MISS DUNLOP: Well, unfortunately, my lord, really what is necessary is a comparison of the two and one sees that it was a product of Hamilton's rolling summer camps that what in summary had been in the earlier report were accounts of events prior to the episode at Inchmoan on the 20th July, most of them being events of the week of 3rd to the 10th and some in the week 10th to the 17th July. When one looks at what Inspector Keenan summarised in his report, he applied his mind mainly to slightly later events, that is in the weeks towards the end of July, and his statements almost entirely come from seeing Hamilton. So very similar in nature but technically different events because they involved different victims.

LORD CULLEN: Just remind me in case I have misunderstood this; if we go back to what you referred to earlier as what might have been the subject of charges in 1988, is the material which falls into that area covered by his first report as opposed to the second?

MISS DUNLOP: Yes, indeed.

LORD CULLEN: So do you spell out anywhere, and I'm not saying you should, do you spell/

spell out anywhere what came out of the second one?

MISS DUNLOP: No, I don't really for the reasons I have set out in that paragraph, that as a matter of fact the incidents in Inspector Keenan's report certainly were not worse than the incidents in the earlier report and they were very similar in nature, albeit to different boys.

In relation to the 1991 camp, Mr. Vannet's report refers to doubt by the Procurator Fiscal that there was sufficient evidence of criminality. In referring, as it does, to two different things, that is sufficient evidence and criminality, this comment is perhaps confusing. The ultimate decision appears to have been based on a view that the conduct, even if criminal, was very minor. This is borne out by DS Hughes recollection of the Fiscal's attitude (p.909).

It is worth noting that the Procurators Fiscal at Dumbarton and Stirling referred the matter to the Reporter to the Childrens Panel. The Reporter to the Childrens Panel was empowered to take action only when a child is thought to be in need of compulsory measures of care, now supervision as set out in the Children (Scotland) Act 1995, although that part of the 1995 Act is not yet in force. The Reporter has jurisdiction only over children with problems, not adults who pose problems to children. That is clear from part 3 of the Social Work (Scotland) Act 1968 and the corresponding provision of the 1995 Act. It was also made clear by Mr. Kelly, the retired Reporter to the Childrens Panel, in his evidence, particularly when he referred to himself as having stepped out of role in taking an interest after the 1992 referral. That was the referral, sir, after the boys were found in their pyjamas outside the Dunblane camp.

Similarly, the Social Work Department have rights and obligations in relation to children in whose care and upbringing there is concern but not in relation to adults whose contact with children may be undesirable. It is difficult to understand what it was hoped could be achieved by these referrals.

I have endeavoured to identify conduct by/

by Hamilton which could have formed the subject matter of a criminal complaint in that the circumstances amounted to a crime and that there was sufficient evidence. No doubt any prosecution would not have been straightforward and Hamilton would have defended himself or been defended with characteristic vigour. He may have been acquitted.

Nevertheless, in the absence of a system of vetting adults working with children and the lack of statutory powers for any other agency to intervene, there would appear to have been no other means of attempting to fetter Hamilton's activities with children. The enormity of Hamilton's final act tends to obscure the fact that over many years with many children he behaved undesirably.

As well as the conduct identified above, there was the exposure to the boys required to sleep in the van in Aviemore in the winter of 1974 and the so-called gymnastics which have now been identified as overly strenuous and potentially harmful for children and his behaviour in introducing them to guns.

It has been suggested at times in the evidence to this Inquiry, and it is I think apparent from the comments I have highlighted in Mr. Vannet's report, that these are grey areas or matters of opinion. I would submit that that is not so. If we are now acknowledging that it is necessary to vet adults to prevent those who are potentially harmful from having access to children, it must also be clear that behaviour which has caused children to be hurt or exposed to the risk of harm should be viewed seriously. The actions identified in the police reports demonstrated violence, cruelty and irresponsibilities towards and intimidation and exploitation of children. Hamilton's actions when he had children in his charge were not acceptable.

LORD CULLEN: Yes, Mr. Campbell.

MR. CAMPBELL: Sir, before a few concluding remarks I wish to say something very briefly about school security and the vetting of adults working with children but in very broad terms.

As far as school security is concerned, I/

I have nothing material to add to what is set out in the other submissions before the tribunal.

Risk assessment for every school and funding for identified improvements appears to be a common theme of many of those submissions and it may be thought that it is not beyond the wit of man to improve school security without turning schools into fortresses. It is of course difficult to say that school security measures would have stopped Thomas Hamilton when he was at Dunblane Primary School. At the best, it may have bought some time with the possibility of an earlier alert to the police force.

However, it may be worth giving some consideration in this context to the potential deterrent effect of improving school security so that they may not present such an apparently soft or easy target to would-be assailants.

So far as the vetting of adults working with children is concerned, plainly this is a very large topic and I am conscious that I have little, if anything, of materiality to add to what has already been said in this regard by others. However, perhaps echoing a theme raised by my learned junior, Miss Dunlop, a moment or two ago, it might be that some consideration does require to be given to what it is that one is trying to detect and what it is that one is trying to stop in any vetting procedure. No doubt paedophilia and presumably also incompetence as well as any other form of sinister motivation but this does raise the general question as to what is it that makes someone unsuitable to run such activities and what evidence, whether paedophilic tendencies, abnormal interests, incompetence or whatever, is required. I raise this question without having any easy answer to it but I note that Mr. McMurdo said that he dismissed Mr. Hughes' report partly at least because there were positive statements by some parents so if he had been in charge of vetting on Hamilton, would he have done anything about it?

What type of conduct is it that we are trying to vet and prevent? It is plain that many parents found Hamilton's conduct and deceptions, because he did indulge in deception of the parents, completely unacceptable and in other contexts a reasonable/

reasonable parent test is sometimes employed.

Sir, all that I would add is that there may be some merit in considering a national means or method of co-ordinating information about peripatetic abusers and the like.

In/

12.20 p.m.

In the present case one can note that

Central Regional Council appeared to have little knowledge of the experiences of both Lothians and Borders and Fife Regional Councils regarding their letting of premises to Hamilton.

Lothian and Borders and Fife Regional Councils appear to have concentrated primarily upon removing Hamilton from their own areas. It follows that some national coordination of information may be of benefit.

In this context one notes that the Reporter to the Children's Panel does have a centralised secretariat covering the whole of Scotland, but part and parcel of considering the involvement of this body in the matter would involve the need to extend the Reporter's jurisdiction beyond parenting.

I turn, therefore, to my concluding remarks on behalf of those whom I represent. While I have spent some time explaining that Central Scotland Police could and should have identified Hamilton as unfit to be entrusted with weapons, in my submission it should not be thought -- it should not be thought -- that if the lessons of this particular case are learned all will be well in the future.

The circumstances in which harm can flow from guns are too many and too varied to permit such an approach. The opportunities for error or for failure to protect and identify an undesirable person will be endemic in any system of firearms licensing.

The culpability of Central Scotland Police should not divert Parliament from learning the wider lessons discussed in the earlier part of these proceedings.

Sir, I therefore end as I began. The Inquiry has dwelt on Thomas Hamilton for reasons which are right and proper. Now, however, the focus should return to the victims of his horrendous crimes.

We/

We will all recall the Lord Advocate's wholly appropriate reading out of the names of the dead and injured victims at the outset of this Inquiry. It is not for me to read them out again at the end. However, it is those names and their families, not that of Thomas Hamilton which are in all our thoughts.

To reflect on the victims and the consequences of Hamilton's crimes reinforces the urgent need to do all that is practical to prevent a recurrence, hence the families' call for a complete ban on the civilian ownership, possession and use of all types of gun.

If I may be permitted a brief reference to contemporary events, yesterday's appalling attack in Wolverhampton would probably have been much worse had the assailant been armed with a gun. The absence of firearms not only reduced the severity of the injuries sustained, but also allowed others to defend themselves and their children. These events reinforce the families' call for a ban on guns.

Sir, it only remains for me, on behalf of the families and on behalf of Mrs. Harrild and Mrs. Blake, to thank yourself, the Lord Advocate, the Crown Team, Mrs. McKeand and all others -- and I mean all others -- involved in the preparation for and the holding of this difficult Inquiry for the sensitive consideration which throughout has been given to the interests of the families and the injured teachers. This is something which has been greatly appreciated.

Further, while criticisms have been made as to certain conduct by certain people on the 13th March, both on the day itself and since then the families have received unstinting support and assistance from many people too numerous to mention. Again all of this is greatly valued.

Thank you, Sir, and unless I can assist you in any other way, that is all that I have to say.

LORD CULLEN: Thank you, Mr. Campbell, for your remarks.

Mr. Gibb, do you wish to address me now?

MR./

MR. GIBB: Nothing in any of our lives could have prepared us for the horrific events of the 13th March, and despite all of us living and working in a more violent society, the Dunblane tragedy touched everyone in Scotland, and indeed worldwide.

There are, however, key areas of concern which must be addressed following on the tragedy, and I take this opportunity on behalf of the Mayor family and on behalf of the teaching staff at Dunblane Primary School to make submissions on the key aspects addressed by you at the preliminary hearing.

You indicated at the conclusion of the hearing on the 28th June that you wished submissions and recommendations, and only submissions on the facts to which observations or comment might be directed.

There are several instances where there has been a conflict of evidence -- and Mr. Campbell has dealt with this. There is really only one on which I would wish to comment, and that is the Haggar/Reilly scenario.

I have to say while I think it would be very convenient and useful if I could say that I found that evidence to be credible and reliable, I have very considerable difficulties with the evidence. There was a considerable conflict of evidence between Mrs. Haggar and Mrs. Reilly. Mrs. Haggar made reference to the threat to burn her tent down on the part of Hamilton. Mrs. Reilly did not remember that.

Mrs. Reilly made reference to the threat with a gun on Inchmoan island, and as Mr. Bonomy, for the Crown, quite properly put it to Mrs. Reilly, there was no evidence from any other source with regard to that particular part of the evidence.

Clearly if there had been -- if the evidence of Mrs. Haggar had been supported by other evidence it would have put quite a different complexion on the subsequent actions both on behalf of Lothian and Borders Police and Central Scotland Police in their dealings with Hamilton.

But/

But while, as I say, it would be helpful if I could find some merit in the evidence, I myself find it difficult to see that there is reliability sufficient in this particular aspect for you, Sir, to make any findings in fact which could justify the view that there was knowledge on the part of the police of any complaints on the part of Mrs. Haggar.

Sir, much had been made during the Inquiry of the alleged defects in the administrative procedures contained within Central Scotland Police, and Mr. Campbell has dealt with that in very considerable detail, and in my submission I would simply endorse the remarks he has made.

Clearly the evidence of Chief Superintendent Millar and Deputy Chief Constable McMurdo requires to be considered in very considerable detail, and I would simply endorse the comments made and the detailed submissions made by Mr. Campbell with regard to the defects within Central Scotland Police.

While he majored on that, however, it was clear, in my submission, that there were defects further up than that. Indeed, in my submission the Home Office Guidelines were not helpful and lacked the clarity which one would have expected of such, and indeed you will recall evidence that even the training manuals prepared at the Scottish Police College at Tulliallan were defective in a crucial respect in respect of the test required under Section 27 of the 1968 Act, particularly with regard to the much-vexed question of unfitness to be entrusted with a firearm.

Before I come on to submissions as to the recommendations you should make, there is really only one remaining aspect with which I would wish to deal, and that relates to the events of the 13th March itself.

It is clear that there is a conflict of evidence, but I think the conflict over when parents were finally told, or the last set of parents, of the tragedy, was eventually supported -- they were supported by the social worker who gave evidence, and clearly the last parents were told at 3 o'clock.

Mr. Mayor was quite clear in his own recollection/

recollection that he was left for half an hour before being told anything.

Perhaps the only lesson that can be learned from this particular aspect is that should such a tragedy ever occur again a senior police officer should immediately be delegated to have responsibility for communication with those directly involved in the tragedy.

Many of us learn that it is better to tell someone there is nothing to report rather than to tell them nothing at all. Indeed, sadly that happened on that day. I cannot begin to understand how these parents must have felt during the five hour period when they knew nothing.

I certainly understand how Mr. Mayor feels, and he feels that he was let down badly by the police force in the fact that he was left alone for half hour before he eventually had to get it out of the police that his wife had died; and indeed what is all the more surprising is that he and his daughter were within yards of each other for almost two hours before they were put together. But all I say is that one of the important considerations is that a very senior officer should be delegated, and that that should be part of the procedure from now on.

Turning now, Sir, to the recommendations which I would suggest you should make to others for consideration, it is the earnest hope and prayer of Mr. Mayor, his two daughters, and the entire teaching staff of Dunblane Primary School, that the outcome of this Inquiry in due course will be the complete ban on the private ownership or possession of handguns; and the view, both of the Mayors and of the teaching staff at Dunblane Primary School, is very much in line with the wish expressed by over 700 thousand members of the public who have been signatories to the Snowdrop petition.

That, therefore, is my primary submission, and nothing that I say with regard to alternatives should in any way be taken to deflect from the view of those I represent, namely that a complete ban is the only answer to prevent further Dunblanes happening.

LORD/

LORD CULLEN: Just to be quite clear, you align yourself with the call in the Snowdrop petition; is that right?

MR. GIBB: Yes. Notwithstanding the fact that my primary submission is that there should be a complete ban on the ownership and possession of handguns, it is appropriate that I should comment further in the event that such a proposal is not adopted in due course, it is important to emphasise in the first place that rather counter to the documentation we have seen and various reports to date, that ownership and possession of handguns should be seen as a privilege rather than a right given to members of society, and it should only be in exceptional circumstances and in the event that such members of society have entirely satisfied the appropriate regulators of the firearms legislations that they should be fit and proper persons to hold handguns.

Mr. McMurdo made some reference in his evidence to the right on the part of the members of the public to complain about things. Now, of course, in his capacity as Deputy Chief Constable, he was responsible for complaints, but it seemed to me that the general tenor of his evidence -- and that is supported by Mr. Millar -- was that in the event of a complete balance -- in other words, an application with some evidence to suggest that someone was unfit to be entrusted with a firearm, and even with a gut feeling on the part of police officers that there was an unfitness, that in that event the officers would feel bound to grant a certificate.

That was evidence given by Chief Inspector Millar and I think supported by Mr. McMurdo, and in my submission that is not the appropriate way, and in my submission in the future, given such a balance, if there is a gut feeling, then the appropriate procedure to be adopted should be to refuse.

LORD CULLEN: Just to be quite clear, does that involve a change in the statutory language?

MR. GIBB: Well, I am coming to the question of onus in a minute -- yes, I think it does involve a change in the statutory language.

If/

If matters are to proceed on the basis of continued ownership or possession of handguns by members of the public, subject to the necessary safeguards, then it is in my submission appropriate that the detailed submission put forward by the Association of Chief Police Officers in Scotland jointly with the Association of Scottish Police Superintendents and the Scottish Police Federation, and also supported by the submission by the police in England and Wales, should be followed, namely that such members of the public should only be entitled to hold .22 single-shot weapons.

Evidence has been led before the Inquiry as to the impracticability of conversion of semi-automatic pistols or revolvers to single-shot, and I would tend to accept the proposition that such conversion is impracticable.

Certainly it could be done, but the evidence appears to suggest that it could be undone, given the will of any to undo the restrictions.

As a consequence it follows that arrangements would require to be made for the surrendering of all weapons that do not comply with the requirement that they are limited to .22 single-shot. Reference is made in various submissions to the consequences of such a surrender from the point of view of an obligation on the part of Government to compensate owners of such weapons in the event of such a scenario, and much has been in submissions of the entitlement of shooters to make application to the Court of Human Rights as a consequence of the withdrawal of the right to continue to hold firearms, on the basis of the present law.

If the proposition finds acceptance that members of the public should be continuing to hold or possess firearms, in my submission it would not be appropriate that they should be held at home. In my submission it is appropriate that such weapons should be deactivated and a separate part of the weapon should perhaps be held at a registered Gun Club, and a separate part retained by the owner of the weapon. This would get over the difficulty over the possible theft of weapons held in a secure Gun Club.

I have to accept that if weapons in their entirety were to be held at Gun Clubs there are/

are significant difficulties.

First of all, the general impression I have is the existing Gun Clubs in operation would lack the necessary security to enable guns to be held on the premises. Secondly, the geographical location of such Clubs would militate against such storage, and this would be a particularly attractive situation for the theft of weapons. There is, of course, the additional difficulty that many Gun Clubs do not have their own premises.

The only other possibility that could perhaps be contemplated is that there could be a central storage area available within each police force, or indeed under the auspices of the firearms control body to which I will make later reference.

I do appreciate however, that standing all the evidence you have heard there are very considerable difficulties over such a proposition. But it is my submission that if ownership continues to be allowed then it is not appropriate that either the weapons themselves or the ammunition should be held within private premises.

Much has been made of the onus at the present time under the existing legislation. It has certainly been clear to me, and in my submission clear to the Inquiry, that the general tenor of the evidence is such that police officers find themselves in a difficult situation where there is no concrete evidence against an applicant either for a firearms licence or for renewal -- and I have made reference to the earlier evidence given by police officers, which has been supported by a gut feeling -- and they find a requirement to grant.

In my submission that is totally unacceptable and in any legislation passed as a consequence of this Inquiry it should be clearly spelt out that the onus should be on the applicant to satisfy the relevant authority as to his fitness to hold a Firearms Certificate, and it should be completely spelt out that there is no onus on the authority concerned to make any justification for their own findings or their own feelings as to whether or not it was appropriate that a certificate should continue to be held.

LORD/

LORD CULLEN: Just to expand that for a moment, if we look at Section 27, would the effect of what you are saying be to take effectively part of the proviso and put it into the leading part of the sub-section; is that right?

MR. GIBB: Yes.

LORD CULLEN: Leaving the remaining parts, that is to say unsound mind and intemperate habits, where they are?

MR. GIBB: Yes.

You/

You, sir, endeavoured to try and get from Mr. Campbell just what Section 27 meant, but I am not going to put my head in that noose and try it.

LORD CULLEN: I think I cut you off.

MR. GIBB: In my submission, it is appropriate that the standard test for grant, renewal or revocation of a firearms certificate should perhaps be the same. It is quite inappropriate at the present time there is a difference in standard between the requirements for revocation and the requirements for grant or renewal, and indeed there is something to be said for the standardisation of the test both with regard to shotguns and all firearms.

In my submission it is appropriate that a formal power of suspension should be given to the relevant authority to enable a firearms certificate to be suspended immediately if there are concerns about the continuing fitness of a firearms certificate holder to hold a firearm pending any investigation. In the event of such a suspension it would be appropriate for the relevant authority to remove the firearm from the control of the certificate holder and keep them in a safe place pending the outcome of any enquiries. Clearly there may require to be some time limit on a suspension and if further steps are not taken by the police within a relatively short period otherwise the suspension would cease to have effect.

Much has been made during the Inquiry of the test for "good reason" in the Firearms Act l968. Much has also been made of the fact that if "good reason" ceases to exist, such as for instance termination of membership of an appropriate gun club, then there is no power available to the police at the present time to revoke a licence and that clearly should be corrected in any subsequent legislation.

Again, so far as "good reason", much has been made of the fact the general tenor of the advice to the police at the present time is an applicant only has to show that he has an opportunity to use a firearm for target shooting. This/

This in my submission is quite inappropriate and it is appropriate that "good reason" should be more specifically dealt with in the legislation. It should be made clear that the actual use of the firearm would need to be established before renewal of a certificate may be granted.

Evidence has been led to the effect that it is not even necessary to produce a firearms certificate to purchase the constituent elements of ammunition or to purchase a magazine for use in a semi-automatic pistol. In my submission, production of a current firearms certificate should be a requirement before there can be any commercial sale of the constituent elements of ammunition or the magazine or indeed any parts of a firearm.

Turning now to the question of club procedure. We have heard earlier from the evidence that the actual use of firearms held under a firearms certificate would be necessary to constitute good reason as opposed to simple opportunity. In my submission, it is appropriate that gun clubs should be required to record the actual use of ammunition by their members at any time, to record the amount of ammunition purchased by each member of the club, and to keep a record of all self-made ammunition. In my submission, it would be appropriate at a club shoot for such information to be verified by means of each firearms certificate holder keeping a record book and the range officer, for instance, may be required to initial after the shoot the actual use of ammunition.

Evidence has been led to the effect that anyone can shoot at a club registered by the Home Office indefinitely without requiring the possession of a firearms certificate. In my submission, that is inappropriate. In my submission, whether or not one is shooting at a gun club with gun club weapons and using gun club ammunition, even if that club is registered with the Home Office, it is still appropriate that each person should hold a firearms certificate, subject of course to arrangements made for probationary members who might be entitled, clearly, who would clearly require to use firearms during their probationary period.

LORD CULLEN: What actually are you getting at there? What change are you effecting there/

there?

MR. GIBB: At the moment as I understand it if you shoot at a Home Office registered club you can shoot indefinitely, without a firearms certificate, and as I understood the evidence it was only at non-registered clubs that you can only shoot if you have a firearms certificate.

LORD CULLEN: I am not entirely sure about that. There are arrangements I think for guest days and there is a process when you start off and you intend membership. You are allowing for that. I am not sure that you can just come back repeatedly with no avowed intent to embark on the process of membership.

MR. GIBB: I may be wrong about that.

LORD CULLEN: We will no doubt hear from those whose knowledge is more vast than ours.

MR. SCOGGINS (British Shooting Sports Council): Mr. Gibb is right, it is not necessary for a member of a Home Office club ever to supply for a certificate.

MR. GIBB: Now turning to the Firearms Control Board. We have listened to a great deal of evidence with regard to questions which have arisen over the past five weeks as to whether it is appropriate that a Firearms Control Board should be set up quite separately from the police with the particular task of regulating those who hold firearms and also the disciplining of such people. In the thematic inspection report of H.M. Inspector reference is made to the fact that a Firearms Control Board was considered previously and was rejected on the grounds of cost. In my submission, that is not an appropriate consideration, quite clearly all the more so having heard the detailed submissions from Mr. Campbell of defects within Central Scotland Police. In my submission, it is now appropriate that a Firearms Control Board should be set up which Board would have responsibility for carrying out investigations and granting firearms certificates for all of those who wish to have them, and would also have a responsibility for disqualification procedures to which I will make later reference.

In/

In the event of such a Firearms Control Board being set up clearly its staff would require to have right of access to the Scottish Criminal Records Office, to the Police National Computer, to the Driver and Vehicle Licensing Centre at Swansea, and also the local Criminal Intelligence held by the police force for the area in which they were operating. In my submission, whether or not the continuing Regulations are carried out by a Firearms Control Board or even to be carried out by the police, it is appropriate that whoever is involved should be given the statutory power to enter premises at which firearms are held without cause being shown. You will recall, sir, this was a factor at the moment and there is no power of entry available.

Turning now to the question of appeal procedure. I have referred earlier to the creation of a Firearms Control Board. In my submission, in the event of such a creation there should be a separate Tribunal set up to deal with questions of appeals relating to firearms matters. That appeal body should be quite separate from the Firearms Control Board and would consist of a legally qualified chairman and two other members one of whom would have knowledge of firearms. On the question of appeal, in my submission, the only ground of appeal would be whether the Firearms Control Board in exercising their discretion to refuse or to refuse to renew an application or to revoke a licence had acted unreasonably; it would not be open to the appeal body to substitute their own judgment. In the event that such a Firearms Control Board was not set up in my submission it is appropriate that there should be extension of the present arrangements with regard to the appointment of firearms examiners within individual police forces to deal with the whole question of the grant, renewal or revocation of firearms certificates.

Criticism has been made of the present arrangements from the shooting lobby in respect of police officers charged with the question of renewal have little knowledge of what they are doing. It could well be that such criticism is justified. In my submission, it is appropriate that if in fact firearms examiners are not appointed that there should be designated officers within individual police forces who would have a specific responsibility/

responsibility to deal with applications for firearms certificates, renewals or revocations.

We heard evidence from WPC Anderson she was a community beat officer and this was either the first or at best second firearms renewal she had done and she had dealt with only a few shotgun renewals. She herself had some knowledge of firearms but there must be many police officers who have no knowledge of firearms whatever. In my submission, it is appropriate if any such person should be designated they should have appropriate training in the quite complex area of firearms law.

There was also a reference particularly by WPC Anderson that she would never have thought of going and knocking on the Deputy Chief Constable's door to express her views about Hamilton. Police forces always have been hierarchical and it is perhaps appropriate there should be a link in between the officer concerned with the investigation and the officer granting the certificates and that there should be direct access by the one to the other. Clearly WPC Anderson expressed her concerns to her superior but there is no evidence to suggest that Deputy Chief Constable McMurdo was ever aware of the concerns that the WPC had expressed about her anxieties about Hamilton at the time of her visit to the house in connection with the renewal.

Turning now to the question of counter-signatories or referees: we have heard evidence during the Inquiry about the abolition of the counter-signatory requirement in respect of firearms applications or renewals. In my submission, this is a retrograde step and it is appropriate in my view there should be two counter-signatories to each application. A protocol should be made available to such counter-signatories setting out the precise responsibilities and setting out the importance of the solemn obligations they are carrying out in supporting an application for a firearms certificate. It may be appropriate that in fact such counter-signatories should sign before a Notary Public or a Justice of the Peace thus emphasising the importance of the counter-signature on such a document.

Having listened carefully to all the evidence and particularly the evidence from the BMA, I/

I am not satisfied that it is appropriate that a general practitioner should be asked as a matter of routine to provide a medical certificate for each application for a new certificate or for renewal. It has been pointed out -- and indeed was so in this case -- that Hamilton had very little dealings with his GP over the years and indeed his GP knew nothing about him. At best all a GP can do, as put by Mr. Bonomy, was to provide a negative reference to the effect that the applicant was not unfit to hold a firearms certificate. It would be quite inappropriate to ask GPs to provide a positive reference and indeed it would be impossible for them to do so suggesting that an applicant was actually fit to hold a firearms licence.

Evidence has been led about the possibility of the role of the police surgeon in new applications or renewal applications and certainly such a proposal gets over the difficulty of the confidential relationship between GP and patient and the difficulty which a GP may find himself or herself in in the event of refusal to co-operate in the provision of a report for the purposes of obtaining a certificate. Certainly the independence of the vetting by a police surgeon gets over this difficulty.

As I understood it, it would only be in the event of any difficulty conceived by the police surgeon that any forensic psychological evidence would be required, and there was reference to the analogy of the driving licence records. It is clear to me, however, it is perhaps easier when you have perhaps epilepsy or diabetes, and in my submission it is much more difficult to deal with any mental illness or psychological difficulties to precisely pinpoint what these are. Clearly there is an obligation on the part of GPs to report, for instance, epilepsy and diabetes at the present time, but there is a difficulty in this and I think it is much more difficult for a police surgeon to properly assess the mental state of any applicant just solely from an application form.

Turning to the question of travel or travel with possession of firearms: we have heard evidence, particularly with regard to Hamilton's travels to various clubs and his travel to Linlithgow when he carried his weapons in public service/

service vehicles. Clearly he would have committed an offence under the l968 Act had he had ammunition with him. But in my submission it is appropriate that there should be a requirement that any firearm being carried in public should be properly secured and also in secure containers.

Turning now to the question of prohibited persons under Section 21 of the l968 Act: there are of course presently prohibitions preventing those who have served a sentence currently of more than three years from ever holding firearms again, and those who have been sentenced to a period of detention of three months or more from holding a firearms certificate for a period of five years from the date of release. In my submission, it is appropriate that these prohibitions should be substantially extended. It would seem appropriate that in the event of a firearms certificate holder being convicted of any crime involving abuse of alcohol or drugs or involving the use of violence that there should be an automatic disqualification from holding or obtaining a firearms licence perhaps for a period of three years or more depending on the severity of such an offence, and again it may be appropriate that a Firearms Control Board should have a role in this.

Turning to the question of hollow point bullets; we had some evidence during the Inquiry. We have not heard any evidence which would justify the use of hollow point bullets for target shooting. In my submission, it is appropriate that hollow point bullets should be banned or banned for target shooting.

Turning now to the question of postal renewal: evidence has been led with regard to encouragement on the part of the Inspectorate that Forces move towards the question of postal renewal. In my submission, this is quite inappropriate, and indeed the evidence we have heard was to the effect many Scottish Police Forces have resisted such a move as inappropriate. In my submission, such a proposal should immediately be withdrawn and there should be a requirement at each renewal there should be a visit either in the form of a firearms examiner or a dedicated police officer and a much more detailed investigation should take place and a much more thorough and detailed enquiry of the applicant/

applicant than presently takes place.

Turning to the question of false declaration: clearly there is a possibility of an applicant making a false declaration in respect of any matters relating to firearms. In my submission, it is appropriate that if such a false declaration is found to have been made that there should be provision for automatic suspension of a firearms certificate and power should be given to revoke a firearms certificate in the event of a false declaration having been made in either an application for granting a certificate or a renewal. Again there might be the possibility of appeal to the Firearms Control Board or Firearms Tribunal in the event of such a procedure having been adopted.

After/

2 p.m.

After an adjournment for lunch:

MR. GIBB: Sir, I would like briefly to deal with two other matters, first of all the vetting of those involved with children, and finally school security.

In terms of vetting procedures, they are of course completely separate areas, namely those adults involved with young people and what generally might be deemed as mainstream organisation; secondly there are those who use local authority facilities but are not involved in mainstream organisations; and thirdly there are those adults involved with children who neither use local authority facilities nor are in fact affiliated to any mainstream body; fourthly there are of course many, many situations in which there is a one-to-one relationship between an adult and child, for instance in terms of musical tuition and the like.

Much has been made in the various submissions made that there is no wish to discourage those who have a legitimate wish to give of themselves to the community in assisting with youngsters to be deterred from doing so because of unnecessary bureaucracy. On the other hand, clearly in light of the circumstances surrounding Hamilton, and his involvement with youngsters, it is appropriate that the question of protection of these youngsters be given consideration.

I would commend to the Inquiry the detailed submission made by the Scottish Standing Conference of Voluntary Youth Organisations. Its submissions are clear and concise, and relate to focussing on "Organised Youth Activity in Clubs".

It is clear that increased access should be available to anyone involved in the vetting of those involved with youngsters, and I accept the proposition contained in evidence to the Inquiry that some sort of charge may require to be made in light of the increased use which will be made of access to the criminal records held, and I can see no great difficulty about that.

With/

With regard to the use made of local authority premises by those involved in youth work and not involved in mainstream activities, it has been clear during the evidence to the Inquiry that the very fact that Hamilton used local authority facilities for his boys' clubs gave an added degree of credibility to his operation. Clearly that should not have been the case. Again, I would commend to the Inquiry the vetting procedures put in place by Stirling Council at its Community Committee on the 18th June, 1996. This incorporates a vetting procedure information pack, and has much to commend itself. In my submission it is appropriate that such documentation should be issued nationally and that national guidelines should be available to a local authority in line with the proposals from Stirling Council.

In my submission it is appropriate that a general leaflet should be issued in all schools at least once a year, nationally prepared, warning parents with regard to the operation of youth clubs, and in particular the concerns that might arise, and particularly drawing attention to the fact that there should be more than one adult involved in such clubs, and that concern should be expressed if there is no management facility involving parents available. Hamilton deceived Central Regional Council in its requests for information on the management of his clubs, and on one occasion took along adults to mislead the Regional Council in relation to the involvement of other adults with the Dunblane Boys' Club, which replaced the Dunblane Rovers Group. It was suggested later on that Hamilton again had misled the local authority in indicating that he couldn't get parents together until he saw whether a club was going to succeed, what children were going to attend and what parents would therefore be in a position to assist on the Management Committee. In my submission it is not appropriate that any club should be set up unless before the event proper steps have been taken to involve members of the community on a management basis, and again this is something which should be considered carefully by local authorities in terms of vetting procedures for those wishing to use local authority premises.

Reference has been made in the paper for the Scottish Office and the attached annexes to the Children's/

Children's Act, 1989, which contains provision for the registration of supervised activities and holiday pay schemes used by children under 8, and the intentions of the Government to use the provisions of the Deregulation and Contracting Out Act 1994, Section 1(a) to remove the children's registration and inspection requirements from people providing supervised activities used by children under 8 years and to relax the registration requirements or holiday pay schemes. In my submission it would be quite inappropriate that there should be a relaxation of the provisions of the Children's Act, 1989, and I support those who have been consulted and who have resisted such a change.

I have raised with various parties the question of compulsory professional indemnity insurance in connection with any schemes set up for the use of children. In my submission, it is appropriate that the law should prescribe that Public Liability Insurance is compulsory for any such scheme. That would provide (a) protection for the public in the event of any accident happening to children while under the supervision of adults in such schemes; and (b) would increase the possibility of vetting by an insurer, to satisfy the insurer that proper facilities were in place and to satisfy themselves as to the risk involved in insuring such a scheme.

I would submit that consideration should be given to at least setting up a local register of clubs involving children under the age of, say, 12. This would be particularly important for what I have previously referred to as non-mainstream activities.

In the event that any adult is convicted of any offence involving either physical violence in children or abuse of children, it should be open to the Court to make a Disqualification Order preventing such an adult from having any involvement with children either on a voluntary or a professional basis at any time in the future, or for any such periods as the Court deems appropriate. Breach of such an Order should be a criminal offence.

I submit it would be appropriate that if any adult wishes to set up any child-based activity outwith/

outwith their home area, and they carry out operations within their home area, that a certificate of approval should be obtained from the local authority within their home area indicating that such a scheme had been vetted. That would have got over the difficulty of Hamilton involving other local authorities, and this problem is accentuated by the creation of many more unitary authorities as opposed to the limited number of regional councils which were previously in existence.

Some evidence was led about the relationship between School Boards, Area Officers of Local Authorities and Head Teachers with regard to the letting of school premises for outside activity. In my submission, it is appropriate that national guidance should be given to School Boards with regard to this particular aspect, and that responsibility for the letting of school premises should be the responsibility of the School Board and the School Board alone.

With regard to children's activities, in my submission it is appropriate that consideration be given to a requirement that there is a ratio prescribed as to the number of children per adult involved in such activities, and there should be a statutory requirement that at least two adults should be involved in any such activities.

Finally on this aspect, with regard to the question of professional qualifications for those involved in such activities, in any vetting procedures I would submit it is appropriate that any applicant would require to grant the necessary mandate to enable any qualifying body to provide a report if requested by a local authority.

Finally, much evidence has been led about the question of school security. Sadly, the events of the last 24 hours have shown how difficult it is.

All schools are different, and indeed it is extremely difficult to know just how any prescription could be made with regard to the level of security required for particular schools. There is such a diversity of school buildings, ranging from the four-pupil country school to the central city/

city school educating many hundreds of children. My principal submission here is that there should be a statutory requirement on each school to carry out a risk assessment on school security, and for the risk assessment to be updated on a regular annual basis.

LORD CULLEN: Is there not already some responsibility?

MR. GIBB: There is a requirement under the Health & Safety Act, but I am saying or suggesting that there should be a risk assessment.

LORD CULLEN: Are we talking about personal security rather than the security of the buildings?

MR. GIBB: No, the security of the buildings.

LORD CULLEN: Obviously that is not dealt with within the Health & Safety At Work Act. If you are talking about persons, it is already there.

MR. GIBB: I am talking about the security of buildings.

Finally on this question of security, there is the question of violence to staff in the education sector, and that is a cause of considerable concern.

Clearly, sir, Hamilton perpetrated violence towards the staff in Dunblane. My understanding is that the guidance given by the Health & Safety Commission in its document "Violence to Staff in the Education Sector" has not been implemented significantly by local authorities yet, and I would encourage implementation of the advice given in the guidance.

Finally, it is for me to associate myself with the remarks made by Mr. Campbell at the conclusion of his submissions and to express my appreciation on behalf of the Mayor family and the teaching staff at Dunblane for the way in which this Inquiry has been conducted.

LORD CULLEN: Thank you very much, Mr. Gibb./

Gibb. Mr. Jones?

MR. JONES: Sir, on behalf of the parties I represent may I first associate myself with the expressions of sympathy and condolence which were voiced yesterday by my learned friend Mr. Bonomy.

Central Regional Council's dealings with Thomas Hamilton date back to 1982 and continue from time to time until the early part of this year. For the assistance of the Tribunal I have prepared a narrative of these periods, the factual content of which has been revised by my learned friend.

I understand, sir, that narrative was attributed to parties yesterday, together with summaries of Hamilton's dealings with Fife Regional Council and Lothian and Borders Regional Council, and I understand that my submissions and these summaries can be available to the public. In these circumstances, sir, I do not propose therefore to read my submissions out, unless you, sir, thought it was necessary for me to do so, and therefore unless there is anything I can elaborate on or assist on in answering any question, then I am quite content for the narrative to be left to speak for itself.

LORD CULLEN: I am not actually sure what arrangements have been made to make these available to the public. Perhaps you can advise me of that.

MR. JONES: Certainly I understand that the various narratives have been distributed to parties, and I had envisaged they would then be made available to the public in the same way that written representations were made available.

LORD CULLEN: No doubt that is quite sensible. I wasn't sure how far the matter had gone as far as the distribution was concerned. Presumably all that is required is to have some copies available for the Press and any member of the public who wants to read them. Mr. Bonomy?

MR. BONOMY: These are effectively written submissions, which would otherwise have been made orally, and in so far as any member of the public does wish to see them they can be made available./

available. They should be available in my submission for public consumption.

LORD CULLEN: I think arrangements should exist if they do not already exist. Presumably your solicitor has prepared your set. Can you see that your set is copied in sufficient numbers so that members of the public can see it? I don't know if anything needs to be done about the others. I suppose the others are in the same category.

MR. BONOMY: Yes; and copies will be made available.

LORD CULLEN: Thank you. Mr. Taylor.

THE DEAN OF FACULTY: Sir, I have discussed the matter with my friend Mr. Taylor, and I think in view of the prospective lengths of submissions which I may make and which he may make, subject to your lordship's agreement I would propose to address you first of all.

LORD CULLEN: I take it you are wearing your Lothian and Borders hat?

THE DEAN OF FACULTY: I am wearing both, my lord.

LORD CULLEN: Perhaps you will tell me at which point you will change the one you are wearing.

THE DEAN OF FACULTY: I will. Hopefully it will be obvious.

I too would wish to associate myself and those instructing me and my clients with the expressions of sympathy made by my learned friend Mr. Campbell for the families of the deceased and injured victims.

Now, this submission is made both on behalf of the individual members for the Scottish Police Federation, who would be any officer from the rank of constable to chief inspector, and also the members of Lothian and Borders police, and as I have indicated to your lordship, I shall endeavour to make it clear as I go along for whom I am speaking.

The/

The submission does not address the question of recommendations for the future, because the position of both of my clients in that regard is covered by the joint submission by the Association of Chief Police Officers in Scotland, the Superintendents' Association and the Scottish Police Federation. However, I wish to make two submissions on the evidence. The first relates to members of the Scottish Police Federation serving with the Central Scotland police, and the second relates to Lothian and Borders police.

Each of these submissions I think can fall, or certainly the first submission in relation to the Scottish Police Federation can fall into two parts: first of all in relation to events leading up to the incident at the primary school on the 13th March. I would submit it is clear on the evidence that the individual members of the Scottish Police Federation were all operating within the approved system of Central Scotland Police in respect of the licensing of firearms held by Thomas Hamilton. At all times, these officers were acting within the course of their duties, and any shortcomings in the licensing of Hamilton's firearms and due to defects in the system or failure of senior management, or both -- any such defects are not the responsibility of any of the individual members of the Scottish Police Federation.

Having regard to the evidence and the assurance given by my friend Mr. Taylor (p. 1403B-D) in relation to WPC Anderson, as well as the submissions already made, I would submit that there is no basis for you to conclude that any blame or criticism should attach to individual members of the Scottish Police Federation in relation to the question of the licensing of Hamilton's firearms.

The/

2.20 p.m.

The second matter, still dealing with the federation members, relates to the events of 13th March, and again it is my respectful submission to you that there is no evidence which would justify a criticism of individual members of the Scottish Police Federation.

Again any shortcomings relating to the handling of the aftermath of the tragedy are procedural, and my learned friend Miss Dunlop has referred to the acknowledgement in the evidence that lessons have been learned by those responsible for devising and implementing procedures.

I understand that my friend Mr. Taylor's submissions will not seek to pass any responsibility from the Central Scotland Force and/or senior officers to more junior officers who are the individual members of the Scottish Police Federation in relation to these two issues. Accordingly, if you do ultimately find that you wish to criticise Central Scotland Police or any of its police officers in respect of any of these two matters, I would ask you to exclude from that criticism the individual members of the Scottish Police Federation serving with Central Scotland Police.

Turning to the second issue, which relates to the Lothians and Borders Force -- and for the rest of the submission I am wearing that hat. This relates to the evidence of Mrs. Haggar.

Again, Sir, my submission here is that there is no foundation in credible and reliable evidence to justify any criticism of Lothians and Borders Police, or any of its officers, in relation to the events leading up to the incident on the 13th March. By referring to "Any officer of that Force", I include senior officers or ranks above Chief Inspector as well as the individual members of the Federation.

As Mr. Gibb has said, if the incident involving threats by Hamilton, involving a firearm, had occurred, and furthermore if that incident was reported to Lothians and Borders Police, it would be a serious criticism of that Force if such an allegation had not been investigated. But in order to/

to deal with this matter you will require to consider the credibility and reliability of Mrs. Haggar. My learned friend Mr. Bonomy has advised the Inquiry that Mrs. Haggar's daughter would not have assisted the Inquiry in this regard, and therefore you should examine the evidence which was available to you.

It will follow from these introductory remarks that I do not share the view expressed by my learned friend Mr. Campbell of Mrs. Haggar, and it will be my ultimate position that her evidence is both unreliable and incredible and should be disregarded.

There are a number of discrepancies in the evidence of Mrs. Haggar when compared with other evidence, and my friend Mr. Gibb has already referred to discrepancies as between her and her friend Janet Reilly.

He alluded to the reason given by Mrs. Haggar for leaving the camp, and that related to an alleged threat and is to be found at Page 711A to B.

The threat was to the effect that Hamilton hoped that her tent didn't catch fire. There was no question of any gun. But when we look at Reilly's evidence the threat was not of that nature but was rather a threat with a gun (932B to C). Reilly, as my friend Mr. Gibb has already observed, did not remember any threat being made about burning the tent (933B to C).

Furthermore, in Haggar's evidence (714 and 715) the statement which she made at the time to Detective Sergeant McBain was put to her. That statement did not contain any mention of a threat by Hamilton of any nature. That omission from the statement is astonishing if there were indeed any threats.

Furthermore, the statement contained a different picture given to the police officer about the chastisement of a child, the assault, the alleged assault; and her position to the officer seemed to be that this was appropriate because the child who was chastised had been bullying someone else.

Now,/

Now, the change in direction when Mrs. Haggar came to give evidence about the camp in my submission must colour the way in which you consider her subsequent evidence, and in particular the evidence which she gave about the incident or the alleged incident involving the van.

Now, that alleged incident is dealt with by Haggar at Page 718 onwards, and she is quite clear in her evidence that at the time she was with Janet Reilly (718A). At 719D she said unequivocally that Janet was beside her at the garden gate.

But when we look at Reilly's evidence (935A), it is clear that she is saying something quite different. Hamilton was ready to drive away when she arrived.

What about the gun? Well, at 718D Haggar said she saw what must have been the barrel of the gun, and she explained that it was protruding through the open window. I think there was some mention of it being tapped on the window, and protruding through the open window by about 2 inches. It was the driver's window (720C).

According to Haggar in cross-examination (730C) Janet Reilly would have seen the bit of metal, the end of the barrel of the gun -- at least they would have been if they had been looking at the van, because they were standing at the gate. But again, that has to be contrasted with the piece of evidence which I have already referred to that Janet Reilly said that Hamilton was getting ready to drive away when she arrived.

But it is clear from Janet Reilly's evidence that she did not see any gun on this occasion (935D), and certainly there is no question in her evidence of seeing a piece of metal protruding 2 inches through the open window of the driver's side.

Another aspect that you may wish to consider, Sir, is the fact that about a week before Mrs. Haggar gave evidence it is clear that she had a telephone conversation with Janet Reilly, and in the course of that conversation part of the discussion at least related to alleged discrepancies in their evidence about this incident -- alleged discrepancies/

discrepancies which had been drawn to the attention of Mrs. Haggar by the investigating police officers. That passage is to be found at 731 to 732.

But even if you go further into her evidence, it is quite clear that it just doesn't bear scrutiny. According to her following this incident she telephone Linlithgow Police Office -- and you find that at 722B, Sir.

She was asked about the approximate time of that, for reasons which will become apparent, and at 740 to 741 I think it is a fair reading of the evidence that that call must have been made somewhere between 3 and 4 o'clock in the afternoon.

Well, that again just can't be correct, because Linlithgow is a manned police station during day time. There are two pieces of evidence in that regard, and there is a slight conflict between them, but I think it proper that I should draw your attention to both passages.

First of all, there is Detective Sergeant McGrain, (Page 790), who has the station manned somewhere between 8 and 9 in the morning until 10 o'clock at night; and the other officer is Sergeant Carson, who is a sergeant there (824C), who has it manned from 8.30 a.m. to 9 o'clock at night. So there is an hour of difference at the end of the day, but whichever is correct it is quite clear that this is a manned station between the hours of 3 o'clock and 4 o'clock when this call would come in.

That then takes me to the investigation which was carried out following the press reports about Mrs. Haggar's claim about this incident, and in that regard I would refer you to D.C. Mitchell (Page 828 onwards). Now, he examined the logbooks of Linlithgow Police Station and found no record of this call.

It is fair to say that if the station was not manned the call would be diverted, and thereafter another entry would be made, but if the call was made between 3 and 4, as Mrs. Haggar would have it, there ought to have been a record in the log.

Furthermore, he examined the police notebooks,/

notebooks, or certainly those notebooks which were still available, and your lordship will recall the practice of the officer handing in the notebook when it was completed and it being retained by the Force. From the notebooks which were examined, again there is no record of this complaint.

Now, I think it fair to mention that Mr. Lynch's notebook is missing for the period 12th May to 14th June of 1989. That is dealt with at Page 827B.

In my submission that is irrelevant because it does not appear to cover the relevant date of the incident. The Linlithgow Academy incident was on the 16th May in that year, and the alleged incident at the van was certainly before the incident at Linlithgow; and in that regard I would refer you to the evidence of Mrs. Haggar (723E), when she said that the last dealings which she had with Hamilton were on the 16th May at Linlithgow Academy.

Now, if this incident involving the van had occurred before the incident at Linlithgow Academy -- and I think we know it was after Inspector Keenan's first visit in January of that year -- it is strange, in my submission, that Mrs. Haggar did not mention the gun incident to Margaret Butterwick, the reporter who went to see her about the Linlithgow Academy incident in advance of that.

That is accepted by Mrs. Haggar (738 to 739), and it is dealt with by Mrs. Butterwick (838D onwards). Miss Butterwick was surprised to read of the alleged gun incident after the Dunblane incident on the 13th March.

It is clear from her evidence -- it is clear from Miss Butterwick's evidence -- that Mrs. Haggar had animus against Mr. Hamilton, that she blamed him for having ill-treated her son at the camp, and she was critical of the way in which he ran the camps; and that was the extent of her expression of concern. The purpose of contacting Miss Butterwick was to alert her, and hopefully a photographer, to her intention to throw material over Mr. Hamilton at the Academy with a view to being charged for that and bringing out her concerns in Court.

If/

If there were an incident relating to the gun and the van one might have expected Mrs. Haggar to mention it at that stage.

The first time this incident relating to the alleged gun in the van beside her house -- the first time that that is mentioned is the day after this tragedy, and you will recall Susan Ovenstone, another reporter in Aberdeen (Page 833 onwards) gave evidence about being asked to go and interview Mrs. Haggar, as did the representative from another national newspaper.

But to go back to the notebook, even if the notebook had been the notebook for the relevant day, the absence of Mr. Lynch's notebook is not relevant for another reason, and that is that Mrs. Haggar new some of the officers, and she knew that Mr. Lynch had a scar due to a burn on his face. And she categorically stated that he was not the officer to whom she had reported the incident; she knew him and he was not the officer (743 to 744).

D.C. Mitchell interviewed or caused to be interviewed all the officers and examined or caused to be examined all the Productions, with a negative result.

Another piece of evidence that you may think significant is that of Sergeant Carson, who was a sergeant at Linlithgow, and he deals (Page 825 A to B) with the fact that not only was there no complaint to him, but also it was the sort of complaint that he would have known about in a small station such as Linlithgow.

That is not surprising, if you are contemplating someone presenting a gun in a public place and threatening a member of the public. That is something that one would expect the police to take very seriously indeed, and officers to recall, particularly in a small station.

There is also some confusion about the date of the alleged incident at the van. Mr. Gall, the newspaper reporter, said that Mrs. Haggar had stated it was August, although he thought it was 1989 (Page 846).

It is clear that he must be mistaken about/

about the year, but he was certain that it was August. She, on the other hand, is clear that it was after Inspector Keenan's visit, which was in January of 1989. So having told Mr. Gall it was August, she is now clear it was the following January.

Furthermore, after Inspector Keenan's visit in January she accepted that he had spoken with her on the telephone, and yet again she did not mention the incident in relation to the gun at the van (742).

Now/

2.40 p.m.

Now, there is another strange piece of evidence in that in relation to the other incident of Hamilton taking guns to a house in Linlithgow and allowing the children to handle them and be photographed with them. The position of Mrs. Haggar is that she did not complain to the police about that (p. 744B) and yet when you look at D76L it is quite clear that there is a telephone report to Central Scotland Police of guns being in the house in Linlithgow and the children being photographed with them. It is also clear that the informant bears to be Doreen Haggar of the address where she stayed. She was aware of this particular incident because she said she knew the lady who had mentioned it to her. This lady apparently got to know her through the boys' club but she then sought to suggest that she did not know the address of the lady so she could not have provided that information to the police.

It is also clear that following that report, Central Scotland requested the assistance of Lothian and Borders Police and that matter was investigated. It is also clear from the investigations that the householders, the husband and wife, accepted that this had happened but they had invited Hamilton to the house and had asked him to photograph their children with the guns and that they were not complaining about this matter.

There was also evidence to the effect that the officers in the light of that were satisfied, not only by that explanation but also by the explanation that he had been transporting guns to a club

Now, if the householder was not reporting the matter, is it not astonishing that Mrs. Haggar's name and address appears on that initial report? In my submission, it is something which goes much beyond a coincidence and for whatever reason, whether it is the passage of time or whether it is her present illness, in my submission it may be that Mrs. Haggar has confused these two incidents, that she did indeed make a report about guns to the police but the only report that was made related to the guns in the house and that that was very properly investigated and you have/

have the evidence of Sergeant McGrane about that.

Now, also in relation to that complaint you might think timing is significant. You will recall that the date on the document was the 20th May, whereas I think it is quite clear that there was a mistake in noting the date because the enquiries were actually carried out, on the face of it, before the report was made. You may also recall the incisive cross-examination by my learned friend, Mr. Campbell, who established that Fiona Kilpatrick felt that the day she was giving evidence it was in fact the previous day and she was the one who had noted the particular report but looking at the date I would ask you to accept that it was the 20th May the complaint was made and bear in mind that what had happened four days previously may be significant.

On the l6th May there had been an incident at the Academy and Mrs. Haggar was disappointed because Mr. Hamilton would not take any action against her, thereby frustrating her plan to expose him in Court. In my submission, the truth of the matter is probably that on the 20th May, frustrated by Hamilton's decision not to take any action, Mrs. Haggar decided to complain about the incident involving the guns and the children which had taken place several months before. Now, in my respectful submission, when you look at the evidence of Mrs. Haggar against the background which I have referred to, all the investigations which were undertaken, the fact that she denied making a complaint when all the evidence pointed to the fact that it must have been she who made the complaint relating to the guns and the children, and the various discrepancies to which I have referred, in my submission you cannot conclude that her evidence is reliable and indeed you may conclude that it is incredible.

Whichever the position, in my submission, sir, you would not be entitled to reach a view or reach a conclusion that the alleged incident she reported to the police, Lothian and Borders Police, had not been investigated and there is no reason whatsoever for criticising Lothian and Borders Police in this regard.

Again, sir, I would like to thank you for your/

your courtesy.

LORD CULLEN: Thank you, Dean of Faculty. Mr. Taylor?

MR. TAYLOR: I think Mr. McEachran is also coming in in advance, subject to your approval.

LORD CULLEN: Well, I would like to be quite clear where we are going next. Mr. McEachran, do you wish to be heard next?

MR. McEACHRAN: Yes, sir.

LORD CULLEN: What about Mr. Scoggins, who is sitting beside you?

MR. SCOGGINS: I intend to speak tomorrow. Mr. McEachran I think has other commitments.

LORD CULLEN: Have you discussed between the two of you to what extent each of you requires to address me? It may be that what has been said so far would ask for essentially one response but maybe you want to divide it between the two of you.

MR. McEACHRAN: Well, I think I only have two points to make which I think I can make in five or l0 minutes and I think Mr. Scoggins has rather broader points he wishes to make.

LORD CULLEN: Well, I am content if you wish to address me for that period on matters which arise by way of response on the basis that the major response will come from Mr. Scoggins.

MR. McEACHRAN: I am very much obliged. Sir, I represent the Scottish Target Shooting Federation which is a Federation of Scottish Associations representing competitors in target shooting in Scotland.

We are most grateful to you for this opportunity of addressing the Inquiry. I would like to associate myself with what Mr. Bonomy said at the beginning of his address yesterday. It is of course a matter of particular sadness for all competitive shooters in Scotland that these events occurred/

occurred on the l3th March because it puts our sport under threat.

We have, as you know, sir, submitted a preliminary submission and we have also put in a final submission and I don't intend to repeat those.

We would also like to take the opportunity to indicate that we do associate ourselves with the much more detailed submission, the final submission, made by the BSSC.

I would like this afternoon to pick up two points. The first is the suggestion from Mr. Campbell that there is a well-established link between gun access and gun crime. On page 2927 of the transcript he referred to Annex G of the Home Office Secretary of State for Scotland evidence. He also referred to a late submission by Professor Gabor I think from Canada which has got the FAX date of the 4th July l995.

LORD CULLEN: Just for the record, I think it is not technically a submission. It has been placed in a library which I have for reference purposes. I think that is the present status of that document but please proceed. For the record, that is what it is.

MR. McEACHRAN: Right. Well, I would suggest that there is no such well-established link. I would first of all refer you to the very powerful critique and the statistical evidence in the written evidence of Mr. Jan Stevenson which is Production l39 of the written submissions. I would also refer you to Richard Mundy's shorter submission in Production 87 and Colin Greenwood's evidence in his written submission in Production 60.

In my submission, they all point in the same direction, which is that the evidence, the rather short and scanty evidence, put forward by the Home Secretary is really not borne out by the references which he refers to which is some Canadian study and a study taken by telephone.

What I would like to ask your lordship to look at in Jan Stevenson's evidence is a passage which might be of interest to this Inquiry and I am just giving this as an example because I think it has/

has been given already. At page 25 he refers to the addressing of a meeting of the National Academy of Science in America in l990 by a respected criminologist who had been studying firearms control policy and what Professor Kleck said, and this is quoted by Stevenson, is "When I began my research on guns in l976, like most academics, I was a believer in the 'anti-gun' thesis, i.e. the idea that gun availability has a net positive effect on the frequency and/or seriousness of violent acts. It seemed then like self-evident commonsense which hardly needed to be empirically tested. However, as a modest body of reliable evidence..... accumulated, many of the most able specialists in this area shifted from the 'anti-gun' position to a more sceptical stance" and then moving down six lines, he says "(subsequent research) has caused me to move beyond even the sceptic position. I now believe that the best currently available evidence, imperfect though it is (and must always be) indicates that general gun availability has no measurable net positive effect on rates of homicide, suicide, robbery, assault....." etc. In my submission, the evidence submitted by Mr. Mundy and Mr. Greenwood is to the same effect.

Now, the next point I would make about Mr. Campbell's submission relates to the evidence which was given before the Home Affairs Consultation Committee in May of this year which your lordship may be aware of but I don't think has yet been made officially. The best summary of that that I have been able to find also occurs in Mr. Jan Stevenson's evidence at page 48. I think page 47 is the page I am looking at but he summarises over three or four pages what happened at that Inquiry and in particular he highlights the evidence from the Association of Chief Police Officers, I think that would be ACPO England and Wales, represented by their President, Mr. Sharples. Mr. Sharples indicated first that 96 per cent of the estimated crime takes place with firearms which are not licensed. Secondly, he was asked, and this is page 47, by one of the MPs if banning guns would make any difference and Mr. Sharples replied that it would not. He said as far as he was aware that the Regulations in this country were tighter than in any other.

Thirdly, in contradiction to my learned friend/

friend, Mr. Campbell's, submissions I would refer to what Colin Greenwood says in his written evidence. This is Production 60 and I am looking at paragraphs 46 to 48 and also paragraph 70, where he indicates that because of the various Firearms Acts there has in fact been a reduction in the number of licensed firearms in this country but he points to the very high increase in armed crime and particularly armed robbery and he takes from that, in my submission, what is self-evident, that if the number of licensed firearms are down and there is a firearms crime increase by 500 per cent, there can be no valid link between gun access and gun crime and one has to look at the pool of unlicensed firearms in this which no amount of regulation would bring to an end.

So I would suggest when one looks at this evidence that Mr. Campbell is not well founded when he says that there is a well-established link between gun access and gun crime.

LORD CULLEN: There is one other source, and I am not sure whether it is mentioned by the Government or not, but he had referred to Professor Cooke who had I think referred to two studies, one of which was the Seattle/Vancouver comparison. Maybe that is covered by Annex G. I can't find the number.

MR. McEACHRAN: Yes, the Vancouver/Seattle comparison is dealt with also by Stevenson in his critique which makes the point that there are a number of other factors which were not taken into account in that comparison and one is the nature of the population and I would just refer to what Mr. Stevenson has said in his written evidence. As I say, it is a very powerful critique and it puts the whole of the evidence in doubt. That is why I refer to what Mr. Sharples said to the Home Affairs Committee because I think if the police felt there was any validity in this they would be saying so, particularly to a Parliamentary Committee.

Now, the other point I would like to put before you, sir, is this; my learned friend Mr. Gibb, made a number of points on behalf of the teachers in what I might call his secondary submission. I think his primary position was that there should be a total ban but he then went on to deal with what should happen if there was not such a ban/

ban.

Now, we have urged this Inquiry that safety matters are best dealt with by concentrating on licensing of the individual to be a holder of a firearm and the best safety results would be go by going down that route. Now, I don't intend to repeat those submissions but Mr. Gibb made a number of recommendations as to what he said should happen after an applicant had cleared the licensing hurdle. In other words, we say the licensing hurdle is the one to promote safety and Mr. Gibb says well, if you get over that, there are other things that should happen. There should be ammunition registers at clubs, there should be central storage of weapons, there should not be storage in the home and there should be no hand-loading at home. A number of matters.

What I would like to suggest on behalf of competitive shooters in Scotland is that these recommendations are perhaps put forward without any real understanding of how shooters and clubs in Scotland operate. In the first place, no recognition seems to have been taken of the requirement for every firearms holder in Scotland that his firearm is stored in what is called secure storage and that means nowadays that every firearms certificate holder will have a steel cabinet of some form in his home which provides a separate storage for the firearm, ammunition and a bolt if it is a rifle. I don't think this Inquiry has heard any evidence to suggest that there has been much theft from such secure storage in the home.

Now/

3 p.m.

Now, the next point I would like to make -- and this is based to some extent on the evidence of Mr. McCarthy -- is that Scottish clubs do not all have facilities for storage. There are a number of clubs which use MOD ranges which have no club facilities themselves, and a requirement that ammunition and weapons were to be stored in such a place would mean that they could not exist.

LORD CULLEN: Mr. McEachran, these are all familiar arguments that have been made a number of times by those representing shooting interests. You can take it that I do appreciate that point.

MR. McEACHRAN: Perhaps, then, moving it forward, it is a question of building these up, because particularly in Scotland it is felt that to impose a requirement of a storage of weapons and ammunition centrally -- I notice the police for instance do not wish to be responsible for this -- would really have the effect of bringing competitive target shooting to an end, because there would be a requirement as I see it for a considerable expenditure of money to either build new storage facilities or to upgrade such facilities as exist. Your lordship has heard evidence of clubs in rural areas 50 years old, wooden or stone built. These would probably not be regarded as properly secure for a large number of firearms.

What the shooting community in Scotland is concerned about is that if such suggestions are put forward without any knowledge or any attempt to assess the cost element a recommendation could be made without any real evidence being given as to what it would cost the shooting community to try and bring these requirements into force; in other words, banning competitive shooting in Scotland by the back door. This matter I do not think has been dealt with in evidence, and we are anxious to put it before the Inquiry, and to suggest that such suggestions are made without proper knowledge. That is as far as I would like to take this point.

I am most grateful to you, sir, for allowing me the opportunity to address the Inquiry.

LORD CULLEN: Thank you, Mr. McEachran. Now/

Now Mr. Taylor.

MR. TAYLOR: Thank you, sir. Like those who have gone before me could I start by associating myself and my clients with the introductory remarks made by Mr. Bonomy, and I would wish to convey on behalf of my clients our sympathy and condolences to those who have suffered in any way by the events of the 13th March.

Sir, the submissions I am about to make to you can be split into several parts, and it may be of benefit if I outline the way I propose to deal with it.

The first section I propose to deal with relates to the events of the 13th March, 1996, and I propose to deal with that in relatively short form; the second section is to look at Mr. Thomas Hamilton himself; the third section is to look at the law and practice relating to firearms; the fourth is in relation to the Firearms Licensing Procedures for Central Scotland Police, which hereafter I shall refer to as CSP; the fifth relates to the decisions to grant, review and vary Hamilton's firearms certificate; the sixth relates to the culture in which decisions fall to be made; the seventh relates to what flows from any alleged shortcomings. I had intended to address you, sir, on the credibility and reliability of witnesses, but that has already been gone over by the learned Dean of Faculty, so I do not propose to say anything further in that regard.

LORD CULLEN: I have before me written submissions which are some 104 pages long. Are you going to adopt these to an extent without requiring to read them, or what is your plan of campaign?

MR. TAYLOR: I was not proposing to adopt them without reading them. I don't propose to read them verbatim all the way through. There are certain parts, particularly when one reaches the decisions, which perhaps can be taken in shorter form than is set out there.

LORD CULLEN: But effectively you will be following the order. I can see there eight chapters.

MR./

MR. TAYLOR: It is now down to seven.

LORD CULLEN: So you think you will be following the order set out in this document, using the document to supplement what you are saying orally?

MR. TAYLOR: That is so, sir.

LORD CULLEN: Right.

MR. TAYLOR: The tragic events of the 13th March have no precedent in this country, perhaps not in the world. Those present or called to Dunblane Primary School in the course of their duty that day, whether teachers, medical staff or police, were faced with what Mr. Taylor described as ".....a scene of unimaginable carnage.....one's worst nightmare", (Day 2, p. 157).

The Inquiry has not heard the detail of the horror which faced those entering the school gymnasium that day. The testimony of those present and the analysis of how Mr. Hamilton behaved in the gymnasium can give only the briefest insight into the impossible circumstances in which those people found themselves. As Mr. Taylor said, we who were not there cannot imagine. However, when considering the action of those called to deal with the events of 13th March it is essential to remember the awful and distressing circumstances in which they worked.

CSP received Mr. Taylor's call for assistance at 9.41 a.m., and the first police officers arrived at about 9.50. By 10.10 senior police officers were on the scene, the Chief Constable being one of them. He then delegated various tasks to his Commanders. Detective Chief Superintendent Ogg was then appointed as the officer in charge of the criminal inquiry.

The task which faced him, sir, was immense, and the Chief Constable immediately declared that this would become a major incident, and the appropriate procedures were set in place.

It was the responsibility of the police to ensure the speedy removal and treatment of the injured, to identify the dead, to inform the families/

families of the dead and injured, to deal with the 800 other pupils at the school and their teachers, to reunite pupils with their parents, to secure the school perimeter, to handle the crowds arriving at the school, to control the world's media which quickly descended upon the school and to initiate a criminal inquiry (Ogg Day 1, p.138; Holden, Day 2, pp.188-189). In the course of the day, over 100 police officers were involved in handling the emergency. That has to be set against a total complement of 658 police officers in the Force.

All efforts within the gym in the first hour were to evaluate the injured and to ensure that all those who needed treatment received it as quickly as possible. The priority at that time was to get the injured to hospital as quickly as possible, and as a result of the efforts, all of the injured children were removed between 10.15 a.m. and 11 a.m.

With the greatest of respect to the parents, it is submitted that this decision was correct. The saving of life must be paramount.

In the course of the evacuation to hospital the names of the children were not noted. This was a deliberate decision, as it was felt that the injured should be left entirely in the hands of the medics and paramedics, and any police intrusion would be insensitive.

In making the decision not to note the injured children's names before evacuation, the police officers that their names would be noted at the hospital and relayed to them through the Casualty Bureau, a tried and test system. The communication problems which arose that day were not anticipated. I will not rehearse them here.

As a consequence of these difficulties, no information was received from the hospital until some time between 12 noon and 12.30 p.m. Had the communication problems been anticipated, a different approach would have been taken. If, God forbid, a similar event occurred tomorrow and no encrypted radios were available the names of the injured would be noted before they were taken to hospital.

It was suggested by Miss Dunlop yesterday/

yesterday that a policeman might have been despatched to the hospital. This clearly would have been possible, but that is viewed from hindsight and without the trauma of the day bearing in on the decision makers.

After the injured were removed the dead had to be identified. Mr. Taylor explained that as soon as the question of identification was addressed "We realised.....the difficulty that the identification would give because of the scene in the gym and because of the fact that the class teacher was not available to us (Day 1, p.62).

Nursery teachers who had taught some of the children the previous year were asked to assist in the identification. The process was necessarily slow. The circumstances were extremely distressing. As Mr. Taylor stated (Day 2, p. 163), this was "A most harrowing time for the staff involved. We had to take the staff in and out of the gym on several occasions".

It was not just the teachers who were adversely affected. Mr. Ogg also described how police officers were crying. The other difficulties regarding identifications are set out in the transcripts, particularly in the evidence of Ogg, Holden and Taylor.

The paramount concern of all the officers involved in the process of identification and informing families was to ensure that the identifications were 100% accurate. One can only imagine what anguish there would have been had parents been told their child was dead when it later transpired that it was alive; or worse, to tell parents that their child was alive only later to find that it was dead, and the original information had been wrong.

That was the dilemma facing the police: balancing the parents' natural need to know and their desire to give only accurate information. That is not in any way to suggest to what the parents went through in the period they had to wait for information was other than an ordeal. It must have been, and it is acknowledged as such.

As was indicated yesterday, the police officers/

officers in charge did think the identification had been completed by just after 12 noon. It was then that they were told that one identification was wrong, and this caused their confidence in the other identifications to be undermined, perhaps a not unreasonable position, and it was for that reason that the information was not at that stage imparted to the parents.

In his submission this morning Mr. Gibb made reference to the position of Mr. Moffat. Sir, I do not propose to address you in detail on that. I would just refer you to the transcript of Mr. Moffat (Day 8, pp. 1013-4). It is always a feature of such disasters that the media arrive on the scene at a very early stage. If cameras were to be kept away from the scene of crime a cordon was essential. Intrusion of such a nature would be unthinkable. However, it should not be thought that the constitution of the cordon delayed the task of getting the injured to hospital or thereafter identifying the deceased. The different tasks went ahead simultaneously. However, Mr. Holden accepted in his evidence that with hindsight the cordon could have been moved back a bit, and this would have afforded him the opportunity to speak to the parents out of the gaze of the Press.

The media did cause problems on that day. Naturally, they wanted to know how many had died. We heard that there was a figure of 12 broadcast, which caused embarrassment to a police officer who at the time did not know the number. The figure of 12 did not come from the police. The police suspect that they know the source, but it was not thought profitable to explore this at the Inquiry.

The setting-up of the liaison team was thought to be the most sensitive way of breaking the news to the parents. It was done with the best of intentions. It was thought that to derive maximum benefit in the long term the team required to be present at the outset. Again it was a balancing exercise.

It is submitted that the officers involved on the day of the 13th March made a number of judgments in very difficult circumstances and on the basis of the information available at that time. It/

It is submitted that given the circumstances their judgments were reasonable, albeit viewed with hindsight one might change some of these. Lessons can always be learned. These will be addressed, and you, sir, will be given details of this I hope if not today, tomorrow.

I would now like to address you, sir, on Thomas Hamilton. The evidence led on his character should be viewed in my submission with great caution. Reliance should be placed on it only where it is absolutely necessary for you to make a finding.

This submission, sir, is based on several planks. In the first place it is improbable that a properly-balanced picture of Hamilton can be constructed, given the horrendous deed perpetrated by him on 13th March. The natural inclination of many must be to deny their erstwhile friendship.

Secondly, as was explained by Professor Cooke (Day 23, p.2711), there is a natural human tendency after dramatic events such as those of the 13th March to have a distorted recollection of the man. Witnesses may well be selectively recalling parts of Hamilton's behaviour to make such facts fit with the events of 13th March and how Hamilton behaved on that day.

Thirdly, there has been no contradictor. For perhaps very obvious reasons, neither Hamilton nor his family were represented here. It is not being suggested that witnesses were deliberately misleading the Inquiry in any way, or deliberately lying; but given the second consideration mentioned above their recollection in the witness box is quite likely to be distorted.

It follows from the foregoing that the picture painted of Hamilton is probably blacker than he actually was. It also means that attempts by psychologists and psychiatrists to construct profiles of Hamilton are suspect for want of proper base information.

A further factor which must hamper the psychologists and psychiatrists is that they must assume that what the witnesses have said in the witness/

witness box is entirely accurate and truthful.

Notwithstanding the foregoing, however, some witness did recollect Hamilton in a positive light. Francis Cullen (Day 5, p.584) described him as a generous man to work with and a kind man. Ewen Anderson (Day 5, p.593), described him as a very quiet, kind individual. David McDonald (Day 3, p.287) though of him as an intelligent man and, although eccentric, interesting to speak to. On the other hand, other witnesses formed a different view. "Boring", "uninteresting", "eccentric", "loner", "unstable", "weirdo" are just some of the politer adjectives and nouns used in connection with him at the Inquiry. Just what was meant by these labels was not always made clear.

For/

For example, when Mr. Cole (Day l7, p. 2138), called him a loner, he meant that he didn't join in the talk. Mrs. Anderson (Day 23, p. 2811) also agreed that he was a loner, and meant thereby that she did not think Hamilton had many social contacts.

Professor Cooke (Day 23, pp. 2712 and 2714) used these labels to support his findings, but thought a loner was somebody who did not have "quality relationships". Yet Mrs. Anderson considered Hamilton's relationship with her to be one of friendship. They talked about topics of conversation as one would with a neighbour (Day 23, pp. 2810 and 2811). From her evidence it could be said that she and Hamilton enjoyed a quality relationship. Yet had she given her evidence earlier in the Inquiry and been asked only for a description of Hamilton she might well have said he was a loner, without any qualification. This label might then have been used to support a view of Hamilton which she would not have agreed with. A different definition of "loner" would have been attached to the label.

Clive Wood, for example, was never asked to comment on the quality of his relationship. He might well have given valuable evidence in this regard. When Mr. Wood was in the witness box it was not known to the parties that there was an intent to use the information on character as a basis for analysis by a psychologist and psychiatrist. Generally when witnesses applied labels they were not asked to explain what they meant.

It is therefore submitted, Sir, it is questionable what weight can be attached to the psychological/psychiatric profiles.

There are other reasons for calling the profiles into question. The analysts started by knowing that their subject had a mental deficiency or imbalance, or at least something out of the ordinary, and they were working backwards from a given.

Normally they require to examine a subject/

subject and then make a diagnosis without the guarantee of knowing that there is in fact something wrong with their patient (Cooke, Day 23, p. 2172).

In order that Mr. Baird could prepare his second supplementary report, a statement was read to the Inquiry of an anonymous witness. It is difficult, in my submission, to ascertain what value that statement can have. It is respectfully submitted that to give it any weight whatsoever would be to do the witness a credit not justified. Not only was the statement introduced with the caveat that it was anonymous and that the witness had declined to attend, it was further stated by the learned Advocate Depute that the witness had convictions for dishonesty and parts of the statement capable of corroboration could not be so corroborated. It is submitted that its terms should be ignored.

Professor Cooke acknowledged that in preparing his profile what he was doing could only be regarded as -- I quote -- "slightly informed speculation after the fact" (Day 22, p. 2690).

It is respectfully submitted that your findings should not be influenced by evidence built on such a flimsy base.

I would now like to turn to look at Hamilton and his relationship with violence. I would start by posing the question as to whether there was anything in his behaviour which ought to or would have alerted a psychiatrist that Hamilton was to be a danger with a firearm.

There is no evidence of literature written from a psychiatric perspective to assist in this task. I do not believe that there is any.

The best that one can do in my submission is to look to established predictors of violence to ascertain if they are present in Hamilton, or were present in Hamilton. The best predictor of future violent behaviour is a past history of violent behaviour.

Other factors which can assist in such predictions are the abuse of drink or drugs; further, if an individual has problems in managing his/

his anger, for example does he react with physical violence to insults or differences of opinion -- then that is a further predictor. Youth seems to be more disposed to violence than older persons. Males will commit acts of violence more frequently than females. The evidence in support of that came from Dr. Baird yesterday.

If one then seeks to apply these criteria to Hamilton, it is submitted that a very low probability rating would have been given to Hamilton had he been psychiatrically assessed for a propensity to be violent -- and I accept that as being distinct from holding a firearm.

Save for the two incidents at the summer camps in l988 and l99l, there is not the slightest suggestion that Hamilton perpetrated any act of even mild violence.

His ability to control his anger was tested on several occasions, and some tests were severe.

The most extreme was probably when he was covered in flour, etc. and, as Mrs. Haggar put it "kicked up the backside" as he left one of his boys' clubs. It would appear that not only would he not make a complaint against Mrs. Haggar, but there is no evidence suggesting he even lost his temper (pp. 724-725).

George Robertson, the Member of Parliament, described his wife being angry with Hamilton and confronting him. Hamilton remained calm. Mr. Robertson's evidence was: "Our recollection of Thomas Hamilton was of a man, even from other anecdotage, who even when confronted could remain calm" (p. l802).

Mr. Robertson also described another parent cross-examining Hamilton in l995 in what Mr. Robertson described as "a very very aggressive way", and in spite of great hostility and provocative questioning, he at no time reacted strongly. So Mr. Robertson thought that he "had no indication that this was a man who was bottling up any ferocious, murderous instinct. That was not something which crossed our minds".

It/

It didn't cross the mind of Mr. McMurdo either. Both he and Holden met with Hamilton in l989 and l993 respectively. Both remarked on how controlled Hamilton remained (Day 12, p. 1467 and Day 7, p. 875).

Throughout the Inquiry no witness has said that Hamilton lost his temper, save for Mrs. Haggar (Day 6, p. 718). It is submitted that she is not a credible witness.

At the age of 44 Hamilton could hardly be described as a youth.

About the only indicator which Hamilton fits is that he was male, albeit a male described from time to time as effeminate, the reference for that being Crawford (Day 4, p. 4l4); McMurdo, (Day 12, p. l5ll); and Wilson (Day 3, p. 378).

It is submitted that viewed from the position of a psychiatrist there would be no reason to believe that Hamilton was a man predisposed to violence. If a psychiatrist would in all probability have formed that view, there is no reason to believe that a Chief Officer of Police should have come to a different view.

Properly analysed, Professor Cooke's evidence reaches the same conclusion. On page 2677 the professor, from the information which he had, excluding the events of l3th March, did not think he could have predicted that Hamilton would have been a risk.

If I could now turn, Sir, to consider the aspect of personality disorder, on page 2682 when considering whether Hamilton had a sadistic personality disorder, Professor Cooke thought there was some evidence, but insufficient to be absolutely certain.

In his report and subsequent evidence Professor Cooke considered that certain elements of the evidence led suggested that Hamilton may have suffered from a sadistic personality disorder, as defined in DSMIIIR. The factors which Professor Cooke said supported this finding are set out in his report from page 8 to the second paragraph on page 9 (Day 3, p. 2715). In the evidence there narrated Hamilton/

Hamilton was said to have become amused or obtained pleasure from suffering.

The first piece of evidence which is said to support the view that Hamilton gained pleasure from the psychological suffering of others is in relation to the telephone calls which were made to his mother in respect of her diabetes. Hamilton suggested she would have to go to Inverness for attention. This had distressed his mother. However, there is no suggestion in the evidence that he was amused or gained pleasure from this.

Mrs. Sutherland (Day 2, p. 206) put it down to schoolboy humour.

Another instance is said to involve Hamilton's former neighbour, Grace Ogilvie. Professor Cooke states that Hamilton had deliberately frightened Mrs. Ogilvie when she was hanging out her washing. A scrutiny of the transcript (Vol. 3, p. 276), where the incident is recorded, makes no suggestion that what Hamilton did was deliberate, nor that he gained any amusement or pleasure therefrom.

The report goes on to rely on Hamilton keeping his adoptive father outside his house at night for up to 20 minutes, as spoken to by Mr. Deuchars. In his statement to the Inquiry (Day 2, p. 208), there is no record made of this incident by Mr. Hamilton Snr. Had it been of significance or remembered, one might have expected him to tell the police of it.

We also have the evidence on Day 2 (pp. 204 and 207) from Mrs. Watt and Mrs. Sutherland respectively to the effect that the adoptive father had a drink problem. It is submitted that that fact alone could provide a perfectly plausible explanation as to why the father was kept out at night. It could also explain why such an apparently significant event has not been recalled by him. Indeed it might also give a completely innocuous explanation for why Mr. Hamilton complained that his son took over the whole house, moving the adoptive father's personal possessions, etc., into one room.

The final piece of evidence relied upon by/

by Professor Cooke, and on which I would seek to comment, is the incident when James Gillespie had a gun pointed at him by Hamilton, which incident is described on page 351 of Day 3. Again there is nothing in the transcript to suggest that amusement or pleasure was derived by Hamilton from this action.

The conclusion which is reached by Professor Cooke is that on balance there is insufficient evidence to make an absolute diagnosis. Given the evidence just narrated, he was able to conclude, however, that there were significant traits.

It is respectfully submitted that the evidence comes nowhere near demonstrating facets of Hamilton's behaviour -- by that I mean the amusement or pleasure from suffering -- which Professor Cooke states are necessary in order to constitute evidence of a sadistic personality disorder. All of the incidents are just as susceptible to an explanation which would not give rise to a conclusion that Hamilton had a sadistic personality disorder.

Also in support of the conclusion that there are some traits of sadistic personality disorder, Professor Cooke relies upon the video tape. He draws one conclusion from having seen it. He relies upon the evidence from somebody he describes as "a physical education expert" to say that the boys were pushed far beyond their abilities.

The only person who has given evidence with any training in physical education, as far as I could ascertain, is Mr. Boal, who gave evidence on Day l4, and said (p. 1470) that he was an under-graduate student in sport in the community, a position which hardly merits the title of "physical education expert".

Dr. Baird wondered if Hamilton might have destroyed pornographic material. If so it may be thought surprising that the collection of videos remained, if Hamilton did consider them to be pornographic.

Dr. Baird considered the possibility of Hamilton suffering from a sadistic personality disorder/

disorder, but thought the evidence in support could only be described as of a minor degree. Although he thought that some of the characteristics could overlap with a psychopathic personality disorder, it does appear that those aspects which Professor Cooke relied on to make his diagnosis, as set out in the Report and in evidence are distinct from the aspects Dr. Baird relied upon. The behavioural aspects may have overlapped, but in fact they didn't.

Professor Cooke discounted the possibility of Hamilton having a psychopathic personality disorder. He scored him as having six points when l8 would be needed. Dr. Baird considered that he did have such a disorder.

What one therefore has is a situation where two experts disagree. Given that one has already indicated that what he was doing was speculating after the fact, it is submitted that it would be unsafe to conclude that Hamilton did suffer from any personality disorder.

There was, however, agreement between the experts that he did not have a mental illness.

Even, however, if Professor Cooke is correct in his diagnosis of Hamilton having such a disorder, none of the aspects which constituted his reason to believe he was so suffering could have or should have been known to Central Scotland Police.

However, both Dr. Baird and Professor Cooke considered Hamilton to be a paedophile.

Again, in my submission, there is no evidence before you which would entitle you to conclude that Central Scotland Police should have been able to make that diagnosis of him. Most of the information upon which Dr. Baird relied in the transcripts to support this conclusion was information not known to the police. These aspects are set out in the supplementary report he prepared.

In any event, even if by some process the police ought to have been aware of Hamilton being a paedophile or of having such tendencies, ought that to have led them to the view that he should not have had a firearms certificate? It is submitted that there is no basis for that belief. Professor/

Professor Cooke offered the following view (Day 22, p. 2688) -- and I quote: "Dealing with the precise situation of Hamilton" -- and this is the question put to him -- "Dealing with the precise situation of Hamilton, we heard in evidence that a number of concerns arose in relation to him, both of cruelty and neglect of children, requiring boys to train in swimming trunks, taking photographs of them and taking videos of them, and showing weapons to them. There had been a number of parental complaints". The answer to which is "Yes".

The questioner goes on: "With that information would you have been able to make enquiries about Hamilton which would have enabled you to draw a conclusion as to his fitness to hold a firearms certificate?" The answer was: "I think it would be difficult. It is difficult to see the link between paedophiliac interest and violence. In fact, paedophiles as a whole tend to be non-violent. The fact that he had these other interests would not necessarily be any indication of a propensity to be violent with firearms."

In/

3.40 p.m.

In his first report, Dr. Baird did not consider that Hamilton's sexuality provided any direct explanation for his heinous crimes. He said that the fact that he owned guns and was a paedophile were coincidence.

It was suggested in cross-examination that violence by Hamilton might be predicted should he be confronted by an angry parent who suspected that he was a paedophile. I have already addressed you, sir, on the way in which Hamilton was able to remain in control when confronted in similar situations.

Taken together, it is submitted that there is nothing in the evidence of the psychologists and psychiatrists to suggest that the police in any way failed to take factors known to them into account which, if they had, would have changed any of the decisions which were made in relation to the suitability of Hamilton to possess a firearm.

I would now like to turn, sir, to the question of Hamilton's membership of clubs. From 1987 there is clear evidence that Hamilton was a member of the Stirling Rifle & Pistol Club. That is Wood (Day 4, p.444) and Crawford (Day 4, p.392). In the early 1980s, he was a member at Callander Gun Club where he shot with Clive Wood. Wood, (Day 4, p.442; Moffat, Day 3, p.359). In 1982 he was also a member at Dunblane Rifle Club where he met Ewen Anderson. He attended there for some years. That is Anderson (Day 5, p.587). He taught the boys who attended the Dunblane Rover Group which Hamilton had formed in late 1981. G.F. Smith thought that the Stirling Club inherited Hamilton from the Dunblane Club when it folded (Day 4, p.429). Hamilton would still have required formal nomination and acceptance had this been his means of introduction to the Stirling Club (Day 4, p.432). We know, sir, that he was a member of the Clyde Valley Pistol Club in 1985 and 1986.

On balance, one can conclude that from the early 1980s Hamilton was probably a member of Dunblane Rifle Club until it closed in 1986/87. During this period he was also a member at the Callander/

Callander Gun Club and the Clyde Valley Pistol Club for at least some of the time. From the evidence, it is difficult to say what his membership was in the late seventies although it could have been with either Dunblane or Callander or both.

There has been evidence led, sir, on the frequency with which Hamilton shot. The ammunition sales suggest frequent shooting until 1986 and although there appears to be a break in recorded sales between 1979 and 1984, in 1987 sales drop. However, the evidence suggests that Hamilton continued to shoot. That is Crawford (Day 4, pp.392 and 417) and Wood (Day 4, pp. 444-446). Crawford saw him at shoots organised by the Stirling Club, albeit always with Clive Wood. Wood recalled a number of visits to Ashgill during the late eighties. Only in 1992/1993 did Wood consider Hamilton's shooting to have been insignificant. Crawford thought that from May, 1995 until June, (sic) 1996 he didn't shoot with the Stirling Club (p.397). Although the overwhelming evidence is to the effect that Hamilton did not manufacture his own ammunition, it would appear that he did purchase from the ranges he attended. Wood recalled him purchasing Early Target Ammunition manufactured by Mountain & Sowben. It was of a type which had been repacked. Wood (Day 4, pp.445-446). Such a purchase would not require to be recorded on Table 2 of Hamilton's firearms certificate provided it was all shot at the club where purchased. The only evidence contrary to that is from Mr. Cole (Day 17, p.2137). The overwhelming evidence points to there being no requirement for club purchases to be recorded unless some ammunition is not utilised and is subsequently to be removed from the range. Of course, home made ammunition does not require to be recorded under any circumstances. On balance, sir, it is submitted that Hamilton made use of his firearms certificate to a greater or lesser extent throughout the period from 1977 until his death.

The next section which I would wish to touch upon is in relation to his handling of guns. No witness spoke to Hamilton being unsafe with a firearm whilst on the range. The weight of evidence is in fact to the contrary. Mr. Ross Watt (Day 7, p.856) described Hamilton as being "very careful". Garry McDonald (Day 5, p.564) thought he was "very strict when it came to safety in shooting"./

shooting". Anderson (Day 5, p.588) said "The discipline was excellent". Gordon Crawford (pp.401 and 416) considered his handling of firearms was safe. G.F. Smith (Day 4, p.428) thought he was careful with his firearms. W.P. Campbell (Day 4, pp.437 and 440) stated that everything he was asked to do he did properly. William Cole (Day 17, p.2136) had no reason to doubt Hamilton's safety with a gun. G.F. Smith, the present President of Stirling Rifle & Pistol Club (Day 4, p.428) could recall only one occasion when Hamilton had broken one of the club's safety rules. Hamilton had lowered a gun out of line with the target and had been corrected by one of the members, which criticism had been accepted by Hamilton. To put that incident in context, Mr. Smith said that everybody has at some time or another been picked up for something in relation to safety. On the same page, Mr. Smith recounted that at a meeting of various members of the club held after the 13th March, nobody could think of anything Hamilton had done or said which, even viewed with hindsight, should have resulted in some action having been taken by the club. That finding, sir, must be put in context of the evidence given by Crawford (Day 4, pp.394, 395 and 400), Smith (Day 4, p.427), Campbell (Day 4, p.439) and Wood (Day 4, p.488) to the effect that Hamilton shot rapidly. Crawford described him as shooting without a good understanding of competition shooting. It must also put in context the second factor, namely the evidence of Hamilton attaching stickers to the various targets at which he shot.

For what it may be worth, views on Hamilton's ability as a marksman were mixed. They ranged from "poor" as described by Crawford to "reasonably good shot" as described by Smith.

That is all I propose to say at this stage, sir, in relation to Hamilton as the evidence has described him.

I would now like to turn to the third section in the submissions which is that dealing with the law and practice relating to firearms. I will not set out the terms of Section 27(1). They are there for us to see.

It is clear that what firstly requires to/

to be done by a Chief Officer of Police is to be satisfied that the applicant has good reason to hold a firearm. The question then arises of what constitutes good reason. The Act, as we have seen, is silent and recent case law provides little or no assistance. The guidance issued by the Home Office and the Scottish Office, document 1L, provides at paragraph 6.8(e) "A certificate.....should not be granted.....unless the applicant has regular and legitimate opportunity of using the weapon. e.g. for target practice as a member of a pistol shooting club".

The joint submission made to you, sir, by the Secretary of State for Scotland and the Home Secretary, which hereafter I shall refer to as the joint submission, repeats the terms of the guidance and then goes on to state "This makes it clear to the police that membership of a target shooting club at which the applicant can use a particular pistol or revolver can be regarded as a good reason for the issue of a firearms certificate to possess it and the ammunition for it. We understand that all police forces in Great Britain adhere to this advice and will issue firearms certificates to members of clubs under the circumstances, provided that they are otherwise thought to be suitable" and that comes from page 11 and paragraph 55.

LORD CULLEN: Mr. Taylor, do you take the view that the first of the two sentences which you quoted from the Government evidence is dealing with the same proposition as the proposition quoted from the guidance?

MR. TAYLOR: Indeed, sir, yes.

LORD CULLEN: Well, it has of course turned the proposition around because the guidance is talking about what are the circumstances in which a certificate should not be granted.

MR. TAYLOR; I accept that entirely, sir.

LORD CULLEN: It might be suggested the guidance is dealing with a sine qua non without necessarily putting the criterion whereas if you look at the Government's evidence it is expressed positively as if it is enough. Do you see what I mean?/

mean?

MR. TAYLOR: Yes, sir.

LORD CULLEN: In other words, it may be, I don't know, that all the guidance is saying is that you must not grant a certificate unless something is the case. It doesn't follow that that is the only thing that requires to be satisfied.

MR. TAYLOR: I accept it is not necessarily the only thing which requires to be satisfied.

LORD CULLEN: But if you turn to the Government's evidence, it is talking about what the police should do. Perhaps giving an impression that is all that is necessary. That is the point I'm making to you.

MR. TAYLOR: The guidance is not exclusive. There may be other reasons which would entitle an applicant to satisfy the good reason test.

LORD CULLEN: Yes, it may be that the guidance as properly understood, and it is most unfortunate that we get into this argument as to what it means, is saying no more that it is absolutely essential that the applicant should have the opportunity to shoot regularly and legitimately presumably at a club but that is not to say that good reason is satisfied if nothing more is the case. One has to get back to the question of what a good reason is.

MR. TAYLOR: In my submission, given the terms of the documents which are before us, which do not happily live together, the natural interpretation should be made of them is that good reason equates to opportunity.

LORD CULLEN: What about the intention?

MR. TAYLOR: The intention would be implied in the fact that the application is being made to exercise that opportunity.

LORD CULLEN: Well, does that mean that the intention is part of good reason? That seems to/

to be what you are saying.

MR. TAYLOR: No, I don't think I intend to say that, sir.

LORD CULLEN: What I am concerned about is a case where somebody has simply not exercised the opportunity, apparently demonstrating that he has not had the intention of exercising the opportunity and with that, looking at the past, there is reason to doubt whether he has good reason. We are talking about a renewal situation of course.

MR. TAYLOR: In my submission, sir, both the guidance and the joint submission are framed in such a way they are looking to the future, not to the past.

LORD CULLEN: No doubt but in a renewal situation surely what has happened during the previous period has to be relevant? If somebody says what he wants to do is to have the renewal of a certificate and past events have demonstrated that he has taken no steps to use the gun for which he is seeking to have a certificate, might it be said that there is a reason there to doubt whether he has good reason because past events demonstrate lack of intention? It might of course be when the police interview him they are completely convinced he genuinely does have that intention but what I'm suggesting is that it may be that past non-use may indicate lack of intention but I am more concerned at the moment with asking what good reason entails. Does it include intention or not?

MR. TAYLOR: In my submission, sir, it does not include intention.

LORD CULLEN: So you say it does not really matter whether a person has any intention to use a firearm? Provided he can point to an ability to use the weapon, that is enough?

MR. TAYLOR: Yes, sir. In my submission, sir, if actual use had been intended then one might have found the guidance expressed slightly differently from the way in which one does find it expressed. One may have found the guidance saying that unless the applicant makes or intends to make regular and legitimate use of the weapon. Perhaps/

Perhaps the joint submission might say "applicant did or does use" rather than the words which we do find which are just "can use". Therefore, in my submission, the words do point towards there being no need for intention.

It would not be surprising, sir, if in the guidance there was some other criteria which might be said established good reason but the guidance was silent on that point. If one considers that guidance ought normally to be a document which sets out a number of ways in which a particular goal can be achieved, one might expect to find set out a number of ways in which good reason could be satisfied. That is not what we find when we look at the guidance. We see only one test, if I can put it that way, but no other test.

I/

I think on the evidence the only suggestion which

there has been as meeting the "good reason" test other than that in my submission to you is that of the veterinary surgeon, who might require that in connection with his job.

LORD CULLEN: You mentioned vets. What is the position about collectors? Beyond target shooters and beyond vets are there other situations? By "collector" I mean someone who does not intend to use any part of his collection but merely to have it and to admire it.

MR. TAYLOR: I have not applied my mind to that. I think in terms of shotgun licensing there are specific provisions covering that.

LORD CULLEN: We can leave that for the moment. Perhaps we might get some assistance later from others.

MR. TAYLOR: Sir, if I can put forward a further argument in favour of the interpretation that I seek to put on the Guidance being exactly the same, that the test for the renewal is the same as for the grant, we have heard several witnesses speak to that, and I think that is correct, by looking at the various documents. If one was to include in the "good reason" test any concept of use one would require past usage by the applicant of a firearm he did not have permission to possess. I am not talking about past usage. But if the test is the same for grant as it is for renewal it would be difficult for anybody to be able to establish that they had used in the past a weapon which they were only about to obtain permission to acquire.

Mr. Richardson in his evidence sought to distinguish between the two, because I suspect he realised the absurdity which might arise. But the Guidance itself at Paragraph 73 indicates that there should be no distinction between the checks made by the police on renewal as opposed in a new application.

LORD CULLEN: I am not sure whether I see the point here. If you have got someone who is applying for the very first time, in the first place,/

place, they can presumably point to having achieved membership?

MR. TAYLOR: Yes.

LORD CULLEN: And I suppose they won't have membership without having practised with a firearm, and that in itself would indicate an intention to use one, and no doubt unless there was some contra indication, any expressions of intention to use a firearm would be taken at face value. So what is the problem? It is when you get round to renewal and someone has not been using the firearm in the past, in other words in the period expired, that might tend to indicate lack of genuine intention.

MR. TAYLOR: I can see how past non-usage might indicate lack of genuine intention. Where I suspect we part company in this dialogue is considering the relevance of the intention.

LORD CULLEN: Because you say it does not arise.

MR. TAYLOR: It does not arise.

Perhaps another way of looking at it, sir, which might derive some support for the position which I seek to urge upon you can be derived from the Guidance when one looks at 6.8(1) where "good reason" needs to be satisfactorily demonstrated for each individual firearm. Now, we know that the quality of the records kept by the Gun Clubs is not such as would record the calibre of weapons which are being used by the members at the various Club meetings.

Crawford (Day 4, p. 420) and Penn (Day 22, p. 2621) suggested that the normal reason records were kept of who shot at a Club was to provide a queuing system.

Other witnesses gave evidence to the same effect. Mr. Bennett (Day 21, p. 2547) made a plea for Clubs to keep records of how often a particular weapon was shot, the implication being that he, Mr. Bennett, did not consider such records were presently being kept. Only Mr. Moffat (Day 17 p. 2150) considered that Army ranges required individual/

individual weapons to be entered in the same record sheet, a record of which particular calibre of weapon was shot.

If no record is kept of the calibre of weapons being shot, then it follows that no check can be made of the use which a possessor of a particular handgun has made of that weapon. If past use is going to be the determinant of future intention it is going to be very difficult for an Enquiry Officer to verify the "good reason" requirement for each individual firearm, because there is no way that an Inquiry Officer is going to be able to know whether each individual firearm has been shot over the previous period of the certificate.

LORD CULLEN: Did Mr. Richardson say that past use was a determinant or merely a factor?

MR. TAYLOR: I will be able to assist you on that tomorrow, sir; perhaps not just now.

Sir, if past use was to be considered of some relevance in determining some future intention, the simplest way for that to be achieved would be to add an additional table to the two tables which presently exist on the Firearms Certificate. This would have facilitated a firearms certificate holder having his firearms certificate duly endorsed on the days on which he shot and recording the calibre of weapons which he used.

Moving perhaps from looking at the actual terms of the Guidance in the joint submission and looking to the practice, it may be thought at first sight that what was said by Mr. Bennett (Day 3, pp. 2555-2557) points to a different interpretation from that which I am urging upon you, sir. Bennett described the various steps taken in his Force to check with Gun Clubs to ascertain, inter alia how often a member shoots. However, the check on usage would not appear to be utilised in connection with any "good reason" test.

On Page 2557 Mr. Bennett said that even if an applicant had not shot for eight years he, Bennett would still be obliged to renew the Firearms Certificate for a further period if the applicant maintained that he had an intention to shoot. He did/

did not consider he could do other than grant the application unless he could persuade his staff to talk the applicant out of it.

According to the evidence at this Inquiry, the practice in Dumfries and Galloway Police Force on one view is that if the applicant is not an active shooter the certificate would not be renewed. That was said by Mr. Cameron (Day 21, p. 2507). Mr. Cameron also said (p. 2508) his Force's practice was at the grant stage to check if the applicant was an active member of a Club, but at renewal the only check would be on membership. That is so in his opinion because the focus at renewal is on opportunity. This suggests that opportunity does not involve the concept of "use" in his Force.

(p. 2530) "At the time of renewal, however, I think it would be fair to say that provided there was some current membership, it would be not usual for any further-ranging enquiry". He did however say that the applicant would be asked during the Inquiry to confirm his continued usage, by which I take it to mean his intention to have future usage.

From the tenor of Mr. Penn's evidence (Day 22 p. 2618) it can readily be implied that checks are not made by the police at the Clubs of which he is a member to ascertain the extent of a member's frequency of shooting.

Mr. McCarthy, a member of the Bearsden Club, told the Inquiry (Day 21, p. 2574) that the only contact his Club had with the police was a call from an officer to confirm bona fide membership. The bulk of the Bearsden Club's members live in the Strathclyde Police area (Day 21, p. 2583). It would therefore appear that in Mr. Richardson's Force a check on usage is not undertaken.

On the other hand, Mr. Richardson (Day 19) said on several occasions that a check on use in order to determine "good reason" should be made at the Clubs of which an applicant for renewal was a member. Indeed, it was the different interpretation of what constituted "good reason" which formed the main basis for Mr. Richardson's criticism of CSP's procedures (Day 19, p. 2338). Mr. Richardson was not however saying that what he thought/

thought should happen was followed in practice by his or indeed any other Force.

Mr. Bennett (Day 22 pp. 2545-2555) introduced the concept that there should be enquiry made at the Gun Club of which the applicant is a member with a view to determining how the applicant conducts himself when shooting. This is not a practice adopted by CSP. The only arrangement which we heard of was the reporting of a member to CSP should he be expelled from his Club. Any conduct short of expulsion would not be reported.

Sir,/

Sir, it is submitted that whilst this may be superficially attractive it is improbable that much will come of it. One might expect a certain reticence on the part of the club officials to comment on members' attitudes. They certainly are under no current obligation to respond, and given the terms in which the Stirling Rifle and Pistol Club have made a submission to you, sir, it is improbable that they consider there to be any obligation on them just now. On my reading of the submission they have made, their complaint is that the police did not tell them of the rumours which were circulating about Hamilton, but their submission stays silent on any suggestion that they might have drawn to the attention of the police any of the behaviour of Hamilton when shooting.

In my submission, there is no evidence before the Inquiry to suggest that other Forces make enquiry of clubs to ascertain whether the members there are competent shots and/or properly behaving on the range. One can say that in relation to Mr. Cameron's evidence in relation to the Dumfries & Galloway Police Force (Day 21, pp.2507 and 2508), Mr. McCarthy (Day 21, p.2583) and Mr. Penn (Day 22, p.2618). As commented already, the concept of "good reason" extends to each and every firearm which it is sought to possess. In that situation, what does "good reason" amount to? The Guidance provides no indication other than a requirement that an applicant has a regular and legitimate opportunity to use the particular weapon. It is thus submitted that if the club of which the applicant is a member owns or has access to a range or ranges which can accommodate all calibres of weapon, the "good reason" for a particular calibre has been established. The limiting factor will be the security arrangements for the weapons and the cost to the applicant in acquiring them.

If over the life of the Certificate an applicant did not acquire one of the weapons which he has authority to possess he would be entitled to renewal of that authority providing he maintained the appropriate membership and continued to wish to have the opportunity to acquire the weapon during the currency of the certificate about to be granted. This is the approach impliedly advocated in the booklet published by the British Field Sport Society (Day 9, p.1126), and it would in my submission appear/

appear to be the approach also adopted by the Police Authority for the area in which Mr. Penn resides, and should that not be the Metropolitan Police, it would appear also to be the approach of the Metropolitan Police (Day 22, p.2635).

Mr. Cameron (Day 21, p.2505) confirmed that the interpretation which I have just sought to set out is that adopted in his Force. "If someone is involved in a range of shooting disciplins, as the law stands and as convention stands, if they can offer that as the reason for acquiring it, it would in all probability in most Forces I think be granted, because 'good reason' has been shown, and there is no concept in the Guidance of an upper limit, on the proviso that conditions are met in regard to security".

Mr. Bennett (Day 21, p.2556) commented adversely on the number of weapons which shooters are entitled to possess and in respect of which he felt he had no alternative but to allow.

The approach adopted by these two Forces is the one which on the evidence is adopted by Central Scotland Police. Lynch (Day 11, pp.1316 and 1317) said that he always went through the application form with every applicant to discuss any authority which they held to acquire a gun and which had not been acquired. Provided the Club still met the criteria for firing the weapon and the applicant still had an intention to purchase then he would recommend renewal of the authority.

We know that all the ranges used by the Stirling Club were able to accommodate all calibres (Day 17, p.2139).

The other question which cropped up from time to time in evidence was in relation to the possession by Hamilton and by others of more than one weapon of the same calibre. Again, it is submitted that the test must be "good reason". Bennett (Day 21, p.2560) gave examples of what constitutes good reason in such a situation as practised in Fife. He said that if someone wanted to shoot at 25 metres and 50 metres and he didn't want to zero his sights on each occasion he changed distance and he then wants a spare weapon in case he is shooting in a competition and one jams or breaks then/

then that would constitute good reason to possess three weapons.

Mr. Hyde (Day 3, p.324) thought it not unusual to have two weapons of the same calibre. Mr. Hyde operates a mail order gun business, and thus will have an overview of the practice throughout the UK. Mr. Cameron (Day 21, p.2505) echoed the view expressed by Mr. Bennett.

The approach taken by CSP is consistent with the foregoing. When giving evidence on Day 10, Mr. McKenzie set out their approach (pp.1191-1193). It is thus submitted that the interpretation which was made of the legislation and Guidance in respect of acquiring more than one weapon of the same calibre is to place a slightly higher hurdle in the path of the shooter but one which is readily overcome. Again, security will become the limiting factor.

Perhaps one can understand the view that is taken, because if an individual is a suitable person to possess a firearm he can do as much damage with one weapon as with a number. The events of the 13th March illustrate the point. Only one weapon was used to wreak the havoc of that day, save only for the bullet which Hamilton reserved for himself.

LORD CULLEN: I see you have come to a natural break. We will rise now and resume at 10 tomorrow.

Adjourned until tomorrow at
10 a.m.

.....

TWENTY-SIXTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, l996

before

THE HON. LORD CULLEN

on

WEDNESDAY, 10th JULY, 1996.

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

(Shorthand Notes by Wm. Hodge & Pollock Ltd., Glasgow).

.....

C R O W N C O P Y R I G H T.

APPEARING:-THE LORD ADVOCATE (The Rt. Hon. The Lord Mackay of Drumadoon, Q.C.), Mr. IAN BONOMY, Q.C., Advocate Depute, with Mr. J.C. LAKE, Advocate, for the Crown;

MR. C.M. CAMPBELL, Q.C., with MS. L. DUNLOP, Advocate, for the families of the deceased children, the families of the injured children, the children absent from class, Mrs. Harrild and Mrs. Blake;

MR. A.T.F. GIBB, solicitor, Edinburgh, for the representatives of Mrs. Mayor (deceased), and the Educational
Institute of Scotland;

MR. M.S. STEPHEN, solicitor, Glasgow, for the Association of Head Teachers in Scotland, and Mr. Ronald Taylor (Headmaster);

Mr. M.S. JONES, Q.C., for Stirling Council and Others;

MR. J.A. TAYLOR, Solicitor Advocate, Edinburgh, for the Central Scotland Police;

THE DEAN OF FACULTY (Mr. A.R. Hardie, Q.C.) with MR. G.C. KAVANAGH, solicitor, Hughes Dowdall, Glasgow, for individual officers of the Scottish Police Federation, and Lothian and Borders Police.

Mr. C.B. McEachran, Q.C., for the Scottish Target Shooting Federation;

Mr. M.S. Scoggins, solicitor, (Davies Arnold Cooper) London, for the British Shooting Sports Council.

Mr. Cruikshank, solicitor, Aberdeen, for Stirling Rifle and Pistol Club, and Callander Rifle and Pistol Club.

.....

I N D E X.

	Page.
MR. TAYLOR	5
MR. CRUIKSHANK	67
MR. SCOGGINS	71
MR. CAMPBELL	88
MR. BONOMY	97

WEDNESDAY, 10th JULY, 1996.

TWENTY-SIXTH DAY.

LORD CULLEN: Let's resume. Mr. Taylor, you had reached some discussion about ammunition?

MR. TAYLOR: Before going on to ammunition there was one point which I undertook to come back to this morning and that is in relation to Mr. Richardson's evidence, and how he applied the concept of use, and I think the question which your lordship put to me was whether or not "use" in Mr. Richardson's world was a necessary prerequisite in determining the factor of "good reason". I have looked at the evidence and I think it is fair to say that Mr. Richardson considers past use to be an essential, and the passages which support that are Pages 2299 and 2327. He doesn't in fact say that in as many words and I think he.....

LORD CULLEN: That is what I thought was the passage.

MR. TAYLOR: That is what he says. Sir, yesterday we were talking about "good reason" and the requirement for intention. Having looked at the transcript this morning there is one point which I would seek to clarify with your lordship's leave. It is my submission that "good reason" and "intention" are two separate concepts. As I said yesterday, the concept of "intention" -- that is the intention of the applicant -- is something which is implied by virtue of the fact that he is making application to hold a Firearms Certificate and the membership of the Club which is going to enable him to make use of that certificate to exercise his intention to provide him with the opportunity. And the application form itself, sir, makes it clear that there has to be some intention because Question 23 from the application form is in the following terms: "Where do you intend to use each of the firearms listed?" That is the only point in the application where "intention" is mentioned, and that is why I say that it is implied by virtue of the fact that the applicant has completed the form.

Having/

Having completed the form, the test which then requires to be satisfied is whether the applicant has the opportunity to shoot. As I said a few moments ago, I distinguish between the intention to use and the opportunity to use. He has first of all the intention, and having stated that intention, he then requires to demonstrate the opportunity. That opportunity becomes in my submission the key. It becomes the key because that is what the Guidance tells us.

In my submission, his actual exercise of the intention, in other words his actual usage, is in itself an irrelevant factor. The concern is that if the weapons are to be used they are to be used at a recognised Club.

Of course, sir, that then takes us back to the Guidance and how one interprets the Guidance, and since this is a particularly important aspect in my submission I wonder if I could just try to summarise what I hope I conveyed yesterday. I accept entirely that there is an interpretation possible such as that you put to me yesterday but, in my submission, the best interpretation of a document might be thought to be the author of that document since he might best know what it was that the document was intended to convey. If that is accepted, and given that there is a potential for ambiguity in the Guidance, then we should in my submission have regard for what is said in the evidence of the Secretary of State and the Home Secretary, and this is what one finds in the joint statement, the Green Book as Mr. Campbell referred to it as being.

Support for that goes further because if the Guidance is setting out only the absolute minimum, which is the interpretation which you were putting forward yesterday as I understand it, then further criteria have to be met. It is surprising that if that is the correct interpretation one does not find any examples of these further criteria mentioned anywhere in the body of the Guidance notes. For example, if past use was to be thought a relevant criterion to add.....

LORD CULLEN: I don't think I ever suggested that it was a criterion. I think you are not perhaps meeting the point that I was suggesting to/

to you for consideration. I was suggesting the question was whether when you made application of this sort the concept of "good reason" might involve intention and past use might be a relevant place in which to look to see whether it was a genuine intention. It is not using past use as a test, it is merely looking at it as a source of information. Perhaps I could add I don't think that you are really suggesting that the Guidance is particularly clear on this point and nor am I. I think it is just it may be Guidance which does not in fact fully reflect what ought to have been said.

MR. TAYLOR: I cannot argue with that, sir. That may well be the case.

LORD CULLEN: It is not posing you with a difficulty. I don't think the terms of the Guidance are altogether clear and it may have been they could have been better expressed.

MR. TAYLOR: Well, I think you and I, sir, are at one on that. Just before I move on: it is my submission, however, that the concept of "intent" does not play part of the "good reason" and then.....

LORD CULLEN: I have your submission on that point.

MR. TAYLOR: In which case I won't labour the point any further and I can move on to look at another question which seemed to cause some difficulty and that is the question of ammunition.

The arguments, sir, in respect of ammunition and the "good reason" requirements are really just echoes of what one finds in the good reason to acquire a firearm. One goes with the other hand and glove. The opportunity to shoot at the Gun Club is the good reason to hold and acquire not only the firearm but the ammunition to go with it. The question, of course, which has been brought to the Inquiry is how much ammunition ought there to be in any one person's possession. The Guidance doesn't in fact say what that figure should be. In fact, it goes on to say that "No arbitrary limit should be placed on the amount of ammunition".

We then in Paragraph 6.8(j) of the Guidance/

Guidance get a clear indication that it is not possible to give firm guidance on the amount of ammunition which may be authorised by a certificate and you must deal with each case on its own merits.

One then has to look at what are the merits that require to be examined. The suggestion at the Inquiry has been that the amount of past purchases and the use of commerical ammunition should be an important consideration in assessing the amount an applicant should be authorised to purchase or possess. I have already touched on what use may be made of past usage, but I also question the relevance of the amount of ammunition which an applicant is authorised to acquire or hold in respect of use. Any Firearms Inquiry must look to the future period of certification and not to the past. An applicant's past use of ammunition may have no relation to his future needs. He may wish to increase his activity.

LORD CULLEN: Is need the test?

MR. TAYLOR: His further intentions.....

LORD CULLEN: Is need the test?

MR. TAYLOR: No, what I am saying the test is.....

LORD CULLEN: Then you say "Might have no relation to his future needs".

MR. TAYLOR: His future intention.

LORD CULLEN: I thought intention wasn't the test?

MR. TAYLOR: It is not, sir, the test when it comes to "good reason". We are here looking at the amount of ammunition which requires to be held. What one has first of all is good reason to hold the ammunition. The test for the good reason to hold the ammunition is the same test as the reason to acquire the firearm. These are the two which go together. One must then look to see what amount of ammunition the applicant should be entitled to hold. We are told in the Guidance that no arbitrary limits are to be set. We are not here/

here talking of good reason for holding a particular amount of ammunition, we are in a different aspect of the Guidance at this stage in my submission, we are simply looking to see how much it is he should hold. That is separate altogether in my submission from "good reason".

It is also suggested in the criticism that the amount which can be purchased at any one time must have a direct relationship with the frequency of shooting. But that might not be immediately clear if a shooter uses a lot of ammunition on one shoot or visit to the Gun Club then no matter how rare an occurrence that might be it might well be reasonable for him to purchase a large amount at one time. We were told in the Guidance that consistency of performance and cost were relevant factors in deciding how much any particular shooter should be entitled to hold; we find that at 6.8(j). In my submission, there is no suggestion that a less enthusiastic Club member should not be entitled to these benefits.

It is submitted, sir, that the risk of giving too much ammunition is one of security. If an applicant is considered suitable to hold a firearm and ammunition and to have good reason to do so, it really should make no difference whether that authority is for 15 or 1500 rounds provided that he has adequate security.

In any event, sir, it has to be said that whilst there may have been some raised eyebrows in relation to the amount of ammunition in which Hamilton was authorised to acquire and possess, no one has been able to say how much is too much. Mr. Richardson certainly was invited to and declined to do so. He was able to refer to the previous Guidance which was in force until 1989 and which he considered placed a limit of 1500 rounds. I have set out, sir, what the previous Guidance stated and it is as follows, "It is impossible to give firm guidance on the amount of ammunition authorised by a certificate but Chief Officers of police have accepted that the following figures represent reasonable quantities for <u>bona</u> <u>fide</u> Club members (i) the maximum number of rounds to be possessed at any one time 1500; (ii) maximum number of rounds to be purchased at any one time, 1000. Each case should, however, be dealt with on its merits".

Sir,/

Sir, Hamilton was a bona fide Club member. It would appear therefore that the amount of ammunition which Hamilton was authorised to hold represented what was at least until 1989 a reasonable quantity for him to hold. I have to say in passing, sir, the Guidance which existed before is perhaps not significantly clearer than the Guidance now in that it talks of a reasonable quantity and a maximum at the one time.

I think we can now move on to look at other aspects which are encompassed within Section 27 and these are danger to the public safety or the peace, intemperate habits, unsound mind, any reason unfitted to be entrusted with a firearm. In the very helpful note which was provided by Counsel to the Inquiry the authors conclude on Page 22, after considering the cases, that the Court has not considered each test as being in a separate compartment. They consider that the Courts have applied the composite test. In my submission, sir, that is a sound analyses and it is one which I suspect was arrived at after a great deal of scrutiny of a number of cases.

The composite test may be expressed as being whether or not circumstances reveal the likelihood of a disturbance to good order arising out of the possession by the applicant of a firearm. I appreciate, sir, that that seems an echo only of the first of the four criteria which have been set out, in other words, the ones come into 27(1) of the Act, but a person who is of unsound mind and in the possession of a firearm is likely to be a risk to the disturbance of good order. The same applies in respect of a person of intemperate habits. A person will be unfitted to be entrusted with a firearm in circumstances where such possession is likely to be a risk to the disturbance of good order. It is, sir, the risk to good order which makes such a person unable to be entrusted.

This approach echoes the views which were set out by the Sheriff Substitute in the case of JOY v. THE CHIEF CONSTABLE OF DUMFRIES AND GALLOWAY which was reported in 1966 Sheriff Court reports at Page 93, and at Page 94 the Sheriff substitute said, "The proviso" -- and I think he was looking at the 1937 Act which is in exactly the same terms at least so far as this Act is concerned, the/

the Act which we have to look at -- "The proviso lays down that an applicant should not have been given a Firearm Certificate if he is prohibited under the Act from possessing a firearm if he is of intemperate habits or of unsound mind or if for any other reason he was unfit to be entrusted with a firearm. This provision did seem to me to have relevance to the character of the applicant from the point of view of public safety". The main test which have been set out for "public safety" as used by the Sheriff Substitute is "good order".

Support for this approach, sir, is to be found in ACKERS v. TAYLOR (1974) 1 ALL ENGLAND REPORTS at Page 771 where Ashworth J. said at Page 775, "All of us know to our cost to what extent good order and the principles of good order are today subject to disturbance, and I would for my part be prepared to entrust a very wide discretion (to Chief Officers of police) so long as the discretion is exercised in connection with the use or possession of a gun".

Again, sir, there is a link between possession of the gun and the good order. Further support is derived from the judgment of Lord Justice Bingam, the now LORD CHIEF JUSTICE, in the case of SPENCER-STEWART v. THE CHIEF CONSTABLE OF KENT, 1989 CRIMINAL APPEAL REPORTS, Page 307: "If therefore an applicant or holder of a licence is given to the commission of offences which, however serious, do not involve the slightest risk or likelihood of use of a shotgun, then that, in my judgment.....is not a ground for refusing or revoking a licence".

LORD CULLEN: If the test is approached in the way you described why do we have the proviso at all?

MR. TAYLOR: I well understand why your lordship makes that point and it is difficult to see why one does have that proviso. But that said, it does seem to be the only way in which one can make any sense of the way in which the Courts have approached the interpretations to Section 27. One finds on occasions that one type of behaviour will fall within a number of different aspects of Section 27. One will find it, for example, that drinking and driving may be thought to be a prohibition because of intemperate habits, whereas on another occasion/

occasion it will be thought to be a case which is otherwise unfit to be entrusted.

LORD CULLEN: Of course, one explanation could perhaps be that the proviso is intended to deal with radical defects in the applicant, and there may be occasions in which we don't have these radical defects but nonetheless from past performance, perhaps predictions as to future performance, there is a risk that good order and the public peace might be disturbed, without necessarily having to go quite so far.

MR./

MR. TAYLOR: I accept that as a possible explanation, sir. It is one of perhaps several. It could be for example that another possible interpretation might be that the proviso is there for the avoidance of any doubt.

LORD CULLEN: Another way of expressing the same thing?

MR. TAYLOR: Yes.

LORD CULLEN: Anyway, it has been with us for rather a long time.

MR. TAYLOR: It certainly has, and has not improved with time, I might be tempted to say.

The very fact that at this Inquiry so much time has been spent on seeking to interpret what the Act might mean and even worse, seeking to interpret what the Guidance Note means, illustrates the very difficult task which any police officer has when he comes to operate this framework.

It does appear, sir, that the view which I have urged upon you is one which other police officers have adopted, and not just officers from the Central Scotland Police. Mr. Richardson in his report after acknowledging that there were a number of criteria to be met did say "Principally, these centre on whether the applicant has good reason to acquire a firearm and ammunition and can possess these without danger to public safety". So he too is taking a composite approach. Mr. McMurdo adopted a similar line, for example at Day 12, p. l552.

If I could now touch on revocation and renewal. When deciding if he should revoke or refuse to renew a firearms certificate the Act requires the Chief Officer to apply different criteria. Good reason does not enter into the equation when revocation is in contemplation. Similarly, the requirement that the Chief Officer of Police must be satisfied the applicant can possess a firearm without danger to the public safety or to the peace does not feature in Section 30. This latter distinction is however of little practical significance/

significance, given the way in which the Court has developed the test, as I have previously submitted.

When deciding if he should revoke or refuse to renew a firearms certificate, a Chief Officer of Police is called upon to exercise a discretion. He cannot abdicate that discretion and refuse to revoke on each occasion when a decision falls to be made, thus leaving it for the Sheriff to sort matters out on appeal. It is the Chief Officer who is charged with the responsibility of forming a view and thereafter implementing the decision reached.

His discretion has to be exercised within a statutory framework. He must act lawfully. One way in which he might test whether the exercise of a discretion is reasonable is for him to consider what view an Appellate Court might take of his decision. If the Chief Officer forms the opinion or forms the view that on no account would he succeed on appeal then he should realise that he is probably not exercising his discretion reasonably. He is not acting within the parameters set down in the Act, and the interpretation thereof.

Mr. McMurdo acknowledged this (Day 12, p. 1506) when he said that it was always a consideration for any police officer that he has got to justify his decision before a Sheriff. He is not there saying that he does to wish to waste time on an appeal or that he is frightened of being overturned on appeal. All he is saying is that it is a consideration, and in my submission a correct consideration.

Sir, I agree with what was said yesterday by Mr. Campbell, that the risk of adverse reaction on appeal should not influence a decision of a Chief Officer of Police. In my submission, Mr. McMurdo at no time said that that was a factor which influenced him.

When considering whether to revoke or to refuse a firearms certificate it is submitted that a Chief Officer cannot act on a whim: he cannot act on intuition; he cannot act on a "gut feel", which is the much-used phrase at the Inquiry. If he is to revoke or refuse an application he must be able to lead evidence in support of his contention that the/

the applicant or older is likely to cause a danger to the public by virtue of his possession of a firearm. To use the composite test with unsubstantiated material will not suffice.

Mr. Bennett expressed himself (Day 21, p. 2554) in the following way: the question put to him was "So even if your gut feeling was against the applicant, you would probably feel you had to grant?" and his answer was "Well, I have had a few gut feelings in five to seven years and I have had to grant them". On the same page Bennett said that if an allegation was made against an applicant by a credible and reliable source, which allegation was disputed by the applicant, he felt he would have to come down on renewing the certificate.

The foregoing, sir, is supportive of the position which was adopted by McMurdo. McMurdo comments (Day 12, p. 1533) that in all the stated cases he had ever read he hadn't seen one where there wasn't evidence. No action of which he knew had ever been taken in relation to firearms purely on a gut feeling.

This view is consistent with that expressed by other witnesses. Constable Ann Anderson (Day ll, p. l393) said: "I can't stop someone getting a firearm because I have a bad feeling about them". It may be thought that in such circumstances the police ought to refuse a renewal. If society so desires, then society will have to so legislate.

Sir, much comment was made at the Inquiry about the need for criminal convictions or otherwise. A criminal conviction is not necessary for revocation or refusal to renew; and although it was suggested yesterday by my learned friend Mr. Campbell that Mr. McMurdo seemed to be of that view, in my submission Mr. McMurdo made it very clear in his evidence that he did not consider a criminal conviction to be necessary for either revocation or a refusal to renew. What he did say was that he found the approach taken by the Fiscal in not proceeding with the cases to be supportive of his decision, and he might need to re-visit his decision were they to have previous convictions, because perhaps they were taking a different view of the seriousness of the facts than he had done: but he was/

was not in any way saying there was a prerequisite for revocation that there had to be a previous conviction.

However, sir, if any member of a police force did have such a view it would be understandable given the message sent by those who set "good practice". In the Joint Submission by the Home Secretary and the Secretary of State for Scotland it is said in the section dealing with revocation: "Unless a certificate holder sustains a criminal conviction during the currency of his certificate, the conditions for revocation may not often apply in practice" (para. 79, p. l5). That seems to be the view of the Home Secretary and the Secretary of State for Scotland. It is therefore perhaps not surprising or would not be surprising if some police officer has picked up that cue.

That, sir, is all I propose to say in relation to the law and practice of firearms, but I would now propose to move on to the firearms licensing procedures which were adopted by Central Scotland Police.

The Inquiry has examined the grant of renewals and variations of firearms certificates to Hamilton over a period of l9 years since the original grant in l977. The procedures adopted by CSP in respect of firearms licensing during that period have changed. Changes have been implemented to meet amendments to the legislation and Guidance to Police and to meet the recommendations of HMCIC. These recommendations have sought to reduce the involvement of police officers in firearms licensing and to increase the role of civilians. The general direction throughout that period has been towards a civilianised system of firearms licensing.

The most significant changes which have occurred in CSP's procedures during this period occurred in around l989, when following the l988 Act the Standing Orders used by the Force were amended, as was the paperwork completed by them in firearms enquiries.

The other significant change has been the introduction of a civilian firearms examiner in l99l, and that examiner now fulfils the role of the Enquiry Officer in renewal applications arising in a particular/

particular geographical area within the Central Scotland Police's jurisdiction.

Despite the changes, the licensing procedures adopted by CSP throughout the period of enquiry have comprised, broadly, two elements. The first involves an investigative or enquiring role by Divisional Officers, or the Firearms Examiner. The second is an administrative role carried out by the Firearms Department. Both of these elements come together to present a recommendation for grant or refusal by the Deputy Chief Constable.

CSP have resisted the pressure that has been brought to bear on them by the Government to move towards a postal renewal system. We have also insisted that all applicants be interviewed at the time of renewal. This is in spite of the Home Office advice that police should not generally visit a person who is applying to renew a certificate unless the material circumstances have changed.

At this stage, sir, the evidence given at the Inquiry as to the procedures adopted by CSP will be analysed. This exercise has already been undertaken by Mr. Richardson in his report.

At the outset, sir, the enquiry of the applicant is initiated by the receipt of an application to grant or, on renewal, a computer-generated reminder that the current certificate is due to expire. The reminder is passed to the Divisional Officer or the Firearms Examiner. In accordance with the Guidance to the Police (para. 6.2) a prior appointment is made with the applicant.

Now, sir, at the pre-arranged time the police constable or firearms examiner will visit the applicant. Mr. Lynch explained the steps which he would take on meeting the applicant (Day 9, p. l298). He would take an application form with him to explain the information which the applicant requires to supply; he will then check the weapons and ammunition held; he will check the security for the weapons and the ammunition; he will discuss with the applicant his reasons for wanting the weapons for which he seeks authority to possess or acquire.

This/

This procedure is not particular to the civilian examiner. Ann Anderson (Day ll, pp. l389- l391) and John Brown (Day l0, p. l274) described taking similar steps. Although there was a little confusion as to the whereabouts of the existing firearms certificates during the renewal, the weight of evidence suggests that the Enquiry Officer will have sight of the certificate. Norman Lynch (Day l0, p. l303) and John Brown (Day 9, p. 1273) confirmed this.

In addition to the basic housekeeping checks of amount of ammunition held and the serial numbers of firearms described, the Enquiry Officer's investigation is intended to allow them to answer broadly three questions: (l) Are the security provisions adequate? (2) Is the applicant suitable to be granted a firearms certificate? and (3) Does he have good reason to hold the firearms and ammunition for which he seeks authority to acquire or possess?"

Now, I take each of these in turn. In so far as security is concerned, this is self-explanatory. It is however worthy of note that in Her Majesty's Chief Inspector of Constabulary's letter of 25th November, l995 (Chap. L, Vol. 7) to Mr. Wilson, the Chief Constable of CSP, the Inspector singles out this aspect of CSP's procedures for praise. Mr. Richardson found nothing to praise or at least if he did, he said nothing of it.

The suitability of the applicant. The enquiry into the applicant's suitability is intended to identify whether, using the shortened version of the test already referred to, there is any reason to believe that the applicant is likely to be a danger to the public by virtue of his possession of a firearm. The core of the enquiry in this respect has, throughout the period under review, been a check of the Police National Computer and Scottish Criminal Records Office records. Although it cannot be confirmed that these checks were made prior to the l989 renewal, there is no evidence before the Inquiry to suggest that they were not. The Enquiry Officers involved pre-l989 were not asked to comment when in the witness box.

In l992 and l995 the Enquiry Officers recorded/

recorded the outcome of PNC and SCRO checks on the new improved RL3a form, both stating that there was no trace. Ann Anderson (Day ll, p. l383) also checked Criminal Intelligence. A Force Memorandum issued in l990 instructs that a Criminal Intelligence check should be made when considering a firearms renewal.

Now, it is difficult to envisage what other checks an officer might carry out to assess an applicant's suitability other than perhaps a check of DVLA, which would provide information of any drink driving offences. This is not to suggest that criminal activity is the only basis for rejecting an application as unsuitable: it is rather a realisation that police officers are unlikely to be in a position to identify any reason why an applicant is unsuitable to hold a firearm on anything other than the tangible evidence which will be recorded on these registers. The reason for this is that the Enquiry Officers will meet the applicant only briefly, perhaps for half an hour or so at the most.

As recommended in the Guidance, the applicant is forewarned of the visit. He is likely to take steps to ensure that his house is in good order and that he is on his best behaviour when the officer arrives.

His/

His firearms are likely to be secure and any evidence of a lifestyle or behaviour which might give rise to questions of his suitability, principally the abuse of alcohol, are unlikely to be on view.

The meeting can, by necessity, give only a fleeting impression of the individual and, it is submitted, is unlikely to provide the inquiry officer with any information on which to base an assessment of the applicant's character which would be able to subsequently withstand the scrutiny of detail, were that required.

Professor Cooke was asked how long it would take a psychologist to make an assessment of an individual's suitability to hold a firearm. He indicated that it was likely to take several meetings and a great of collateral information (p.2710). If it takes a trained psychologist this long to assess suitability, it would be unreasonable to expect a police officer to identify some covert reason to believe an applicant to be unsuitable on the basis of a meeting lasting less than 30 minutes. On the basis of Professor Cooke's evidence, extending the interview is unlikely to produce any different outcome. Sir, I think the evidence which I am referring to was given by Professor Cooke when answering questions put to him by, my memory tells me, Mr. Gibb and that it seemed to be a summation of the position which he has expounded when answering questions put to him by the learned Advocate Depute and Mr. Campbell.

Where there is no tangible evidence to give rise to a reason to believe the applicant is unsuitable, the police must rely on the counter signatory. He or she must have known the applicant for at least two years. On signing the application he confirms that he knows of no reason why the applicant is not a fit and proper person to hold a firearm. It is reasonable for the Force to rely on this declaration as an assessment of the character of an individual.

The inquiry officers check that the counter signatory has signed the application and Mr. Campbell, the counter signatory on this occasion, confirmed/

confirmed he was contacted in both 1992 and 1995.

It might be suggested that given the extent of the reliance which is placed on counter signatories that it would be appropriate to interview them to ascertain their knowledge of the applicant. However, sir, it must be borne in mind that these inquiries have been made in a climate in which the view expressed by Her Majesty's Chief Inspector of Constabulary is that the use of a counter signatory should be discontinued. Mr. Cameron (Day 21, p.2488) confirmed that his perception was that there was no encouragement to check on counter signatories except in exceptional circumstances. Furthermore, in the joint submission, the politicians with responsibility for Britain's police forces, consider that checking on a counter signatory, and I quote, "Might involve a large number of fruitless police inquiries, since many counter signatories will be found to be people of impeccable character and will have no qualms about having vouched for the application". They conclude that to require the police to check on all counter signatories "could well detract from the overall efficiency of police checks without necessarily making them more effective".

Sir, against that background, it might be thought surprising that there is even a check made by Central Scotland Police on whether or not the counter signatory has in fact signed the form. They are doing that which they are urged not to do.

Finally, encouragement for the view that police inquiries into an applicant's suitability should focus on criminal behaviour by the applicant is obtained from the thematic inspection report and indeed from the joint submission. Paragraphs 4.8 and 4.9 of the thematic inspection report detail the background checks which the Inspectorate recommends should be carried out on applicants "in order to establish their character". They recommend that checks of PNC and SCRO should be carried out. They recommend that DVLA should be checked and of course Criminal Intelligence. Criminal Intelligence is referred to as particularly useful as a source of information on associates. The Inspectorate makes reference to no other background checks and makes no further recommendations or suggestions in respect of what the police might do to establish character.

HMCIC/

HMCIC also recommend that home visits are unnecessary at renewal. Postal renewals are recommended. HMCIC see no benefit to be gained by the police in assessing an applicant when making a visit. Without a visit, sir, the only character checks available are those on the computer.

At paragraph 62 on page 12 of the joint submission, reference is made to the Home Office Guidance to Police, which at paragraph 6.8 states "The main consideration is the applicant's character". The submission continues to comment that this requires a consideration of the applicant's criminal record. No other comment is made on character. The clear inference from this is that character should be viewed primarily in the context of criminal conduct. This theme is continued at paragraphs 65, 66 and 67 of the joint submission where discussion under the heading of "Personal Suitability" is focussed on a consideration of criminal record and criminal associates with a reference to mental health being the only aspect with no criminal flavour.

It is submitted that the only checks which could have been carried out by the various inquiry officers in the process of completing the various RL3As throughout Hamilton's firearms application history, and were not, were those of Criminal Intelligence and of DVLA. Criminal Intelligence was not checked in 1992. It was checked in 1989 and 1995 and there is no evidence one way or the other as to what happened before then.

Good reason. The inquiry officer is also required to ascertain whether or not the applicant has good reason to hold the firearms and ammunition which he seeks authority for. I won't repeat what I have already said in this regard.

All of the inquiry officers who gave evidence to the Inquiry spoke of the steps which they would take in this respect. None of the officers simply accepted the applicant's or Hamilton's declaration that he was a member of a club. Anne Keenan, Lesley Johnston and John Brown who dealt with the 1977, 1986 and 1989 renewals, could not recall the particular inquiries but said that it was their practice to check club membership where an applicant's reason for seeking authority to hold/

hold and acquire the firearm was for target or competition shooting. They stated that it was their practice to do so by contacting the club to confirm membership. The inquiry officers who dealt with the 1992 and 1995 renewals were able to recall their inquiry. Norman Lynch stated that it was his practice to contact the club secretary of Stirling Rifle and Pistol Club to verify membership every time an applicant sought authority to possess or acquire a handgun. In 1995, Constable Anderson did not contact the club to confirm that Hamilton was a member. However, she states that she had sight of Hamilton's membership card for the club and was satisfied from that that Hamilton was a member. She was also part of an overall system whereby the Firearms Department of Central Scotland Police held a record of the membership of the Stirling Rifle and Pistol Club. On a member failing to pay his subscription, the club informed the Firearms Department. That was Crawford (Day 4, pp.409-410). At p.412 Crawford also said that there is a club rule that if anybody is expelled the police are informed. There was contrary evidence on this by Mr. Cole (Day 17, p.2134). I would, however, respectfully submit, sir, that Crawford's evidence should be preferred to Mr. Cole's. Your lordship may recall that Mr. Cole was also the witness who indicated that purchases of ammunition at the club, even if consumed in the club, would require to be recorded on the member's firearm certificate. So in two respects Mr. Cole seems to be at odds with what might otherwise be thought to be the weight of evidence.

We do know, however, from Mr. Cole that Stirling Rifle and Pistol Club had access to ranges suitable for the use of the firearms which Hamilton had authority to possess and acquire.

The amount of ammunition which Hamilton was authorised to purchase at any one time and the amount he was entitled to hold has already been touched upon. In 1987 he sought, by variation, to possess 1500 rounds and to acquire 1000. Constable Goldie dealt with the inquiry and he has no recollection of this part of the inquiry and the only explanation, and this is with hindsight, he could give for the increase is that the amount of ammunition purchased by Hamilton in previous years was substantial and disclosed that he was doing "a lot/

lot of shooting". There are other speculations which we might have. It may be, for example, Hamilton shot several hundred rounds at a time. Mr. Bell (Day 4, pp.445 and 460). It may have been in 1989 the previous guidance was still very much to the fore in the minds of officers and the figures which were contained in this guidance used as a reasonable figure. That however, sir, is pure speculation. All of the inquiries involved from 1987 onwards comment on the detailed security arrangements.

Once the inquiry has been concluded, the RL3A is completed and then passed up the chain of command. The constable's immediate line manager is the sergeant. It is the sergeant's task to review the RL3A and ask such questions of the constable as he considers necessary to satisfy himself that the constable has completed the inquiry satisfactorily. Inspector Binning, the sergeant responsible for the supervision in 1986, details this relationship. On Day 10 at p.1262 he detailed the checks which he would make of a constable and the circumstances in which he would consider it necessary to do so. The level of scrutiny which is applied depends on the confidence and trust which the sergeant has in the constable. That trust will be developed over a number of years as the sergeant becomes familiar with the constable in question. The sergeant and other superior officers are also available for consultation should the constable experience a problem in the course of the inquiry. Anne Keenan (Day 10, p.1251) speaks to the fact that she would refer any problems to the supervising officer for advice. Mr. Allan (Day 9, p.1136) also states that he would expect the constable to liaise with his or her immediate superior if a problem arose. The interrogation by the sergeant ought to reveal any facets which perhaps the constable, through lack of experience, does not appreciate are problems. Mr. McMurdo (Day 13, pp.1586-1587).

As the RL3A passes up the chain of command, the inspector and chief inspector, as the system was for the 1995 renewal, checks that the form has been completed accurately and will also input any information or intelligence which they have on the applicant from their respective positions. Alan Cassidy, for example, the inspector involved with the 1977 application explained/

explained that in discharging his role as inspector he would input any information which he had on the applicant (Day 9, p.1162). Hugh Paterson (Day 10, p.1268) the chief inspector involved in 1989 also confirmed that he would input his knowledge of the applicant as the RL3A passed through him to the senior officer. Further, should any additional information be considered necessary to allow a recommendation to be made by the Divisional Officer, this should be identified in the course of the passage of the form through the chain of command. For example, in 1986, where the application included a request for authority to acquire a duplicate .9mm calibre firearm, the constable made no comment other than to confirm that she was satisfied that the applicant had good reason. A superior officer subsequently noted the request and returned the RL3A to the sergeant to ascertain the applicant's reason for the request for duplicate calibre.

The form then reaches the Divisional Officer. It is the Divisional Commander's responsibility to make a recommendation to the Chief Inspector of Firearms to grant or renew. Robert Allan, the chief superintendent who recommended grant in 1977 explained the process which he would complete before recommending grant (Day 9, p.1136). He said that he would trust the inquiry officer working with the support of a sergeant to carry out proper inquiry. He would expect his attention to be drawn to the inquiry only if there was something amiss. Superintendent Matchett (Day 10, p.1271) also confirmed this to be the role of the Divisional Officer, as did Chief Superintendent Moffat who explained that, as Divisional Commander, he would review the RL3A to satisfy himself that all checks had been carried out and that the details noted in the form were correct and, unless he had information to the contrary, would recommend grant. The Divisional Commander will not look behind the officer's answers to the RL3A and will accept that the necessary inquiries have been completed.

It is therefore quite clear, sir, that considerable reliance is placed upon the constable in completing the inquiry and the sergeant in properly supervising the constable. In our submission, the delegation of inquiry to a constable is a reasonable and necessary procedure for Central Scotland Police and other Forces to adopt. Whilst it/

it proceeds upon trust in the police constable, that is no different from the majority of police work where the investigating officer is a police constable working with the support of a police sergeant. In all police work, including firearms inquiries, senior officers must be entitled to rely upon a constable working in the system. The constable is supported by an immediate superior and by a chain of command available for consultation and assistance should the need arise. The sergeant, who is in immediate contact with the constable, is best placed to gauge his or her capabilities and to supervise the inquiry carried out by him or her. For that role to be repeated elsewhere in the chain of command would be inefficient and would mark the firearms inquiry out from other inquiries carried out by the police. It is submitted that there is no justification for the firearms inquiry to be distinguished in this way. The investigation required is well within the capabilities of the constable and the sergeant. Mr. McMurdo speaks to the foregoing on Day 13, pp.1586-1588 and indeed elsewhere in his evidence.

The procedure is different when the inquiry is conducted by the firearms examiner. The RL3A completed by him does not then follow the same chain of command. It does not pass through divisional officers. The current position is slightly different from that in place in 1992. However, in 1992, Norman Lynch reported directly to the Chief Inspector for Firearms who was at that time Ian MacKenzie. Mr. MacKenzie (Day 10, p.1225) explained the good working relationship which he developed with the firearms examiner. The chief inspector was available for consultation on a daily basis and a one-to-one relationship was developed. He described a composite role in which he performed a similar function to the sergeant, supporting and assisting the examiner and the sub-divisional officer, checking proper completion of the form.

The current position, sir, and I am not sure if there is actually evidence in the inquiry on this, is that the firearms examiner on completing his inquiry into the renewal will pass the RL3A and the application form to the Firearms Department for administrative checks and a review of the firearms file to be carried out. On this being completed, the certificate will be passed to the Depute Chief Constable/

Constable for signature. Only if there is a perceived problem will the file accompany the documentation. No other police officer will routinely be involved. This system has been introduced as part of the civilianisation drive and did not operate for any of the renewals and the forms which have been scrutinised in this Inquiry.

In 1992 and 1995 the paperwork then passed to the Firearms Department. Once there, the role of the Department is the same whether or not it has been completed by Divisional Officers or the firearms examiner.

Maureen Johnston (Day 11, pp.1407 and others) explained the operation of the Department. The applicant's file is maintained by the Department. The file should contain the previous certificates and applications. It should also contain any other information relevant to the applicant. That is Mr. Mather (Day 9, p.1080).

As Mr. Mather explained, in terms of the Force Standing Orders any information gathered by police officers relevant to the holding of a firearm should be communicated to the Firearms Department. Ian MacKenzie (Day 10, p.1198) confirmed that he would expect any information which suggested that the applicant might be a danger with a gun to be on the firearms file.

Maureen Johnston explained the role which she played, that when the RL3A is received by her she checks the file to ensure that the historical paperwork tallies with the application form and the details recorded on the RL3A (pp.1407-1408).

Mr./

Mr. Mather explained that if on review the file disclosed that material had been placed there during the currency of the certificate being renewed, then that would be brought to his attention (Day 9, 1080). Similarly, if any trace has been found on PNC, SCRO, or any relevant trace on Criminal Intelligence, it will be attached to the RL3a and, together with the file, drawn to his attention.

Until May 1995, and at all times during consideration of Hamilton's various applications, the firearms file and the RL3a were passed together to the Chief Inspector of the Firearms Department.

Mr. Mather and Mr. McKenzie both spoke to that role (Day 9, 107), and Day 10 1225 respectively).

If there were no problems the certificate would be passed to the DCC. He would not receive the file. Only if a problem had arisen would the file be passed to him.

It therefore is in the hands of the Chief Inspector of Firearms that information input from both the enquiry officers and administration comes together, and a final recommendation by the Chief Inspector is then made to the Deputy Chief Constable.

With respect to Mr. Richardson, on a proper analysis of the evidence there is no question of the file not being referred to as a means of assessing the applicant. This appears to be the function which Mr. Richardson says falls between two stools. In my respectful submission this does not appear to be supported by the evidence. Both the Firearms Department and the Enquiry Officers had their respective roles to play in the assessment function, and the Chief Inspector of Firearms received their respective inputs. On Day 19 (2301) Mr. Richardson declined to say that good practice required the Enquiry Officers to have the file, or indeed for anybody in the divisional chain of command to have it. He said -- and I quote -- "The whole system must be sound. The Enquiry Officers make good enquiry under guidance and that the Firearms/

Firearms Department are proactive in checking the firearms files so that they can play their part in providing good information as the certificate progresses up the tree".

With that statement we respectfully agree. It is submitted that the system operated by Central Scotland Police meets the standard there specified.

The Central Scotland Police procedure permits the Chief Inspector -- that is the Chief Inspector of Firearms -- to consider any available information bearing on the applicant's suitability to hold a firearm, the historical documentation, and the Enquiry Officer's Report, following due support having been given by other officers, and in particular the Sergeant.

In saying this, it is accepted that in the case of Hamilton's renewals in 1992 and 1995 this procedure failed. Information relevant to Hamilton's suitability, namely the Hughes' memo and the information relevant to the Linlithgow incident, were not on the file, and therefore not brought to their attention. This was an error, but as I will submit later, Sir, nothing flowed from that error, because Mr. McMurdo was already fully conversant with both these aspects.

However, it is necessary to add that the omission of this information from the file would not have affected the decision in 1992 and 1995.

Ian McKenzie (Day 10, 1199 and 1200) stated that although he would have expected the memos relative to these incidents to be brought to his attention, they would not have affected his decision. And Mr. Mather gave similar evidence (Day 9, 1121 and 1122).

A recurring criticism of the enquiries has been their alleged failure in 1989, 1992 and 1995 to identify Hamilton's non-purchae of commercial ammunition between 1987 and 1995. This, it is said, would cast doubt on the usage, and hence on good reason -- and I don't wish to trample over that ground again.

Mr. Richardson accepted that if non-usage/

usage was not a relevant consideration, then many of his criticisms would no longer be valid (Day 19, 2338).

Not only did he criticise CSP for not initiating a procedure to allow non-usage to be identified, but he evidenced many of his criticisms by the fact that non-usage had not been identified. For example, he rejected the Firearms Department claim that they do review the file on the grounds that, had they done so, they would have identified non-usage (Day 19, 2339).

If non-usage was not something which they were instructed to look for, then the reason which he gave for concluding that the Firearms File had not been considered would disappear.

One is then left with the evidence of the Central Scotland Police Officers that it is looked at. However, that was only one aspect of Mr. Richardson's criticisms. He continued in regard to the overall procedure. If we have understood his criticisms correctly, they can be summarised as a failure of the system to support the Enquiry Officer by way of adequate Guidance and direction.

In making this criticism Mr. Richardson assumes that the limit of the guidance given to an enquiry officer is the Standing Orders and the RL3a. He ignores the structure in which the officer operates and in particular the relationship between officer and sergeant -- that is police constable and sergeant.

As Mr. Richardson said in his evidence, one cannot look at one part of the system in isolation. One must look at the whole (Day 19, 2293).

Mr. Richardson has either failed to do that when considering Central Scotland Police's procedures, or it is submitted he has not analysed the evidence correctly -- or perhaps it is both.

There is considerable support for the view that the analysis of the evidence as contained in his report is unfair. I don't intend to go through it line by line, Sir, pointing out the inaccuracies/

inaccuracies. If I can perhaps just be allowed to refer to one? On Page 35 it is recorded that in connection with the 1992 renewal Hamilton "Was never asked to demonstrate that he was a member of a Gun Club". The statement of Mr. Lynch, who dealt with the 1992 renewal, with which Mr. Richardson was supplied, stated: "I can confirm that I would have contacted the Secretary of Stirling Rifle & Pistol Club, Mr. Gordon Crawford, to ascertain from him if Mr. Hamilton was a member of the aforesaid Club".

When Mr. Lynch gave evidence (Day 11, 1322), he confirmed what he had said in his statement. It is thus submitted that the report at Page 35 does not fairly represent the content of either the statement or the transcript.

The RL3a is not intended to direct the officers, as stated by Mr. Richardson, but only to record the outcome of their enquiries. Mr. Richardson accepts that the investigation of a firearms application or renewal is well within the capabilities of a constable, provided suitable guidance and support was available to them.

That the officers did receive support and guidance from sources other than the RL3a and Standing Orders is clear from the evidence of those constables involved in renewals who have given evidence at this Inquiry. Despite Mr. Richardson's criticisms that the pre-1989 RL3a and Standing Order did not instruct or direct a check of Club membership, the evidence of officers Keenan, Bell and Brown, which we have already rehearsed, entitles a conclusion to be drawn that it was their practice to contact the Club to verify membership.

Further, although no PNC or SCRO check was specified on the form before 1990, Constable John Brown (Day 10, 1275) did make a check and recorded on the form that there was no trace of SCRO -- or on SCRO.

The other officers were never asked whether they checked PNC, SCRO or Criminal Intelligence, and therefore no conclusion can be drawn.

To say that a police constable requires guidance before he will know to check PNC and SCRO, as/

as Mr. Richardson did, (2290) is perhaps a little surprising. If officers have the training and experience which (2296) he said they had, it would be surprising if they did not know to make such a check.

However, it is important to put Mr. Richardson's criticisms of the form in the correct time frame. The particular criticism regarding PNC and SCRO checks is historical. The 1990 form improved on the 1977 form, and did provide a reference to PNC or SCRO. Notwithstanding his criticism of the form RL3a for its lack of "support", Richardson does anticipate that an officer's training will have enabled him to perform, and know to perform, tasks such as checking at Gun Clubs.

He says -- and I quote -- "The police officer has training and experience to allow them to expand enquiries if they feel it is necessary" (day 19, 2296).

Mr. Cameron shared that view. When Mr. Bonomy put the RL3a to him and invited him to criticise it, he declined to do so. Under reference to the post-1990 form the following exchange took place: "Question: One would be worried, would one not, as to how the Enquiry Officer would find out whether or not he was a suitable person to hold a Firearms Certificate?" The answer given was: "I would hope a professional police officer at operational level would know there are certain issues of unsound mind and intemperate habits would prohibit someone from acquiring a weapon. I would hope they would have an awareness as to what that question meant".

Mr. Richardson's main criticism of the form post-1990 appears to be that it does not encourage the Enquiry Officer to detail the name of the Club of which the applicant claims to be a member, nor does it encourage him to attach documentary evidence. Again, despite this criticism, the Enquiry Officers post-1990 did specify the Club on the RL3a, and did confirm membership.

Apparently, within the system in which they operated the Enquiry Officers found the guidance/

guidance and support which Mr. Richardson considers they needed to complete the enquiries in spite of the perceived or alleged shortcomings of the RL3a and Force Orders.

It is submitted that Mr. Richardson's criticisms are of form rather than of substance. We accept that a review of forms, particularly pre-1990, does not now allow an appraisal of the questions asked and answers received.

However, the forms were never intended to record an interview. It was intended that they record the outcome of the enquiries, and thus allow a contemporaneous decision to be made.

It would be unfair to judge a form on its ability to report information up to 19 years after it was utilised.

However, it has to be said that a system which cannot be improved does not exist, and Central Scotland's own procedures demonstrate how a process of evolution has led to improvements to the form and procedures as problems have arisen and been resolved.

Mr. Richardson's comments will be considered and adopted where it is thought that they are appropriate.

Mr. Richardson accepted that the Strathclyde form did not meet the standards he judged SCP against, and acknowledged that improvements could be incorporated in another revised form. It is submitted that his comments in relation to the RL3a should be viewed in the context of the form being perfectly adequate for use within the system operated by Central Scotland Police but, like the Strathclyde equivalent, capable of improvement. Support for this approach is obtained when one remembers that Her Majesty's Chief Inspector of Constabulary only praised the form.

Mr. Richardson in his evidence (Day 19, 2314 to 2316) made clear that the procedures which he was judging Central Scotland Police against were not procedures adopted by Strathclyde, nor indeed any other police force. They were procedures which he had derived from first principles in the two-week period/

period which he had been allowed to carry out his investigation and report.

Mr. Richardson states at Page 14 of his report, and in evidence (Day 19, 2300) that it was not the norm for either Enquiry Officers or Firearms Department to review the applicant's file to assess suitability or good reason at the time of renewal. He seems to conclude from this that the function of assessing "suitability" and "good reason" falls between the two, with each assuming that the other completes the task.

While we accept that the file was not reviewed by Divisional Officers when carrying out their enquiries, it is not fair, nor indeed is it logical, to conclude from that that they did not address the question of good reason or suitability, or that they assumed that it would be done elsewhere.

The evidence before the Inquiry quite clearly shows that Divisional Officers were aware of their responsibilities when undertaking the enquiry and did make an assessment of suitability and good reason.

This criticism again seems to be born of Mr. Richardson's assumption that scrutiny of past usage of the firearm and ammunition is essential before a renewal application can be granted.

Sir, while no doubt the system which he advocated was a perfectly sound system, it would be unfortunate if this Inquiry was to consider that there was only one way in which the obligations incumbent upon a Police Force in terms of the firearms legislation could be implemented.

Allowance must be made for the differing sizes of Forces and their particular cultures. An attempt was made to cross-examine Mr. Richardson on the issue of culture, but he didn't seem familiar with the concept. It is respectfully submitted that it is essential that police forces be entitled to develop their own procedures.

Further, Mr. Richardson was very keen on the concept of check lists. Whilst no doubt check lists have their place, they also have their limitations./

limitations. In another context you will have come across the situation whereby too readily the completion of a check list can become an end in itself, and too readily can the user of a check list "switch off" and fail to bring the appropriate level of thought to the process under consideration.

It has already been submitted that Mr. Richardson's analysis of the evidence is open to criticism. It would be unfortunate, however, if this was to be seen as a criticism of him.

By his own admission, he had only a two-week period in which to carry out the Inquiry, prepare his report and submit it. He had no opportunity to meet or interview those involved in the operation of the system. He had no opportunity to test if what he was saying were faults were truly faults and omissions. He had not read the transcripts, save for a consideration of Mr. McMurdo's the day before he gave evidence. He had relied on others to read the transcripts of his behalf.

In such circumstances it is not surprising that the analysis which he put forward of the system as explained by the witnesses takes a different form from the analysis provided in this submission.

Perhaps a better assessment of the system operated by Central Scotland Police can be found in the terms of the Thematic Inspection, and in particular the letter of the 25th November 1995 addressed to the Chief Constable from her Majesty's Chief Inspector. We can assume that that investigation was carried out without pressure of time. The procedures being inspected were quite clearly the procedures which were in place at the time of the 1995 renewal. Mr. Richardson accepted that the remit which he had was the same as part of the remit which those carrying out the Thematic Inspection were given (Day 19, 2323 and 2324).

It is perhaps therefore surprising that the criticisms found in Mr. Richardson's report are not echoed in that of the Chief Inspector of Constabulary.

One possible explanation is that the procedures/

procedures adopted by CSP in relation to Hamilton's various applications for renewals and variations are different to the norm. To an extent that is true, but the evidence suggests only in so far as the correct paperwork was not contained in the Firearms File.

What/

What is clearly the case is that the form RL3a was identical in the course of both inspections. Mr. Richardson criticises it. HMCIC praise it -- at least in so far as it provides a facility for recording security arrangements. If they considered it deficient in other respects they would have said so: they did not. Therefore judged against the standard of the body which sets "good practice" the form passes muster.

In short, sir, it is submitted that the fuller and more thorough report was the report carried out by Her Majesty's Chief Inspector of Constabulary. It offered no criticism of the procedures and I invite you, sir, to so find.

I would like to move on to the various decisions which were made in respect of grant or renewal and the variations of Mr. Hamilton's firearms certificate. In terms of Mr. Hamilton's conduct, the first suggestion which can be made that his possession of a gun was likely to give rise to a danger to the public follows the l988 camp at Inchmoan Island, Loch Lomond. There are two aspects of the evidence dealing with the pre-l988 situation and these are to be found in Criminal Intelligence under reference D2/L(iii) and D3/L(iii). In my submission, they are irrelevant. The first has its principal purpose to draw to the attention of police officers that Hamilton was a suspected homosexual. The second records that the contributor's estranged wife had not received a refund of a prepayment for the attendance of their child at a summer camp in circumstances which did not, ex facie the form, give rise to a refund at common law. Perhaps it is not surprising that Mr. McMurdo considered the content of the intelligence ingathered on Hamilton before computerisation to be something of which he was not proud. He felt it should not have been there at all (Day 12 - l489). That it did not find its way on to the computerised system represents the exercise of good sense by some individual unknown to this Inquiry.

Inchmoan Island Camp l988 is the first of the incidents and I will try not to look at the facts in too much detail because they have been gone over at some length at the Inquiry but, in my submission/

submission, it is essential that we move away from a consideration of labels and we look underneath the labels to see precisely what it was that happened in the very events which it is said should have given rise to a revocation of Mr. Hamilton's certificate.

The camp at l988 was said by Hamilton to be his fifty-fifth. No evidence has been led to contradict that, and the evidence from Mr. Williams two days ago provided some support for the view at least that there were a considerable number of camps. The main complaint arising from the holding of the camp was the conditions in the camp. Some boys claimed they were slapped by Hamilton who did not deny this but Hamilton thought it was necessary for discipline given that some boys were bullies, disruptive and cheeky. The boys were required to wear black swimming trunks in all weathers and this they continued to do even when Mrs. Haggar and Mrs. Reilly were in attendance. Significantly, sir, four of the boys refused to leave the camp and no parent was prepared to make a complaint against Hamilton. Indeed, some praised him.

When the papers went to Mr. Cardle, the Procurator-Fiscal at Dumbarton, he noted that there were certain discrepancies between the statements of the boys. They were precognosced, the discrepancies became greater, and the papers were marked "No proceedings". This was then made known to the police.

Meanwhile, Hamilton had complained of the manner in which the enquiry had been carried out by the two officers from the CSP who had investigated the matter. We then had the informal inspection by Inspector Michael Mill who met with McMurdo, prepared his report, and was aware that Hamilton had a firearms certificate. He did not have any grounds for concern that Hamilton should continue to be the holder of that firearms certificate (Day 8 - 965). McMurdo was away of Mill's view and expressed no concern. In fact, what he said was "The whole consideration was whether he was a suitable youth leader". This is McMurdo at Day 13, l557.

As we have heard, the informal report by Mill did not satisfy Hamilton and a formal investigation was then carried out by Inspector Keenan/

Keenan. Keenan spoke to a number of people who had not been spoken to by the original investigation, and some of the people to whom he spoke spoke highly of Hamilton's organisation, the food and equipment in the camp and his capabilities as a leader (Day 6 - 773 and 774). Inspector Keenan knew that Hamilton was a firearms certificate holder. He had experience of working in the Firearms Department. Had he come across a piece of information which may raise a question as to the suitability of Hamilton to hold a certificate he would have considered it his responsibility to draw that to Mr. McMurdo's attention (Day 7 - 784 and 785). No such question was raised. Only Hamilton's fitness to run a boys' camp was in question. It is thus submitted, sir, that the decision not to revoke Hamilton's firearms certificate on the basis of Inchmoan was correct and certainly within the scope of a reasonable exercise of discretion. There is nothing in the events which suggest that Hamilton was a danger to the public arising out of or in connection with his possession of a firearm. Looked at in context the slapping of the children could not be said to be of a gratuitous nature giving rise to any question of Hamilton's stability or aggression. His ability as a youth leader does not, it is submitted, reflect on his ability to be in possession of a firearm without danger to the public. In any event, views on his ability were mixed.

The next incident, sir, was that which took place in the house in Linlithgow. That was a complaint which was made to Lothian and Borders Police who investigated. They did investigate it and they chose to take no proceedings. In fact, there isn't even any evidence to suggest that they considered it worthy of a report to the Procurator-Fiscal. Because Hamilton was a certificated firearms holder in Central Scotland Police the details were sent to the Central Scotland Police Force and were drawn to Mr. McMurdo's attention because of his position as the firearms officer. He placed great reliance on the statements which had been taken by the Lothian and Borders Police, namely that there had been an invitation extended to Hamilton to go to the house with firearms, that none of the occupants of the house were alarmed, there had been no ammunition present, and the parents were happy that their children be photographed by them, the parents, in possession -- or rather holding the firearm/

firearm. I dispute that the children were actually in possession of it at the time and that possession was still that of Mr. Hamilton.

The only suggestion which came through the enquiry was that Sergeant McGrane thought that there had been some feeling that the householders were not at home with Hamilton bringing guns to the house. There is not a hint of that in the written statements and there is not a hint that that was drawn to Central Scotland Police's attention.

It is submitted, sir, that that event should not give rise to any suggestion that there be a revocation although with hindsight Mr. McMurdo was prepared to accept that one reasonable course of action which he may have taken would have been the sending of a warning letter.

We then reach Milarrochy Bay l99l Camp. Documents, of which there are many, disclose a number of complaints and it is essential these should be grouped into three groups. One is assault, two is camp supervision and the third is photographs. A report was sent to the Procurator-Fiscal at Stirling. After some discussion there was a decision to take no proceedings on the basis of both lack of criminality and not in the public interest. In my submission, sir, it is not difficult to see why that view was reached.

If I can take the three groupings, namely that of assault, camp supervision and photographs: in my submission, sir, viewed objectively it appears that one child caused a problem at the camp by gratuitously assaulting or bullying another on the football pitch. He was chastised for his efforts. Shortly thereafter he again gratuitously assaulted the same child and Hamilton chastised him more severely. The same child then threw a stone and hit another on the eye and he was again chastised. Many would view the conduct of Hamilton as wholly appropriate if proper discipline was to be maintained at the camp.

However, Detective Sergeant Hughes thought otherwise. He considered that the disciplining of the child constituted an assault and that it demonstrated Hamilton was capable of violence. It also formed the basis for Hughes' view/

view, expressed in his memo, that Hamilton was unstable in that he had demonstrated loss of control. However, Hughes did acknowledge that the chastisement of the children could rationally be viewed as the proper exercise of control by Hamilton (Day 7 - 909, Day 8 - 9l9 and 924). He also considered that Hamilton's chastisement of the child fell within the band of responses which might be expected of an adult (Day 8 - 9l8 and 924).

Sir, it is submitted that the assault or chastisement does not constitute gratuitous violence and that this conduct no more disqualified Hamilton as being considered unsuited to hold a firearm than it would a father who is a strict disciplinarian with his own child. On any objective view, it is submitted that chastisement of a child in the circumstances described does not demonstrate an unstable character.

The second section is that of supervision. These essentially are echoes of what was said of the Inchmoan Camp in l988. In my submission, sir, these must be taken in the context that some parents were quite happy to leave the children at the camp. When statements were taken from parents, many were supportive of Hamilton (Day 13 - l566 to l567). However, in any event, lack of proper supervision at a camp does not, it is submitted, give rise to a concern that Hamilton was likely to cause danger to the public arising from his possession of a firearm.

One is then left solely with the question of the photographs and the subject matter of these photographs. None of the photographs taken by Hamilton at the camp were considered by Hughes to be indecent (Day 7 - 894 and Day 8 - 9l9). The weight of evidence does suggest that Hamilton was less than open in his dealings with the police. Photographs of six developed rolls of film were handed in to the police but there are reasonable grounds for believing that eight rolls were handed in to a photography shop for development. This does suggest that Hamilton was not being wholly truthful. No further attempt appeared to have been made to question him on that at the time.

It may be suggested that the failure to disclose the existence of the two rolls of film makes/

makes Hamilton a person dishonest in his dealings with the police and thus not a suitable person to be entrusted with a firearm. In fact, that is what is suggested. McMurdo did not expect that every firearms certificate holder needed to be honest in his dealings with the police (Day l3 - l60l and l602).

In light of some of the reported decisions it is submitted that this is not an unreasonable view.

Sir, in the case of Spencer-Stewart and the Chief Constable of Kent, to which I have already referred -- I accept this was a case dealing with a shotgun -- the Court held that notwithstanding offences for assault with occasional actual bodily harm, handling stolen goods, theft, obtaining property by deception and l5 other offences of a similar nature, all between l976 and l978, and a conviction for handling stolen property in l987, the applicant was entitled to retain his shotgun certificate in l988. It was a distinguished Bench and it was the present Lord Chief Justice who gave one of the leading judgments.

Handling stolen property is the English equivalent of reset, and according to Gordon on Criminal Law (Second Edition) reset is defined as "The retention of goods obtained by theft, robbery, fraud or embezzlement with the intention of keeping them from the true owner".

Sir, it is submitted that anybody who commits an act of reset could be described as a person who is scheming, devious, deceitful and untrustworthy. In Spencer-Stewart it was considered that although the applicant might well be given to the commission of offences, the offences in consideration were not such as would involve the "slightest risk or likelihood of use of a shotgun". That being so, the applicant was entitled to retain his shotgun certificate. The Chief Constable's view was not supported. Thus even with a description of the applicant fitting that given by Hughes to Hamilton, and in the case of Spencer-Stewart being l00 per cent accurate, plus a string of previous convictions involving violence and dishonesty, the Court of Appeal held that the applicant's shotgun certificate ought not to be revoked/

revoked. The Court went further and said the grounds would not have justified grounds for refusal to renew.

I accept, sir, that different criteria apply to shotgun and firearms certificates. Section 28 does not carry with it the proviso that a certificate shall not be granted to a person of intemperate habits, of unsound mind or otherwise unfitted to be entrusted with a firearm.

It/

It is respectfully submitted, however, that given the test, the composite test previously discussed, the difference between the considerations in the mind of a Chief Officer of Police when considering the revocation or refusal of a shotgun certificate as opposed to a firearms certificate are not significant.

Viewed against the level of dishonesty displayed by Spencer-Stewart, Hamilton could be said to be at the other end of the spectrum; yet the Court of Appeal did not support the Chief Constable's decision to revoke. In such circumstances, it is submitted that McMurdo's decision not to revoke was clearly within the proper exercise of his discretion.

It is also, sir, significant to have regard to the timing of the memorandum. There is no evidence to suggest that the two missing rolls of film were considered sufficiently significant in September, 1991 to justify applying for a search warrant to see if the photographs not surrendered by Hamilton could be found at his house. However, some nine weeks later, after a report had been sent to the Procurator Fiscal, and after informal indications had been made that there were to be no proceedings, and further that a complaint was made against Hughes' handling of the investigation by Hamilton, the missing photographs contributed significantly to the basis for Hamilton being described as "scheming", "devious", "deceitful" and "not to be trusted". As Hughes conceded, it was possible that in writing the report he was not as objective as he might have been had the complaint by Hamilton against him not been made. On being asked when he knew of Hamilton holding a firearms certificate Hughes said that he did not recall (Day 7, p.900). The Inquiry subsequently learned that as a matter of course when a report was sent to the Fiscal a check was made on SCRO to ascertain if there were previous convictions. Such a check discloses whether the subject of the search is a firearms holder (Day 14, p.1685).

It is submitted that it is reasonable to infer that Hughes knew Hamilton was a firearms holder by 6th September, being the date he submitted his/

his report to the Procurator Fiscal. Why he delayed in writing his memo until 11th November is not known. If he did know of the existence of the firearms certificate on 6th September, but waited until 11th November to express his concerns, one might wonder whether the concerns expressed were as strongly held as the memo made out. At the time of its dictation Hughes would barely have considered it would be pored over to the extent it has, and that he would require to speak to it at a subsequent Inquiry of this nature.

McMurdo did consider that there was something in relation to the delay in informing him of the firearms certificate issue. He described it as a "pertinent" factor. It is clear from his evidence that he did not know exactly what to make of it (Day 12, p.1535).

Sir, the view expressed by Hughes of Hamilton in the memo relied "almost entirely" on his intuition as a police officer. He accepted that it might be difficult to put one's finger on hard and fast evidence to support the view expressed in the memorandum and that it came down to a gut feel at the end of the day (Day 8, p. 924).

On considering the papers after they had been submitted to him, McMurdo formed the same view. He agreed that Hamilton was a controversial figure, but felt the whole memo from Hughes was no more than an impression. There was no evidence to substantiate the conclusion. A gut feeling would not be enough.

You, sir, are able to look at the evidence. It is all there. All the papers which were available to both parties are before you, and I invite you to draw your own conclusions as to whether or not the memorandum can meet the evidence.

McMurdo, however, was not alone in considering that the content of the statements did not support what was said in the memorandum. Ian MacKenzie, a former superintendent of police, was of the same view. In the week before he gave his evidence he had been asked to consider for the first time the papers relating to Inchmoan and Milarrochy. He saw the papers which accompanied the report to the Fiscal by Strathclyde Police into Inchmoan and also/

also the papers accompanying Hughes' report to the Fiscal at Stirling. Neither incident would have caused him to revoke Hamilton's firearms certificate. He did not think the statements contained in the Hughes memo were supported by the evidence. He saw no evidence that Hamilton was unstable. He saw no evidence that Hamilton had assaulted a child due to cracking under stress, and he found no evidence that Hamilton had been dishonest to the extent that revocation was warranted.

McMurdo did not accept the description of Hamilton as painted by Hughes. He too had met with Hamilton in October, 1989 and had corresponded with him regularly thereafter as Hamilton pursued his complaint against the police. He knew Hamilton's argument in favour of maintaining a strict regime. He knew the argument for the boys wearing trunks. He had been able to form his own view of Hamilton's personality. He did not form the view that Hamilton was either irrational or unstable (Day 13, p.1559).

After consultation with his Chief Superintendent John Millar he chose to take no action. It was suggest to McMurdo that he ought to have spoken to Hughes before deciding to take no action. Had McMurdo not otherwise known of Hamilton and had he not met with the man it might have been unreasonable for McMurdo to have made no inquiry of Hughes. However, McMurdo knew Hamilton better than anybody else in CSP knew him. It could hardly be otherwise, given the volume of correspondence he had had from the man. He was able to read the full details of the incident. It is important to note that this was not the first time that McMurdo had received notice of complaints about the 1991 camp. He had been informed right at the outset, he had been briefed by Mr. Holden, Mr. Hughes' superior, from an early stage, and he had even received Holden's note of the 12th August. He continued to have dialogue with senior officers throughout the investigation. He was in pole position to assess the facts and come to a view. "I knew all about the case. I had read it. I had spoken to a senior officer" (McMurdo, Day 12, p.1510).

Sir, in all the circumstances it is submitted/

submitted that the memorandum prepared by Hughes was a memorandum which was not supported by the underlying evidence. It is the underlying evidence which must be looked at; it is not a description of the sort that one finds in the memorandum to which one must have regard; it is not a description which the Chief Officer of Police has to go on; it is the underlying facts he has to go on when he comes to a view about the suitability of an applicant to hold a firearms certificate. It is clear that McMurdo's view was correct.

We now turn to look at the events that occurred post-Milarrochy. The first of these is that which occurred at Dunblane High School camp being run by Hamilton in 1992. That is the one where three boys inappropriately dressed tried to telephone their parents circa 10 o'clock at night.

Now, the circumstances of how they came to leave school have not been properly explored. It is perfectly possible that Hamilton was completely blameless. Which of us who can remember days at camp cannot recall pranks which by their occurrence might suggest carelessness on the part of those in charge but where the reality was that they occurred because of the devilment of youth. No school can be made 100% secure, since to do so would render the building to be a fire trap. Whether the boys therefore escaped because of Hamilton's lack of supervision or because they were particularly resourceful is not a question which can be answered.

The subsequent complaints to the police all centred on one theme, albeit with a few different strands. The principal theme was the taking of photographs by Hamilton at various boys' clubs. There is no evidence that the boys were concerned; their parents were. The incidents are summarised in D3/1(i), and I won't go through them here.

A report was made to the Fiscal at Stirling, and of considerable significance, a search warrant was requested but refused, which suggests to the police that there was no reasonable grounds to suspect a crime was being committed.

The police inquiries continued, and after initial reluctance the Scout Association permitted/

permitted access to their files. The purpose of the examination was to see if there was anything contained therein which would be of assistance to the general investigation.

The then Detective Constable Taylor noted certain views of Hamilton expressed in the file and attributed to Mr. Brian Fairgrieve. Taylor was particularly concerned with the description of Hamilton as being "mentally unbalanced". Taylor knew that Hamilton was a firearms certificate holder and he knew of the concerns which had been expressed by Hughes. He shared these concerns, but only because he relied on what had been said by Hughes (Day 18, pp.2179 and 2190). A meeting with Fairgrieve was arranged. Fairgrieve cannot recall this meeting (Day 4, p.480). When interviewed by Taylor, Fairgrieve described Hamilton as having grandiose delusions of his own ability and being a bully towards children. He said that a description of Hamilton as mentally unstable was not his view. A medical examination would have been required before such could be said (Day 18, pp. 2186 and 2187). Having grandiose delusions and being a bully did not cause concern to Taylor in relation to Hamilton's continued entitlement to possess firearms.

It is further submitted, sir, that having heard the evidence from the psychiatrists and psychologists, there was no evidence to support a finding of him being grandiose and a bully.

Further photographs came into possession of the police, and a further meeting was held with the Procurator Fiscal at Stirling. Again, the view expressed was that there was no criminal offence.

The officers now felt that the way to give some credence to the complaints which were being made against Hamilton would be if the clubs he was running could be stopped, and their efforts were in the future focussed towards that. Just to make sure that no stone was left unturned, Taylor made contact with the Metropolitan Police to see if they knew of Hamilton through their sources. This enquiry also drew a blank.

It is submitted that all of these investigations were thoroughly carried out by Central/

Central Scotland Police, with no stone being left unturned; but nothing was brought to light which should have caused any concern about Hamilton owning a gun or possessing a gun. There was no criminal activity involved, there was nothing more than suspicion regarding this activities at the club, and these suspicions centred on his exploits with a camera. The adverse comments made of Hamilton in the Scout file and which came to light during this investigation in no way impinge upon an individual's entitlement to hold firearms. Taylor's view on this matter, it is respectfully suggested, was correct, even if the information was not conveyed to McMurdo; and this we do not know, since McMurdo was never asked, and neither was Moffat.

However, sir, McMurdo was still concerned that these rumours and reports persisted, continued to be made, and he was not prepared to leave it there. He asked the then Inspector Holden to meet with Hamilton and to address the concerns of the parents. Sergeant Moffat and Holden met with Hamilton in October, 1993. During the meeting Hamilton remained calm and was "quite articulate". He was asked about the formation of a committee for the boys' club, but he evaded this question. Holden thought he was lying. He was challenged about being homosexual, which he denied. He remained composed, and as he had with McMurdo two years earlier, and justified the manner in which he ran the clubs and camps.

Holden's view of Hamilton's character following the meeting was that he was not unstable (Day 7, p.880). It had been this aspect which had concerned Holden most in 1991 in relation to the content of the Hughes memo. Holden acknowledged that if "unstable" correctly described Hamilton, then Holden did not consider him to be a fit person to hold a firearms certificate.

At this stage, sir, I would like to look at Holden's view in relation to 1991, since some time was spent on that by Mr. Campbell.

Holden agreed that the question which was posed by Hughes was a correct and appropriate question to pass up the line to those involved with firearms (p.871). What he says, however, was that he was relying on Hughes, since he had not met with Hamilton./

Hamilton. His view could only be a secondhand view, and Hughes' view was first hand. He agreed that if instability was correct then Hamilton should not have a firearm.

He did not agree in the cross-examination which was given to him by Mr. Campbell that if a person was a liar then that necessarily precluded him from holding a firearm. He did however consider it might be part of a reason for refusing a firearms certificate.

It is significant, sir, that after the meeting he had with Hamilton he did not think Hamilton to be unstable. He reported his views back to McMurdo after that interview.

Holden's recollection is that in the course of the discussion McMurdo commented that the opinion of Hamilton expressed by Holden was the same opinion as that of McMurdo, which he had formed two years earlier (Day 7, pp.879 and 880). McMurdo saw the view being expressed by Holden as a change in Holden's position (Day 7, p.1594). That would be correct if McMurdo previously thought Holden to be of the view that Hamilton was unstable, as stated in the Hughes' memo.

The next aspect which requires to be considered is that of the correspondence into which Hamilton entered with the police. One sees this in its full range in chapter K.

Now, sir, Hamilton took issue with the Scouts, the police and the local authorities, and on each occasion he did no more than exercise his legal rights, albeit with a dogged determination.

McMurdo was one of Hamilton's principal correspondents, and he eventually "lost his cool", as he put it, when he saw another line of correspondence opening, at Hamilton's instance, with the Scottish Office. This coincided with a complaint to McMurdo by P.C. Gunn, who was seeking advice as to whether he should take legal action against Hamilton in respect of some of the comments being made of Gunn by Hamilton in Hamilton's circulars to parents (Day 12, pp.1480 and 1524; Day 13, p.1569).

In/

In an effort to persuade the Scottish Office not to take up Hamilton's cause, and thus involve McMurdo in further correspondence, McMurdo wrote to the Scottish Office a letter dated 14th January, 1992 in rather intemperate terms.

The/

The letter, however, served its purpose. It stopped the correspondence.

On your invitation, sir, McMurdo considered that he would choose to withdraw the words "evermore irrational outpourings" from the letter and generally tone it down (Day 12, p.1524).

In the whole correspondence, however, there is never a threat made by Hamilton. We have now seen the reports prepared by Mr. Baird who, having read the correspondence, did not consider it suggested that Hamilton was irrational. That is perhaps confirmation that McMurdo was correct to withdraw the passage which he did, sir, on your invitation.

Now, I think it was Professor Cooke who considered that the writing of the letter could even have been a release for Hamilton although I don't think that that was a factor which was considered by the police at that time.

Notwithstanding his comments in the letter, McMurdo did not believe the correspondence gave cause for concern that Hamilton would be untrustworthy. However, certain expressions in the letter seemed to give cause for concern to some of the parties at the inquiry and point to an opposite conclusion from that which was formed by McMurdo.

Something was made of Mr. McMurdo's use of the term "right minded people". It is a phrase which features in a number of McMurdo's letters and he acknowledged that he used it quite a bit. By so using it, he meant "ordinary people" (p.1570).

"Zealot" was another word used and defined by McMurdo as "somebody who pursues a cause with great determination" (p.1571). It is respectfully suggested that this is an accurate definition and it is also an apt description of Hamilton but not a description which necessarily implies that the man should not have a firearm.

You, sir, took up the description of Hamilton as being someone whose views lacked perspective at least in relation to Hamilton's dispute/

dispute with the Scouts. McMurdo thought he had been "churlish" in the use of that description, given the time given by Hamilton to his boys clubs.

It is interesting to note, sir, that although it is McMurdo's perception of Hamilton which is of relevance at this stage, nonetheless the Scouts in fact did view Hamilton as a rival at local level. That is Woolhead (Day 9, p.1066).

Complainers such as Hamilton are sadly not unique to the police as McMurdo described (pp.1572-1573). Michael Forsyth confirmed that this was the case in his experience as well. Ian MacKenzie on Day 10 was cross-examined on whether he considered that because somebody had made a complaint against the police or another authority which turned out to be without foundation, whether that would in his view justify revocation of the firearms certificate. MacKenzie was not of that view (pp.1216, 1218 and 1219).

Sir, it is submitted that McMurdo was justified in not considering the correspondence which he had entered into with Hamilton, and which Hamilton exercised as a legal right, as justification for revocation or refusal of Hamilton's firearms certificate. Had it been so revoked or refused, one can only imagine what would have been said by those who champion the cause of civil rights.

We then reach, sir, the 1992 renewal. McMurdo was on holiday at this time. It was dealt with by Adamson. Adamson was familiar with Milarrochy and he knew about Hughes memo although he hadn't seen it. He was aware of the view taken by McMurdo and he was in daily contact with McMurdo. Adamson was also aware of the 1988 Inchmoan incident. He was also familiar with the terms of the correspondence between Hamilton and McMurdo. He himself had correspondence with the Scottish Office in McMurdo's absence (Day 13, pp.1605-1609). The letter which he wrote, 105K, clearly demonstrates an intimate knowledge of the communings with Hamilton, albeit that the letter had been prepared by another member of the Force.

It may be suggested that the test applied/

applied by McMurdo when considering revocation would be a different test from that which Adamson required to apply when considering renewal. In particular, the requirement that he should be satisfied that Hamilton could possess a firearm without danger to the public safety or to the peace would technically not have been before McMurdo. Standing the submission I have previously made as to the composite test, that difference is one of form rather than substance.

Sir, it was further suggested that one should have regard to the cumulative effect of these events. In my submission, however, even if the events relating to Hamilton are looked at cumulatively it makes no difference to the decision. There are only two instances where it might be suggested there is assault and both are of the same genre. They are examples of over-chastisement of children. They were in 1988 and 1991 and in my submission, such does not give rise to an accumulation which results in a pre-disposition of violence to be concluded in respect of Hamilton.

The only suggestion of a cumulative effect can be, it is submitted, in relation to the incidents which occurred post-Milarrochy where one had a number of complaints made by parents who were suspicious of what motivated Hamilton to take photographs of their sons. On each occasion, however, there was never anything more than a suspicion that what Hamilton was doing was unwholesome. There was nothing tangible in any one incident. At the risk of being facetious -- nothing plus nothing equals nothing.

One must also beware of the bandwagon effect. There was a concern at this time that Hamilton might have been the subject of a witch hunt. McMurdo put it thus (Day 12, p.1489) "They (the complaints) all centred round the wearing of shorts and a bare top. There was no one single photograph that I have seen, and I have seen hundreds and hundreds of them, which are in any way indecent. Things almost had reached a witch hunt by that time. Rumours were circulating about the town but there was nothing, nothing at all, in all the photographs we looked at. There was not one we found that was in any way indecent".

Whether/

Whether a Chief Officer of Police can act on suspicions is addressed in the joint submission. It is said in paragraphs 42 to 45 on page 25 that if the police were given wider discretion to refuse certificates, they might find it easier to exclude applicants whom they suspected of being unreasonable. It is suggested that the police might take into account suspicions, incapable of proof, that the person is unsuitable. The Home Secretary and Secretary of State for Scotland have a difficulty with this proposal. They consider it would be unfair on the applicant if the suspicion turned out to be groundless. It was also suggested that the Chief Officer might have problems in sustaining his decision on appeal because the Courts could certainly expect him to have valid reasons for his decision.

Had Mr. McMurdo been taken to appeal, he would have felt the same way as George Robertson, the Shadow Secretary of State, felt when he took up Hamilton's activities with Michael Forsyth which he described (Day 15, p.1808) in the following way; "I have to say when confronted by Mr. Forsyth's questions to me about what precisely I was talking about, what precise evidence I had, what it was exactly I was complaining about, I found myself in the same difficulties that so many other people had, that it was difficult to put your finger on what people felt was wrong with Thomas Hamilton".

Based upon the totality of what was known in 1995, it is respectfully submitted that on appeal Mr. McMurdo would have had little prospect of being successful. In fact, sir, he would have had none. To have refused Hamilton's application would thus have been an unreasonable exercise of his discretion.

When McMurdo, therefore, came to consider the renewal of Hamilton's firearms certificate in 1995 he had to, and did, take account of all information available to him. He did not rubber stamp as was suggested yesterday by Mr. Campbell. In fact there is, in my submission, sir, not a jot of evidence contained in the transcripts to support that very serious submission. No evidence was suggested yesterday, no evidence was put forward to you, sir, to support the view that what McMurdo did in 1995 was a rubber stamping exercise./

exercise. One might have expected there to have been such a quotation if there was any substance to such a serious allegation. The true position, however, may be found on Day 12 at p.1503 where Mr. McMurdo was answering questions put to him by Mr. Campbell. What was said there by Mr. McMurdo was "I thought through the various actions which had affected Mr. Hamilton over the years and I signed the certificate". He acknowledged that it didn't take him a great length of time, a few minutes, but to suggest that what he was doing was rubber stamping is in my submission, sir, not supported at all by the evidence.

Further, sir, yesterday much was made of McMurdo not having had resort to the firearms file. Sir, he had much more than would ever be in this firearms file or any other firearms file. Perhaps because of the size of Central Scotland Police, he also was in charge of complaints and discipline. He therefore had all these papers to consider. They comprise four Lever Arches in this Inquiry. That perhaps is indicative of the small size of Central Scotland Police Force and it perhaps marks out why the procedures which are adopted in one Force need not necessarily be the best practice in a different Force.

Apart from the display of weapons to the family in Linlithgow, when McMurdo came to consider all the relevant factors he would have had to find that there was no evidence of any impropriety with a shotgun or a firearm. The letters by this time had started to tail off (p.1568). The three reports to the Fiscal had not resulted in any Court action, let alone conviction, this lending some support to the view formed by McMurdo of the various incidents. There had even been a refusal of an application for a search warrant, suggesting that there was not even reasonable suspicion that a crime had been committed. Furthermore, no senior officer who had met with Hamilton had considered him a danger with a firearm. Holden's view of Hamilton's character coincided with that of McMurdo after Holden's interview in October of 1993. Apart from the two incidents at the camps in 1988 and 1991, there was no suggestion of violence on Hamilton's part. Quite the reverse. Although not asked, it would be improbable if McMurdo was unaware of the incident when flour, etc., was thrown at Hamilton/

Hamilton and was borne by him with fortitude. No photographs were recovered of an indecent nature. A great many positive comments were made of Hamilton by others. There was never a suggestion of Hamilton drinking to excess. The only suggestion of drugs came from the master of clinical acumen, Mr. Fairgrieve, who in 1986 in a private memo, which he shared with nobody and prepared following a meeting with Hamilton, said he wouldn't be surprised if Hamilton was on psychiatric drugs. His medical records, that is Hamilton's medical records, disclosed that there was never any psychiatric disorder, he never was on drugs and the post mortem confirms this.

Given the foregoing, sir, it is submitted that McMurdo was entitled to hold the view that his only concern was whether Hamilton's actions towards the boys in the clubs and camps were totally wholesome and that he never dreamt that Hamilton would be dangerous with a firearm (Day 12, p.1552).

As Mr. Cameron said (Day 21, p.2488) "There is a practical difficulty, if there is no tangible, transparent, verifiable evidence then there is grave difficulty in taking any form of regulatory control".

It is submitted that in so far as Hamilton was concerned, there was no tangible, verifiable evidence to demand a revocation or refusal to renew his firearms certificate.

When one performs an administrative task such as McMurdo had to do and, sir, in my submission it is an administrative task and not a judicial function as was suggested by Mr. Campbell yesterday, there is no single correct course of action and I quote "The very concept of administrative discretion involves a right to choose between more than one permissible course of action, upon which there is room for reasonable people to hold differing opinions as to which is to be preferred". Those are the words of Lord Diplock in the case of SECRETARY OF STATE FOR EDUCATION AND SCIENCE v. TAMESIDE METROPOLITAN BOROUGH COUNCIL (1977) AC 1014, quoting from page 1064.

Sir, it is submitted that the decisions taken by McMurdo in the history of the file and, in particular,/

particular, the decision in 1995 to renew the firearms certificate were decisions which fell within the description of permissible courses of action.

It is perhaps easy, given the events of the 13th March, to say that there must have been a failure on somebody's part to allow Hamilton to retain his entitlement to possess firearms. To say Hughes was correct and McMurdo and the others were wrong is a great temptation. However, sir, to so say is to put the facts of 13th March into the equation. They should be excluded because otherwise it is being wise after the event.

If society allows handguns to be owned by individuals and possessed by them in their own premises, it is submitted that no system will be foolproof and prevent such an individual from making wrongful and sometimes murderous use of such weapons.

Sir, I would now like to address the culture in which Central Scotland Police operated. As with other police forces, they do not act in a vacuum. How they go about their business is conditioned by many external factors. Two major influences are the Scottish Office in its own right and acting through Her Majesty's Chief Inspector of Constabulary. Both of these bodies have in recent times been making their views known on the licensing of firearms.

The Government has extended the life of the firearm certificate from 3 to 5 years. HMCIC has been urging police forces to (a) introduce renewal of firearms certificate by post (b) abandon the need for a counter-signatory (c) civilianise the investigation of applicants (d) provide a quality service and value for money to the shooting community which the police are told pays for the service provided by the police in relation to firearms licensing and (e) set specific target times for the completion of a grant or renewal of a firearms certificate.

What does the foregoing, taken in the round, say to the police? There are two clear messages. (1) the renewal of a firearms certificate is more appropriate work for a civilian to/

to undertake and police officers are best utilised in other areas and (2) that the renewal of a firearms certificate should be made easier, cheaper and faster. The emphasis is on co-operating with the shooting community.

The Home Office requirements for there to be a proposer and seconder for membership of a gun club has been reduced to requiring a proposer only. The minimum probationary period for club membership has been reduced from six to three months.

Thus should you, sir, in spite of this submission find the procedures adopted by Central Scotland Police and the decision making function to be less rigorous than you would have chosen, the culture in which the Force operates must be borne in mind. If Central Scotland Police or any one of their officers did get it wrong, one must look to the top of the tree. It is from the top of the tree that example is given and the tone set. In terms of a police force that can mean in Scotland only one office. The Scottish Office.

Given the climate created by the Government in relation to the administration of firearms, it is grossly unfair for society to suggest that one individual police officer or group of police officers should shoulder the blame for something so horrendous as took place on the 13th March.

It/

It is respectfully submitted, Sir, that renewals should not be by post, a certificate should last for three years, the counter-signatory provision should be strengthened, not abolished, and no pressure should be brought to bear to have an application for grant or renewal completed within a specified period. The position taken by the Government should be reversed. They should go through l80 degrees.

Finally, Sir, it behoves me to look at the causative effect, since you were addressed by Mr. Campbell on causation. Perhaps it is surprising at an Inquiry of this nature that one needs to address that.

However, we have already discussed the criticisms that have been levelled at the Central Scotland Police procedures, and our comments upon them. Some are accepted as valid, others are rejected.

It is submitted, however, that even if accepted in their entirety, none of the alleged failures of practice or procedure resulted in a decision to grant Hamilton a firearms certificate in circumstances where it might otherwise have been refused.

Whatever view is ultimately taken on the efficiency of the Enquiry Officers and Firearms Department in ingathering information on Hamilton, and in referring that information to the decision-maker, all relevant and available information which might have had a bearing on his suitability was given due consideration in the course of deliberations over Hamilton's firearms certificate. No information which might have influenced the decision and which could or should have been known to the decision-maker and was not, has been brought to light in the course of the Inquiry.

It might be suggested that Criminal Intelligence was not tapped as a source of information in the course of the enquiries, nor did it contain all the information which it might when it was so tapped.

It is accepted that none of the various Criminal Intelligence entries recorded of Hamilton over the years ever made their way to the firearms file, nor did the Smith incident, Hughes' enquiry, nor the Taylor Report ever make their way to Criminal Intelligence. Criminal Intelligence was not regularly checked in the course of Hamilton's various applications for grant and renewal. When it was, it was thought to contain no information of relevance, and its contents were not referred to the decision-maker.

Until l990 there was no Force instruction to review Criminal Intelligence. However, John Brown thought that he would have made such a check in l989. If he did, by January l989 a series of entries relating to Hamilton would have been disclosed to him.

He did not comment upon them in the RL3a, nor did he bring them to the attention of his superiors. It is not difficult to see why. Some of the entries which were on the manual system and classified as "Intelligence" stretch the meaning of the word to its limits. The purpose of the first entry appeared to be as I have already said to draw attention to Hamilton's suspected homosexuality; the second seemed to be from a disgruntled member of the Transport Police; the third is a brief summary of the Inchmoan complaint; and the fourth, fifth and sixth are simply newspaper cuttings.

However, had these entries been brought to McMurdo's attention he confirmed (l588 and l589) that they would not have influenced him nor made any difference to his decision. He did, of course, know all about Inchmoan, and the Intelligence could tell him nothing.

Between l990 and l994 the Force Criminal Intelligence system went through a number of changes -- and I don't propose to address you, Sir, at length on these.

It might also be suggested, Sir, that Ann Anderson's "gut feeling" should have been reported to her superiors. She did not consider it to be a matter which could be narrated on the RL3a form. She could not formulate her feeling into a reason to recommend refusal. She could not quantify the/

the feeling, but did say that whatever it was she would not have put him as any kind of risk (Day ll, 1393).

However, assuming again that her decision in this respect was flawed, such a narrative would not have resulted in a different decision being taken in l995.

Constable Anderson again could have told Mr. McMurdo nothing new. He knew all about Hamilton and of people's feelings about him. He also knew that whatever those feelings were, with the sole exception of Paul Hughes, they did not relate to him being a risk with a gun. His decision would have remained unchanged.

In summary, whatever flaws might therefore be alleged in the process of storing, recording and accessing information relative to Hamilton, or of the Enquiry Officer's efficiency in identifying and reporting upon that information, it made -- to use Mr. McMurdo's words -- "not one whit of difference".

A recurring criticism of Central Scotland Police procedures was their failure to address past usage of the firearms and ammunition in testing Hamilton's "good reason". This was a theme which permeated Mr. Richardson's evidence in particular. You have already been addressed, Sir, at length on this criticism, and the reasons for its rejection.

However, assuming again for the moment that he is correct and Central Scotland Police should have reviewed Hamilton's use of the firearms certificate to identify whether he was making use of his arms, what would such a review have disclosed? As previously submitted to you, he was making use of the firearms, and nowhere is it suggested in the Guidance or anywhere that there is any minimum usage. Indeed, there is even a reference in the Guidance to each case being determined on its own merits, and there being no arbitrary limit.

You have already been addressed on Hamilton's club attendance. In the absence of any specified definition or standard for "regular use", it cannot be said on the basis of the available evidence/

evidence that Hamilton would not have satisfied the "use" criteria or failed, even on the Richardson test, to establish good reason.

The evidence before the Inquiry does not allow us to say whether Hamilton could have satisfied the "use" criteria for every firearm he held. We have already discussed the fact that the procedures and records currently practised and maintained by gun clubs throughout the period of review would not accommodate such a check. Even if it had, it is reasonable to assume from Hamilton's attendance that he must have been using at least one firearm, and even on the stringent Richardson test, would therefore have satisfied "good reason" for at least one firearm. Sir, that was all it took.

Central Scotland Police did not make checks with gun clubs to enquire of the "behaviour" of an applicant before renewing his certificate. They did not do so with Hamilton. However, had they done so they would have been told nothing that would have justified refusal. Although Crawford, Smith, Campbell and Wood all gave evidence to the effect that Hamilton shot rapidly, his handling of firearms was always considered safe.

Even with the benefit of hindsight, the Stirling Rifle and Pistol Club could not identify anything in his behaviour at the club which should have prompted action by them. They were strict on safety and discipline, and Hamilton complied with those strictures.

If the club cannot now identify any behaviour which should have merited action, it is reasonable to assume that they would have expressed no concern had a police enquiry been made.

Whatever comments might have been expressed about the speed of fire, CSP would have been told that Hamilton was a safe and disciplined club member and that his behaviour gave the club no reason to take action or to reconsider membership.

In addition, CSP did not at any time seek a medical or psychiatric report on Hamilton. There was some suggestion that Mr. McMurdo might have questioned Hamilton's mental health in light of the copious and persistent correspondence which he received/

received.

However, even had such a referral been made we now know from the evidence the psychiatrists and psychologists have given to this Inquiry that the correspondence did not and would not have disclosed Hamilton as being mentally ill, or as having any personality disorder.

Indeed, even if he had been medically examined, as opposed to simply the correspondence being looked at, in light of the submission which I have already made on the weight which you, Sir, should attach to the psychiatrists' and psychologists' reports, it is improbable that anything would have come of such an investigation.

The amount of ammunition held has also been the subject of comment. The criticism appears to be that he held too much. We have already addressed you on this point, Sir, and I won't go over that again.

However, whether Hamilton had authority to hold or purchase too much ammunition is, it is submitted, neither here nor there. It took only l05 rounds to wreak the havoc of the day. These bullets could have been manufactured at home, had he chosen to do so. The component parts can be purchased without any authorisation or certification. As this Inquiry has already heard, home made bullets are just as fatal.

Finally, what if Central Scotland Police had not authorised Hamilton to hold a firearm? Can it be said with any confidence that this terrible tragedy would not have occurred, perhaps in a slightly different form? The answer to that question is No.

There are estimated to be l million legal weapons in circulation (Penn, Day 22).

Joe Jackson expressed the opinion that Hamilton was not the type of person likely to obtain one of these illegal guns. Unfortunately, or fortunately, depending on your viewpoint, Mr. Jackson's view as to the type of person Hamilton was appears to have been based upon what he had read and heard in the Press and media. While he was subsequently/

subsequently reminded by Mr. Campbell that he had received a summary of evidence, that did not appear to have weighed heavily in Mr. Jackson's assessment, and obviously did not come to mind when confirming the sources on which he based his opinion. Also, we never saw these summaries, and we were told they were selective.

Mr. Jackson's opinion was also based upon his knowledge of the criminal fraternity in Glasgow. It would appear, therefore, that what Mr. Jackson's evidence adds up to is that if Hamilton was the type of person which the Press say he was he could not have obtained an illegal gun in Glasgow.

Does this assist the debate? The Press reports can hardly be taken as an accurate character assessment and we do not know whether the criminal fraternity in areas other than Glasgow might have different criteria. Equally, one cannot exclude the possibility, as Mr. Jackson said, of Hamilton obtaining a gun from friends or acquaintances who attended gun clubs. Again, he appears to dismiss this possibility on the basis of assumptions formed from the media, not only about Hamilton's personality but about those he knew who held guns.

Jackson's opinion ignores the fact that Hamilton was a determined individual apparently so intent on his murderous acts that he planned them with great and meticulous detail. If an individual is capable of embarking upon such a deed with such dogged determination, and to have within him the capability of carrying it through in such horrific detail, down to the cutting of telephone wires to delay assistance, and the organisation of his guns and magazines to prevent any hitches, is it not fair to say that the acquisition of a firearm from somewhere would not have stood in his way?

Sir, I have already indicated that I do not propose to address you on the aspects of credibility and reliability of witnesses, since that has been very ably covered by the learned Dean of Faculty. I do not therefore propose to say anything further to you, Sir, unless you have any further questions.

LORD CULLEN: Just one matter. You, in the course of your submissions, made some reference/

reference to what the law should be with regard to changes. I take it you don't want to add anything to that?

MR. TAYLOR: I don't, Sir. This morning a document was produced to Mr. Bonomy containing the lessons which have been learned by Central Scotland Police, and they do to an extent touch upon the aspects which might be thought of as requiring change.

LORD CULLEN: Is that before the Inquiry now, that document? I don't know what its status is?

MR. TAYLOR: I am quite happy it be before the Inquiry.

LORD CULLEN: Well, that means it is made public. Are you content with that?

MR. TAYLOR: I am perfectly content with that.

LORD CULLEN: So that there is no misunderstanding.

MR. TAYLOR: There is no misunderstanding.

LORD CULLEN: Well, it hasn't reached me yet. No doubt it will.

MR. BONOMY: I am sorry. I thought this was a copy for me. Unfortunately, I have written markings on it.....

MR. TAYLOR: I have a copy here.

LORD CULLEN: Well, it can reach me in due course. And I take it that is adopted by you in so far as it bears on your position?

MR. TAYLOR: Indeed, yes.

LORD CULLEN: Thank you, Mr. Taylor. There is one other matter I should mention at this stage. I have received a written closing submission made by Mr. Steven, the solicitor who represented Ronald George Taylor, the head teacher, and/

and I don't think it is necessary for that to be read out, but I want to make sure it is noted publicly that has been received. Of course, copies will be made available to any member of the Press or the public who wants to see that. So that is part of the submissions before me at this stage.

I think that completes all the parties' submissions, which I think makes me now turn to Mr. Scoggins in case there is any matter you want to address me on in accordance with the invitation which I gave to you.

MR. CRUIKSHANK: Before Mr. Scoggins addresses you, my name is Cruikshank. I understand you are prepared to hear a motion from me at this stage to be allowed to address the Inquiry on behalf of those for whom I act, namely Stirling Rifle and Pistol Club, Callander Rifle and Pistol Club and their office-bearers and members.

LORD CULLEN: What is your object in seeking to address me?

MR. CRUIKSHANK: Simply to clarify some points which have been raised in the course of the addresses by the other parties.

LORD CULLEN: I am not sure what you mean by "clarification". Is there some error that you want to have corrected?

MR. CRUIKSHANK: There is a comment I can make, Sir, on their evidence -- correcting errors is indeed what I have in mind.

LORD CULLEN: Just to be quite clear, you want to respond, is that right, to what some of the parties have said over the last day or so?

MR. CRUIKSHANK: That is so. It will take a very short time.

LORD CULLEN: You do appreciate I don't want this to be used as an opportunity to state your case, which you have got already stated in writing -- you understand that?

MR. CRUIKSHANK: Indeed, Sir, I am very conscious of that. I am also conscious I have put in/

in a submission which I would not be repeating.

LORD CULLEN: How long are you likely to be in your comments?

MR. CRUIKSHANK: 10 minutes.

LORD CULLEN: What I think I will do, I will extend to you the same invitation as Mr. Scoggins, so if you like to address me first at this point, we will hear you first and then Mr. Scoggins afterwards.

MR. CRUIKSHANK: I am obliged. I act on behalf of Stirling Rifle and Pistol Club, Callander Rifle and Pistol Club and their office-bearers and members. My name is Cruikshank. I am a solicitor in private practice.

LORD CULLEN: Perhaps you could bring the microphone a bit closer to you.

MR. CRUIKSHANK: I said, Sir, I act on behalf of Stirling Rifle and Pistol Club, Callander Rifle and Pistol Club and their office-bearers and members. I am a solicitor in private practice in Aberdeen.

Those instructing me wish first of all to express on their behalf their heartfelt sympathy to the relatives of the deceased and to the injured parties in connection with this matter.

Both clubs are long-established, well-conducted, Home Office approved clubs. Such approval involves adherence to particular rules laid down from time to time by the Scottish Office.

Written submissions were prepared and submitted on behalf of both clubs, and they have been accepted as evidence to the Inquiry under Reference Nos. l54, for Stirling Club and l55 for Callander Club.

With reference to the overall submissions on behalf of the parties, I have the following comments:- Mr. Bonomy's submission makes reference to whether a probationer should be allowed to be range officer. This is a reference to the evidence of Nigel Bell (462, Day 4). Mr. Campbell in/

in his submission also made reference to this evidence. I would point out that Nigel Bell gave evidence in cross-examination to Mr. Campbell to the effect that he was a qualified range officer. This may be confused with the much more formal "range conducting officer" qualification, about which others gave evidence.

Associated with Mr. Bell's evidence is that of Mr. McCarthy, the Scottish Pistol Association Secretary (pp. 2561-2583, Day 2l), who in answer to a question by Mr. Bonomy to the effect: would it surprise him to find a probationary member in charge of a rifle range, said that it would. He was not given the additional information from Mr. Bell's evidence, namely that Mr. Bell was a qualified range officer.

Mr. Taylor's submission included slightly misleading information about Thomas Hamilton's status as a member of the Callander Club, when he said that Mr. Wood (p. 442, Day 3) had given evidence that Thomas Hamilton was a member of Callander Club.

What I think Mr. Wood did say there in answer to a question from Mr. Bonomy to the effect "Did Hamilton become a member of the club?" was "I assume he did".

Further on in his evidence he stated that Hamilton attended the club for three to four years. Mr. Taylor also referred to Mr. Reid's evidence (p. 433, Day 3) in support of the proposition that Thomas Hamilton was a member of the Callander Club.

On/

On reading this I notice that Mr. Reid claimed to have been the Secretary of the Callander Club for 30 years and said in answer to the question from Mr. Bonomy "Was Thomas Hamilton ever a member of Callander Rifle & Pistol Club? - Not to my recollection but I couldn't go back throught the books as Central Scotland Police have them".

There is also evidence from John Gillespie at (Day 3 Page 347 and J. Moffat Day 3 at Page 354) to which Mr. Taylor did not refer tending to show that Hamilton was a member of Callander Rifle & Pistol Club. There is no direct evidence that he was ever a full member.

There is clear evidence that Thomas Hamilton was a member of Stirling Rifle & Pistol Club for a number of years and that he was proposed and seconded by members when he joined. There was some evidence that he arrived at the Stirling Club more or less by inheritance when a Club he claimed to have been a member of, but about which there was no evidence of his membership, ceased to exist. As a member of a Club existing at the time he would have been exempt, even by present-day Guidelines, from any probationary period in the Stirling Club.

Both Clubs would adopt the principal recommendations contained in submission No. 75 made by the Law Society of Scotland at Page 2. These are that the administration of firearms should be taken over by a National Firearms Licensing Authority. This would ensure that uniform standards were maintained throughout the country and a degree of expertise would be quickly acquired to the benefit of all concerned. The second matter pointed out by the Law Society of Scotland is that in their view no legislation can be implemented by the UK Government acting alone in view of the terms of the European Firearms Directive 91/477 which commits member states to harmonising firearms legislation. This directive has been enacted into the UK law by the Firearms Act (Amendment) Regulations, 1992. Both Clubs would, however, dissociate themselves from the view expressed at Pararaph 19 on Page 78 of that submission.

Those to whom to the Inquiry will report may/

may take this opportunity to once again consolidate and amend the Firearms Acts. There has been much written and oral evidence given about the shortcomings of the present law and I will not repeat it all here. I would point out in relation to air pistols, for example, that a glaring anomaly exists whereby if the same weapons, firing the same projectile at the same velocity, is propelled by a gas such as carbon dioxide, as opposed to compressed air, it becomes a Part 1 firearm for which a certificate is required. I think in Mr. Campbell's submission reference was made to hollow point bullets with the suggestion that they be banned. All long-range match rifle shooting is carried out using such bullets which have been found to be aerodynamically superior to solid point bullets in high-powered rifles.

It is the view of both Clubs that, apart from consolidation and amendments to deal with perceived anomalies, the existing law relating to grant and renewal of firearms certificates is sufficiently restrictive and would, if properly applied by Central Scotland Police, have operated to deprive Thomas Hamilton of his firearms long before the tragic events of the 13th March 1996.

I would finally submit that both Clubs were and are well conducted and properly run Clubs and that no criticism can be levelled at them or their office bearers or members for any of their dealings, acts or omissions in relation to Thomas Hamilton. That is all I propose to say, sir.

LORD CULLEN: Mr. Scoggins, perhaps before you begin you may give me some indication of what you are proposing to speak about?

MR. SCOGGINS: I think I will take 15-30 minutes but that depends really on how many questions you have for me. I had intended to deal with matters in two sections, first to take some of the points which came out yesterday during the submissions of Mr. Gibb and Mr. Taylor concerning such devious things as the meaning of the Section 27 proviso, the Home Office criteria, collecting, which you yourself raised, and that will take most of the time. I have a few observations on the closing comments made by Mr. Campbell and I think these will not take more than five minutes in total.

I/

I would, sir, appreciate if you would be prepared to start after the lunch time adjournment for two reasons; firstly, we have just been given a copy of Mr. Gibb and Mr. Wilson's statements which I have not had time to study and, secondly in may be in fact I can make enquiries which may help on the Section 27 point.

LORD CULLEN: I am perfectly happy with that. We will rise now and resume at 10 to 2.

After an adjournment for lunch.

1.50 p.m.

LORD CULLEN: We will now resume. Mr. Scoggins?

MR. SCOGGINS: Thank you. Could I start by associating ourselves with all that was said yesterday by Mr. Bonomy and by others in their opening remarks. The shooting community in Great Britain numbers upwards of l million people, and is as affected as the rest of the population by the terrible events at Dunblane.

Sir, I am grateful for the invitation you have extended to assist the Inquiry, and I have very clearly in mind the terms on which the invitation was issued.

I think I can be brief. We have already lodged detailed written submissions, and I would confine my remarks to two areas, of which I think the first will be the most substantial: this will be matters which arose during the closing speeches of Mr. Gibb and Mr. Taylor and were explored further this morning, and I hope I can assist with some of these mysteries, as they sometimes are called; then also there were some observations made by Mr. Campbell in his own closing submissions. As a matter of courtesy, I have made Mr. Campbell aware of my comments, and I understand his position to be that he is content that I make them.

For the record, sir, I should tell you who I represent, because I do not represent all shooting organisations in Great Britain. In alphabetical order -- and purely in alphabetical order -- the Associations I represent are: The British Association for Shooting and Conservation; The British Field Sports Society; The Clay Pigeon Shooting Association; The Gun Trade Association; The Muzzle Loaders Association of Great Britain; The National Pistol Association; The National Rifle Association; The National Small Bore Rifle Association; The Shooting Sports Trust; and The United Kingdom Practical Shooting Association.

Sir, those Associations have a total membership of more than quarter of a million, and many more through affiliated clubs. Their interests cover/

cover the spectrum of recreational shooting: target shooting, stalking and sporting, and historical and antiquarian interest in firearms.

If I could turn to a number of matters which arose during the closing speeches of Mr. Gibb and Mr. Taylor, I start with the collecting of firearms. I think the question came from you, sir, as to how collectors are dealt with under the "good reason" criteria.

Sir, there was up until the late l980s some dispute as to whether collecting was a "good reason", particularly with regard to what we would call modern firearms, firearms for which ammunition remains freely available. The present position is now set out in the Home Office Guidance at paragraph 6.13. I won't take you through that; I leave you, sir, to read it for yourself. In essence, if someone can prove that they are a genuinely interested collector, that would be accepted as a good reason for possession.

Chief Constables are directed to regard each case on its merits. Normally if a collecting certificate is issued no permission will be given for the collecting of ammunition. There is also a statutory condition which must be attached to a collector's certificate under the Firearms Rules l989, paragraph 3(4A). That was added in l992, and remains in force. Effectively it provides that the gun can be kept as a collector's piece, but must not be fired or otherwise used as a firearm.

LORD CULLEN: It doesn't require to be disabled?

MR. SCOGGINS: No, it remains fully functional.

I draw your attention, sir, to the special exemption which is given to certain museums -- those listed in the Schedule to the Firearms (Amendment) Act l988.

LORD CULLEN: There may be some collectors -- and perhaps Mr. Penn is one of them -- who would like to try out their piece from time to time. What would happen in that event?

MR./

MR. SCOGGINS: In those circumstances the certificate would not be a collector's certificate. The collector would have to seek a variation to use his firearm and keep ammunition for it.

Could I now turn to the question of Home Office-approved clubs? Mr. Gibb suggested that a member of such a club, as provided in the Home Office criteria, could continue to shoot indefinitely without ever having to acquire or apply for a firearms certificate. That is indeed the position.

Section l5(l) of the l988 Act provides in very simple terms that so long as a person is a member of an approved club and so long as the criteria for approval remain in force, then he may use firearms and ammunition at that club and in connection with shooting at that club as long as he wishes.

LORD CULLEN: I was thinking of someone who was not a member and who was not on the way to becoming a member.

MR. SCOGGINS: That was the next chapter I was coming on to, guest days and the guest days exemption.

Yesterday after the Inquiry closed Mr. Bonomy put to me a number of questions, and overnight I have done my best to answer them.

The current Home Office criteria has been in force since lst January l996, and that superseded all previous directions. I see you have got a copy there, sir. They are an implementation of criteria recommended by the Firearms Consultative Committee, which were implemented in l99l. "Guests" are permitted to shoot without having to produce a firearms certificate subject to certain restrictions, which you are able to read for yourself, and subject also to the local police being given at least 48 hours' notice of the intention to have a guest day. The number of guest days are restricted to no more than 12 per year.

The way in which this is done is that the "guests" can become a member for a limited period/

period, a member of the club, and they are therefore entitled to exemption in the first place under Section l5 of the l988 Act.

Mr. Bonomy raised with me the question: are these criteria valid? If one looks at the firearms legislation, although there is specific statutory power for the Home Secretary and the Scottish Secretary to make the rules, there is no power for the Home Office to issue criteria for the approval of clubs.

Now, sir, I caused enquiry to be made of the Home Office yesterday afternoon, and the Home Office say they consider the authority to issue those criteria arises in Section l5(2) of the l988 Statute. Having read sub-section (2) I do not think it would be for me to comment whether I agree with that view or not.

All I would say is that the criteria have existed in some form or another since l920, when the first Firearms Act was passed, giving restrictions on possession. These criteria were only made public after l979, after the Hungerford incident, but they have been around for 75 years. I do not suggest they were invalid, but clearly these have to be validly issued. I do not want to develop that any further.

Mr. Bonomy also mentioned to me that whether those criteria would allow shooting by non-certificate holders or guests does depend on the interpretation of the word "member" in Section l5 of the Act. The view taken by the Home Office is that someone who arrives for a guest day and is properly supervised is treated as if they were a member, and that seems to be acknowledged.

Sir, unless you want me to go further into the abyss I do not propose to say anything more about that.

LORD CULLEN: Does this apply to all forms of firearms, rifles, handguns alike?

MR. SCOGGINS: It will apply to all these firearms which are within the approval of the clubs.

Could/

Could I turn then to the meaning of "opportunity of using", which appears in paragraph 6.8(e) of the criteria? Three interpretations of that phrase have been put to you. If I can try and reduce them to their minimum, the first of these is that the certificate holder or the applicant simply has to say "I can use the guns which I want or which I hold", depending on whether it is a grant or renewal or variation. In these circumstances the questions of past use and future intention are irrelevant, as I think is Mr. Taylor's case.

The second interpretation is "I can use and I intend to use those guns, and I intend to use the guns", perhaps in the sense of "I hope to be able" rather than "I have a settled intention". I am aware the word "intention" has more than one meaning as well. In those circumstances, past use remains irrelevant, but future intention is relevant.

The third possible interpretation is the one perhaps Mr. Taylor was, for understandable reasons, least willing to accept, and that is that the shooter has to say at a renewal "I have used my guns, I can use my guns, and I intend to use the guns". That is only relevant on renewal of a firearms certificate, if one is talking of good reason for the firearms certificate being renewed.

Sir, from our standpoint, which of those is the current interpretation is perhaps less important than what you may recommend for the future. I fully appreciate that the correct answer is a matter of concern to Mr. Taylor's own clients.

Sir, I do not propose to add anything to what Mr. Taylor has said. All I can say is that we from our own researches are not aware of any authoritative ruling on the meaning of these words. There may well be somewhere, perhaps in the bowels of LEXIS, but we have not come across it.

The important thing for this Inquiry is that it has highlighted differences of view in relation to those words even within Scottish Police Forces. Those differences are in our experience mirrored by the attitude of Police Forces in England and Wales.

So/

So there is no consistency and I suspect if you put these three interpretations to the 51 Chief Constables to interpret, you would find that there is a division between the three camps.

Of course, sir, if you put the question after these tragic events the answer might perhaps be a bit different than it would have been before but I don't think that I would want to comment further on that.

Sir, those differences are, in our view, cause for grave concern. Whichever is the correct interpretation of the words as they currently stand, it seems to do no credit to the firearms licensing system that there should be even the possibility of inconsistent views on what they mean. There should be a consistent view throughout England and Wales and indeed throughout Scotland.

LORD CULLEN: Just remind me, we are talking about the interpretation of the guidance?

MR. SCOGGINS: The interpretation of the specific words "opportunity of using".

LORD CULLEN: Yes, and those words themselves come from the guidance? That is where they have been created?

MR. SCOGGINS: Yes, sir.

LORD CULLEN: Can you remind me, does the guidance itself rest on some statutory basis?

MR. SCOGGINS: Sir, it does not. It is not made under any particular statute.

LORD CULLEN: It is rather remarkable we are discussing something which has no statutory basis whatever.

MR. SCOGGINS: Sir, I can tell you that within the shooting community and I think the police will be familiar with this, if the Home Secretary or the Scottish Secretary wishes to change a guidance he sends a letter called a "Dear Chief Constable" letter and that effects the change. I will say more about/

about that in a moment but it is not a statutory instrument and does not have the force of legislation.

Sir, the question of which of the three competing interpretations or views you favour is of course a matter for you but what we would say is that the question of past use and future intention should be relevant to the renewal of the certificate. Sir, we adopt the suggestion I think you yourself made that these should be considerations and not criteria and that each case should be treated on its own merits.

There are instances where people have not been able to use their guns for a considerable period. They might have been abroad for instance.

LORD CULLEN: Can I ask you one point that arises out of that. Talking about the future and talking about the middle of these three, the alternative one, concentrating on intention, if we assume that is to be the correct approach for the future, does that involve Chief Officers of Police in considering whether it is a genuine expression of intention? In other words, he might say "Well, I know that's what you say but I don't accept it for the following reasons".

MR. SCOGGINS: I think it does and I think it is in the same category as many other questions being put to an applicant where the answers are considered and the Chief Officer or whoever is investigating must reach a view on whether they are persuaded they are correct.

LORD CULLEN: The consequence of that I suppose is the Chief Officer of Police gets into questions of credibility.

MR. SCOGGINS: Yes, he might. Sir, I suggest he already has to do that in several other areas.

LORD CULLEN: So it is an administrative role but it might have a sort of quasi judicial function? - Yes, sir, and I understand what flows from that. That might perhaps depend on how the test is worded and how the investigation is conducted but I think, sir, those are/

are matters for you and not for me.

Sir, can I just deal with how Home Office guidance can be amended and the usual procedure for amending it because one of the things which I know you are acutely aware of and conscious of is that if reforms are needed, they should be able to be done swiftly.

Sir, you have already mentioned correctly that the guidance does not rest on legislation and therefore to amend them there is no need for a statutory instrument. Sir, if I can tell you how amendments are normally made. The standard procedure is for the Home Office to draft the amending words. That draft is then considered internally within the Home Office and appropriate advice is taken from ministerial departments and thereafter, if appropriate, the Treasury Solicitor. When the Home Office is content with the draft, it is circulated, as I understand it, to representatives of the Association of Chief Police Officers in England and Wales and its counterpart in Scotland. It is circulated for comment, sir. It will also probably be sent for comment to the Firearms Consultative Committee. When the comments have been received, and depending clearly upon how substantial they are, the Home Secretary will then draft his "Dear Chief Constable" letter which will be sent to all Chief Constables in England and Wales and an equivalent letter will issue from the Scottish Office.

Now, sir, in our experience that process can take between three and six months. So we say it might be open to you, say it would be open to you to present in your report a form of words with which you were content and which would reduce the amount of consultation required.

Sir, you might also think it appropriate, and I think it within your terms of reference, that if this is a matter you do consider to be urgent, to issue an interim form of words so that the consultation process can begin at the earliest possible moment.

Sir, I would just re-confirm that I do not hold the instructions of either the Home Secretary or the Secretary of State for Scotland but just/

just in our experience there may be ways of perhaps short-circuiting or accelerating what otherwise can sometimes be a lengthy process.

So that is all I say about the meaning of "opportunity of using" unless there are any other questions you have for me on that one.

Sir, can I grasp the nettle of Section 27 and the proviso. I don't want to raise your hopes by telling you I'm going to offer you an interpretation. It is really, sir, just to inform you that our researches have shown that the proviso in those terms has existed in legislation since at least 1937, when the 1920 Act was consolidated. I am not able to tell you whether they appear and if so in what form in the 1920 Statute, not currently able to tell you. But, sir, our researches have not shown any authoritative decision interpreting the burden of proof in that proviso.

Sir, I hesitate to try to look into the draughtsman's mind at a distance of two or three generations to see what was meant so again I would say rather what I said about the guidance to police officers and the Home Office criteria, that what may matter more is how these things are approached in the future rather than what they may have meant in the past.

LORD CULLEN: Before we turn to the future, I know Mr. Taylor's view was that on his approach it was rather questionable whether the proviso had added anything. He adopted a composite approach to it. I don't know whether that squares with your approach to it or not.

MR. SCOGGINS: One gets the impression reading Section 27 that it is an amalgam of a number of provisions which may have been drawn from other statutes. If one looks at, let's say, the question about unsound mind and intemperate habits and then adds the concluding words "or for any reason unfitted to be entrusted", there seems to be a slight problem there because one would have thought that unsound mind and intemperate habits are themselves reasons not to be entrusted.

LORD CULLEN: It does not even say "or otherwise".

MR./

MR. SCOGGINS: No, and it might be in that very last sub-sentence of the proviso perhaps it should say "or be for any other reason entrusted" but I think, sir, that is not only playing with words, it is tinkering with legislation.

The point I seek to make is not to try to give you an interpretation for the past because I don't think I can do that but to look at how these words could be approached in the future.

I would simply observe that if the burden of proof of not being of unsound mind and not being of intemperate habits were to be put on an applicant, it would require him to prove something of a negative.

LORD CULLEN: Well, I think Mr. Gibb was suggesting one might sort of split the thing into two parts.

MR. SCOGGINS: Yes, I am wondering whether it is appropriate perhaps to talk about a burden of proof at all because what one is considering here is a Chief Officer examining evidence in front of him. I think the burden of proof only comes into play when one has to look to whose job it is to collect the evidence.

LORD CULLEN: Of course, that may depend upon what information is put before the Chief Officer.

MR. SCOGGINS: Yes, indeed.

LORD CULLEN: And that of course may depend on what the future is, if there is a future, on matters of counter-signatories or referees as somebody suggested.

MR. SCOGGINS: Sir, I quite agree. I think the question is one of clarification. All I am saying is the words appear to have been there for the best part of.....

LORD CULLEN: I trust you are not asking me to draft or remodel Section 27?

MR. SCOGGINS: Certainly not, sir.

LORD/

LORD CULLEN: Because I think I have quite a few other things to do.

MR. SCOGGINS: Sir, I appreciate that.

Finally, sir, on this section of what I have to say, can I just point out to you, and you may already be aware, that the seventh report of the Firearms Consultancy Committee will be published tomorrow, the 11th July. If a copy has not already reached you, sir, I would expect it would reach you fairly swiftly through the Scottish Office.

I can tell you it does contain recommendations and comments touching on the events at Dunblane, including for instance the question of an Appeal Tribunal but, sir, I have not seen a copy of it myself and I can't tell you what else may be in it. So that concludes what I have to say about questions that arose during Mr. Taylor and Mr. Gibb closing.

Can I now turn, and I promise to be brief, to some observations made by Mr. Campbell in his own closing speech. Sir, Mr. Campbell suggested that there is a tension between the police duty to regulate firearms use and the pressure to provide what he described as "a level of service" to shooters. Mr. Campbell asked the question "Can we be sure that public safety will always be the paramount consideration?" (p.2926B). Sir, what we say to that is that even if that tension exists, it is not in any way unique to target shooting or regulation of firearms. There are many instances, sir, where regulators are put in that position in circumstances to do with public safety.

I mention simply three although I don't say it is a complete list. The Health & Safety Executive is in just this position in that it sees its job as not just enforcing and prosecuting but also advising and liaising. Sir, the Environmental Health Departments of various local authorities, we would say that such a tension exists there and the same would apply to the Environment Agency which is not just a police force for the environment but also has regular liaison with industry and commerce.

Sir, over and above that, I submit that the police function generally has to balance relations/

relations and liaison with law-abiding people and the enforcement of the law against those who break it so if there was a level of service to be given by the police, it is to be given generally to the community.

Sir, what I say is that the point made by Mr. Campbell that this tension is perhaps something special and justifies the point which he makes, I say there is no support for that. It is not a unique feature. Even if there is such a conflict and you would consider it to be of concern, then the solution we would see is that the police must be firm but fair. The shooting community not only understands that but would positively welcome it.

That, sir, is a matter for the police but the police must understand shooters and I adopt the words of Mr. Taylor this morning. I hope I don't take them out of context. He said the emphasis was on co-operation with the shooting community. Sir, we would adopt and echo those words.

Sir, Mr. Campbell also suggested to you that the current system of firearms control which dates from 1920 developed at a time when guns were few in number in civilian hands and were mainly held for purposes such as gamekeeping and game shooting. Sir, he asked whether those laws perhaps did not suit modern times. You will find these comments at 2927A of the transcript, sir.

The/

The picture is there painted to you of few guns and no gun problem. But, Sir, that was not the position by any means.

In 1920, when the framework from which the current legislation derived its origin was being developed, there were vast numbers of guns in lawful ownership. Can I just remind you of the evidence of Mr. Penn (2630 to 2632), and the perhaps unexpected quote that Mr. Penn gave you from the Journal of Bettrix Potter in 1885?

Can I refer you also to several written submissions which describe the pre-1990 position, notably those of Mr. Greenwood, Mr. Mundy and Mr. Stevenson.

Sir, when the current framework was first devised some 76 years ago the practice of civilian target shooting was very widespread indeed. It had been fostered and encouraged in the early part of the century following the rather poor performance of conscripted soldiers during the Boer War.

It had been encouraged up to the First World War, and was encouraged long afterwards. So what I say is that Mr. Campbell -- and I understand his position -- Mr. Campbell would paint a picture to you of a society with few guns in civilian ownership. Sir, the position was if not entirely different, very significantly different from that.

Sir, Mr. Campbell also suggested the well-established link between licensed gun ownership and gun suicide, a point which was touched on by Mr. McEachran yesterday. I do not intend to say anything further than he did.

Mr. Campbell also suggested to you that the shooting community does itself few favours by refusing to accept change of any significance. He cited as leading examples the desire of shooters to keep weapons at home, and resistance to handloading of ammunition at shooting Clubs. The comments you will find at Page 2929 of the transcript.

A picture is painted to you there of a stubborn/

stubborn gun lobby, but can I say that Mr. Campbell's comment overlooks the evidence on those two particular points.

As to home-loading of ammunition, considerations of safety were mentioned by two witnesses, Mr. Penn (2609E), and Mr. McCarthy (2581C).

Neither of those witnesses was challenged on what they had to say about the need for concentration and the importance of being able to load ammunition in circumstances where one is not distracted. Both of them talked about safety.

As to home storage of firearms, can I direct you to Page 41 of the submission made by the Association of Chief Police Officers of England and Wales, in which in terms they say that having considered the other options, they still remain of the view that home storage is preferable.

That was a view, Sir, which was repeated by the ACPO president, Mr. Sharples in his evidence to the Home Affairs Committee on the 8th May this year.

So, Sir, if Mr. Campbell is suggesting that the resistance to hand-loading at Clubs and resistance to giving up keeping guns at home are in some way unsupported by other -- and I would say "Other independent" -- evidence, then, sir, I would say he proceeds on a wrong premise. So that is not evidence of a stubborn gun lobby in any way.

Finally, Mr. Campbell suggested that there is a need to prevent a gun culture developing before the number of guns in licensed ownership puts that beyond reach.

Those comments you will find at Page 2932D. He was commenting on certain omissions, as he saw it, from the Green Book.

If I can refer you to the Green Book, and particularly Page 3, Paragraph 6, at which the Government evidence says it is thought that firearms ownership has fallen since the 1968 Act came into force.

As/

As I say, that is quite a mild and modest comment, but I would mention to you some figures.

If you look at the written submission of Mr. Jan Stevenson, which is submission No. 139 in the official Productions, he gives figures for firearms certificates on issue in England and Wales taken from the official statistics.

Sir, in 1968, just before the Firearms Act of that year came into force, there were 216,821 (sic) firearms certificates -- that is not shotguns -- firearms certificates on issue in England and Wales. By 1993 that figure had dropped to 138,400.

Sir, can I take you, to come more up-to-date, to annex A of the Green Book, in which the figures for firearms certificates in England and Wales and Scotland are said to be at the end of 1995 there were 174,020 firearms certificates on issue in England and Wales and Scotland combined. I am sorry, with the notice given I haven't been able to give you comparable figures for the whole country for these three dates I have given. But if you look at the Government evidence, and if one looks at the statistics, the net growth of firearms certificates year on year is less than 1 per cent.

So the point I make is that to say there is a growing gun culture and growing number of guns is perhaps not a good or justified statement.

Sir, even today the number of firearms certificates on issue is substantially lower than it was some 28 years ago.....

LORD CULLEN: Just remind me -- the figures you are quoting, are they certificates?

MR. SCOGGINS: These are firearms certificates on issue at the end of each of these years.

LORD CULLEN: Can one get to what the underlying number of weapons is?

MR. SCOGGINS: Sir, this is a very difficult task, because as has emerged in this Inquiry there is only one certificate no matter how many/

many guns are on them. So what I would say is there is no evidence that I am aware of that the overall number of firearms has risen. But I would quite accept that the figures give us only certificates, that is people, they do not give us guns.

But I say even so the picture that Mr. Campbell paints for you is not one that is justified on the evidence.

Sir, in conclusion I simply say that the recommendations which you make in our view should be proportionate, proven by the evidence and practicable. Unless I can assist you further those are my submissions.

LORD CULLEN: Thank you very much Mr. Scoggins. That is most helpful. Thank you for responding to my invitation.

Now, there is one matter at this stage I would like to raise really for my own assistance, if I can receive any.

During your submission, Mr. Campbell, in support of your radical approach, you did make some reference to certain research material, and then I think Mr. McEachran yesterday referred to other material. If you have any response you would like to give me on that for my own benefit, I would like to have it before I embark on the task of looking at that material myself.

MR. CAMPBELL: Yes, thank you, Sir, for that invitation.

The passage in my learned friend Mr. McEachran's submission I think is at Pages 3026 to 3028, where he deals with the question of whether or not there is a link between gun availability and harm flowing from guns.

In reply, firstly in the Green Book itself, the evidence from the Home Secretary and the Secretary of State for Scotland, it makes reference in annex G, if I might invite you just to look at that annex for a moment. It is at Page 73 -- and note the authors of this work. This is a note by the Crime and Criminal Justice Unit of the Research Statistics/

Statistics Directorate of the Home Office. And the purpose of the work is to consider research done to see how far gun availability is linked to the level and nature of violent crime.

Sir, this would appear to be a review of the available academic work and a review carried out by an independent Government body.

Towards the foot of that page in the final paragraph the authors warn that much of the academic debate has often been ideologically cast, with some of the literature partisan, and thus more easily discounted.

In that regard, therefore, in my submission it may be that more than usual emphasis should be placed on the statistical material, and in particular the statistical material set out in the various figures and tables in this work -- for example, Figure 1 on Page 76, Figure 2 on Page 77 and Figure 3 on Page 78.

It is a matter for you, Sir, but you may conclude that the views of the authors of this document, flowing from the statistical material, are hard to refute.

For example, on Page 77 just above the Figure "2": "The overall picture indicates a strong statistical association between gun owernship and gun-related homicide".

Sir, a particular point was made by my learned friend Mr. McEachran in relation to the Vancouver/Seattle Study.

With regard to what he said, it is in my submission important to note, as recorded in annex G at Page 78, where reference is made to the Seattle/Vancouver study, that the reason that these two cities were chosen was because they were" very alike in terms of geography, climate, history, demographic and socioeconomic factors, all of which might arguably produce similar cultures of violence".

So contrary to what one might have understood yesterday from my learned friend, in fact these two cities were chosen specifically because it was thought that gun availability was the main, or at/

at least one very clear differentiating factor between them, and they were otherwise similar.

In this general context you have I think already had a reference to the evidence of Professor Cooke, but perhaps not the specific passages, and I would simply refer you to his evidence, for example Day 22 (2689) and Day 23 (2702), where he indicated that, in the context of methods of control, gun availability is the most obvious situational factor of importance.

So, Sir, where does this leave you with the task that you have on this part of the overall picture? Maybe the choice is to accept the conclusions of the independent review as trustworthy and reliable.....

LORD CULLEN: What do you mean by that -- do you mean this?

MR. CAMPBELL: The Green Book, yes.

LORD CULLEN: But that itself has been criticised, has it not?

MR. CAMPBELL: That itself has been criticised. I will come on to the criticism in a moment, but I do stress "independent" in this context, and independent in the sense of reviewing, one assumes -- and there is no reason to assume to the contrary -- the major academic work on the matter.

The choice is either to accept the conclusions of this work or alternatively to embark upon what one might think is a very difficult task of attempting to resolve the issue by reference to the other material before you, without the benefit of evidence and cross-examination, and without the benefit of all other relevant research studies over and above those relied upon by my learned friend, Mr. McEachran.

An alternative approach, which may come to the same thing, is having had regard to the material in the work by Mr. Stevenson and the others mentioned, that you may conclude that nonetheless there is no good or sufficient reason, in the absence of a much fuller examination of the issue, to/

to reject the terms of the evidence laid before you by the Home Secretary and the Secretary of State, bearing in mind that it is not only the result of an independent review, of up-to-date research, it would appear to be plainly supported by the statistical information, and in my submission is also common sense.

LORD CULLEN: I had a recollection, which is not very fresh in my memory, that there was some suggestion that there was a figure used in this paper that could not be right.

MR. CAMPBELL: I think there was a mention of a decimal point in the wrong place?

LORD CULLEN: Yes. Can you remind me where it was, and if you have any comments on that point?

MR. CAMPBELL: I think from memory -- and I am subject to correction here, no doubt -- it is -- yes, it is under reference to, I think if one looks at Page 83 of the Green Book, the figure given in table A.1 for the homicide rate per 1 million of the population in Great Britain is given as 1.3, whereas at Page 79, albeit in the context of England and Wales only, in table 2 the average annual rate for all homicide is given as 11.3 per million of the population, and it was observed that there is a decimal point I think in the wrong place.

LORD CULLEN: So it should be?

MR. CAMPBELL: Well, I am not, I am bound to say, in a position to necessarily correct the Green Book here, because it is a little bit more complicated than that. I think I will try to find the passage in one of these works that deals with it.

I think there are some other points made in that regard. I think it is Mr. Stevenson.....

LORD CULLEN: I think I will come back to Mr. Scoggins in a moment to see if he can help us on that point.

MR. CAMPBELL: Yes. It is at Pages 9 and/

and 10 of Mr. Stevenson's work, given at annex G.

LORD CULLEN: And what does he say is the correct figure?

MR. CAMPBELL: Well, what he says is "Page 79, table 2 states that the homicide rate in this country is 11.3 million. Turning to Page 83, however, we are told in table A.1 that it is 1.3 million, and in table A.2 that it is 6.7 million. One might have expected the research and statistics directorate to have noticed that table A.1 seems to suffer throughout from a misplaced decimal point. But even had that been correct, the variation between table 2 and table A.2 is enormous, and for the Home Office to have passed on a discrepancy of this magnitude without comment or explanation is emblematic of breathtaking insouciance".

It/

It may be that rather than a misplaced decimal point that the figure l should be missed out.

LORD CULLEN: It should be ll.3 he is saying in Table 8.l?

MR. CAMPBELL: Yes. If one assumes that in Table 8.l "Britain" is to mean England and Wales.

I am not sure that this matter raised by Mr. Stevenson affects the overall thrust of the argument.

So far as Mr. Stevenson himself is concerned, we know very little about him. Mr. McEachran told us nothing about him, and he doesn't say very much about himself and his work. No reference is made to any qualification in this area, but we do gather that he was a police officer in Alabama at one time. He is plainly part of the shooting community; that is obvious from his material, which is a long-argued case in support of the rights of shooters to retain arms.

Now, sir, despite what is said at page 9 towards the foot of the page to the effect that he does not intend to argue what he refers to as "the constitutional case", although he says "We believe strongly in the constitutional case", much of the document is an argument in favour of a right of civil liberty to possess arms, most notably in the section beginning at page 59, headed "Rights of Englishmen". It is not therefore in my submission a piece of academic research.

Sir, many passages raise questions as to the reliability or credibility of this piece of work, for example the passage at page 21 headed "Palaeolithic Politics", page 56, the chapter headed "Bolsheviks under the Bed" and other passages, such as page l7, which no doubt you will read for yourself.

The passage specifically relied upon by my learned friend Mr. McEachran at page 25, dealing with a quotation from a Professor Gary Kleck of Florida State University: that passage is a quote from/

from an article in l990, before much of the recent research set out in Annex G. it is a passage which amounts to mere assertion, although it may be that elsewhere in Mr. Kleck's work some detailed analysis is to be found, and it is a passage which in my submission is very hard to reconcile with the statistical data in Annex G.

There is a reference in Mr. Stevenson's work at page 27 to the Greenwood Study, and reference was made to Mr. Greenwood's submission to you. I note in passing, sir, from page 4, Note l7 of Mr. Mundy's submission that amongst other things Mr. Greenwood is a consultant to the Shooting Sports Trust. That perhaps should be borne in mind when reading his work.

The Study referred to by Mr. Stevenson at page 27 and the following page does not address the issue of whether there is a link between gun access and crime rate: rather it deals with a view on whether the legislation has failed to reduce the numbers of guns and gun crime, therefore the results do not justify the amount of police time which has been involved.

You, sir, can no doubt evaluate the merits of the approach suggested by Mr. Greenwood for yourself.

The only other specific passage raised by my learned friend Mr. McEachran was a comment made by a Mr. Sharples to a Home Affairs Select Committee at page 47 to 48. I do not consider it necessary to make any specific comment on that passage myself.

What I would say as far as Mr. Stevenson's work is concerned is that he has plainly gone to an enormous amount of time and trouble, and it would appear to be clear that guns play a dominant or at least a major role in his life and thinking.

So far as Mr. Greenwood is concerned, the specific passage referred to in his submission is No. 60, paragraphs 46 to 48 and paragraph 70.

Sir, I do not intend to take up more time than is necessary by going through these paragraphs/

paragraphs: but putting the matter broadly, paragraphs 46 to 48 are dealing with the effects of the l988 Act. These paragraphs do not address the issue or whether or not there is a link between gun access and harm flowing from guns; what they deal with is the trend in crime as against the number of certificates over a period of time in our society.

If we accept his figures as correct, the only lesson that can be drawn from that is that we now live in a more violent society.

Now, sir, society will change over time. It is the now that matters. What one requires is what one finds in the Green Book, namely a comparison between different but broadly similar communities or cultures in modern times, with differing levels of gun availability.

So far as paragraph 48 is concerned, the figures there are specific to shotguns. They do not address the critical question. Paragraph 70, to which reference was also made, does not deal with the matter of considering the use of firearms in homicide and lethal assaults. I do not propose to say anything further on that.

There is it is fair to say a section in Mr. Greenwood's work which does deal with the specific matter at hand. I do not intend to take up time dealing with that. You, sir, will no doubt read that matter in the context of everything else. Again, this document is an argued case; it is not an objective piece of academic work.

So far as Mr. Mundy is concerned, all we really know is that he lives in a place called Much Hadham in Hertfordshire. Again this is an argued case, not a piece of academic research. Sir, in conclusion, what much of this boils down to, so far as the material put forward by those and other gentlemen are concerned, is the view that so long as there are illegal weapons then gun crime will continue. That basic view underpins much of the material which we find in these documents.

That, sir, however fails to address the important question, in my submission: what about the Hamiltons of the world, who would not arm themselves from the criminal underworld? What about the/

the impulsive killer, what about the suicide and the extended suicide? The question of illegal weapons is wholly irrelevant to this. Similarly, one would wish to have regard to the overall benefits in time of reducing legal weapons, and thereby reducing the overall number of weapons in our society.

Finally, sir, it may be considered that the most cogent evidence of a link between legal gun ownership and violent crime is what happened at Dunblane on the l3th March, and earlier at Hungerford.

Sir, I appreciate this is potentially a big issue, and I am conscious that that perhaps will not have assisted you a great deal: but unless I can help you any further there is nothing more I would wish to say in relation to Mr. McEachran's remarks.

LORD CULLEN: Thank you very much for your assistance, Mr. Campbell; I am much obliged. Mr. Scoggins, can you help about the decimal point?

MR. SCOGGINS: I think if you study the submissions of Mr. Stevenson and Mr. Mundy you will find it is there explained. There is a problem with the transposition of figures from particularly the Canadian research.

LORD CULLEN: I was wanting to know if I have the means of resolving this particular point.

MR. SCOGGINS: You will find the arguments in the submissions.

LORD CULLEN: Thank you very much. Now, Mr. Bonomy, if there is nothing further, is there any other submission you wish to make?

MR. BONOMY: I have a number of brief comments to make on matters arising from the other addresses.

First of all in relation to the position of Central Regional Council, I indicated on Monday that I accepted the factual content of the submissions handed to you by Mr. Jones, subject to clarification of certain matters. I can now tender to you a note of the two matters of fact which in my submission/

submission ought to be added to the record of material in relation to Central Region. I do not propose to say anything further on that.

LORD CULLEN: Are these agreed or not?

MR. BONOMY: No, these are my qualifications to what Mr. Jones has submitted. Otherwise I agree the factual content of his submission.

LORD CULLEN: Mr. Jones, do you want to add anything?

MR. JONES: I do not have any quarrel with what is being proposed, and to that extent there is not a disagreement about the material. I have not incorporated it into my submissions because part of it is from the perspective of Miss Renton, who gave evidence, and I considered that did not lie very easily with the Regional Council's perspective.

LORD CULLEN: Thank you very much.

MR. BONOMY: The second matter I want to deal with is the question of the interpretation of Section 27 of the Firearms Act l968. I do now have a copy of the Firearms Act l920, and you will see that Section 27 appears as Section l(2) of this Act, with certain differences. All the familiar expressions are there, but not quite in the same position.

Section l(2) states: "A firearms certificate shall be granted by the Chief Officer of Police of the district in which the applicant for the certificate resides, if he is satisfied that the applicant is a person who has a good reason for requiring such a certificate", rather than a firearm, "and can be permitted to have in his possession, use and carry a firearm or ammunition without danger to the public safety or to the peace, and on payment of the prescribed fee: provided that -

(a) a firearms certificate shall not be granted to a person whom the Chief Officer of Police has reason to believe to be a person who by this Act is prohibited from possessing, using or carrying a firearm, or to be a person/

person of intemperate habits or unsound mind, or to be for any reason unfitted to be entrusted with firearms"; so the proviso is identical. There is some little difference in the main part of the Section, however.

The provision for revocation is sub-section (6) of Section l, which provides that "A firearms certificate may be revoked by the Chief Officer of Police of the District in which the holder resides if he is satisfied that the holder thereof is a person who is prohibited by this Act from possessing, using or carrying a firearm, or is a person of intemperate habits or unsound mind, or is otherwise unfitted to be entrusted with firearms".

Now, sir, I have come more and more to be of the view, listening to the other addresses, that there is no way of satisfactorily explaining what was in the mind of the person who drafted these provisions. One simple example is the use of the expression in sub-section (2)(a) "for any reason unfitted to be entrusted with firearms", and then in sub-section (6) the expression "otherwise unfitted to be entrusted with firearms", when in sub-section (6) the criteria are fewer than in sub-section (2). I don't know I can explain the logic of these two ways of addressing unfitness. I cannot begin to try to explain that. What I was endeavouring to say on Monday was that this may be an area that you will feel able to look at. I accept you have indicated this afternoon that perhaps that is a tall order in the circumstances arising out of this case, but I do suggest to you that if you do not feel that it is within your remit to look at it in detail, bearing in mind the various constraints upon you, nevertheless I would suggest it is at least an area that you might comment on as requiring urgent consideration.

LORD CULLEN: Certainly the substance of it is for me to consider, but I am not sure whether it is wise to become embroiled in drafting, which might cause embarrassment, because once it gets into the hands of those who know the system better than I will ever know it it might be discovered there are problems which have to be sorted out.

MR./

MR. BONOMY: I appreciate that.

So far as the Guidance is concerned, in paragraph 6.6 there is reference to the criteria which Chief Officers of Police should apply in exercising the discretion under Section 27(l), where three or four provisos are stated. There then follow a number of figures within 6.7 dealing with what might be said to be the positive criteria, the ones contained in the original body of the Section, good reason and whether permission can be given without danger to public safety or to the peace. No addition is made to this proviso, indicating a certain approach, encouraging the police to make enquiries into the positive elements but ignoring largely the other elements, suggesting these are matters to take account of only if they come to light, rather than going looking for them.

Going on to Section 7, which deals with the grant or refusal of shotgun procedure, it is stated "No certificate shall be granted or renewed if the Chief Officer of Police: (a) has reason to believe that the applicant is prohibited by the Act from possessing a shotgun; or (b) if satisfied that the applicant does not have a good reason for possessing, purchasing or acquiring one", and it goes on to suggest there is therefore a need to make further enquiries only when it comes to his notice that there are doubts about the applicant's reasons for possessing a shotgun: so where reason becomes a negative rather than a positive feature, it has been suggested to the police that they need not look very closely.

LORD/

3 p.m.

LORD CULLEN: That might fit in with the expression "reason to believe".

MR. BONOMY: Indeed, I appreciate that but it also fits in with the structure of the two separate provisions.

Now, sir, on the question of good reason, we have perhaps paid little attention to the word "good" in all this debate and indeed the guidance may more concentrate on the reason element rather than the good reason element. I wonder whether, if one thinks about the test as being good reason which in itself involves a value judgment, that perhaps we see the nature of the conflict between the guidance and the statute.

Now, I have little else to say on this subject except two things. One, to recognise that the conflict which apparently exists between the Government's evidence on good reason in paragraph 55 and the guidance at paragraph 6.8 (i) suggests that there is no clear understanding of what is meant by good reason in this context or how indeed it should be established. Secondly, to say that you may well give consideration to this, that where a renewal is involved good reason should perhaps require at least, in relation to target shooting, current active club membership. In other words, current, regular engagement in shooting activity. I state that simply as a bare minimum requirement to establish the reason and whether it is a good reason is a matter then for evaluation by the Chief Police Officer.

Now, sir, it has never been my intention in making available or at least preparing a note on the law to present an exhaustive interpretation. The note was simply designed to identify areas that you may wish to look at and beyond that I do not now propose to go at this stage.

Can I turn now to the paper that was submitted by Miss Dunlop when she addressed you in relation to the involvement of the Procurators Fiscal. May I simply ask you to bear in mind certain factors when considering that issue. There are a number of these.

In/

In 1988, precognitions were obtained from witnesses. These are not available to the Inquiry. There were no specific injuries reported in respect of the children and there is apparently no evidence that Hamilton struck any child for other than disciplinary purposes. Constables Gunn and Duncan reported that the children were not in physical or moral danger as far as they could tell and Mr. Taylor has addressed you on the question of the attitude of the parents, which was far from uniform.

In 1991, when a child was allegedly assaulted, reference has been made to the obvious violent and bullying nature of the child. In that connection, may I also draw your attention to a report that appeared in today's THE HERALD newspaper at page 7 which is headed "Teacher Who Hit Problem Pupil Is Cleared". It involved a teacher slapping and punching a child on the face and head. At the end of that report the Sheriff told the accused "I may be criticised uphill and down dale for what I am going to do. From what I heard, you cracked in circumstances in which I would have thought many people would have cracked. I don't think it is right and proper that society, this Court, or the Education authority should overreact to this situation. The young lad seems to me to have been causing a lot of trouble and to have been the architect of his own misfortune. You will be given an absolute discharge with no stain on your character". I simply ask you to pay attention to it. I make no comment on it.

It of course goes without saying that sufficiency of evidence is not the sole criterion for a Procurator Fiscal. If you have before you the typed version of Miss Dunlop's submissions, can I ask you in certain contexts in it to have regard to certain other authorities. I don't intend to go through them but I will provide copies of them for you. In the paragraph "assault" on the first page, can I invite you, sir, to take account of the case of B v HARRIS 1990 SLT 208. That was a case to which Hamilton himself referred in a letter which is D51K dated 14th November, 1989 which he sent to Mr. McMurdo, in which he claimed that the Court of Session says parents may even belt their children. I invite you to look at the facts of the case of H v LEES and D v ORR which were the two cases under Section/

Section 12 of the Children and Young Persons Act where the convictions were quashed. I invite you also in regard to breach of the peace to consider CARDLE v MURRAY 1993 SCCR 170 and KAVANAGH v WILSON 1995 SCCR 693.

I also ask you to bear in mind, sir, that in relation to breach of the peace, and indeed any crime, the starting point is the actual behaviour and not the effect of that behaviour although the effect is obviously a very important element.

I think something was said also within Miss Dunlop's submission about a decision in 1993 not to prosecute. My recollection of the evidence is that in 1993 the only request was to apply for a warrant to search Hamilton's home.

Lastly at this stage, sir, the case of McLEOD v TIFFNEY, which is referred to in the second last page, may bear some scrutiny but of course it becomes largely irrelevant when one considers the fact that Mr. Cardle, for reasons which he explained, did not consider the additional material which had been obtained but it does, in my submission, appear to have been obtained in circumstances which would normally have prevented the Procurator Fiscal dealing with the case of Mr. Hamilton from considering that additional material.

Now, sir, I have a number of fairly minor comments to make on some of the addresses.

Certain things were said yesterday about Mrs. Haggar and about her failure to complain that Hamilton had threatened her with a gun on Inchmoan Island, albeit Mrs. Reilly referred to that. I mention just for the sake of completeness that you will find a reference by Mrs. Haggar to there being a rifle on the island (p.727E). It goes no further than that but it should be put in that particular context.

Reference was made by Mr. Taylor to the absence of evidence in some instances of the relationship between witnesses and Hamilton and one he referred to was Clive Woods. At page 450C-E questions were asked of Woods about whether Hamilton was a friend of his. He was asked the specific question/

question "Did you consider yourself to be a friend of his?" and he said "Well, in different circumstances I would have said I was as friendly as I am with anybody. You know, I class him as a useful acquaintance. He was somebody who had been extremely useful in the past and therefore, yes, he was a friend. He wasn't a close friend. My friendship only really revolved around the shooting club".

LORD CULLEN: Just a small point; there has been some variation about the spelling of his name. Is it Wood or Woods? I have it noted here as being Wood but I have seen it as Woods.

MR. BONOMY: I think the only way I can answer that properly would be to check with him, sir, and I will do that.

LORD CULLEN: For the time being, you can assume I am treating it in the singular, Wood.

MR. BONOMY: Well, I will have it checked. Mr. Taylor also mentioned the absence of identified experts in physical education who had commented adversely on Hamilton's methods of running his gymnastic classes, apart from Mr. Boal. I draw your attention, sir, to the reference by Mr. Penman to a report done by a lady called Tricia Chillas who was the head of sport and leisure of Central Region (p.2035).

LORD CULLEN: That is one of your insertions, isn't it? One of the alterations?

MR. BONOMY: Well, this is in a different context but it is one of the insertions. I am dealing with it in an entirely different context now (pp.2035-2036).

May I refer also to the evidence of Mr. Sommerville from Fife Region who dealt with a report by Mr. Liddell (p.1723). Mr. Liddell was the organiser for physical education with Fife Region.

There was also mention by Mr. Taylor of the absence perhaps of evidence of what the current situation is where an application is being dealt with by Mr. Lynch. I think, sir, consideration of the evidence of Mr. Lynch (p.1324) and Mr. Mather (p.1079C-D)/

(p.1079C-D) would entitle you to draw the inference, precisely the inference that Mr. Taylor suggested, that is a matter of fact and that simply supports what he said but actually confirms that it is in the evidence.

Some reference was made a number of times in his submissions by Mr. Taylor to the failure of the Fiscal to apply for a warrant and that might leave the police or did leave the police thinking that there was no reasonable cause to suspect a crime had been committed. I simply remind your lordship that the test for applying for a warrant to search premises is first of all reasonable cause to suspect a crime has been committed and secondly reasonable cause to suspect that material relating thereto will be found at the locus of the proposed search.

Mr. Cruikshank invited you to look more closely at the evidence of Mr. Bell on this question of training for being a range officer (p.462). When you read it, sir, you will see that the training, although described as formal, is actually a question of picking up the procedure on the job and I see no reason to depart from what I said in my original submissions to you.

He also mentioned that there was no evidence that Hamilton was ever actually a member of Callander Rifle and Pistol Club. You see, sir, that on his very first application for a firearms certificate he refers to Callander Rifle and Pistol Club. Now, I quite accept that no one has come along and said "I was an official and recorded his membership" but that is just one of a number of bits of evidence which do point to his membership at an earlier stage of that club.

Reference was also made by Mr. Cruikshank to the effect of the European Directive in restricting the legislation. In Article 2, paragraph 1 of the Directive, it is provided as follows: "This Directive is without prejudice to the application of national provisions concerning the carrying of weapons, hunting or target shooting" and in my submission there is no inhibition on legislation in this area as a result of the European Directive.

Reference/

Reference has been made to the possible inaccuracy in the statistics in the green book. Sir, do you wish me to have this verified or are you taking other steps to do that because it does seem to be a point that should be clarified.

LORD CULLEN: I think it would be simpler if it was clarified officially. It is covered I think by inquiries I have already asked to be made. I don't think it has been covered by any response received so far but I shall certainly press that point. I would rather go back to that particular source as well as taking into account any other comments made.

MR. BONOMY: Well, I will take no action unless asked to do so.

My computer source tells me that Mr. Wood is Wood and therefore you can rely on that name.

I think in view of all that has been said over the last two days where there have been contentious issues debated, the public ought to know that the staff, pupils, School Board members and the Parent Teachers Association have indicated praise for the work of Central Scotland Police on the 13th March and subsequently. That does not mean to say they have not got their critics, I don't suggest that for a moment, but I think it right to indicate to the Inquiry that there is no reason for the public to have other than full confidence in Central Scotland Police and their present work.

LORD CULLEN: I see there is a letter from the Board which is an appendix to the submission that was made this morning.

MR. BONOMY: Yes, there are two letters there. One from the head teacher and one from a spokesperson from the School Board. I think from the School Board and the Parent Teacher Association.

LORD CULLEN: Yes, you are quite right.

MR. BONOMY: And these were written about two weeks or so after the 13th March.

LORD CULLEN: The one from the Board is dated/

dated 27th March and the other one is the 29th.

MR. BONOMY: Yes, and in fairness, Mr. Campbell has already made it clear in the context of his submissions that those whom he represents have nothing but praise for the work and in the aftermath following the events of the 13th and the support that they have been given. I simply make this remark in case sight is lost in the debate that is taking place here of the fact that there is no reason to have other than full confidence in the local police force.

Sir, the evidence has been led in accordance with Parliament's remit. The circumstances leading up to and surrounding the events at Dunblane Primary School on the 13th March have been investigated speedily and thoroughly in accordance with Parliament's wish that this should be done as a matter of urgency.

On behalf of all the parties I wish you well in your deliberations on the many difficult issues raised in the evidence and the submissions. All appearing before you have tried our best to assist you in your task. Of course, the ultimate responsibility for deciding what action to take in the future rests with Parliament and it is appropriate therefore to say finally that we recognise that our legislators will have hard decisions to take, requiring good sense and sound judgment in large measure.

LORD/

3.20 p.m.

LORD CULLEN: Just one or two matters I would like to deal with at this stage. First of all, I think there has been circulated a list of proposed corrections, and I suspect that list of itself has now been passed by the parties. But I have received today some further suggested corrections relating to the transcript yesterday, and it may be that parties would like to see that list, and indeed to review the transcript concerning the oral submissions to make sure that there are no corrections remaining in the transcript that perhaps should be drawn to my attention.

So what I would suggest is that parties could submit any corrections they want to make in regard to the transcript -- that is to say the transcript concerning the oral submissions that have been heard over the last few days, and to do that to the Inquiry Office in Edinburgh.

In that connection I should remind you that with effect from the 12th of this month the office will be rehoused in Edinburgh at Parliament House, and the full address and telephone number and fax number can be obtained on application to the office today.

There are one or two final matters I would like to deal with, but before I do that I think I would like to rise for a few minutes so that certain arrangements can be made. I shall resume in a few minutes' time.

After a short adjournment:

LORD CULLEN: I am going shortly to bring the Inquiry, that is to say the public aspect of it, to an end; but before I do so I want to say a few words on behalf of myself and the staff who are working directly with me.

It, I hope, will be obvious there is a considerable amount of planning and arranging that requires to take place to enable an Inquiry such as this to be set up. A great deal of work had to be done, not by myself in this respect, but by others, in order to make sure that the appropriate physical facilities were set up and were set up at the right time/

time to provide the right kind of accommodation for anybody who in any way would be involved with this Inquiry.

I would like to record my sincere thanks to the Scottish Courts Service, and in particular their Property Services Unit for all the work they did in this respect to accommodate the participants, the public and the Press. So far as I know what they did has been well received, and I think they are to be warmly thanked for that.

So far as our facilities on a day-to-day basis are concerned, I would also like to thank Stirling Council in a number of respects, in particular -- without wanting to single out too many individuals -- the hall manager, Mr. Martin Dickson and his staff for all the help that they gave so willingly at every stage so as to enable this Inquiry to proceed in the way it has done; and also the Social Work Department for all that they have contributed to this, in making matters run so smoothly and so helpfully, including I think the provision of an in-house creche, which I have never seen, but certainly it seems to have gone off quite well.

Also to the caterers for the way in which they made the cafe available, including at times which are not the normal times of opening.

We have had the benefit of the police and security officers, and we have also had the benefit of the Scottish Office Information Directorate, the latter handling the flow of information to the Press. I thank them all for the way in which they have made matters so straightforward.

So far as the setting of the Inquiry itself is concerned -- and you appreciate I am now moving out into the arena here -- I would like to record my gratitude to those who have attended to making sure that we could hear what is said and that when necessary we could have documents and other things displayed.

I must also thank the shorthand writers and the bar officer, Bert White, and the two production officers, who have been ready to cope at the/

the last moment with some unexpected documents which appeared from the middle of nowhere.

That point reminds me of the way in which matters have had to be put together in some respects at the last moment, because a great deal of material was available, and from that a selection had to be made very much at the last moment. That called for a great deal of expedition and tolerance on the part of those concerned.

Turning to the parties and to the Crown, I owe a great debt of gratitude to all of them for the way in which they have helped this Inquiry to proceed with the clarity and expedition with which it has.

I have welcomed at every stage their very co-operative attitude, for which I am very grateful, because it has managed to enable me to get through a large amount of material within a comparatively short space of time.

The heaviest burden I suppose has fallen upon the Crown, and I am particularly grateful to Crown counsel and to the Procurator-Fiscal and his staff for the way in which they have shouldered that extremely heavy burden.

I will not leave out of account the unseen multitude who have submitted written submissions to me. They will all, of course, be considered and evaluated when I have the appropriate time to do so, but I am most grateful for the large response which I have received in regard to the topics upon which I invited those written submissions.

That leaves me now with my task, which is a very heavy responsibility, but it is nothing less than the subject matter deserves. I am most grateful for all the help that I have received, and the task now transfers to me to consider everything that I have heard and consider everything that I will be reading or have read, and in due course to produce a report that I hope will measure up to the responsibility which is entrusted to me. Thank you all very much.

The Inquiry then terminated.