

TWELFTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, 1996

before

THE HON. LORD CULLEN

on

THURSDAY, 13th JUNE, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

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.....

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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.

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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 1959 so I have been a police officer up until April of this year.

When did you move to your current position? - 1987. September 1987.

No, your present position with the Inspectorate? - Sorry, the 1st of April.

And until then you were? - Depute Chief Constable in Central Scotland Police.

From when? - From September 1987.

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 13th.

Around what time? - Just shortly before 10 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 13th 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 1987, 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 1988 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 1991. 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/

10.20 a.m.

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. BONOMOY:
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. BONOMOY: Sir, to put this in a chronological context it is necessary to pass between the K and L folders.

EXAMINATION CONTINUED BY MR. BONOMOY:
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. BONOMOY: Sir, this is in the bundle of additional material which was given to you this morning and distributed.

EXAMINATION CONTINUED BY MR. BONOMOY:
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 appeared in the 'Stirling Observer' on the 3rd May 1989".

Now, does the expression "Brotherhood of Scouts & Police" appear elsewhere in the correspondence? - 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 obsession, /

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. BONOMOY: 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. BONOMOY: 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/

11 a.m.

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 14 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. Haggart who was also a witness in the Inchmoan business so there was a connection there.

EXAMINATION CONTINUED BY MR. BONOMOY: 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 1988 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 1989, is that right?

Look at DCD87 which is D49. That is a letter dated
31st October 1989 from Hamilton to you? - Yes.

Can you read the heading and the letter please? -
"Disruption of 1988 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 sullyng 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 1989. 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 1989, 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 1990 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 10 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. BONOMOY:
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/

12.05 p.m.

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 10 a.m. on Tuesday, 17th December 1991 I called once again on Mr. Hamilton at his home. The visit lasted approximately three hours, again the main topic being his 1988 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 1992? - 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 DI74? 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 1st April 1993 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 1988 and 1991 is the Scouts using their influence within Central Scotland Police to undermine my group as they did in 1983 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 1993 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 1992 where children were running away overnight from the camp at Dunblane High School? - As I recall that, they were got wandering about about 10 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 1995 when his firearms certificate is up for renewal? - Yes.

Can you now have DI06L which should be an RL3a form for the 1995 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 1995? - 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 1995, 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 1995 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 1980s and early 1990s, 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/

12.25 p.m.

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/

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. Haggart -- possibly two incidents involving Mrs. Haggart -- 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/

12.45 p.m.

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 deal 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 go to 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 precognosed, 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. Bonyon 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 adjusted 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/

3 p.m.

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/

3.20 p.m.

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 1991.

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 1991. 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 1991. 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 10 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/

3.40 p.m.

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 1937 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 11th November 1991, 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 S719L? 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 10? - 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 II. In 1992 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 1993 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 1994, 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 1995, 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/

4.00 p.m.

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 be 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/

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 10 a.m.