

TWENTY-FIFTH DAY.

TRIBUNALS OF INQUIRY (EVIDENCE) ACT, 1921.

TRANSCRIPT OF PROCEEDINGS
AT THE PUBLIC INQUIRY

into

INCIDENT AT DUNBLANE PRIMARY
SCHOOL on 13th MARCH, 1996

before

THE HON. LORD CULLEN

on

TUESDAY, 9th JULY, 1996

within

THE ALBERT HALLS,
DUMBARTON ROAD, STIRLING

.....

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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;

Mr. C.B. McEachran, Q.C., for the Scottish Target Shooting Federation;

Mr. M.S. Scoggins, solicitor, (Davies Arnold Cooper) London, for the British Shooting Sports Council.

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ERRATA FROM DAY 24.

- Page 2921 "It is a very fervent hope" should read "It is their fervent hope".
- 2924B The word "by" should be inserted between "murdered" and "a".
- 2925D "paragraph 8.4" should read "paragraph A.4".
- 2926C "in this context referred to the term" should read "in this context preferred the term".
- 2927A "when our gun law was developed it was the context" should read "in the context".
- 2927C "the continued institution of gun clubs" should read "the continued existence of gun clubs".
- 2932A the word "to" should be inserted between the words "also" and "Dr." and the word "and" should be inserted between "Washington DC" and "the Vancouver".
- 2932D "all practical steps to prevent the gun culture" should read "all practical steps to prevent a gun culture".
- 2933B "is it that so long as a total absence of correlation of activity" should read "is it that so long as a total absence of gun related activity".
- 2933 "there is no evidence that the criminal world are spree killers" should read "there is no evidence that the criminal underworld arms spree killers".
- 2933D the words "shooting committee" should be "shooting community".
- 2933E the words "and not against the benefits" should read "nor the benefits".
- 2937B the words "but more the general use" should read "but rather the general use".
- 2929A on the second line the word "has" should read "had" and on line 4 the word "has" should read "had".
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TUESDAY, 9th JULY, 1996.

TWENTY-FIFTH DAY.

MISS DUNLOP: Before proceeding to the

next part of my submissions if I could just make one final point in relation to what was said yesterday about the events of 13th March: as I said yesterday, the support of the support teams has been much appreciated by the families, but it may be observed that the main priority of the families on 13th March was to receive news and that time spent putting together the support teams at that stage appears to have delayed the imparting of that news. So that whilst the assembling of the support teams in the aftermath was important it is not as important as the receipt of news.

If I can move on to make some remarks on the life and character of Thomas Hamilton. A considerable amount of information has been assembled about Thomas Hamilton and about his life, especially from the age of 16. The only employment he ever held was with Stirling Burgh Council and this he gave up within about three years and ran a woodcraft and do it yourself shop. There has been suggestions that the business failed and that Hamilton himself attributed this also to rumours in the community, although it seems to have been more likely that it was due to competition, and the reference to that is Councillor Ball at page 1953. Doubt is also cast on his commitment to save the shop by his grandfather and others who said that all he really wanted to do was to run boys clubs. The clubs were used as a source of boys for his camps as described by the witness McGregor at page 1997 as even more important to him. That the running of such clubs and more particularly camps was one of his main interests in life is not in doubt.

Turning then to look at Hamilton's shooting history: he was a member of a rifle club at the age of 16 and he graduated to full bore shooting thinking that .22 was cissy, the reference to that is at pages 360 and 372 in Mr. Moffat's evidence. His shooting patterns were unusual, in particular he had his own targets with fluorescent stickers on part of the body. He took these targets/

targets and pinned them up at home. At the gun clubs he did not follow a course of firing, being interested really in firing off his bullets as quickly as possible. He did not take part in competitions. There is evidence about his interest in the Hungerford massacre and his liking for violent films. His guns were his friends. There were times when he brought together his two main interests in his life, by taking young boys to shoot or showing guns to children.

Turning next to look at his paedophilia: he was described in the evidence by Dr. Fairgrieve, by now Chief Inspector Hughes, by Dr. Baird and Professor Cook as a paedophile. He was constantly engaged in recruiting boys for his clubs and camps, and it is clear from the oral evidence and from his circulars that he pressed for club members to come away to camps. These were camps often in isolated locations where he could have unimpeded access to young boys, scantily clad, performing particular movements which he could record on film or video and watch at home, camps where he would have them rub suntan oil into his body and he could have his favourite boys sleep beside him.

He was adept at defending himself. You have the evidence of Mrs. Deuchar and Mrs. Ogilvie about burning material in his garden. He denied the existence of certain photographs in particular to the then Detective Sergeant Hughes and he often used attack as defence. He engaged in a great deal of self justification, one particularly notable moment being sending a pair of trunks to Central Regional Council. He was responsible for a barrage of correspondence not only denying in fact negative connotations but also stressing the value of his work. That there was a gap between his perception of his activities and the beliefs of the majority of others is apparent from references in the evidence to his delusions of grandeur (Dr. Fairgrieve page 425) and Mr. McMurdo referred to his lack of perception at page 1679 and the fact he considered himself to be persecuted.

His paedophilia seems to have been overt, and there are two pieces of evidence in relation to that, firstly from the witness Carruthers and secondly from the anonymous witness.

Turning/

Turning to look at his treatment of children: he exposed children to discomfort and at times danger. This was irresponsibility although there is reason to believe that it was deliberate and part of a regime. The physical welfare of boys in his care was jeopardised by over-strenuous exercise and by being taken in boats which had an inadequate supply of life jackets, by being pitched into the waters of Loch Lomond ostensibly to practice self-sufficiency. The boys were kept cold, with insufficient clothing, and were left to play with no supervision.

He was also careless about their emotional welfare. There was evidence of boys being upset and homesick and of bullying tactics by Hamilton. He denied them contact with home and refused to allow them to go back, and in the videos the boys often looked frightened.

It has been said in evidence, particularly by Dr. Baird and by Mr. McFarlane at page 1994 that he used power over boys.

He was deceitful in relation to his activities with boys. He appears to have misrepresented the circumstances of his leaving the schools. In relation to incidents in Aviemore and on Inchmoan Island he certainly made assertions to Mrs. Deuchars that he had been let down by other people although in particular from the evidence of Mrs. Deuchars it is apparent it was not so.

He engaged in deception of childrens' parents regarding his intended activity, and such matters as the reasons for children dressing in particular ways and the need for them to change in front of him in the gymnasium. He made untruthful allegations regarding the police evidence. He misrepresented the existence and membership of his committees and the number of helpers who would be joining him at the camps and other activities. He over-stated his qualifications. He implied that he had approval or support from the local authority or from other individuals, and you have the evidence of Inspector Mill and.....

LORD CULLEN: One point there about his qualifications. Just so that I can be clear, you say he over-stated his qualifications. Is that in some publicity/

publicity material?

MISS DUNLOP: He described himself to particular individuals, for example Mr. Moffat, as a gym teacher. He referred to himself as having qualifications in gymnastics when the evidence discloses in fact the only qualification he'd had was that of an assistant coach and.....

LORD CULLEN: Under supervision.

MISS DUNLOP: Under supervision of adult females.

He was also dishonest about other conduct. One notes that his Social Security benefit was terminated for working and that he mis-stated the amount he was charging the boys to benefit from reduced hire charges (page 2061). He appears to have adopted ruses to obtain discounts for camera and gun equipment. He distorted the facts in complaints he made and could reasonably be described as a manipulative liar.

His relationships with adults were generally unsuccessful. He was cruel to his family and in particular to Mrs. Watt and Mr. Hamilton senior. He was tedious with others who were prepared to entertain him. Dr. Baird offered the description "empty" which may be what was meant by other witnesses who described him as boring and uninteresting. He was seen as weird, as a loner, a creep, a misfit. He was described by Professor Cook and Dr. Baird as having no empathy. As well as lack of positive interaction with others there is lack of appropriate negative response. Several witnesses commented particularly on his calmness, and I am thinking here of his grandfather, Mrs. Butterwick, Mr. Holden, Mr. Hughes and Mr. George Robertson, although some of those witnesses, particularly Mr. Hughes and George Robertson, also got the impression of suppressed anger.

There is the question of the extent to which the events of 13th March were planned. There is evidence of his having quizzed a small boy about arrangements at Dunblane Primary School and he stockpiled ammunition but it may be thought that there was a degree of compulsiveness about the location. The evidence in this area is perhaps in some/

some respects contradictory. There is evidence from the witness McGregor (page 2001) about the statement about never having to pay for shirts.

There is, on the other hand, evidence that he attempted to pay for the hired van in advance and from the witness Gillies at page 259 which may be thought to cast some doubt on that view he had he could benefit in some way financially by never having to pay for things by events which he was planning within the next few days. It is difficult in fact to make much of the evidence about the shirts given that there was in fact the purchase of new shirts at all.

There is also evidence of his having booked the school for the Easter camp (page 2077) in the evidence of Mr. Mercer, although to a degree that may be, the actual date may be slightly confused given his revision which he indicated yesterday, but there is evidence of his attempt to book the minibus for the 14th and 19th March.

In conclusion, it has been suggested by at least one shooting group that society has some responsibility for what occurred because of the way it treated Hamilton. It is probably right to consider this suggestion but in my submission it does not stand up to scrutiny. The urge of parents to protect their children is utterly fundamental and the protection of children as a whole underpins our legislation and decision making in many areas of life.

Such censure of Hamilton which did occur and the limited restrictions of his activities which took place were because he was perceived, and rightly perceived, as a threat to children. He should not have been allowed free and sole charge of young children wherever and whenever he wanted to do whatever he wanted especially when he would not acknowledge that there was anything wrong with his methods let alone his motivation. It has emerged from the evidence that society should have interfered more with his sinister activities, not less, and that would not have allowed better integration or status for Hamilton in the community.

MR. CAMPBELL: Sir, I now intend to return to the evidence as it bears upon the conduct of Central Scotland Police. I would perhaps at the/

the outset begin with a brief summary of the main effects of my submissions in this regard.

Sir, Central Scotland Police were charged with the responsibility of determining in advance of granting or renewing Hamilton's firearm application whether there was reason to believe that he was for any reason unfit to be entrusted with weapons. This is a summary of the reference to Section 27 of the Act. This was a judicial or quasi judicial responsibility which required careful consideration of all known facts. That careful consideration required to be followed by an evaluation of Hamilton's character and his trustworthiness. Such an evaluation was a consideration of the implications, if any, which may arise as to whether Hamilton was deserving of trust in respect of possession of deadly weapons.

In addition, Section 27 necessarily requires a system of inquiry and information-gathering which would be designed to facilitate such procedures.

LORD CULLEN: I just want to be quite clear about that. Do you say that the proviso to Section 27(1) means that the police force have a responsibility to find out, make enquiry to find out whether the applicant is of intemperate habits or unsound mind.

MR. CAMPBELL: Or otherwise it would.....

LORD CULLEN: Let's deal with one thing at a time. Is that right? You say that is what they should be enquiring into and after that they should be responsible also for considering whether a person is unfit to be entrusted for some other reason?

MR. CAMPBELL: Yes indeed, sir.

LORD CULLEN: That imposes an obligation, a responsibility for enquiring into the sanity of the person who is applying; is that right. I want to be quite clear about your position on this because there are three heads to it. I can quite understand your concerns about the third, but I am not quite sure about the first and second. You say/

say it is irrespective of a grant to a person in respect of whom the Chief Officer of Police has reason to believe certain things. Now, I appreciate there may be some concern as to what extent that saddles the police with responsibility of continued investigation but I would like to understand really what your standpoint is about what this section actually means.

MR. CAMPBELL: Well, I think in the context.....

LORD CULLEN: It may be the way it is phrased but I would like to know what your position is. The responsibility for investigating what? Is it all three heads or is it less, something less than that?

MR. CAMPBELL: I would approach the matter on the basis that Parliament entrusted the police with -- moving away just for the moment from the precise terms of the provision -- Parliament has recognised the particular danger which flows from the possession of firearms and this is something which requires no elaboration.

It/

10.20 a.m.

It has entrusted the Chief Officer of Police with the responsibility of that licensing system. It has told the Chief Officer of Police not to grant a licence if there is reason to believe certain matters. In my submission, by necessary implication there is therefore a responsibility on the police to enquire and investigate.

LORD CULLEN: Of course, the regulations which underpin this are designed to provide certain information to the Chief Officer of Police: but you are saying it is not enough to rely on that input of information which comes through in compliance with the regulations, but there is some responsibility to see if there is anything amiss in respect of any of these three; is that your position?

MR. CAMPBELL: That is my position. There is the additional factor that once the information is ingathered, by whatever means, the responsibility is to assess it, evaluate it and apply one's mind to any implications which may arise.

LORD CULLEN: Yes. "Having reason to believe" means you have to assess the significance and value of what you know.

MR. CAMPBELL: Particularly in the light of -- in my submission it is important to notice the weight is put in the legislation "...any reason unfitted to be entrusted": so trust, character, suitability are the very essence of the exercise.

LORD CULLEN: There is another aspect. I don't know if you have a submission on this or not. I find the construction of provisions like that quite hard to follow, because the main part of Section 27(1) is concerned with the matters in relation to which positively the Chief Officer has to be satisfied. The second branch is "...should be admitted to have in his possession with danger to the public or to the peace", and then we have added on to this this proviso. Now, there may be areas where there is an overlap between these two expressions, and there may be areas where they do not/

not overlap, and if you have any submissions about what is implied by lack of fitness to be entrusted I would like to hear what you have to say. Does it go beyond matters of concern for safety, does it go beyond concern for the public peace, does it go into other areas? We did explore this to some extent in the evidence.

MR. CAMPBELL: Indeed. My understanding of this - I would readily accept that the provision is not entirely clear, but while there may be an overlap in certain areas there may be other areas where there is perhaps less of an overlap. One obvious context of the first part of the provision -- if for example we related to the storage facilities available for the weapons and also the extent, the use to which they might be put.....

LORD CULLEN: Quite so. There are however many things, not only dealing with firearms but also shotguns, concerning the behaviour of the person, whether that behaviour does or does not give rise to concern about public safety or peace.

MR. CAMPBELL: Yes.

LORD CULLEN: If we recognise that, one might ask if we get to "Unfitted to be entrusted" what are we talking about now?

MR. CAMPBELL: I recall some questions you asked of Mr. McMurdo, where you asked him whether this provision involved any responsibilities.

LORD CULLEN: It was that kind of problem that was bothering me at the time.

MR. CAMPBELL: What the legislation is asking the police to do is consider: is this a man whose character would permit a reasonable degree of trust not only in relation to public safety but in relation to such matters as honesty and fair dealing, because this is essentially a preventative provision, recognising it would not always be possible to predict everything which may occur in the future. So it is a safety-first philosophy.

LORD CULLEN: That I can understand. The/

The only other point I would draw to your attention is that the company it keeps is people of unsound mind, people with intemperate habits, which seems to indicate something of a fundamental nature which indicates they are not safe to be entrusted; in other words, there is a "catch all" provision, which must imply some sign of a person's fitness.

It may be much more general than just danger to the public, safety and to the peace. I am still uncertain, however, what the scope of this expression "Unfitted to be entrusted" is to be.

MR. CAMPBELL: It is focusing not so much on a prediction or a foreseeability that there will be danger to the public safety or peace; the focus must be on the character of the person.

LORD CULLEN: But it must be with some eye to what the object of the legislation is. It may be it goes more generally into the responsibility of someone to whom a certificate is entrusted.

MR. CAMPBELL: Yes.

LORD CULLEN: And that has a number of aspects, which I was trying to explore with Mr. McMurdo.

MR. CAMPBELL: Indeed. Sir, in my submission the evidence indicates that no one in the Firearms Department of Central Scotland Police ever closely applied their mind to the question of Hamilton's personal fitness in the sense required by Section 27. I might add there as well, no one applied their minds at the relevant time to the test required in a slightly different form in Section 30.

The only officer who did address the issue was an officer in the Child Protection Unit, Detective Sergeant Hughes. Although he had no direct responsibility for firearms, after a review of the results of his investigations in 1991 he formed the judgment that Hamilton was not a suitable person to be entrusted with a firearm. Given the known facts at this time, in my submission this judgment was clearly correct, and it is hard to countenance how any reasonable criticism of it can be mounted.

Even/

Even if one confines attention to Hughes' warning that Hamilton was a risk to children, a combination of this risk with the possession of weapons was surely stark and conspicuous. Of course, the terms of the memo went well beyond this simple message.

However, sir, we know that Hughes' recommendation was summarily dismissed, and Hughes' considered opinion is now categorised in a somewhat pejorative way as a "gut feeling". Whether one calls it a gut feeling or not, in my submission Hughes' conclusion and the process which created it was exactly what was required of Central Scotland Police under the legislation. If only Mr. McMurdo or someone else in the Firearms Department had done something similar it is hard to escape the conclusion that they would have been bound to reject the idea of trusting Hamilton with anything of any seriousness let alone entrusting him with these deadly weapons.

However, the evidence indicates that this was not the way in which the Firearms Department operated. The lack of a serious criminal conviction on Hamilton's record and the refusal of the Procurator Fiscal to prosecute killed Hughes' initiative at birth.

No one even considered it worthwhile to speak to Mr. Hughes. Mr. McMurdo did not think at any stage throughout the whole history of the matter to consult Hamilton's firearms file until after the 13th March, although one can note in parenthesis that if he had consulted it he would have found nothing to help us in that. Instead, Mr. McMurdo proceeded on the basis of a recommendation from the Divisional Commander, who had read Hughes' memo, and made a recommendation without even having met Hamilton. An extraordinarily narrow and legalistic, albeit administratively convenient, definition of "personal unfitness" prevented any serious scrutiny of the decisions required by both sections 27 and 30. One can be reasonably confident throughout this, because had there been any serious consideration of Hamilton's full circumstances the enquiring officer would surely have noticed that.

It is not surprising and no coincidence that/

that Hughes came from another unit, perhaps one more used to sceptical and enquiring police work and more experienced in independent valuation and judgment. That said, his recommendation was supported at the time by Detective Chief Inspector Holden, although Mr. Holden is now back-tracking on that position.

Thereafter, Hamilton's 1992 and 1995 applications for renewal of his Firearms Certificate proceeded as matters of pure routine. Even when WPC Anderson tried to sound the alarm in 1995 it was crushed by the unwillingness of the Department to make an independent judgment or take on board the responsibility entrusted to it by Parliament. So long as the Fiscals remained disinterested the Firearms Department would send up the forms for signing as a matter of pure administration along with the other 30 to 40 per week. It may be thought inevitable such a slack and complacent system would lead to real harm. Fortunately, Dunblanes are extremely rare events; but no one did or could have predicted the full horror of what happened on the 13th March.

It is not, however, the exercise of hindsight to say that Hamilton should have been identified as unstable well before the 13th March. Mr. Hughes and Mr. Holden had done so. The legislation enjoined the Chief Officer or his delegate to identify the potential for danger before it happened. Good reasons for revocation or refusal abounded. Very sadly, it is reasonably clear they were ignored. But for the Firearms Department's collective failure to remove weapons from Hamilton this terrible tragedy would not have occurred.

The overall system, such as it was, was riddled with defects and inadequacies. For example, reference can be made to Mr. Richardson's damning report. Many of these will have played a contributory role, but in the above brief comments I have attempted to identify the essential failure. With that summary, sir, I now seek to elaborate upon them even more.

At the outset, it is right to acknowledge that no organisation or person involved in the history of this matter carries anything like the same degree of blame worthiness and responsibility/

responsibility for this terrible event as that borne by Thomas Hamilton.

That said, the relevant legislation placed a solemn and heavy responsibility upon the Chief Officer of Central Scotland Police in granting Firearms Certificates only to persons about whom there was no reason to believe they were unfitted to be entrusted with a firearm.

The jurisdiction granted has been described judicially as a branch of preventative justice in the exercise in which Chief Officers are envisaged carrying it out, with additional discretionary powers for the maintenance of order and the preservation of the public peace. That is a reference to the case of AKERS v. TAYLOR 1964 1 Weekly Law Reports Page 415 and 410, discussed at Paragraph 10 of Mr. Carter Manning's opinion of 17th June, 1964.

The reason for this is not difficult to understand. All guns are lethal weapons; they are designed to kill. They grant the possessor a unique ability to cause fatal injury. If used, they are more likely to kill than any other readily-available weapon. Especially, but not uniquely, automatic and semi-automatic weapons have the capacity to kill large numbers of people in a very short period.

Sir, killing can be carried out at a distance, with little or no physical contact with the victim. No physical strength, prowess or even bravery is required. Even a single shot handgun, as Mr. Penn told us, can be fired and re-loaded very quickly.

In summary, guns give people like Thomas Hamilton, who was an inadequate and pathetic individual, a capability of walking into a school and killing as many children and adults as they choose. In these circumstances it is not difficult to understand that the relevant studies demonstrate a direct relationship between the rate of gun crime and gun availability.

It is against this overall background that the operation by Central Scotland Police of the firearms licensing system must be considered. Did they discharge their heavy responsibility in a professional and reasonably careful manner? In my submission the answer is no, with the direct result that Hamilton was able to do what he did on the 13th March/

March of this year in Dunblane Primary School.

It is nothing to the point to stress that no one foresaw or could have foreseen that Hamilton would do what he did. The basis of the legislative framework and the premise on which the firearms licensing system should have operated is that it is apparent and obvious firstly that guns are lethal in the wrong hands, and secondly, people have and will continue to cause injury and death with guns, sometimes in the dreadful circumstances of Hungerford, Tasmania and Dunblane.

The/

10.40 a.m.

The legislation speaks of reason to believe that a person is for any reason unfitted to be entrusted with a firearm. If any such reason exists, the certificate must be refused. For present purposes emphasis is on the trustworthiness of the individual, not on whether or not the person has in the past been violent or has acted in a dangerous manner with firearms. This applies to an individual's very first application as well as to subsequent applications, thus it is obvious that general character is to the forefront. In other words, this is or should be preventative police work.

It follows, sir, one might have thought that no police force would require hard evidence that a firearms certificate holder is behaving in a violent or improper manner with firearms before taking such preventative action. Such an approach is the very opposite to preventative justice. It is a locking the stable door philosophy on firearms licensing.

Further, one might have thought that no police force would proceed upon the basis of the supposed freedom of the individual to possess and use a gun. However, it is plain from Mr. McMurdo's statement to this Inquiry that this consideration did influence his thinking. (Day 12, pp. 1526-7).

One might have thought that no police force would delegate its responsibility to the public prosecution system with all the different criteria and responsibility carried by that agency. One might have thought that no police force would only act if the Fiscal acted. However, again it is clear that rather than exercising an independent discretion, the police in effect abandoned or delegated their responsibility to the public prosecution service in an apparent ignorance of the very different context and criteria in the Fiscal's responsibilities.

One might have thought that no police force would allow itself to be swayed by fear of having to justify its decisions in the Sheriff Court but Mr. McMurdo told us that he was always very conscious of how a Sheriff would react to a decision/

decision (p. 1527 and p. 1506D).

LORD CULLEN: Just to be clear about that point, Mr. Campbell. If the police force recognise accurately and correctly that there is no prospect of a Sheriff doing anything other than sustaining the appeal, do you say that they should disregard that?

MR. CAMPBELL: What I say, sir, is that they should apply their minds to the question and come to a judgment on it, free from any concern of possible embarrassment.

LORD CULLEN: Yes, I understand that. In other words, the risk is another thing but obviously they have got to apply the law just as the Sheriff has although their roles may be very different. So there is a sense, I suppose, in which it is perfectly appropriate for them to take cognisance of what the Sheriff may be thinking, meaning it is quite clear that the appeal will be successful, so is there any point in a Chief Constable, in fact is it proper for a Chief Constable to revoke in such circumstances?

MR. CAMPBELL: If that matter was quite clear, the issue of appeal to the Sheriff would never enter into one's thinking. One would simply decide.

LORD CULLEN: The true question would be that there were no ground for revocation.

MR. CAMPBELL: Yes.

LORD CULLEN: So what you are looking at is if there is no separate point with regard to the Sheriff? I mean, there either is or is not grounds for revocation.

MR. CAMPBELL: Yes.

LORD CULLEN: And what you are saying also I think is that the risk of adverse result in itself should not enter into the equation at all, is that right?

MR. CAMPBELL: Indeed. One might have thought that in considering whether a person can be trusted/

trusted with weapons, issues of general trustworthiness, honesty and reliability would not be dismissed as unimportant matters. However, Mr. McMurdo in his evidence to Mr. Taylor was at pains to downgrade such concepts (pp. 1581-5 and pp. 1601-2).

One might have thought that all those with responsibility for the system and procedures would have a reasonably clear understanding of the law and the statutory requirements or at least recognise when it was necessary to seek advice or further information on the facts. However, the evidence is peppered with incomplete or inaccurate statements as to the relevant legal tests by senior officers of Central Scotland Police. So far as Mr. McMurdo's evidence is concerned, I would refer to his evidence at 1458E and 1529-32.

One might have thought that some system would be instigated and operated to ensure that a complete picture of all relevant information relating to an applicant was available to those making the decision on his firearms application. However, Central Scotland Police's system in this regard was woefully inadequate. Worryingly, Mr. McMurdo appeared to show little understanding of why a complete picture was even desirable (p. 1534).

What appears to have happened is that isolated incidents were considered on their own and then forgotten or at least ignored when further incidents occurred. In this regard, sir, I note, and indeed Mr. McMurdo agreed with this, that the bulk of what is now known about Hamilton after this whole Inquiry was known to the police before the 13th March. That is a reference to Mr. McMurdo's evidence (p. 1547).

Sir, I now turn to a brief consideration of the factual matters known to the police about Hamilton before the 14th March. In my submission, the evidence discloses that they include the following: firstly, that on various occasions he had committed a variety of crimes, including the crimes of assault, child neglect, indecent behaviour and breach of the peace.

Secondly, that he was a scheming, vindictive, deceitful liar who harboured an obsessional/

obsessional grudge against the Scout Movement and was hostile to the police.

Thirdly, that he was the subject of rumours and gossip and frequent complaints by parents because of his abnormal and unhealthy conduct towards young boys, serviced by his obsessional organisation of boys' clubs and camps. The police were privy to information which confirmed that the rumours, gossip and complaints were all true and justified.

Fourthly, that he was a misfit, a loner, a weirdo or an oddball who repelled most who met him.

Fifthly, that he had been expelled from the Scout Movement in the early 1970s for the reasons explained in the Scout Movement file upon Hamilton. That was a matter learned by D.C. Taylor in 1993.

Sixthly, that he made a habit of unjustified and time-consuming complaints, both formally and informally, about the police and indulged in a series of false and defamatory accusations about police officers. Transparently that was done with one end in view. That was to tire and eventually deflate his accusers and throw a smokescreen over his own activities. It is noteworthy that these tactics were remarkably successful in preserving Hamilton from effective action by a large number of agencies.

Seventhly, he was the subject of a clear and unequivocal recommendation from experienced police officers that he was unsuitable to be trusted with a firearm.

Sir, I would not claim that the above is a comprehensive list but in these circumstances was it not remarkable that the Depute Chief Constable, Mr. McMurdo, claimed that there were no contra-indicators to Hamilton's renewal applications (Day 12, p. 1505D).

Mr. McMurdo had sent Mr. Keenan's report a year or two previously and the Hughes' memo to the Fiscal at Dumbarton for reconsideration by the Fiscal there. Mr. McMurdo had written about Hamilton/

Hamilton to the Scottish Office in the letter of June 1992, that is DI33K, in the most uncomplimentary of terms, to put it at its very least, and this is just shortly before the 1992 renewal of Hamilton's certificate.

Mr. McMurdo was familiar with the Hughes' memorandum and we are told that he had read the Hughes' report to the Fiscal and the accompanying material. In my submission, that claim that there were no contra-indicators to Hamilton's renewal application speaks volumes about Mr. McMurdo's competence and about the culture and ethos prevalent in the Firearms Department at Central Scotland Police.

It was Mr. McMurdo who rejected D.S. Hughes' memo without even speaking to him. Had he spoken to D.S. Hughes, Mr. Hughes would no doubt have explained to him why he had doubts about Hamilton's mental stability, to take but one example from his memorandum. D.S. Hughes explained to us his thinking (Day 8, p. 921 and following pages). He explained that Hamilton was a man who outwardly appeared to be calm but underneath was very angry. He told us that his concern about this stability was prompted by the nature of the photographs taken by Hamilton of young children. His evidence on these photographs was not based upon recovered photographs but upon the evidence about the nature of the photographs which he took from the children involved.

No doubt had Mr. McMurdo or anyone else spoken to D.S. Hughes he would also have emphasised that while Mr. McMurdo might dismiss his considered evaluation and judgment as a gut feeling, the ten recommended charges could not be so easily dismissed. Here I refer to Mr. Hughes' evidence (Day 8, p. 929E) and also Mr. Bonomy's re-examination of him (p. 930).

It is again, in my submission, eloquent that at no stage did Mr. McMurdo look in Hamilton's firearms file. When asked why none of the information about Hamilton was in the firearms file, Mr. McMurdo's reply was (Day 12, p. 1514) "I didn't do the filing".

It was Mr. McMurdo who said, despite all the/

the evidence to the contrary, not least the numerous police recommendations for criminal proceedings and the Hughes' memorandum, "I don't think anybody could have done anything which would have weeded this individual out" (p. I55ID-E).

It was Mr. McMurdo who said that it would be expecting too much to expect an applicant to be honest in his dealings with the police (p. I601-2).

It was Mr. McMurdo who talked about firearms applications as uncontested and as purely an administrative process unless a subordinate made some adverse recommendation (p. I550).

Nonetheless, Mr. McMurdo sanctioned, not least by his decision on Hughes' memorandum, the ethos in the Firearms Department which inhibited officers from acting upon any strong feelings unless action could be supported by hard proven fact, most obviously serious criminal convictions, a strong pending case on medical evidence of mental disorder.

The clearest evidence of this is Chief Superintendent Miller's manuscript note to the Hughes' memorandum. This note plainly and unequivocally reveals the culture operating in the Department at the time, in reference to Mr. Miller's evidence (p. 940). In my submission, no amount of sophistry now can change the meaning of what he then wrote. Before recalling its terms, it is worth remembering that Mr. Miller had very long experience in the Firearms Department. He wrote in response to Mr. Hughes' considered views "I cannot recommend the action proposed for obvious reasons. Hamilton has not been convicted of a crime and it seems that the Procurator-Fiscal is likely to 'no pro' the recently reported case". That was written, sir, despite the fact that Mr. Miller himself had encouraged the Fiscal to mount a prosecution (Day 8, p. 94I). Further, Mr. Miller recommended no action notwithstanding the fact that he had never met Hamilton (p.944E), nor for example seen the witness statements compiled during Mr. Hughes' investigation (p. 953C).

In my submission, this confirms, if confirmation is needed, that both Mr. Miller and Mr. McMurdo were acting in accordance with a general custom/

custom and practice in the Firearms Department, namely that in the absence of something incontrovertible, in this instance a sufficiently serious conviction or a strong pending case, the police force would not take any responsibility. They would not even begin to exercise the discretion entrusted to them by Parliament in the interests of public safety to evaluate the known evidence and decide whether Hamilton was or was not fit to be trusted with a firearm. In my submission, that was a dereliction of duty of the highest order and can only be as a result of a slack and irresponsible culture built up over the years in which the firearms licensing system was operated on a purely administrative basis by administrators unwilling to take the responsibility entrusted to them by Parliament and upon which public safety depended.

When/

11 a.m.

When Detective Sergeant Hughes from the Child Protection Unit did stand back and say "This man should not have guns", this whole exercise was so foreign to the Firearms Department that Mr. Hughes was rebuffed in the most summary manner.

Sir, a specific issue does arise as to evidence given by WPC Anderson, and I would like to spend just a moment dealing with that.

WPC Anderson was the inquiry officer who visited Hamilton in respect to his January, 1995 renewal application. She left her brief meeting with Hamilton feeling very uneasy about him. She had been intimidated by his behaviour towards her. She told us that she wanted to find a reason to recommend that Hamilton's application should be refused.

She raised her concerns with a superior officer, Mr. Anderson (sic). She tells us that she was told in effect to forget all about this, because Hamilton had no convictions it would not matter what she said, Hamilton would get his certificate.

Sir, one may think that after the events of 1991 all of this has the ring of truth. This was WPC Anderson's first firearms enquiry. Plainly it made a very deep impression upon her. It is very likely that she remembers it clearly. It is most unlikely that DI Anderson (sic) has any clear recollection of it.

Nonetheless there is a conflict in the evidence between them. In my submission not only is WPC Anderson's recollection more likely to be correct, it is supported by other evidence, for example, Mr. Millar (946-7) agreed that the system operated by the Department had no room for preventative measures. He agreed, he said, in hindsight it should have had such room.

In the same passage Mr. Millar said that Hamilton would have required to be a drunkard or a violent criminal who used firearms, or would do so, or a man of proven mental disability before anything would be done.

Mr./

Mr. McMurdo (1508) told us that in his view to be unfit what was required was either a conviction leading to at least a three months sentence for assault, or if the sentence was lower one would require to assess the circumstances, for example whether the conviction involved threatening behaviour with a firearm. Alternatively, there would require to be a strong pending case, or (3) drunk driving convictions, or medical evidence of mental disorder.

At 1512 he agreed that great importance was given to whether the applicant had criminal convictions.

All of this in my submission goes some distance to supporting WPC Anderson's accounting for events, and more generally Chief Inspector Anderson -- sorry, Robertson, Chief Inspector Robertson in his evidence agreed that in general police forces place considerable emphasis upon the obtaining of what might be described as conclusive or hard and fast evidence.

So, sir, I invite you to prefer the evidence of WPC Anderson.

But the result of the attitude in the Firearms Department as revealed to WPC Anderson was that she felt compelled to sign a form expressing a view which in fact she did not hold.

LORD CULLEN: Just remind me, the person to whom she spoke -- what department was he in, what function was he fulfilling?

MR. CAMPBELL: He was DI Anderson (sic), who was described as her superior officer. I confess that I wouldn't want to just dogmatically assert that he was in the Firearms Department. I will certainly check it.

LORD CULLEN: I am doubtful about it. That is why I want to be sure.

MR. CAMPBELL: I will check it.

LORD CULLEN: Thank you.

MR. CAMPBELL: In any event, the result was/

was that WPC Anderson felt compelled to sign a form expressing a view which she did not hold, namely that Hamilton was a suitable person to possess a firearms certificate.

I now turn to another conflict which emerges in the evidence, and it arises in the context of Mr. Holden's evidence, and it relates to the question of whether he ever changed his view of Hamilton. Perhaps I can make one or two preliminary remarks regarding Holden's evidence?

In my submission Mr. Holder was a somewhat unsatisfactory and unreliable witness. He prevaricated upon the question of whether, in his view, Hamilton was fit to possess a certificate. Here I refer to the evidence at day 7 (871-3), although eventually (873E) he accepted that a deceitful liar should not have a certificate.

Further in my submission he gave a less than satisfactory explanation (884) about the terms of his own written statement which were written by him, in which he says that at the time of the Hughes' memo he believed that Hamilton was not a fit and proper person to have a firearm. You will recall that in his evidence to us he sought to distance himself from that statement.

I think earlier I may have misled the Inquiry about Mr. Holden's rank. He was a detective chief inspector then. He is now a detective superintendent.

But reverting to the specific conflict which I mentioned a moment ago in the evidence, both Mr. Hughes and Mr. McMurdo gave evidence to the effect that at the time Mr. Holden supported the appraisal and the recommendation in the Hughes' memo, D82L. Here I refer to Mr. Hughes' evidence (904C and 906) to the effect that Holden shared a view that Hamilton was not suitable to have a firearms certificate.

Mr. McMurdo (Day 12, 1548B and Day 13, 1593-4) provides support for this in the sense that he told us that Holden's view about Hamilton had changed in 1993. Mr. Holden's evidence as to his belief held at the time of the Hughes' memorandum is, as I have submitted, uncertain and unsatisfactory./

unsatisfactory. However, once again a written note on the Hughes' memo speaks for itself. In this note Mr. Holden supported Mr. Hughes, and this also provides evidence in support of Mr. Hughes and Mr. McMurdo's evidence to us -- to you, sir -- that Holden agreed with Hughes at that time.

The issue therefore comes to be whether Mr. McMurdo's evidence that Holden changed his view in 1993 is true. In my submission the important factor here is that there is nothing in Mr. Holden's evidence to support Mr. McMurdo on this. Here I refer to Mr. Holden's evidence (Day 7, pages 868, 880 and 883-4). This evidence related to his interview with Hamilton after complaints had been made about Hamilton's running of the 1993 camp at Dunblane. Mr. Holden told us that Hamilton refused to provide the names of the committee. He told us that his impression of Hamilton was that he was -- and I quote: "Quite obsessive, extremely obsessive", that he lied to Mr. Holden, and Mr. Holden told us that he was of the view that Hamilton may have been guilty of some sort of illegality, and that he was still a risk to children.

We were told that Mr. Holden reported back to Mr. McMurdo (869 and 879), but there is not even a whisper in his evidence of any change of view on his part. To the contrary, the account of the interview with Hamilton in my submission backs up and supports many of the features lying behind the earlier Hughes' memorandum.

It is noteworthy, but by now not surprising, that no one took any action in respect of Hamilton's firearms certificate after the parental complaints and the investigations in 1993.

What did happen was another fruitless attempt by DC Taylor and DS Moffat to obtain a positive response from the Procurator Fiscal's Service. By 1993 the general picture is of both DC Taylor and DS Moffat trying almost desperately to provoke the Fiscals at Stirling into action, without success.

However, for present purposes, I wish to draw attention to the attitude of both DC Taylor and DS Moffat towards Hamilton in 1993. Mr. Taylor made his views clear in his report to the Fiscal and in/

in his request for a search warrant.

Mr. Taylor, we can recall, was given access to the Scout Movement file and spoke to Mr. Brian Fairgrieve. The contents of the Scout file have been discussed at length in the evidence, and one may think that that file speaks volumes about Hamilton's bad character, his lack of trustworthiness, and the benefits of the early and effective action taken by the Scout Movement.

Even if Mr. Fairgrieve did discount the reference to mental instability in Mr. Jefferies' letter, there remained more than enough throughout that file to set alarm bells ringing.

So far as Mr. Moffat is concerned (Day 8, 1002), we learned that after obtaining more information about Hamilton he spoke once more to the local Fiscal and I quote "to try again".

Despite the Fiscal's rejection of his approaches, Mr. Moffat continued searching for more evidence in order to secure a form of prosecution of Hamilton.

More and more complaints were coming in (C1003-4). Eventually, a long time later, there was a joint investigation with the Social Work Department, and a meeting on the 21st August, 1995 (D229 of file J(i)), a meeting on 21st August, 1995 which we were told by Mr. Moffat was the culmination of a lot of concern held by many people.

What is noteworthy is that none of this had any impact upon Mr. Hamilton's firearms certificate. At 1010 and 1017 Mr. Moffat made it plain that he was of a view that a crime had been committed, and that Hamilton was a devious and deceitful man. Also he told us that people were guarded in how they dealt with Hamilton.

On that last matter, it is by no means possible to be certain about this, but one explanation, or at least partial explanation, if not justification, for the repeated renewals of Hamilton's certificate, and the rejection of calls for its revocation, just might lie in the history of repeated complaints to all and sundry about the conduct of the police.

Mr./

Mr. McMurdo denied this, but his lack of positive action may at least in part be attributed to a conscious or unconscious wariness of the inevitable consequences of crossing Thomas Hamilton.

That said, and whatever the true position about that may be, the evidence on other matters more than demonstrates that other more general failures in the system operated by the police led to Hamilton being permitted to retain lawful possession of handguns.

I have touched on some of these above, but will dwell for a moment on a further contributory factor, if I may. It is that it would appear that the decision maker would simply sign the form put in front of him, in the absence of any concerns raised by officers below, whereas those below assumed that the decision was not theirs, but that of the superior who would review all relevant facts -- or so it was thought.

I will attempt to illustrate this point by some passages in the evidence. On Day 9, (1077) Chief Inspector Mather, who was in charge of the Firearms Department, tells us that the file relating to an individual applicant was not considered unless someone below raised a concern, and otherwise it was just a matter of checking the form.

At Day 8 (955) Chief Superintendent Millar stressed that while the decision was a decision of a superior officer, the superior officer relied on the recommendations or the absence of recommendations from those below him in the chain of command.

We know that when Mr. McMurdo, for example, renewed Hamilton's certificate in 1995 he had only the form in front of him (Day 12, 1459 and 1487). He told us at 1503 that the renewal took -- and I quote "a very short time", and he emphasised that he had 30 to 40 such applications to deal with a week, and that he had many other things to do apart from deal with firearms licensing matters.

Likewise Mr. Adamson in 1992, when renewing Hamilton's certificate, would simply sign the/

the certificate unless something adverse was mentioned to him. This was the way Mr. McMurdo put it (1484). Mr. McMurdo (1550) spoke of "uncontested applications" and "a purely administrative process". He told us (1504-5) that he relied on those below him in the chain.

If the decision maker is relying upon those below drawing problems to his attention, it is of critical importance that those below him know that this is the case. The evidence however gives the overall impression that those below considered that the decision was being taken by the superior officer rather than by them. Thus there was no overriding imperative for them to identify all or any contraindicators, or to ensure that any unfavourable impression or gut feeling, if one wants to put it that way, was conveyed up the line.

The unhappy result is that in fact no one was exercising the required careful judgment for a full and proper consideration of all relevant considerations, including the cumulative and complete picture built up over the years.

As/

11.20 a.m.

As my learned friend Mr. Bonomy put the point yesterday, the matter fell between two stools. This theme is also to be found in Mr. Richardson's report at Page 14. Not only the spirit but also the letter of the legislation which requires the Chief Officer or his authorised delegate in terms of Section 55 of the Act, the Deputy Chief Constable, to carry out a careful evaluation. A very clear example is the renewal by Mr. Adamson in 1992. Mr. Adamson had never seen Hughes' memorandum but he told us that he was aware of its existence in 1992. He told us that he was also aware that Mr. McMurdo had not revoked Hamilton's certificate as a result of the Hughes' memorandum.

It never occurred to him when the renewal application came in shortly after to do anything other than sign the form put in front of him. It was, one suspects, treated as a matter of pure routine with no independent judgment exercise whatsoever -- simply a rubber stamp was applied to the application. Mr. McMurdo tells us at 1484 that he would have expected no more from Mr. Adamson.

Sir, another factor that I would wish to consider briefly is the question of enquiry or the system of enquiry into Hamilton's personal suitability. In my submission, there was simply no system in force which would discover problems or prompt an active investigation and inquiry into the issue of, for example, personal suitability. The Home Office Guidance at Paragraph 6.9 stresses that character was the main concern. However, this main concern was in effect ignored by Central Scotland Police. Instead, more or less complete reliance was placed upon the heavily criticised form RL3a and the intimation to the Department of the relevant circumstances such as convictions or pending cases.

The Force standing orders and procedures and the level of inquiry and thoroughness of the investigation carried out in Hamilton's case over the years were heavily criticised in Mr. Richardson's report. I do not intend to repeat these criticisms but there are all of a piece with a picture of complacency, carelessness and poor management, a picture which emerges from the other evidence which I have already discussed.

Turning/

Turning now if I may to the question of information recording by Central Scotland Police: the constant theme of Mr. Richardson's opinion is the failure of any of the reports, memoranda etc. upon Hamilton, including those sent to Fiscals recommending criminal proceedings, to find their way on to either Hamilton's firearms file or on to the Force's Criminal Intelligence system. In my submission, in this context it is simply not enough for Mr. McMurdo to say that he knew Hamilton well. In my submission, it was unrealistic for him to proceed upon the expectation that he could and would recall all relevant matters in appropriate detail when sifting through the 30 or 40 applications when hard pressed by his many other duties.

In any event, the reality is, as he explained, he never went to look for Hamilton's firearms file, and in the absence of any recommendations from below treated all of this as a matter of routine (1515 and 1550-1).

It may be thought that many questions arose such as what about the lack of information available to those making or considering any recommendations below in the chain of command, or suppose that someone else was acting for the Deputy Chief Constable when he was absent, or what would happen when the Deputy Chief Constable left for another job. Further, what about looking at the cumulative picture as it built up over the years rather than focusing only on the immediate past.

Simply by way of an example of this problem, on more than one occasion DCC McMurdo said in evidence that there was no record of Hamilton having behaved inappropriately with firearms (1581-5). Presumably when giving that evidence he adopted the position he adopted also in 1991 and 1995 to the report made by Inspector Nimmo after Sergeant McGrain's investigation into the family visit by Hamilton with guns in late 1988. Those guns included a Beretta semi-automatic machine gun. We know that although the matter was relayed to Mr. McMurdo (the evidence of Inspector Nimmo at Pg. 819) this material did not appear in Hamilton's firearms file nor could it be found in the Force's Criminal Intelligence system. This is perhaps just a small example of the problem of relying upon fallible memory even assuming that fallible memory has had brought/

brought to its attention by someone all the relevant information. But, that said, sadly again when we come to the general approach of Mr. McMurdo and the Firearms Department, it is nonetheless unlikely that even if he had recalled and reconsidered this incident when subsequent decisions were taken, it is unlikely that this would have made any material difference.

Turning to Mr. McMurdo's evidence itself: Mr. McMurdo set himself the difficult task of explaining that no mistakes were made and that every decision could be justified. The plethora of adverse information available to him and known by him about Hamilton, the recommendations of Detective Sergeant Hughes were dismissed for a variety of reasons which I have touched upon already, and there was no evidence to support the view that Hamilton was unfit to be trusted with weapons. Mr. McMurdo placed emphasis upon the supportive and positive impression of some parents (1567) and that may be thought to be a somewhat inconsistent approach when Mr. McMurdo considered it appropriate to regard the adverse impressions by officers and others as irrelevant.

He also placed emphasis upon the lack of criminal record. Sir, it is of course possible that after the awful events of 13th March and when turning to consider the matters there was at least a degree of ex post facto rationalisation and justification taking place when Mr. McMurdo and others were giving their evidence. Indeed, the evidence of Professor Cooke in his cross-examination by Mr. Taylor, albeit in a very different context, did explain that after a tragedy such as Dunblane people may revise their recollection of events. It is therefore perhaps of importance to place more weight upon contemporaneous documentation and the conduct of those involved rather than their current explanation of past events.

In my submission, the reality may be that the thought processes and explanations given in some detail by Mr. McMurdo and others played little or no part in the actual events to which they are now attached, and that many of the decisions were taken and certificates granted as a matter of routine with virtually no care or consideration taken by any one. That said, there remains the difficulty for Mr. McMurdo and for the police force that/

that the explanations now given, even if accepted at face value, do not extricate the Force from criticism that they acted without due care and below the professional standards which the police are entitled to expect.

For example, the explanations proceeded upon the basis of such a narrow definition of personal unsuitability as to allow not only Hamilton but also one must assume others to escape any considered scrutiny and judgment of their character and its consequence for being trusted with weapons. The explanations not only lack this but also the rejection of the Hughes' memorandum amount to an unwillingness to act unless it is rendered more or less essential by prior conviction in a criminal Court or a decision by a public prosecutor to mount a case or by some other clear and uncontrovertible evidence. To dismiss, for example, Detective Sergeant Hughes' conclusions as no more than a gut feeling is itself in my submission a revealing approach. In fact, Mr. Hughes was doing what Mr. McMurdo was required to do -- that is to consider the known facts and apply his mind to the critical question, the critical question which inevitably requires the exercise of a matter of judgment, even one might say impression, in the light of the known facts, namely is Hamilton or was Hamilton a fit and proper person to be entrusted with weapons. There is no convincing evidence that apart from Mr. Hughes and Mr. Holden anyone else ever applied their mind to this question.

Perhaps one exception to this is the relatively little role of WPC Anderson after her unpleasant experience of Hamilton, but her questioning mind was soon overruled.

In my submission, the attempt which has been mounted to discredit Detective Sergeant Hughes' opinion lacks weight and credibility. Here I refer to the evidence from Mr. McMurdo at (1536-41 and 1581-5). If Mr. McMurdo had indeed analysed matters in the way which I now suggest in my submission this itself is clear evidence of extremely poor judgment on his part. If it was true that he concluded that there was quite literally no evidence to support Hughes' opinion, why did he not discuss the matter with him before rejecting his recommendations: or did he, as in so many/

many other cases, simply adopt the recommendations of Mr. Miller about the consideration he must attempt to justify that decision. Is it not the truth that in the absence of something like a serious conviction Central Scotland Police were not prepared to exercise the kind of independent and sensible judgment which Detective Sergeant Hughes, a stranger to the Firearms Department, brought to the matter.

Mr. McMurdo's difficulties in the witness box were apparent with his volte face as to whether the Hughes' memorandum, if accurate, describes someone who was unfit to be trusted with weapons. When this matter was put to him at (1509) his answer was a clear Yes and his explanation was that the problem was that there was no evidence, at least in Mr. McMurdo's view, to support the Hughes' conclusions. That position in my submission bears no scrutiny whatsoever. However, the next day in cross-examination by Mr. Taylor Mr. McMurdo changed his evidence to the effect that even if the Hughes' memorandum was true and accurate persons such as those described in the memorandum nonetheless could and should be granted firearms certificates (1581-5). That is, in my submission, an equally startling proposition: according to Mr. McMurdo, untrustworthy people of poor character would obtain guns unless they had already acted in a dangerous manner with the guns or had shown themselves to be untrustworthy specifically with guns.

This not only flies in the face of the Home Office Guidance at 6.9 but also the plain terms of the relevant legislation. Again this is an approach which bears little scrutiny. It does mean that in effect Central Scotland Police would wait until damage may be done before taking any positive action. The notion that Parliament and the public expected them to exercise a judgment as to whether an applicant should be trusted with weapons in the first place played no part in the Firearms Department philosophy.

This whole line of thinking led Mr. McMurdo into the surprising proposition that it would be expecting too much to expect a firearms applicant to be honest in his dealings with the police and that proven untrustworthiness was not a relevant consideration (1581-5 and 1601-2). When your/

your lordship raised with Mr. McMurdo the question that his responsibilities implied a reference to trust, and in particular honest when dealing with the police (1601-2) Mr. McMurdo appeared to be taken aback by this whole approach.

Mr. McMurdo of course required to deal with the terms of his own letter to Mrs. Hogg of the Scottish Office in January, 1992 (D133K). He faced immediate difficulty with that letter set out his own views and was signed by him and the thoughts in the letter could not be dismissed in the same way as the Hughes' memorandum. Further, Mr. McMurdo faced a problem that the known facts more than justified the views expressed by him in that letter. Nonetheless, there was at least an attempt to dilute the terms of the letter at least regarding the passage referring to irrational outpourings (1571). At (1524-5), although he accepted that the letter, with the possible exception of the irrational outpourings reference was factually correct, and he stood by it in general terms, this was a letter written by him in January, 1992 very shortly after the rejection of the Hughes' memorandum and just before the 1992 renewal and course before Mr. McMurdo's renewal of the certificate in 1995.

In my submission, the overall conclusion can be reached that the system of firearms control in Central Scotland Police was regarded as, and operated as, an administrative matter and only an administrative matter. There was no recommendation and appreciation of the task entrusted by Parliament to the Department to investigate and assess the personal suitability, to properly investigate and assess the personal suitability of each applicant before entrusting him with weapons.

Sir/

11.40 a.m.

Sir, organisations are occasionally criticised for failing to act in what is referred to as a pro-active manner. To only react to events is often considered wholly inadequate. The Firearms Department of Central Scotland Police were clearly not pro-active; they were not even reactive to the events; rather, they were inactive, and that despite overwhelming evidence that positive action was required. This overall approach did not change even when Detective Sergeant Hughes recommended what was by then no more than commonsense and should have been obvious to the police, that is that Hamilton was not a fit and proper person and should not have been entrusted with weapons. The dead hand of a purely administrative system, incapable of independent judgment and unwilling to exercise the quasi-judicial function expected of it, failed to prevent the use of a gun by Thomas Hamilton.

Sir, earlier in my submissions I dealt with the causal link between that failure and what happened on the 13th March. The result is that but for that culpable failure by Central Scotland Police it is probable that the events of the 13th March in Dunblane Primary School would not have occurred.

Sir, before leaving the matter of the conduct of Central Scotland Police I wish to make a few brief submissions on another matter which relates to this incident, and that refers to the evidence given by Mrs. Doreen Haggar. You will have appreciated, sir, that none of my submissions in relation to Central Scotland Police depend on the evidence of Mrs. Haggar. However, I wish to say a few words.

In relation to the incident spoken to by Mrs. Haggar concerning the presentation of a firearm to her by Hamilton in the street, one question is, did this incident happen at all? In my submission the answer is probably yes. There is no good reason to reject it. One has the reference -- perhaps in connection to earlier incidents, but one does have the reference from Mrs. Haggar that Hamilton referred to his guns as friends, and that certainly has the ring of truth.

So far as the incident itself is concerned/

concerned, she described something at the end of the barrel which one might well think equates to the muzzle weight referred to by other witnesses. It may be, however, there will be no real challenge to whether the incident did or did not occur.

The other question that arises, sir, is, did she report the matter to the police? There is a considerable amount of evidence about this, which you will no doubt weigh carefully.

One possible explanation, sir, is that Mrs. Haggar did not present the incident to the police primarily as an episode involving alarm to her and the presentation of a firearm to her in a threatening manner. Maybe, from the overall thrust of her evidence, she was more concerned with the fact he should never have had guns there in the first place. There may be some support for this general approach in the ultimate response from the police officers, namely the explanation that everything was all right, because Mr. Hamilton was simply taking the weapons from Point A to Point B.

It does appear that Mrs. Haggar was at no stage frightened by this incident: indeed, she tells us she said effectively to Hamilton to put the gun away or she would simply stick it down his throat. She told the police officer she was not alarmed. Indeed, all her other behaviour appears to be concentrated on the threat of Hamilton to people other than herself, and it may well be that the police simply did not consider that the whole matter was worthy of further action.

The question does, however, remain as to why it is this incident has not been discovered in the police records. In that context, for wholly understandable reasons it is not possible now to put together a complete account of all the notebooks and to obtain evidence from all police personnel who might have been involved. It is also of course possible that the incident was never recorded, for example, and one notes the difficulty encountered in substantiating the "Inspector Ralph" incident, if I can call it that.

Be that all as it may, given I anticipate there would be some other comment about Mrs. Haggar, I would wish to say it appeared to me she/

she was a brave and determined lady, and to an extent effective, albeit by the use of somewhat unorthodox methods. However, again it appeared she was driven to these unorthodox methods by the inactivity on the part of a number of agencies. Mrs. Haggart joined the ranks of the very few who had sought to do something positive about Thomas Hamilton. Sir, that is all I wish to say about Central Scotland Police. The next chapter of submissions relates to the public prosecution service, and that section will be given by my learned junior, Miss Dunlop.

LORD CULLEN: Yes. Miss Dunlop?

MISS DUNLOP: Thank you, sir. I have summarised my comments on paper, primarily because I have identified particular children. This was necessary in connection with the question of whether or not there was sufficient evidence to support a prosecution. In accordance with our established practice I do not propose to read out the names of the particular children; I will attempt to identify them perhaps by initials, and other parties have a copy of these. I also wish to make some reference to one or two authorities, copies of which should be before you, sir.

There arises the question of whether or not Thomas Hamilton committed crimes in the course of his involvement with children prior to 13th March 1996, both at his boys' clubs and at his camps. This question is of particular relevance in examining the occasions on which Hamilton was reported to the Procurator-Fiscal. Whether he was guilty of a crime is also of significance in assessing the attitude of senior members of Central Scotland Police to reports of Hamilton's conduct.

A number of possible offences have been referred to. It was suggested that Hamilton may have been guilty of assaults, of breaches of the Children and Young Persons (Scotland) Act, 1937, of breach of the peace, of fraud, of embezzlement and of attempting to pervert the course of justice. There would have been difficulties in relation to the latter three offences, and it is therefore not my intention to make submissions in relation to possible charges of any of these offences.

Before/

Before turning to consider the particular evidence available to support any of these charges it may be helpful to set out some general observations regarding the law relating to this case.

Assault. It was clearly irrelevant that allegations of assault were made in connection with actions which Hamilton claimed were reasonable chastisement of children in his care. Now, there is a considerable body of case law in this area. The leading case is Wilson v. Norrie, in *Parent and Child*, 177 at 181, to which I will refer. Some references I make are to cases and material published more recently, but that is purely for the purpose of evidencing principles as they already existed.

The summary on Wilson v. Norrie is an historical summary of information in this area. Looking at page 177, the authors begin discussion of the topic of discipline, and they set out in the first full paragraph on page 177 their comment that the object is the welfare of the child, and that that object, while it sanctions, also limits the right. It says "So punishment must be moderate and reasonable in relation to its end. If it is, then it constitutes a defence to a charge of cruelty to the child, to a charge of criminal assault and to a claim for damages for civil assault".

Then, under "Delegability of Disciplinary Power" it states that parents may allow others to discipline their children.

At page 178 in a section headed "Purpose" it states "The authorities bring out clearly that the power of discipline is related to and limited by the purposes for which a person has a child in his care and the resultant duties. The parental power to discipline a child flows from the duty to further the child's welfare and, importantly, to educate the child. For this reason the power vests in school teachers, though only as part of their educative function".

They then comment on the power of the teachers who administer discipline, but note immediately that there are now restrictions on the ability of teachers to administer certain corporal punishment/

punishment, and although it is not a crime for a teacher to administer corporal punishment, the Education (Scotland) Act, 1980 removed the possibility of claiming reasonable chastisement in defence of an action for damages for assault.

Looking at page 179, in a section headed "Reasonable and Moderate Chastisement", it states "The problematic cases in the exercise of the power of discipline have been cases on the use of corporal punishment. This is because this form of discipline would, without the justification of being a parental right, amount to a civil or criminal wrong, which for example, imposing extra homework would not. It is only reasonable and moderate chastisement is permitted, and doubt may now hang over the traditional Scottish method of corporal punishment within schools. What is today acceptable punishment by parents may well be limited to slaps and the like that do not cause injury, extensive bruising or long-lasting pain. Excess constitutes an assault. Standards of reasonableness and moderation are subject to development, and for that reason the older cases may form an imperfect guide. What constitutes excess may, in any event, vary according to the circumstances of the case including the age, sex and any known disabilities or weaknesses of the child".

There is then a quotation from a judgment of Lord Justice General Emslie's: "To slap a child of two years old on the face, knocking him over, is an act as remote from reasonable chastisement as one can possibly imagine". There is then reference to a number of other cases.

Then, sir, moving to six lines from the foot of page 180: "An objectionable method of punishment may also constitute excess irrespective of whether physical harm results. Thus, in Ewart v. Brown, which is a 19th Century case, "Although the action failed because a causal connection between the condition from which the Pursuer suffered and the assault was not proved, the action of the Defender in striking a pupil on the head with a blackboard pointer was clearly considered to amount to a wrong". And in Ryan v. Fildes, which is 1938, "Mr. Justice Tucker said of a teacher who had struck a boy on the side of his head with her hand: 'The blow struck was moderate in the sense that/

that it was not a very violent blow, but as punishment, it was not moderate punishment, because I do not think that the proper way of punishing a child is to strike it on the head or the ear'. " The last sentence of that section is "In any event, it appears that there are certain methods of punishment that are to be regarded as in themselves improper, and a blow to the head generally comes into that category".

It is worthy to note that the focus of their discussion is the right of the parent or other person who had continuing responsibility for bringing up a child, such as a teacher, to use discipline in bringing up the child, but the right of a third party who has charge of that child for a short period of time rather than a continuing responsibility may be more limited.

Dealing next with the question of ill-treatment, Section 12 of the Children and Young Persons (Scotland) Act, 1937 makes it an offence to assault, ill-treat, neglect, abandon or expose a child in a manner likely to cause him unnecessary suffering or injury. By Section 12(1) to (2) a person legally liable to maintain a child is deemed to have treated him in a manner likely to cause injury to health if he fails to provide adequate clothing. The most recent case on this is H. v. Lees and D. v. Orr 1994 SLT 908, to which I would refer you.

LORD CULLEN: If you tell me the points you wish to draw from it, and I can read the case myself in what is left of my leisure time.

MISS DUNLOP: Yes. At page 911E the Lord Justice General notes the distinction between Section 12(1) and 12(2), in other words, that by Section 12(2) where a person who has the legal right to maintain a child omits to provide certain things he is deemed to be guilty of the offence of neglect, or whatever. In my view that is of some significance because of this reference for example to adequate clothing is to be neglect.

At page 913A, this is a response to submissions that the Act is only directed at very serious assault; in 913C there is a quotation from R. v. Senior, again a 19th Century case, that "Neglect/

"Neglect is the want of reasonable care -- that is, the omission of such steps as a reasonable parent would take, such as are usually taken in the ordinary experience of mankind". I pause here to note the "reasonable parent" test, and to remark that the instruction given to Constable Gunn when he first went to Inchmoan Island by his sergeant "Apply your mind to whether you would be happy to see your own child in these conditions" seems to be a sensible one in the light of what the Courts have decided.

There/

12 noon

There is further reference to the reasonable parent at 913G-H and I also refer to what was said at page 914 in the right hand column where there is an examination of the case of the second child, who is a 13½ year old child, left at home in the evening and that conviction failed and fell to be quashed because of the lack of evidence that what was done was unlikely to lead to unnecessary suffering and I emphasise in particular the Sheriff had failed to make any finding that the fact that the child was in fact upset was connected with having been left and that is at page 914J. At 914L it is commented "If any harm had happened to the children while they were unattended, so that there was evidence of actual suffering or actual injury to health, it might have been a relatively simple matter for the Crown to establish that an offence under section 12(1) of the Act had been committed".

The other case to which I refer in connection with the 1937 Act is KENNEDY v. S. 1986 SLT 679. The most important passage in that case is in the left hand column of page 682 where Lord Hunter considered it to be a plain fact on the circumstances of that case that a breach of section 12 had been established and that notwithstanding the fact that the children were clean and well fed and that conviction arose out of an incident where children had spent the night in a cellar with inadequate cover.

Finally, breach of the peace. It is sufficient to make two points. The first is the breadth of the conduct which can be held to amount to a breach of the peace having been observed by Lord Justice General Emslie in MONTGOMERY v. McLEOD 1977 SLT notes 77, a copy of which should also be there, that "There is no limit to the kind of conduct which may give rise to a charge of breach of the peace". There is also D v. ORR 1994 SLT 624 which was an example of the breadth and types of conduct which have grounded convictions for breach of the peace. There is in that case emphasis of the point which I make as my second point, that evidence of actual alarm is not essential.

I have also referred to the case of WILSON/

WILSO v. BROWN 1982 SLT 361 and YOUNG v. HEATLY 1959 JC 66 as authority for that. I have omitted to say that breach of the peace certainly includes shouting and swearing and that there are a number of examples of prosecutions of people for shouting and swearing at police.

Turning then to particular episodes, I would submit that Hamilton could have been prosecuted for at least the following offences: firstly, in 1988 an assault of the child LD, aged 9. There is evidence from the child himself that he was struck on the face and back by Hamilton when he said he wanted to go home. The incident can be identified as having occurred on the 10th July, 1988 and as having given rise to a red mark on the child's back and is described in the statements of five other boys which I have identified there.

Secondly, the assault of the child DW, aged 9. There is evidence from the child himself that he was struck on the face for fainting while doing exercises. There is corroborative evidence from another four boys.

A breach of section 12 of the 1937 Act in relation to the enforced wearing of only swimming trunks. Virtually all the children refer to this and state that they were cold. Neglect in relation to carrying children on an overloaded boat without there being life jackets for them all. The particular incident where a member of the public pointed it out to Hamilton is described by four boys and the boys referred to other boys being assessed by Hamilton as being good swimmers who were denied life jackets.

In 1991, the charges framed by the then Detective Sergeant Hughes and the submission of his report and I identify the particular boys who support the main body of the charges in that report.

In 1993, the researches of DC Taylor revealed that Hamilton had deceived parents regarding his intended activities with their children and photographing the children while they were scantily clad and on one occasion alone. Detective Constable Taylor makes it clear on page 2 of his memorandum that the parents were alarmed, disgusted, angry and concerned. In his evidence to the/

the Inquiry he clarified that their concern related both to what had occurred and what might have taken place. In these circumstances, a charge of breach of the peace could have been brought.

In Mr. Vannet's report it is stated that in relation to the 1988 episode there were discrepancies between the accounts given by the boys and that these discrepancies increased after re-precognition. The further precognitions are not available to the Inquiry. There is no evidence to identify the discrepancies in the original material which was thought to be significant. It is also stated that the incidents for which there was corroborative and consistent evidence were very minor.

The 1988 camp was the subject of a further report to the Procurator Fiscal when Inspector Keenan remitted the material which he had uncovered in investigating Hamilton's complaints against the police. It is apparent that there was a failure in communication at this point. His report was not sent with a covering letter and as it was not read in any detail by the Fiscal, it was either not appreciated that the report related to Hamilton's actions as well as those of police officers or it was not appreciated that the matters referred to were different in relation to those which the Fiscal had already decided not to proceed upon. Mr. Cardle was unable to recall his thought processes at that time.

LORD CULLEN: I take it he is the Fiscal referred to in that paragraph?

MISS DUNLOP: Yes. The case of McLEOD v. TIFFENY 1994 SLT 53, which should be the last of the cases in the bundle, deals with the situation of a criminal charge and a complaint against the police arising out of the same incident and the need to ensure that the accused is not prejudiced at his trial by the Fiscal having information which has been gathered in the investigation of his complaint. In that case, the Court considered and approved the guidance on these matters issued in 1993 to Regional Procurators Fiscal, which guidance reflected developed practice. The comments of the Lord Justice General at page 537C-E appear restricted to the conflict of a complaint arising out of the same incident./

incident. It is doubtful whether the same restrictions would apply to the evidence of a crime committed after information which is uncovered during the investigation of a complaint, as Mr. Cardle himself recognised in his evidence.

In any event, as the material is very similar in nature to the material which had been contained in the earlier report, it appears unlikely as a matter of fact that the Fiscal would have raised proceedings even if he had appreciated that he was being asked to consider different matters.

LORD CULLEN: Just before you go further, in the paragraph at the top of the page you say that it is not appreciated that the matters referred to were different.

MISS DUNLOP: Yes.

LORD CULLEN: Where will I find some description of what the difference is?

MISS DUNLOP: Well, unfortunately, my lord, really what is necessary is a comparison of the two and one sees that it was a product of Hamilton's rolling summer camps that what in summary had been in the earlier report were accounts of events prior to the episode at Inchmoan on the 20th July, most of them being events of the week of 3rd to the 10th and some in the week 10th to the 17th July. When one looks at what Inspector Keenan summarised in his report, he applied his mind mainly to slightly later events, that is in the weeks towards the end of July, and his statements almost entirely come from seeing Hamilton. So very similar in nature but technically different events because they involved different victims.

LORD CULLEN: Just remind me in case I have misunderstood this; if we go back to what you referred to earlier as what might have been the subject of charges in 1988, is the material which falls into that area covered by his first report as opposed to the second?

MISS DUNLOP: Yes, indeed.

LORD CULLEN: So do you spell out anywhere, and I'm not saying you should, do you spell/

spell out anywhere what came out of the second one?

MISS DUNLOP: No, I don't really for the reasons I have set out in that paragraph, that as a matter of fact the incidents in Inspector Keenan's report certainly were not worse than the incidents in the earlier report and they were very similar in nature, albeit to different boys.

In relation to the 1991 camp, Mr. Vannet's report refers to doubt by the Procurator Fiscal that there was sufficient evidence of criminality. In referring, as it does, to two different things, that is sufficient evidence and criminality, this comment is perhaps confusing. The ultimate decision appears to have been based on a view that the conduct, even if criminal, was very minor. This is borne out by DS Hughes recollection of the Fiscal's attitude (p.909).

It is worth noting that the Procurators Fiscal at Dumbarton and Stirling referred the matter to the Reporter to the Childrens Panel. The Reporter to the Childrens Panel was empowered to take action only when a child is thought to be in need of compulsory measures of care, now supervision as set out in the Children (Scotland) Act 1995, although that part of the 1995 Act is not yet in force. The Reporter has jurisdiction only over children with problems, not adults who pose problems to children. That is clear from part 3 of the Social Work (Scotland) Act 1968 and the corresponding provision of the 1995 Act. It was also made clear by Mr. Kelly, the retired Reporter to the Childrens Panel, in his evidence, particularly when he referred to himself as having stepped out of role in taking an interest after the 1992 referral. That was the referral, sir, after the boys were found in their pyjamas outside the Dunblane camp.

Similarly, the Social Work Department have rights and obligations in relation to children in whose care and upbringing there is concern but not in relation to adults whose contact with children may be undesirable. It is difficult to understand what it was hoped could be achieved by these referrals.

I have endeavoured to identify conduct by/

by Hamilton which could have formed the subject matter of a criminal complaint in that the circumstances amounted to a crime and that there was sufficient evidence. No doubt any prosecution would not have been straightforward and Hamilton would have defended himself or been defended with characteristic vigour. He may have been acquitted.

Nevertheless, in the absence of a system of vetting adults working with children and the lack of statutory powers for any other agency to intervene, there would appear to have been no other means of attempting to fetter Hamilton's activities with children. The enormity of Hamilton's final act tends to obscure the fact that over many years with many children he behaved undesirably.

As well as the conduct identified above, there was the exposure to the boys required to sleep in the van in Aviemore in the winter of 1974 and the so-called gymnastics which have now been identified as overly strenuous and potentially harmful for children and his behaviour in introducing them to guns.

It has been suggested at times in the evidence to this Inquiry, and it is I think apparent from the comments I have highlighted in Mr. Vannet's report, that these are grey areas or matters of opinion.

I would submit that that is not so. If we are now acknowledging that it is necessary to vet adults to prevent those who are potentially harmful from having access to children, it must also be clear that behaviour which has caused children to be hurt or exposed to the risk of harm should be viewed seriously. The actions identified in the police reports demonstrated violence, cruelty and irresponsibilities towards and intimidation and exploitation of children. Hamilton's actions when he had children in his charge were not acceptable.

LORD CULLEN: Yes, Mr. Campbell.

MR. CAMPBELL: Sir, before a few concluding remarks I wish to say something very briefly about school security and the vetting of adults working with children but in very broad terms.

As far as school security is concerned, I/

I have nothing material to add to what is set out in the other submissions before the tribunal.

Risk assessment for every school and funding for identified improvements appears to be a common theme of many of those submissions and it may be thought that it is not beyond the wit of man to improve school security without turning schools into fortresses. It is of course difficult to say that school security measures would have stopped Thomas Hamilton when he was at Dunblane Primary School. At the best, it may have bought some time with the possibility of an earlier alert to the police force.

However, it may be worth giving some consideration in this context to the potential deterrent effect of improving school security so that they may not present such an apparently soft or easy target to would-be assailants.

So far as the vetting of adults working with children is concerned, plainly this is a very large topic and I am conscious that I have little, if anything, of materiality to add to what has already been said in this regard by others. However, perhaps echoing a theme raised by my learned junior, Miss Dunlop, a moment or two ago, it might be that some consideration does require to be given to what it is that one is trying to detect and what it is that one is trying to stop in any vetting procedure. No doubt paedophilia and presumably also incompetence as well as any other form of sinister motivation but this does raise the general question as to what is it that makes someone unsuitable to run such activities and what evidence, whether paedophilic tendencies, abnormal interests, incompetence or whatever, is required. I raise this question without having any easy answer to it but I note that Mr. McMurdo said that he dismissed Mr. Hughes' report partly at least because there were positive statements by some parents so if he had been in charge of vetting on Hamilton, would he have done anything about it?

What type of conduct is it that we are trying to vet and prevent? It is plain that many parents found Hamilton's conduct and deceptions, because he did indulge in deception of the parents, completely unacceptable and in other contexts a reasonable/

reasonable parent test is sometimes employed.

Sir, all that I would add is that there may be some merit in considering a national means or method of co-ordinating information about peripatetic abusers and the like.

In/

12.20 p.m.

In the present case one can note that

Central Regional Council appeared to have little knowledge of the experiences of both Lothians and Borders and Fife Regional Councils regarding their letting of premises to Hamilton.

Lothian and Borders and Fife Regional Councils appear to have concentrated primarily upon removing Hamilton from their own areas. It follows that some national coordination of information may be of benefit.

In this context one notes that the Reporter to the Children's Panel does have a centralised secretariat covering the whole of Scotland, but part and parcel of considering the involvement of this body in the matter would involve the need to extend the Reporter's jurisdiction beyond parenting.

I turn, therefore, to my concluding remarks on behalf of those whom I represent. While I have spent some time explaining that Central Scotland Police could and should have identified Hamilton as unfit to be entrusted with weapons, in my submission it should not be thought -- it should not be thought -- that if the lessons of this particular case are learned all will be well in the future.

The circumstances in which harm can flow from guns are too many and too varied to permit such an approach. The opportunities for error or for failure to protect and identify an undesirable person will be endemic in any system of firearms licensing.

The culpability of Central Scotland Police should not divert Parliament from learning the wider lessons discussed in the earlier part of these proceedings.

Sir, I therefore end as I began. The Inquiry has dwelt on Thomas Hamilton for reasons which are right and proper. Now, however, the focus should return to the victims of his horrendous crimes.

We/

We will all recall the Lord Advocate's wholly appropriate reading out of the names of the dead and injured victims at the outset of this Inquiry. It is not for me to read them out again at the end. However, it is those names and their families, not that of Thomas Hamilton which are in all our thoughts.

To reflect on the victims and the consequences of Hamilton's crimes reinforces the urgent need to do all that is practical to prevent a recurrence, hence the families' call for a complete ban on the civilian ownership, possession and use of all types of gun.

If I may be permitted a brief reference to contemporary events, yesterday's appalling attack in Wolverhampton would probably have been much worse had the assailant been armed with a gun. The absence of firearms not only reduced the severity of the injuries sustained, but also allowed others to defend themselves and their children. These events reinforce the families' call for a ban on guns.

Sir, it only remains for me, on behalf of the families and on behalf of Mrs. Harrild and Mrs. Blake, to thank yourself, the Lord Advocate, the Crown Team, Mrs. McKeand and all others -- and I mean all others -- involved in the preparation for and the holding of this difficult Inquiry for the sensitive consideration which throughout has been given to the interests of the families and the injured teachers. This is something which has been greatly appreciated.

Further, while criticisms have been made as to certain conduct by certain people on the 13th March, both on the day itself and since then the families have received unstinting support and assistance from many people too numerous to mention. Again all of this is greatly valued.

Thank you, Sir, and unless I can assist you in any other way, that is all that I have to say.

LORD CULLEN: Thank you, Mr. Campbell, for your remarks.

Mr. Gibb, do you wish to address me now?

MR./

MR. GIBB: Nothing in any of our lives could have prepared us for the horrific events of the 13th March, and despite all of us living and working in a more violent society, the Dunblane tragedy touched everyone in Scotland, and indeed worldwide.

There are, however, key areas of concern which must be addressed following on the tragedy, and I take this opportunity on behalf of the Mayor family and on behalf of the teaching staff at Dunblane Primary School to make submissions on the key aspects addressed by you at the preliminary hearing.

You indicated at the conclusion of the hearing on the 28th June that you wished submissions and recommendations, and only submissions on the facts to which observations or comment might be directed.

There are several instances where there has been a conflict of evidence -- and Mr. Campbell has dealt with this. There is really only one on which I would wish to comment, and that is the Haggar/Reilly scenario.

I have to say while I think it would be very convenient and useful if I could say that I found that evidence to be credible and reliable, I have very considerable difficulties with the evidence. There was a considerable conflict of evidence between Mrs. Haggar and Mrs. Reilly. Mrs. Haggar made reference to the threat to burn her tent down on the part of Hamilton. Mrs. Reilly did not remember that.

Mrs. Reilly made reference to the threat with a gun on Inchmoan island, and as Mr. Bonomy, for the Crown, quite properly put it to Mrs. Reilly, there was no evidence from any other source with regard to that particular part of the evidence.

Clearly if there had been -- if the evidence of Mrs. Haggar had been supported by other evidence it would have put quite a different complexion on the subsequent actions both on behalf of Lothian and Borders Police and Central Scotland Police in their dealings with Hamilton.

But/

But while, as I say, it would be helpful if I could find some merit in the evidence, I myself find it difficult to see that there is reliability sufficient in this particular aspect for you, Sir, to make any findings in fact which could justify the view that there was knowledge on the part of the police of any complaints on the part of Mrs. Haggart.

Sir, much had been made during the Inquiry of the alleged defects in the administrative procedures contained within Central Scotland Police, and Mr. Campbell has dealt with that in very considerable detail, and in my submission I would simply endorse the remarks he has made.

Clearly the evidence of Chief Superintendent Millar and Deputy Chief Constable McMurdo requires to be considered in very considerable detail, and I would simply endorse the comments made and the detailed submissions made by Mr. Campbell with regard to the defects within Central Scotland Police.

While he majored on that, however, it was clear, in my submission, that there were defects further up than that. Indeed, in my submission the Home Office Guidelines were not helpful and lacked the clarity which one would have expected of such, and indeed you will recall evidence that even the training manuals prepared at the Scottish Police College at Tulliallan were defective in a crucial respect in respect of the test required under Section 27 of the 1968 Act, particularly with regard to the much-vexed question of unfitness to be entrusted with a firearm.

Before I come on to submissions as to the recommendations you should make, there is really only one remaining aspect with which I would wish to deal, and that relates to the events of the 13th March itself.

It is clear that there is a conflict of evidence, but I think the conflict over when parents were finally told, or the last set of parents, of the tragedy, was eventually supported -- they were supported by the social worker who gave evidence, and clearly the last parents were told at 3 o'clock.

Mr. Mayor was quite clear in his own recollection/

recollection that he was left for half an hour before being told anything.

Perhaps the only lesson that can be learned from this particular aspect is that should such a tragedy ever occur again a senior police officer should immediately be delegated to have responsibility for communication with those directly involved in the tragedy.

Many of us learn that it is better to tell someone there is nothing to report rather than to tell them nothing at all. Indeed, sadly that happened on that day. I cannot begin to understand how these parents must have felt during the five hour period when they knew nothing.

I certainly understand how Mr. Mayor feels, and he feels that he was let down badly by the police force in the fact that he was left alone for half hour before he eventually had to get it out of the police that his wife had died; and indeed what is all the more surprising is that he and his daughter were within yards of each other for almost two hours before they were put together. But all I say is that one of the important considerations is that a very senior officer should be delegated, and that that should be part of the procedure from now on.

Turning now, Sir, to the recommendations which I would suggest you should make to others for consideration, it is the earnest hope and prayer of Mr. Mayor, his two daughters, and the entire teaching staff of Dunblane Primary School, that the outcome of this Inquiry in due course will be the complete ban on the private ownership or possession of handguns; and the view, both of the Mayors and of the teaching staff at Dunblane Primary School, is very much in line with the wish expressed by over 700 thousand members of the public who have been signatories to the Snowdrop petition.

That, therefore, is my primary submission, and nothing that I say with regard to alternatives should in any way be taken to deflect from the view of those I represent, namely that a complete ban is the only answer to prevent further Dunblanes happening.

LORD/

LORD CULLEN: Just to be quite clear, you align yourself with the call in the Snowdrop petition; is that right?

MR. GIBB: Yes. Notwithstanding the fact that my primary submission is that there should be a complete ban on the ownership and possession of handguns, it is appropriate that I should comment further in the event that such a proposal is not adopted in due course, it is important to emphasise in the first place that rather counter to the documentation we have seen and various reports to date, that ownership and possession of handguns should be seen as a privilege rather than a right given to members of society, and it should only be in exceptional circumstances and in the event that such members of society have entirely satisfied the appropriate regulators of the firearms legislations that they should be fit and proper persons to hold handguns.

Mr. McMurdo made some reference in his evidence to the right on the part of the members of the public to complain about things. Now, of course, in his capacity as Deputy Chief Constable, he was responsible for complaints, but it seemed to me that the general tenor of his evidence -- and that is supported by Mr. Millar -- was that in the event of a complete balance -- in other words, an application with some evidence to suggest that someone was unfit to be entrusted with a firearm, and even with a gut feeling on the part of police officers that there was an unfitness, that in that event the officers would feel bound to grant a certificate.

That was evidence given by Chief Inspector Millar and I think supported by Mr. McMurdo, and in my submission that is not the appropriate way, and in my submission in the future, given such a balance, if there is a gut feeling, then the appropriate procedure to be adopted should be to refuse.

LORD CULLEN: Just to be quite clear, does that involve a change in the statutory language?

MR. GIBB: Well, I am coming to the question of onus in a minute -- yes, I think it does involve a change in the statutory language.

If/

If matters are to proceed on the basis of continued ownership or possession of handguns by members of the public, subject to the necessary safeguards, then it is in my submission appropriate that the detailed submission put forward by the Association of Chief Police Officers in Scotland jointly with the Association of Scottish Police Superintendents and the Scottish Police Federation, and also supported by the submission by the police in England and Wales, should be followed, namely that such members of the public should only be entitled to hold .22 single-shot weapons.

Evidence has been led before the Inquiry as to the impracticability of conversion of semi-automatic pistols or revolvers to single-shot, and I would tend to accept the proposition that such conversion is impracticable.

Certainly it could be done, but the evidence appears to suggest that it could be undone, given the will of any to undo the restrictions.

As a consequence it follows that arrangements would require to be made for the surrendering of all weapons that do not comply with the requirement that they are limited to .22 single-shot. Reference is made in various submissions to the consequences of such a surrender from the point of view of an obligation on the part of Government to compensate owners of such weapons in the event of such a scenario, and much has been in submissions of the entitlement of shooters to make application to the Court of Human Rights as a consequence of the withdrawal of the right to continue to hold firearms, on the basis of the present law.

If the proposition finds acceptance that members of the public should be continuing to hold or possess firearms, in my submission it would not be appropriate that they should be held at home. In my submission it is appropriate that such weapons should be deactivated and a separate part of the weapon should perhaps be held at a registered Gun Club, and a separate part retained by the owner of the weapon. This would get over the difficulty over the possible theft of weapons held in a secure Gun Club.

I have to accept that if weapons in their entirety were to be held at Gun Clubs there are/

are significant difficulties.

First of all, the general impression I have is the existing Gun Clubs in operation would lack the necessary security to enable guns to be held on the premises. Secondly, the geographical location of such Clubs would militate against such storage, and this would be a particularly attractive situation for the theft of weapons. There is, of course, the additional difficulty that many Gun Clubs do not have their own premises.

The only other possibility that could perhaps be contemplated is that there could be a central storage area available within each police force, or indeed under the auspices of the firearms control body to which I will make later reference.

I do appreciate however, that standing all the evidence you have heard there are very considerable difficulties over such a proposition. But it is my submission that if ownership continues to be allowed then it is not appropriate that either the weapons themselves or the ammunition should be held within private premises.

Much has been made of the onus at the present time under the existing legislation. It has certainly been clear to me, and in my submission clear to the Inquiry, that the general tenor of the evidence is such that police officers find themselves in a difficult situation where there is no concrete evidence against an applicant either for a firearms licence or for renewal -- and I have made reference to the earlier evidence given by police officers, which has been supported by a gut feeling -- and they find a requirement to grant.

In my submission that is totally unacceptable and in any legislation passed as a consequence of this Inquiry it should be clearly spelt out that the onus should be on the applicant to satisfy the relevant authority as to his fitness to hold a Firearms Certificate, and it should be completely spelt out that there is no onus on the authority concerned to make any justification for their own findings or their own feelings as to whether or not it was appropriate that a certificate should continue to be held.

LORD/

LORD CULLEN: Just to expand that for a moment, if we look at Section 27, would the effect of what you are saying be to take effectively part of the proviso and put it into the leading part of the sub-section; is that right?

MR. GIBB: Yes.

LORD CULLEN: Leaving the remaining parts, that is to say unsound mind and intemperate habits, where they are?

MR. GIBB: Yes.

You/

12.40 p.m.

You, sir, endeavoured to try and get from Mr. Campbell just what Section 27 meant, but I am not going to put my head in that noose and try it.

LORD CULLEN: I think I cut you off.

MR. GIBB: In my submission, it is appropriate that the standard test for grant, renewal or revocation of a firearms certificate should perhaps be the same. It is quite inappropriate at the present time there is a difference in standard between the requirements for revocation and the requirements for grant or renewal, and indeed there is something to be said for the standardisation of the test both with regard to shotguns and all firearms.

In my submission it is appropriate that a formal power of suspension should be given to the relevant authority to enable a firearms certificate to be suspended immediately if there are concerns about the continuing fitness of a firearms certificate holder to hold a firearm pending any investigation. In the event of such a suspension it would be appropriate for the relevant authority to remove the firearm from the control of the certificate holder and keep them in a safe place pending the outcome of any enquiries. Clearly there may require to be some time limit on a suspension and if further steps are not taken by the police within a relatively short period otherwise the suspension would cease to have effect.

Much has been made during the Inquiry of the test for "good reason" in the Firearms Act 1968. Much has also been made of the fact that if "good reason" ceases to exist, such as for instance termination of membership of an appropriate gun club, then there is no power available to the police at the present time to revoke a licence and that clearly should be corrected in any subsequent legislation.

Again, so far as "good reason", much has been made of the fact the general tenor of the advice to the police at the present time is an applicant only has to show that he has an opportunity to use a firearm for target shooting. This/

This in my submission is quite inappropriate and it is appropriate that "good reason" should be more specifically dealt with in the legislation. It should be made clear that the actual use of the firearm would need to be established before renewal of a certificate may be granted.

Evidence has been led to the effect that it is not even necessary to produce a firearms certificate to purchase the constituent elements of ammunition or to purchase a magazine for use in a semi-automatic pistol. In my submission, production of a current firearms certificate should be a requirement before there can be any commercial sale of the constituent elements of ammunition or the magazine or indeed any parts of a firearm.

Turning now to the question of club procedure. We have heard earlier from the evidence that the actual use of firearms held under a firearms certificate would be necessary to constitute good reason as opposed to simple opportunity. In my submission, it is appropriate that gun clubs should be required to record the actual use of ammunition by their members at any time, to record the amount of ammunition purchased by each member of the club, and to keep a record of all self-made ammunition. In my submission, it would be appropriate at a club shoot for such information to be verified by means of each firearms certificate holder keeping a record book and the range officer, for instance, may be required to initial after the shoot the actual use of ammunition.

Evidence has been led to the effect that anyone can shoot at a club registered by the Home Office indefinitely without requiring the possession of a firearms certificate. In my submission, that is inappropriate. In my submission, whether or not one is shooting at a gun club with gun club weapons and using gun club ammunition, even if that club is registered with the Home Office, it is still appropriate that each person should hold a firearms certificate, subject of course to arrangements made for probationary members who might be entitled, clearly, who would clearly require to use firearms during their probationary period.

LORD CULLEN: What actually are you getting at there? What change are you effecting there/

there?

MR. GIBB: At the moment as I understand it if you shoot at a Home Office registered club you can shoot indefinitely, without a firearms certificate, and as I understood the evidence it was only at non-registered clubs that you can only shoot if you have a firearms certificate.

LORD CULLEN: I am not entirely sure about that. There are arrangements I think for guest days and there is a process when you start off and you intend membership. You are allowing for that. I am not sure that you can just come back repeatedly with no avowed intent to embark on the process of membership.

MR. GIBB: I may be wrong about that.

LORD CULLEN: We will no doubt hear from those whose knowledge is more vast than ours.

MR. SCOGGINS (British Shooting Sports Council): Mr. Gibb is right, it is not necessary for a member of a Home Office club ever to supply for a certificate.

MR. GIBB: Now turning to the Firearms Control Board. We have listened to a great deal of evidence with regard to questions which have arisen over the past five weeks as to whether it is appropriate that a Firearms Control Board should be set up quite separately from the police with the particular task of regulating those who hold firearms and also the disciplining of such people. In the thematic inspection report of H.M. Inspector reference is made to the fact that a Firearms Control Board was considered previously and was rejected on the grounds of cost. In my submission, that is not an appropriate consideration, quite clearly all the more so having heard the detailed submissions from Mr. Campbell of defects within Central Scotland Police. In my submission, it is now appropriate that a Firearms Control Board should be set up which Board would have responsibility for carrying out investigations and granting firearms certificates for all of those who wish to have them, and would also have a responsibility for disqualification procedures to which I will make later reference.

In/

In the event of such a Firearms Control Board being set up clearly its staff would require to have right of access to the Scottish Criminal Records Office, to the Police National Computer, to the Driver and Vehicle Licensing Centre at Swansea, and also the local Criminal Intelligence held by the police force for the area in which they were operating. In my submission, whether or not the continuing Regulations are carried out by a Firearms Control Board or even to be carried out by the police, it is appropriate that whoever is involved should be given the statutory power to enter premises at which firearms are held without cause being shown. You will recall, sir, this was a factor at the moment and there is no power of entry available.

Turning now to the question of appeal procedure. I have referred earlier to the creation of a Firearms Control Board. In my submission, in the event of such a creation there should be a separate Tribunal set up to deal with questions of appeals relating to firearms matters. That appeal body should be quite separate from the Firearms Control Board and would consist of a legally qualified chairman and two other members one of whom would have knowledge of firearms. On the question of appeal, in my submission, the only ground of appeal would be whether the Firearms Control Board in exercising their discretion to refuse or to refuse to renew an application or to revoke a licence had acted unreasonably; it would not be open to the appeal body to substitute their own judgment. In the event that such a Firearms Control Board was not set up in my submission it is appropriate that there should be extension of the present arrangements with regard to the appointment of firearms examiners within individual police forces to deal with the whole question of the grant, renewal or revocation of firearms certificates.

Criticism has been made of the present arrangements from the shooting lobby in respect of police officers charged with the question of renewal have little knowledge of what they are doing. It could well be that such criticism is justified. In my submission, it is appropriate that if in fact firearms examiners are not appointed that there should be designated officers within individual police forces who would have a specific responsibility/

responsibility to deal with applications for firearms certificates, renewals or revocations.

We heard evidence from WPC Anderson she was a community beat officer and this was either the first or at best second firearms renewal she had done and she had dealt with only a few shotgun renewals. She herself had some knowledge of firearms but there must be many police officers who have no knowledge of firearms whatever. In my submission, it is appropriate if any such person should be designated they should have appropriate training in the quite complex area of firearms law.

There was also a reference particularly by WPC Anderson that she would never have thought of going and knocking on the Deputy Chief Constable's door to express her views about Hamilton. Police forces always have been hierarchical and it is perhaps appropriate there should be a link in between the officer concerned with the investigation and the officer granting the certificates and that there should be direct access by the one to the other. Clearly WPC Anderson expressed her concerns to her superior but there is no evidence to suggest that Deputy Chief Constable McMurdo was ever aware of the concerns that the WPC had expressed about her anxieties about Hamilton at the time of her visit to the house in connection with the renewal.

Turning now to the question of counter-signatories or referees: we have heard evidence during the Inquiry about the abolition of the counter-signatory requirement in respect of firearms applications or renewals. In my submission, this is a retrograde step and it is appropriate in my view there should be two counter-signatories to each application. A protocol should be made available to such counter-signatories setting out the precise responsibilities and setting out the importance of the solemn obligations they are carrying out in supporting an application for a firearms certificate. It may be appropriate that in fact such counter-signatories should sign before a Notary Public or a Justice of the Peace thus emphasising the importance of the counter-signature on such a document.

Having listened carefully to all the evidence and particularly the evidence from the BMA, I/

I am not satisfied that it is appropriate that a general practitioner should be asked as a matter of routine to provide a medical certificate for each application for a new certificate or for renewal. It has been pointed out -- and indeed was so in this case -- that Hamilton had very little dealings with his GP over the years and indeed his GP knew nothing about him. At best all a GP can do, as put by Mr. Bonomy, was to provide a negative reference to the effect that the applicant was not unfit to hold a firearms certificate. It would be quite inappropriate to ask GPs to provide a positive reference and indeed it would be impossible for them to do so suggesting that an applicant was actually fit to hold a firearms licence.

Evidence has been led about the possibility of the role of the police surgeon in new applications or renewal applications and certainly such a proposal gets over the difficulty of the confidential relationship between GP and patient and the difficulty which a GP may find himself or herself in in the event of refusal to co-operate in the provision of a report for the purposes of obtaining a certificate. Certainly the independence of the vetting by a police surgeon gets over this difficulty.

As I understood it, it would only be in the event of any difficulty conceived by the police surgeon that any forensic psychological evidence would be required, and there was reference to the analogy of the driving licence records. It is clear to me, however, it is perhaps easier when you have perhaps epilepsy or diabetes, and in my submission it is much more difficult to deal with any mental illness or psychological difficulties to precisely pinpoint what these are.

Clearly there is an obligation on the part of GPs to report, for instance, epilepsy and diabetes at the present time, but there is a difficulty in this and I think it is much more difficult for a police surgeon to properly assess the mental state of any applicant just solely from an application form.

Turning to the question of travel or travel with possession of firearms: we have heard evidence, particularly with regard to Hamilton's travels to various clubs and his travel to Linlithgow when he carried his weapons in public service/

service vehicles. Clearly he would have committed an offence under the 1968 Act had he had ammunition with him. But in my submission it is appropriate that there should be a requirement that any firearm being carried in public should be properly secured and also in secure containers.

Turning now to the question of prohibited persons under Section 21 of the 1968 Act: there are of course presently prohibitions preventing those who have served a sentence currently of more than three years from ever holding firearms again, and those who have been sentenced to a period of detention of three months or more from holding a firearms certificate for a period of five years from the date of release. In my submission, it is appropriate that these prohibitions should be substantially extended. It would seem appropriate that in the event of a firearms certificate holder being convicted of any crime involving abuse of alcohol or drugs or involving the use of violence that there should be an automatic disqualification from holding or obtaining a firearms licence perhaps for a period of three years or more depending on the severity of such an offence, and again it may be appropriate that a Firearms Control Board should have a role in this.

Turning to the question of hollow point bullets; we had some evidence during the Inquiry. We have not heard any evidence which would justify the use of hollow point bullets for target shooting. In my submission, it is appropriate that hollow point bullets should be banned or banned for target shooting.

Turning now to the question of postal renewal: evidence has been led with regard to encouragement on the part of the Inspectorate that Forces move towards the question of postal renewal. In my submission, this is quite inappropriate, and indeed the evidence we have heard was to the effect many Scottish Police Forces have resisted such a move as inappropriate. In my submission, such a proposal should immediately be withdrawn and there should be a requirement at each renewal there should be a visit either in the form of a firearms examiner or a dedicated police officer and a much more detailed investigation should take place and a much more thorough and detailed enquiry of the applicant/

applicant than presently takes place.

Turning to the question of false declaration: clearly there is a possibility of an applicant making a false declaration in respect of any matters relating to firearms. In my submission, it is appropriate that if such a false declaration is found to have been made that there should be provision for automatic suspension of a firearms certificate and power should be given to revoke a firearms certificate in the event of a false declaration having been made in either an application for granting a certificate or a renewal. Again there might be the possibility of appeal to the Firearms Control Board or Firearms Tribunal in the event of such a procedure having been adopted.

After/

2 p.m.

After an adjournment for lunch:

MR. GIBB: Sir, I would like briefly to deal with two other matters, first of all the vetting of those involved with children, and finally school security.

In terms of vetting procedures, they are of course completely separate areas, namely those adults involved with young people and what generally might be deemed as mainstream organisation; secondly there are those who use local authority facilities but are not involved in mainstream organisations; and thirdly there are those adults involved with children who neither use local authority facilities nor are in fact affiliated to any mainstream body; fourthly there are of course many, many situations in which there is a one-to-one relationship between an adult and child, for instance in terms of musical tuition and the like.

Much has been made in the various submissions made that there is no wish to discourage those who have a legitimate wish to give of themselves to the community in assisting with youngsters to be deterred from doing so because of unnecessary bureaucracy. On the other hand, clearly in light of the circumstances surrounding Hamilton, and his involvement with youngsters, it is appropriate that the question of protection of these youngsters be given consideration.

I would commend to the Inquiry the detailed submission made by the Scottish Standing Conference of Voluntary Youth Organisations. Its submissions are clear and concise, and relate to focussing on "Organised Youth Activity in Clubs".

It is clear that increased access should be available to anyone involved in the vetting of those involved with youngsters, and I accept the proposition contained in evidence to the Inquiry that some sort of charge may require to be made in light of the increased use which will be made of access to the criminal records held, and I can see no great difficulty about that.

With/

With regard to the use made of local authority premises by those involved in youth work and not involved in mainstream activities, it has been clear during the evidence to the Inquiry that the very fact that Hamilton used local authority facilities for his boys' clubs gave an added degree of credibility to his operation. Clearly that should not have been the case. Again, I would commend to the Inquiry the vetting procedures put in place by Stirling Council at its Community Committee on the 18th June, 1996. This incorporates a vetting procedure information pack, and has much to commend itself.

In my submission it is appropriate that such documentation should be issued nationally and that national guidelines should be available to a local authority in line with the proposals from Stirling Council.

In my submission it is appropriate that a general leaflet should be issued in all schools at least once a year, nationally prepared, warning parents with regard to the operation of youth clubs, and in particular the concerns that might arise, and particularly drawing attention to the fact that there should be more than one adult involved in such clubs, and that concern should be expressed if there is no management facility involving parents available. Hamilton deceived Central Regional Council in its requests for information on the management of his clubs, and on one occasion took along adults to mislead the Regional Council in relation to the involvement of other adults with the Dunblane Boys' Club, which replaced the Dunblane Rovers Group. It was suggested later on that Hamilton again had misled the local authority in indicating that he couldn't get parents together until he saw whether a club was going to succeed, what children were going to attend and what parents would therefore be in a position to assist on the Management Committee. In my submission it is not appropriate that any club should be set up unless before the event proper steps have been taken to involve members of the community on a management basis, and again this is something which should be considered carefully by local authorities in terms of vetting procedures for those wishing to use local authority premises.

Reference has been made in the paper for the Scottish Office and the attached annexes to the Children's/

Children's Act, 1989, which contains provision for the registration of supervised activities and holiday pay schemes used by children under 8, and the intentions of the Government to use the provisions of the Deregulation and Contracting Out Act 1994, Section 1(a) to remove the children's registration and inspection requirements from people providing supervised activities used by children under 8 years and to relax the registration requirements or holiday pay schemes. In my submission it would be quite inappropriate that there should be a relaxation of the provisions of the Children's Act, 1989, and I support those who have been consulted and who have resisted such a change.

I have raised with various parties the question of compulsory professional indemnity insurance in connection with any schemes set up for the use of children. In my submission, it is appropriate that the law should prescribe that Public Liability Insurance is compulsory for any such scheme. That would provide (a) protection for the public in the event of any accident happening to children while under the supervision of adults in such schemes; and (b) would increase the possibility of vetting by an insurer, to satisfy the insurer that proper facilities were in place and to satisfy themselves as to the risk involved in insuring such a scheme.

I would submit that consideration should be given to at least setting up a local register of clubs involving children under the age of, say, 12. This would be particularly important for what I have previously referred to as non-mainstream activities.

In the event that any adult is convicted of any offence involving either physical violence in children or abuse of children, it should be open to the Court to make a Disqualification Order preventing such an adult from having any involvement with children either on a voluntary or a professional basis at any time in the future, or for any such periods as the Court deems appropriate. Breach of such an Order should be a criminal offence.

I submit it would be appropriate that if any adult wishes to set up any child-based activity outwith/

outwith their home area, and they carry out operations within their home area, that a certificate of approval should be obtained from the local authority within their home area indicating that such a scheme had been vetted. That would have got over the difficulty of Hamilton involving other local authorities, and this problem is accentuated by the creation of many more unitary authorities as opposed to the limited number of regional councils which were previously in existence.

Some evidence was led about the relationship between School Boards, Area Officers of Local Authorities and Head Teachers with regard to the letting of school premises for outside activity. In my submission, it is appropriate that national guidance should be given to School Boards with regard to this particular aspect, and that responsibility for the letting of school premises should be the responsibility of the School Board and the School Board alone.

With regard to children's activities, in my submission it is appropriate that consideration be given to a requirement that there is a ratio prescribed as to the number of children per adult involved in such activities, and there should be a statutory requirement that at least two adults should be involved in any such activities.

Finally on this aspect, with regard to the question of professional qualifications for those involved in such activities, in any vetting procedures I would submit it is appropriate that any applicant would require to grant the necessary mandate to enable any qualifying body to provide a report if requested by a local authority.

Finally, much evidence has been led about the question of school security. Sadly, the events of the last 24 hours have shown how difficult it is.

All schools are different, and indeed it is extremely difficult to know just how any prescription could be made with regard to the level of security required for particular schools. There is such a diversity of school buildings, ranging from the four-pupil country school to the central city/

city school educating many hundreds of children. My principal submission here is that there should be a statutory requirement on each school to carry out a risk assessment on school security, and for the risk assessment to be updated on a regular annual basis.

LORD CULLEN: Is there not already some responsibility?

MR. GIBB: There is a requirement under the Health & Safety Act, but I am saying or suggesting that there should be a risk assessment.

LORD CULLEN: Are we talking about personal security rather than the security of the buildings?

MR. GIBB: No, the security of the buildings.

LORD CULLEN: Obviously that is not dealt with within the Health & Safety At Work Act. If you are talking about persons, it is already there.

MR. GIBB: I am talking about the security of buildings.

Finally on this question of security, there is the question of violence to staff in the education sector, and that is a cause of considerable concern.

Clearly, sir, Hamilton perpetrated violence towards the staff in Dunblane. My understanding is that the guidance given by the Health & Safety Commission in its document "Violence to Staff in the Education Sector" has not been implemented significantly by local authorities yet, and I would encourage implementation of the advice given in the guidance.

Finally, it is for me to associate myself with the remarks made by Mr. Campbell at the conclusion of his submissions and to express my appreciation on behalf of the Mayor family and the teaching staff at Dunblane for the way in which this Inquiry has been conducted.

LORD CULLEN: Thank you very much, Mr. Gibb./

Gibb. Mr. Jones?

MR. JONES: Sir, on behalf of the parties I represent may I first associate myself with the expressions of sympathy and condolence which were voiced yesterday by my learned friend Mr. Bonomy.

Central Regional Council's dealings with Thomas Hamilton date back to 1982 and continue from time to time until the early part of this year. For the assistance of the Tribunal I have prepared a narrative of these periods, the factual content of which has been revised by my learned friend.

I understand, sir, that narrative was attributed to parties yesterday, together with summaries of Hamilton's dealings with Fife Regional Council and Lothian and Borders Regional Council, and I understand that my submissions and these summaries can be available to the public. In these circumstances, sir, I do not propose therefore to read my submissions out, unless you, sir, thought it was necessary for me to do so, and therefore unless there is anything I can elaborate on or assist on in answering any question, then I am quite content for the narrative to be left to speak for itself.

LORD CULLEN: I am not actually sure what arrangements have been made to make these available to the public. Perhaps you can advise me of that.

MR. JONES: Certainly I understand that the various narratives have been distributed to parties, and I had envisaged they would then be made available to the public in the same way that written representations were made available.

LORD CULLEN: No doubt that is quite sensible. I wasn't sure how far the matter had gone as far as the distribution was concerned. Presumably all that is required is to have some copies available for the Press and any member of the public who wants to read them. Mr. Bonomy?

MR. BONOMY: These are effectively written submissions, which would otherwise have been made orally, and in so far as any member of the public does wish to see them they can be made available./

available. They should be available in my submission for public consumption.

LORD CULLEN: I think arrangements should exist if they do not already exist. Presumably your solicitor has prepared your set. Can you see that your set is copied in sufficient numbers so that members of the public can see it? I don't know if anything needs to be done about the others. I suppose the others are in the same category.

MR. BONOMOY: Yes; and copies will be made available.

LORD CULLEN: Thank you. Mr. Taylor.

THE DEAN OF FACULTY: Sir, I have discussed the matter with my friend Mr. Taylor, and I think in view of the prospective lengths of submissions which I may make and which he may make, subject to your lordship's agreement I would propose to address you first of all.

LORD CULLEN: I take it you are wearing your Lothian and Borders hat?

THE DEAN OF FACULTY: I am wearing both, my lord.

LORD CULLEN: Perhaps you will tell me at which point you will change the one you are wearing.

THE DEAN OF FACULTY: I will. Hopefully it will be obvious.

I too would wish to associate myself and those instructing me and my clients with the expressions of sympathy made by my learned friend Mr. Campbell for the families of the deceased and injured victims.

Now, this submission is made both on behalf of the individual members for the Scottish Police Federation, who would be any officer from the rank of constable to chief inspector, and also the members of Lothian and Borders police, and as I have indicated to your lordship, I shall endeavour to make it clear as I go along for whom I am speaking.

The/

The submission does not address the question of recommendations for the future, because the position of both of my clients in that regard is covered by the joint submission by the Association of Chief Police Officers in Scotland, the Superintendents' Association and the Scottish Police Federation. However, I wish to make two submissions on the evidence. The first relates to members of the Scottish Police Federation serving with the Central Scotland police, and the second relates to Lothian and Borders police.

Each of these submissions I think can fall, or certainly the first submission in relation to the Scottish Police Federation can fall into two parts: first of all in relation to events leading up to the incident at the primary school on the 13th March. I would submit it is clear on the evidence that the individual members of the Scottish Police Federation were all operating within the approved system of Central Scotland Police in respect of the licensing of firearms held by Thomas Hamilton. At all times, these officers were acting within the course of their duties, and any shortcomings in the licensing of Hamilton's firearms and due to defects in the system or failure of senior management, or both -- any such defects are not the responsibility of any of the individual members of the Scottish Police Federation.

Having regard to the evidence and the assurance given by my friend Mr. Taylor (p. 1403B-D) in relation to WPC Anderson, as well as the submissions already made, I would submit that there is no basis for you to conclude that any blame or criticism should attach to individual members of the Scottish Police Federation in relation to the question of the licensing of Hamilton's firearms.

The/

2.20 p.m.

The second matter, still dealing with the federation members, relates to the events of 13th March, and again it is my respectful submission to you that there is no evidence which would justify a criticism of individual members of the Scottish Police Federation.

Again any shortcomings relating to the handling of the aftermath of the tragedy are procedural, and my learned friend Miss Dunlop has referred to the acknowledgement in the evidence that lessons have been learned by those responsible for devising and implementing procedures.

I understand that my friend Mr. Taylor's submissions will not seek to pass any responsibility from the Central Scotland Force and/or senior officers to more junior officers who are the individual members of the Scottish Police Federation in relation to these two issues. Accordingly, if you do ultimately find that you wish to criticise Central Scotland Police or any of its police officers in respect of any of these two matters, I would ask you to exclude from that criticism the individual members of the Scottish Police Federation serving with Central Scotland Police.

Turning to the second issue, which relates to the Lothians and Borders Force -- and for the rest of the submission I am wearing that hat. This relates to the evidence of Mrs. Haggart.

Again, Sir, my submission here is that there is no foundation in credible and reliable evidence to justify any criticism of Lothians and Borders Police, or any of its officers, in relation to the events leading up to the incident on the 13th March. By referring to "Any officer of that Force", I include senior officers or ranks above Chief Inspector as well as the individual members of the Federation.

As Mr. Gibb has said, if the incident involving threats by Hamilton, involving a firearm, had occurred, and furthermore if that incident was reported to Lothians and Borders Police, it would be a serious criticism of that Force if such an allegation had not been investigated. But in order to/

to deal with this matter you will require to consider the credibility and reliability of Mrs. Haggar. My learned friend Mr. Bonomy has advised the Inquiry that Mrs. Haggar's daughter would not have assisted the Inquiry in this regard, and therefore you should examine the evidence which was available to you.

It will follow from these introductory remarks that I do not share the view expressed by my learned friend Mr. Campbell of Mrs. Haggar, and it will be my ultimate position that her evidence is both unreliable and incredible and should be disregarded.

There are a number of discrepancies in the evidence of Mrs. Haggar when compared with other evidence, and my friend Mr. Gibb has already referred to discrepancies as between her and her friend Janet Reilly.

He alluded to the reason given by Mrs. Haggar for leaving the camp, and that related to an alleged threat and is to be found at Page 711A to B.

The threat was to the effect that Hamilton hoped that her tent didn't catch fire. There was no question of any gun. But when we look at Reilly's evidence the threat was not of that nature but was rather a threat with a gun (932B to C). Reilly, as my friend Mr. Gibb has already observed, did not remember any threat being made about burning the tent (933B to C).

Furthermore, in Haggar's evidence (714 and 715) the statement which she made at the time to Detective Sergeant McBain was put to her. That statement did not contain any mention of a threat by Hamilton of any nature. That omission from the statement is astonishing if there were indeed any threats.

Furthermore, the statement contained a different picture given to the police officer about the chastisement of a child, the assault, the alleged assault; and her position to the officer seemed to be that this was appropriate because the child who was chastised had been bullying someone else.

Now, /

Now, the change in direction when Mrs. Haggar came to give evidence about the camp in my submission must colour the way in which you consider her subsequent evidence, and in particular the evidence which she gave about the incident or the alleged incident involving the van.

Now, that alleged incident is dealt with by Haggar at Page 718 onwards, and she is quite clear in her evidence that at the time she was with Janet Reilly (718A). At 719D she said unequivocally that Janet was beside her at the garden gate.

But when we look at Reilly's evidence (935A), it is clear that she is saying something quite different. Hamilton was ready to drive away when she arrived.

What about the gun? Well, at 718D Haggar said she saw what must have been the barrel of the gun, and she explained that it was protruding through the open window. I think there was some mention of it being tapped on the window, and protruding through the open window by about 2 inches. It was the driver's window (720C).

According to Haggar in cross-examination (730C) Janet Reilly would have seen the bit of metal, the end of the barrel of the gun -- at least they would have been if they had been looking at the van, because they were standing at the gate. But again, that has to be contrasted with the piece of evidence which I have already referred to that Janet Reilly said that Hamilton was getting ready to drive away when she arrived.

But it is clear from Janet Reilly's evidence that she did not see any gun on this occasion (935D), and certainly there is no question in her evidence of seeing a piece of metal protruding 2 inches through the open window of the driver's side.

Another aspect that you may wish to consider, Sir, is the fact that about a week before Mrs. Haggar gave evidence it is clear that she had a telephone conversation with Janet Reilly, and in the course of that conversation part of the discussion at least related to alleged discrepancies in their evidence about this incident -- alleged discrepancies/

discrepancies which had been drawn to the attention of Mrs. Haggar by the investigating police officers. That passage is to be found at 731 to 732.

But even if you go further into her evidence, it is quite clear that it just doesn't bear scrutiny. According to her following this incident she telephone Linlithgow Police Office -- and you find that at 722B, Sir.

She was asked about the approximate time of that, for reasons which will become apparent, and at 740 to 741 I think it is a fair reading of the evidence that that call must have been made somewhere between 3 and 4 o'clock in the afternoon.

Well, that again just can't be correct, because Linlithgow is a manned police station during day time. There are two pieces of evidence in that regard, and there is a slight conflict between them, but I think it proper that I should draw your attention to both passages.

First of all, there is Detective Sergeant McGrain, (Page 790), who has the station manned somewhere between 8 and 9 in the morning until 10 o'clock at night; and the other officer is Sergeant Carson, who is a sergeant there (824C), who has it manned from 8.30 a.m. to 9 o'clock at night. So there is an hour of difference at the end of the day, but whichever is correct it is quite clear that this is a manned station between the hours of 3 o'clock and 4 o'clock when this call would come in.

That then takes me to the investigation which was carried out following the press reports about Mrs. Haggar's claim about this incident, and in that regard I would refer you to D.C. Mitchell (Page 828 onwards). Now, he examined the logbooks of Linlithgow Police Station and found no record of this call.

It is fair to say that if the station was not manned the call would be diverted, and thereafter another entry would be made, but if the call was made between 3 and 4, as Mrs. Haggar would have it, there ought to have been a record in the log.

Furthermore, he examined the police notebooks, /

notebooks, or certainly those notebooks which were still available, and your lordship will recall the practice of the officer handing in the notebook when it was completed and it being retained by the Force. From the notebooks which were examined, again there is no record of this complaint.

Now, I think it fair to mention that Mr. Lynch's notebook is missing for the period 12th May to 14th June of 1989. That is dealt with at Page 827B.

In my submission that is irrelevant because it does not appear to cover the relevant date of the incident. The Linlithgow Academy incident was on the 16th May in that year, and the alleged incident at the van was certainly before the incident at Linlithgow; and in that regard I would refer you to the evidence of Mrs. Haggar (723E), when she said that the last dealings which she had with Hamilton were on the 16th May at Linlithgow Academy.

Now, if this incident involving the van had occurred before the incident at Linlithgow Academy -- and I think we know it was after Inspector Keenan's first visit in January of that year -- it is strange, in my submission, that Mrs. Haggar did not mention the gun incident to Margaret Butterwick, the reporter who went to see her about the Linlithgow Academy incident in advance of that.

That is accepted by Mrs. Haggar (738 to 739), and it is dealt with by Mrs. Butterwick (838D onwards). Miss Butterwick was surprised to read of the alleged gun incident after the Dunblane incident on the 13th March.

It is clear from her evidence -- it is clear from Miss Butterwick's evidence -- that Mrs. Haggar had animus against Mr. Hamilton, that she blamed him for having ill-treated her son at the camp, and she was critical of the way in which he ran the camps; and that was the extent of her expression of concern. The purpose of contacting Miss Butterwick was to alert her, and hopefully a photographer, to her intention to throw material over Mr. Hamilton at the Academy with a view to being charged for that and bringing out her concerns in Court.

If/

If there were an incident relating to the gun and the van one might have expected Mrs. Haggar to mention it at that stage.

The first time this incident relating to the alleged gun in the van beside her house -- the first time that that is mentioned is the day after this tragedy, and you will recall Susan Ovenstone, another reporter in Aberdeen (Page 833 onwards) gave evidence about being asked to go and interview Mrs. Haggar, as did the representative from another national newspaper.

But to go back to the notebook, even if the notebook had been the notebook for the relevant day, the absence of Mr. Lynch's notebook is not relevant for another reason, and that is that Mrs. Haggar knew some of the officers, and she knew that Mr. Lynch had a scar due to a burn on his face. And she categorically stated that he was not the officer to whom she had reported the incident; she knew him and he was not the officer (743 to 744).

D.C. Mitchell interviewed or caused to be interviewed all the officers and examined or caused to be examined all the Productions, with a negative result.

Another piece of evidence that you may think significant is that of Sergeant Carson, who was a sergeant at Linlithgow, and he deals (Page 825 A to B) with the fact that not only was there no complaint to him, but also it was the sort of complaint that he would have known about in a small station such as Linlithgow.

That is not surprising, if you are contemplating someone presenting a gun in a public place and threatening a member of the public. That is something that one would expect the police to take very seriously indeed, and officers to recall, particularly in a small station.

There is also some confusion about the date of the alleged incident at the van. Mr. Gall, the newspaper reporter, said that Mrs. Haggar had stated it was August, although he thought it was 1989 (Page 846).

It is clear that he must be mistaken about/

about the year, but he was certain that it was August. She, on the other hand, is clear that it was after Inspector Keenan's visit, which was in January of 1989. So having told Mr. Gall it was August, she is now clear it was the following January.

Furthermore, after Inspector Keenan's visit in January she accepted that he had spoken with her on the telephone, and yet again she did not mention the incident in relation to the gun at the van (742).

Now/

2.40 p.m.

Now, there is another strange piece of evidence in that in relation to the other incident of Hamilton taking guns to a house in Linlithgow and allowing the children to handle them and be photographed with them. The position of Mrs. Haggar is that she did not complain to the police about that (p. 744B) and yet when you look at D76L it is quite clear that there is a telephone report to Central Scotland Police of guns being in the house in Linlithgow and the children being photographed with them. It is also clear that the informant bears to be Doreen Haggar of the address where she stayed. She was aware of this particular incident because she said she knew the lady who had mentioned it to her. This lady apparently got to know her through the boys' club but she then sought to suggest that she did not know the address of the lady so she could not have provided that information to the police.

It is also clear that following that report, Central Scotland requested the assistance of Lothian and Borders Police and that matter was investigated. It is also clear from the investigations that the householders, the husband and wife, accepted that this had happened but they had invited Hamilton to the house and had asked him to photograph their children with the guns and that they were not complaining about this matter.

There was also evidence to the effect that the officers in the light of that were satisfied, not only by that explanation but also by the explanation that he had been transporting guns to a club

Now, if the householder was not reporting the matter, is it not astonishing that Mrs. Haggar's name and address appears on that initial report? In my submission, it is something which goes much beyond a coincidence and for whatever reason, whether it is the passage of time or whether it is her present illness, in my submission it may be that Mrs. Haggar has confused these two incidents, that she did indeed make a report about guns to the police but the only report that was made related to the guns in the house and that that was very properly investigated and you have/

have the evidence of Sergeant McGrane about that.

Now, also in relation to that complaint you might think timing is significant. You will recall that the date on the document was the 20th May, whereas I think it is quite clear that there was a mistake in noting the date because the enquiries were actually carried out, on the face of it, before the report was made. You may also recall the incisive cross-examination by my learned friend, Mr. Campbell, who established that Fiona Kilpatrick felt that the day she was giving evidence it was in fact the previous day and she was the one who had noted the particular report but looking at the date I would ask you to accept that it was the 20th May the complaint was made and bear in mind that what had happened four days previously may be significant.

On the 16th May there had been an incident at the Academy and Mrs. Haggar was disappointed because Mr. Hamilton would not take any action against her, thereby frustrating her plan to expose him in Court. In my submission, the truth of the matter is probably that on the 20th May, frustrated by Hamilton's decision not to take any action, Mrs. Haggar decided to complain about the incident involving the guns and the children which had taken place several months before. Now, in my respectful submission, when you look at the evidence of Mrs. Haggar against the background which I have referred to, all the investigations which were undertaken, the fact that she denied making a complaint when all the evidence pointed to the fact that it must have been she who made the complaint relating to the guns and the children, and the various discrepancies to which I have referred, in my submission you cannot conclude that her evidence is reliable and indeed you may conclude that it is incredible.

Whichever the position, in my submission, sir, you would not be entitled to reach a view or reach a conclusion that the alleged incident she reported to the police, Lothian and Borders Police, had not been investigated and there is no reason whatsoever for criticising Lothian and Borders Police in this regard.

Again, sir, I would like to thank you for your/

your courtesy.

LORD CULLEN: Thank you, Dean of Faculty. Mr. Taylor?

MR. TAYLOR: I think Mr. McEachran is also coming in in advance, subject to your approval.

LORD CULLEN: Well, I would like to be quite clear where we are going next. Mr. McEachran, do you wish to be heard next?

MR. McEACHRAN: Yes, sir.

LORD CULLEN: What about Mr. Scoggins, who is sitting beside you?

MR. SCOGGINS: I intend to speak tomorrow. Mr. McEachran I think has other commitments.

LORD CULLEN: Have you discussed between the two of you to what extent each of you requires to address me? It may be that what has been said so far would ask for essentially one response but maybe you want to divide it between the two of you.

MR. McEACHRAN: Well, I think I only have two points to make which I think I can make in five or 10 minutes and I think Mr. Scoggins has rather broader points he wishes to make.

LORD CULLEN: Well, I am content if you wish to address me for that period on matters which arise by way of response on the basis that the major response will come from Mr. Scoggins.

MR. McEACHRAN: I am very much obliged. Sir, I represent the Scottish Target Shooting Federation which is a Federation of Scottish Associations representing competitors in target shooting in Scotland.

We are most grateful to you for this opportunity of addressing the Inquiry. I would like to associate myself with what Mr. Bonomy said at the beginning of his address yesterday. It is of course a matter of particular sadness for all competitive shooters in Scotland that these events occurred/

occurred on the 13th March because it puts our sport under threat.

We have, as you know, sir, submitted a preliminary submission and we have also put in a final submission and I don't intend to repeat those.

We would also like to take the opportunity to indicate that we do associate ourselves with the much more detailed submission, the final submission, made by the BSSC.

I would like this afternoon to pick up two points. The first is the suggestion from Mr. Campbell that there is a well-established link between gun access and gun crime. On page 2927 of the transcript he referred to Annex G of the Home Office Secretary of State for Scotland evidence. He also referred to a late submission by Professor Gabor I think from Canada which has got the FAX date of the 4th July 1995.

LORD CULLEN: Just for the record, I think it is not technically a submission. It has been placed in a library which I have for reference purposes. I think that is the present status of that document but please proceed. For the record, that is what it is.

MR. McEACHRAN: Right. Well, I would suggest that there is no such well-established link. I would first of all refer you to the very powerful critique and the statistical evidence in the written evidence of Mr. Jan Stevenson which is Production 139 of the written submissions. I would also refer you to Richard Mundy's shorter submission in Production 87 and Colin Greenwood's evidence in his written submission in Production 60.

In my submission, they all point in the same direction, which is that the evidence, the rather short and scanty evidence, put forward by the Home Secretary is really not borne out by the references which he refers to which is some Canadian study and a study taken by telephone.

What I would like to ask your lordship to look at in Jan Stevenson's evidence is a passage which might be of interest to this Inquiry and I am just giving this as an example because I think it has/

has been given already. At page 25 he refers to the addressing of a meeting of the National Academy of Science in America in 1990 by a respected criminologist who had been studying firearms control policy and what Professor Kleck said, and this is quoted by Stevenson, is "When I began my research on guns in 1976, like most academics, I was a believer in the 'anti-gun' thesis, i.e. the idea that gun availability has a net positive effect on the frequency and/or seriousness of violent acts. It seemed then like self-evident commonsense which hardly needed to be empirically tested. However, as a modest body of reliable evidence..... accumulated, many of the most able specialists in this area shifted from the 'anti-gun' position to a more sceptical stance" and then moving down six lines, he says "(subsequent research) has caused me to move beyond even the sceptic position. I now believe that the best currently available evidence, imperfect though it is (and must always be) indicates that general gun availability has no measurable net positive effect on rates of homicide, suicide, robbery, assault....." etc. In my submission, the evidence submitted by Mr. Mundy and Mr. Greenwood is to the same effect.

Now, the next point I would make about Mr. Campbell's submission relates to the evidence which was given before the Home Affairs Consultation Committee in May of this year which your lordship may be aware of but I don't think has yet been made officially. The best summary of that that I have been able to find also occurs in Mr. Jan Stevenson's evidence at page 48. I think page 47 is the page I am looking at but he summarises over three or four pages what happened at that Inquiry and in particular he highlights the evidence from the Association of Chief Police Officers, I think that would be ACPO England and Wales, represented by their President, Mr. Sharples. Mr. Sharples indicated first that 96 per cent of the estimated crime takes place with firearms which are not licensed. Secondly, he was asked, and this is page 47, by one of the MPs if banning guns would make any difference and Mr. Sharples replied that it would not. He said as far as he was aware that the Regulations in this country were tighter than in any other.

Thirdly, in contradiction to my learned friend/

friend, Mr. Campbell's, submissions I would refer to what Colin Greenwood says in his written evidence. This is Production 60 and I am looking at paragraphs 46 to 48 and also paragraph 70, where he indicates that because of the various Firearms Acts there has in fact been a reduction in the number of licensed firearms in this country but he points to the very high increase in armed crime and particularly armed robbery and he takes from that, in my submission, what is self-evident, that if the number of licensed firearms are down and there is a firearms crime increase by 500 per cent, there can be no valid link between gun access and gun crime and one has to look at the pool of unlicensed firearms in this which no amount of regulation would bring to an end.

So I would suggest when one looks at this evidence that Mr. Campbell is not well founded when he says that there is a well-established link between gun access and gun crime.

LORD CULLEN: There is one other source, and I am not sure whether it is mentioned by the Government or not, but he had referred to Professor Cooke who had I think referred to two studies, one of which was the Seattle/Vancouver comparison. Maybe that is covered by Annex G. I can't find the number.

MR. McEACHRAN: Yes, the Vancouver/Seattle comparison is dealt with also by Stevenson in his critique which makes the point that there are a number of other factors which were not taken into account in that comparison and one is the nature of the population and I would just refer to what Mr. Stevenson has said in his written evidence. As I say, it is a very powerful critique and it puts the whole of the evidence in doubt. That is why I refer to what Mr. Sharples said to the Home Affairs Committee because I think if the police felt there was any validity in this they would be saying so, particularly to a Parliamentary Committee.

Now, the other point I would like to put before you, sir, is this; my learned friend Mr. Gibb, made a number of points on behalf of the teachers in what I might call his secondary submission. I think his primary position was that there should be a total ban but he then went on to deal with what should happen if there was not such a ban/

ban.

Now, we have urged this Inquiry that safety matters are best dealt with by concentrating on licensing of the individual to be a holder of a firearm and the best safety results would be go by going down that route. Now, I don't intend to repeat those submissions but Mr. Gibb made a number of recommendations as to what he said should happen after an applicant had cleared the licensing hurdle. In other words, we say the licensing hurdle is the one to promote safety and Mr. Gibb says well, if you get over that, there are other things that should happen. There should be ammunition registers at clubs, there should be central storage of weapons, there should not be storage in the home and there should be no hand-loading at home. A number of matters.

What I would like to suggest on behalf of competitive shooters in Scotland is that these recommendations are perhaps put forward without any real understanding of how shooters and clubs in Scotland operate. In the first place, no recognition seems to have been taken of the requirement for every firearms holder in Scotland that his firearm is stored in what is called secure storage and that means nowadays that every firearms certificate holder will have a steel cabinet of some form in his home which provides a separate storage for the firearm, ammunition and a bolt if it is a rifle. I don't think this Inquiry has heard any evidence to suggest that there has been much theft from such secure storage in the home.

Now/

3 p.m.

Now, the next point I would like to make -- and this is based to some extent on the evidence of Mr. McCarthy -- is that Scottish clubs do not all have facilities for storage. There are a number of clubs which use MOD ranges which have no club facilities themselves, and a requirement that ammunition and weapons were to be stored in such a place would mean that they could not exist.

LORD CULLEN: Mr. McEachran, these are all familiar arguments that have been made a number of times by those representing shooting interests. You can take it that I do appreciate that point.

MR. McEACHRAN: Perhaps, then, moving it forward, it is a question of building these up, because particularly in Scotland it is felt that to impose a requirement of a storage of weapons and ammunition centrally -- I notice the police for instance do not wish to be responsible for this -- would really have the effect of bringing competitive target shooting to an end, because there would be a requirement as I see it for a considerable expenditure of money to either build new storage facilities or to upgrade such facilities as exist. Your lordship has heard evidence of clubs in rural areas 50 years old, wooden or stone built. These would probably not be regarded as properly secure for a large number of firearms.

What the shooting community in Scotland is concerned about is that if such suggestions are put forward without any knowledge or any attempt to assess the cost element a recommendation could be made without any real evidence being given as to what it would cost the shooting community to try and bring these requirements into force; in other words, banning competitive shooting in Scotland by the back door. This matter I do not think has been dealt with in evidence, and we are anxious to put it before the Inquiry, and to suggest that such suggestions are made without proper knowledge. That is as far as I would like to take this point.

I am most grateful to you, sir, for allowing me the opportunity to address the Inquiry.

LORD CULLEN: Thank you, Mr. McEachran. Now/

Now Mr. Taylor.

MR. TAYLOR: Thank you, sir. Like those who have gone before me could I start by associating myself and my clients with the introductory remarks made by Mr. Bonomy, and I would wish to convey on behalf of my clients our sympathy and condolences to those who have suffered in any way by the events of the 13th March.

Sir, the submissions I am about to make to you can be split into several parts, and it may be of benefit if I outline the way I propose to deal with it.

The first section I propose to deal with relates to the events of the 13th March, 1996, and I propose to deal with that in relatively short form; the second section is to look at Mr. Thomas Hamilton himself; the third section is to look at the law and practice relating to firearms; the fourth is in relation to the Firearms Licensing Procedures for Central Scotland Police, which hereafter I shall refer to as CSP; the fifth relates to the decisions to grant, review and vary Hamilton's firearms certificate; the sixth relates to the culture in which decisions fall to be made; the seventh relates to what flows from any alleged shortcomings. I had intended to address you, sir, on the credibility and reliability of witnesses, but that has already been gone over by the learned Dean of Faculty, so I do not propose to say anything further in that regard.

LORD CULLEN: I have before me written submissions which are some 104 pages long. Are you going to adopt these to an extent without requiring to read them, or what is your plan of campaign?

MR. TAYLOR: I was not proposing to adopt them without reading them. I don't propose to read them verbatim all the way through. There are certain parts, particularly when one reaches the decisions, which perhaps can be taken in shorter form than is set out there.

LORD CULLEN: But effectively you will be following the order. I can see there eight chapters.

MR./

MR. TAYLOR: It is now down to seven.

LORD CULLEN: So you think you will be following the order set out in this document, using the document to supplement what you are saying orally?

MR. TAYLOR: That is so, sir.

LORD CULLEN: Right.

MR. TAYLOR: The tragic events of the 13th March have no precedent in this country, perhaps not in the world. Those present or called to Dunblane Primary School in the course of their duty that day, whether teachers, medical staff or police, were faced with what Mr. Taylor described as ".....a scene of unimaginable carnage.....one's worst nightmare", (Day 2, p. 157).

The Inquiry has not heard the detail of the horror which faced those entering the school gymnasium that day. The testimony of those present and the analysis of how Mr. Hamilton behaved in the gymnasium can give only the briefest insight into the impossible circumstances in which those people found themselves. As Mr. Taylor said, we who were not there cannot imagine. However, when considering the action of those called to deal with the events of 13th March it is essential to remember the awful and distressing circumstances in which they worked.

CSP received Mr. Taylor's call for assistance at 9.41 a.m., and the first police officers arrived at about 9.50. By 10.10 senior police officers were on the scene, the Chief Constable being one of them. He then delegated various tasks to his Commanders. Detective Chief Superintendent Ogg was then appointed as the officer in charge of the criminal inquiry.

The task which faced him, sir, was immense, and the Chief Constable immediately declared that this would become a major incident, and the appropriate procedures were set in place.

It was the responsibility of the police to ensure the speedy removal and treatment of the injured, to identify the dead, to inform the families/

families of the dead and injured, to deal with the 800 other pupils at the school and their teachers, to reunite pupils with their parents, to secure the school perimeter, to handle the crowds arriving at the school, to control the world's media which quickly descended upon the school and to initiate a criminal inquiry (Ogg Day 1, p.138; Holden, Day 2, pp.188-189). In the course of the day, over 100 police officers were involved in handling the emergency. That has to be set against a total complement of 658 police officers in the Force.

All efforts within the gym in the first hour were to evaluate the injured and to ensure that all those who needed treatment received it as quickly as possible. The priority at that time was to get the injured to hospital as quickly as possible, and as a result of the efforts, all of the injured children were removed between 10.15 a.m. and 11 a.m.

With the greatest of respect to the parents, it is submitted that this decision was correct. The saving of life must be paramount.

In the course of the evacuation to hospital the names of the children were not noted. This was a deliberate decision, as it was felt that the injured should be left entirely in the hands of the medics and paramedics, and any police intrusion would be insensitive.

In making the decision not to note the injured children's names before evacuation, the police officers that their names would be noted at the hospital and relayed to them through the Casualty Bureau, a tried and test system. The communication problems which arose that day were not anticipated. I will not rehearse them here.

As a consequence of these difficulties, no information was received from the hospital until some time between 12 noon and 12.30 p.m. Had the communication problems been anticipated, a different approach would have been taken. If, God forbid, a similar event occurred tomorrow and no encrypted radios were available the names of the injured would be noted before they were taken to hospital.

It was suggested by Miss Dunlop yesterday/

yesterday that a policeman might have been despatched to the hospital. This clearly would have been possible, but that is viewed from hindsight and without the trauma of the day bearing in on the decision makers.

After the injured were removed the dead had to be identified. Mr. Taylor explained that as soon as the question of identification was addressed "We realised.....the difficulty that the identification would give because of the scene in the gym and because of the fact that the class teacher was not available to us (Day 1, p.62).

Nursery teachers who had taught some of the children the previous year were asked to assist in the identification. The process was necessarily slow. The circumstances were extremely distressing. As Mr. Taylor stated (Day 2, p. 163), this was "A most harrowing time for the staff involved. We had to take the staff in and out of the gym on several occasions".

It was not just the teachers who were adversely affected. Mr. Ogg also described how police officers were crying. The other difficulties regarding identifications are set out in the transcripts, particularly in the evidence of Ogg, Holden and Taylor.

The paramount concern of all the officers involved in the process of identification and informing families was to ensure that the identifications were 100% accurate. One can only imagine what anguish there would have been had parents been told their child was dead when it later transpired that it was alive; or worse, to tell parents that their child was alive only later to find that it was dead, and the original information had been wrong.

That was the dilemma facing the police: balancing the parents' natural need to know and their desire to give only accurate information. That is not in any way to suggest to what the parents went through in the period they had to wait for information was other than an ordeal. It must have been, and it is acknowledged as such.

As was indicated yesterday, the police officers/

officers in charge did think the identification had been completed by just after 12 noon. It was then that they were told that one identification was wrong, and this caused their confidence in the other identifications to be undermined, perhaps a not unreasonable position, and it was for that reason that the information was not at that stage imparted to the parents.

In his submission this morning Mr. Gibb made reference to the position of Mr. Moffat. Sir, I do not propose to address you in detail on that. I would just refer you to the transcript of Mr. Moffat (Day 8, pp. 1013-4). It is always a feature of such disasters that the media arrive on the scene at a very early stage. If cameras were to be kept away from the scene of crime a cordon was essential. Intrusion of such a nature would be unthinkable. However, it should not be thought that the constitution of the cordon delayed the task of getting the injured to hospital or thereafter identifying the deceased. The different tasks went ahead simultaneously. However, Mr. Holden accepted in his evidence that with hindsight the cordon could have been moved back a bit, and this would have afforded him the opportunity to speak to the parents out of the gaze of the Press.

The media did cause problems on that day. Naturally, they wanted to know how many had died. We heard that there was a figure of 12 broadcast, which caused embarrassment to a police officer who at the time did not know the number. The figure of 12 did not come from the police. The police suspect that they know the source, but it was not thought profitable to explore this at the Inquiry.

The setting-up of the liaison team was thought to be the most sensitive way of breaking the news to the parents. It was done with the best of intentions. It was thought that to derive maximum benefit in the long term the team required to be present at the outset. Again it was a balancing exercise.

It is submitted that the officers involved on the day of the 13th March made a number of judgments in very difficult circumstances and on the basis of the information available at that time. It/

It is submitted that given the circumstances their judgments were reasonable, albeit viewed with hindsight one might change some of these. Lessons can always be learned. These will be addressed, and you, sir, will be given details of this I hope if not today, tomorrow.

I would now like to address you, sir, on Thomas Hamilton. The evidence led on his character should be viewed in my submission with great caution. Reliance should be placed on it only where it is absolutely necessary for you to make a finding.

This submission, sir, is based on several planks. In the first place it is improbable that a properly-balanced picture of Hamilton can be constructed, given the horrendous deed perpetrated by him on 13th March. The natural inclination of many must be to deny their erstwhile friendship.

Secondly, as was explained by Professor Cooke (Day 23, p.2711), there is a natural human tendency after dramatic events such as those of the 13th March to have a distorted recollection of the man. Witnesses may well be selectively recalling parts of Hamilton's behaviour to make such facts fit with the events of 13th March and how Hamilton behaved on that day.

Thirdly, there has been no contradictor. For perhaps very obvious reasons, neither Hamilton nor his family were represented here. It is not being suggested that witnesses were deliberately misleading the Inquiry in any way, or deliberately lying; but given the second consideration mentioned above their recollection in the witness box is quite likely to be distorted.

It follows from the foregoing that the picture painted of Hamilton is probably blacker than he actually was. It also means that attempts by psychologists and psychiatrists to construct profiles of Hamilton are suspect for want of proper base information.

A further factor which must hamper the psychologists and psychiatrists is that they must assume that what the witnesses have said in the witness/

witness box is entirely accurate and truthful.

Notwithstanding the foregoing, however, some witness did recollect Hamilton in a positive light. Francis Cullen (Day 5, p.584) described him as a generous man to work with and a kind man. Ewen Anderson (Day 5, p.593), described him as a very quiet, kind individual. David McDonald (Day 3, p.287) thought of him as an intelligent man and, although eccentric, interesting to speak to. On the other hand, other witnesses formed a different view. "Boring", "uninteresting", "eccentric", "loner", "unstable", "weirdo" are just some of the politer adjectives and nouns used in connection with him at the Inquiry. Just what was meant by these labels was not always made clear.

For/

3.20 p.m.

For example, when Mr. Cole (Day 17, p. 2138), called him a loner, he meant that he didn't join in the talk. Mrs. Anderson (Day 23, p. 2811) also agreed that he was a loner, and meant thereby that she did not think Hamilton had many social contacts.

Professor Cooke (Day 23, pp. 2712 and 2714) used these labels to support his findings, but thought a loner was somebody who did not have "quality relationships". Yet Mrs. Anderson considered Hamilton's relationship with her to be one of friendship. They talked about topics of conversation as one would with a neighbour (Day 23, pp. 2810 and 2811). From her evidence it could be said that she and Hamilton enjoyed a quality relationship. Yet had she given her evidence earlier in the Inquiry and been asked only for a description of Hamilton she might well have said he was a loner, without any qualification. This label might then have been used to support a view of Hamilton which she would not have agreed with. A different definition of "loner" would have been attached to the label.

Clive Wood, for example, was never asked to comment on the quality of his relationship. He might well have given valuable evidence in this regard. When Mr. Wood was in the witness box it was not known to the parties that there was an intent to use the information on character as a basis for analysis by a psychologist and psychiatrist. Generally when witnesses applied labels they were not asked to explain what they meant.

It is therefore submitted, Sir, it is questionable what weight can be attached to the psychological/psychiatric profiles.

There are other reasons for calling the profiles into question. The analysts started by knowing that their subject had a mental deficiency or imbalance, or at least something out of the ordinary, and they were working backwards from a given.

Normally they require to examine a subject/

subject and then make a diagnosis without the guarantee of knowing that there is in fact something wrong with their patient (Cooke, Day 23, p. 2172).

In order that Mr. Baird could prepare his second supplementary report, a statement was read to the Inquiry of an anonymous witness. It is difficult, in my submission, to ascertain what value that statement can have. It is respectfully submitted that to give it any weight whatsoever would be to do the witness a credit not justified. Not only was the statement introduced with the caveat that it was anonymous and that the witness had declined to attend, it was further stated by the learned Advocate Depute that the witness had convictions for dishonesty and parts of the statement capable of corroboration could not be so corroborated. It is submitted that its terms should be ignored.

Professor Cooke acknowledged that in preparing his profile what he was doing could only be regarded as -- I quote -- "slightly informed speculation after the fact" (Day 22, p. 2690).

It is respectfully submitted that your findings should not be influenced by evidence built on such a flimsy base.

I would now like to turn to look at Hamilton and his relationship with violence. I would start by posing the question as to whether there was anything in his behaviour which ought to or would have alerted a psychiatrist that Hamilton was to be a danger with a firearm.

There is no evidence of literature written from a psychiatric perspective to assist in this task. I do not believe that there is any.

The best that one can do in my submission is to look to established predictors of violence to ascertain if they are present in Hamilton, or were present in Hamilton. The best predictor of future violent behaviour is a past history of violent behaviour.

Other factors which can assist in such predictions are the abuse of drink or drugs; further, if an individual has problems in managing his/

his anger, for example does he react with physical violence to insults or differences of opinion -- then that is a further predictor. Youth seems to be more disposed to violence than older persons. Males will commit acts of violence more frequently than females. The evidence in support of that came from Dr. Baird yesterday.

If one then seeks to apply these criteria to Hamilton, it is submitted that a very low probability rating would have been given to Hamilton had he been psychiatrically assessed for a propensity to be violent -- and I accept that as being distinct from holding a firearm.

Save for the two incidents at the summer camps in 1988 and 1991, there is not the slightest suggestion that Hamilton perpetrated any act of even mild violence.

His ability to control his anger was tested on several occasions, and some tests were severe.

The most extreme was probably when he was covered in flour, etc. and, as Mrs. Haggart put it "kicked up the backside" as he left one of his boys' clubs. It would appear that not only would he not make a complaint against Mrs. Haggart, but there is no evidence suggesting he even lost his temper (pp. 724-725).

George Robertson, the Member of Parliament, described his wife being angry with Hamilton and confronting him. Hamilton remained calm. Mr. Robertson's evidence was: "Our recollection of Thomas Hamilton was of a man, even from other anecdotal, who even when confronted could remain calm" (p. 1802).

Mr. Robertson also described another parent cross-examining Hamilton in 1995 in what Mr. Robertson described as "a very very aggressive way", and in spite of great hostility and provocative questioning, he at no time reacted strongly. So Mr. Robertson thought that he "had no indication that this was a man who was bottling up any ferocious, murderous instinct. That was not something which crossed our minds".

It/

It didn't cross the mind of Mr. McMurdo either. Both he and Holden met with Hamilton in 1989 and 1993 respectively. Both remarked on how controlled Hamilton remained (Day 12, p. 1467 and Day 7, p. 875).

Throughout the Inquiry no witness has said that Hamilton lost his temper, save for Mrs. Haggart (Day 6, p. 718). It is submitted that she is not a credible witness.

At the age of 44 Hamilton could hardly be described as a youth.

About the only indicator which Hamilton fits is that he was male, albeit a male described from time to time as effeminate, the reference for that being Crawford (Day 4, p. 414); McMurdo, (Day 12, p. 1511); and Wilson (Day 3, p. 378).

It is submitted that viewed from the position of a psychiatrist there would be no reason to believe that Hamilton was a man predisposed to violence. If a psychiatrist would in all probability have formed that view, there is no reason to believe that a Chief Officer of Police should have come to a different view.

Properly analysed, Professor Cooke's evidence reaches the same conclusion. On page 2677 the professor, from the information which he had, excluding the events of 13th March, did not think he could have predicted that Hamilton would have been a risk.

If I could now turn, Sir, to consider the aspect of personality disorder, on page 2682 when considering whether Hamilton had a sadistic personality disorder, Professor Cooke thought there was some evidence, but insufficient to be absolutely certain.

In his report and subsequent evidence Professor Cooke considered that certain elements of the evidence led suggested that Hamilton may have suffered from a sadistic personality disorder, as defined in DSMIIIR. The factors which Professor Cooke said supported this finding are set out in his report from page 8 to the second paragraph on page 9 (Day 3, p. 2715). In the evidence there narrated Hamilton/

Hamilton was said to have become amused or obtained pleasure from suffering.

The first piece of evidence which is said to support the view that Hamilton gained pleasure from the psychological suffering of others is in relation to the telephone calls which were made to his mother in respect of her diabetes. Hamilton suggested she would have to go to Inverness for attention. This had distressed his mother. However, there is no suggestion in the evidence that he was amused or gained pleasure from this.

Mrs. Sutherland (Day 2, p. 206) put it down to schoolboy humour.

Another instance is said to involve Hamilton's former neighbour, Grace Ogilvie. Professor Cooke states that Hamilton had deliberately frightened Mrs. Ogilvie when she was hanging out her washing. A scrutiny of the transcript (Vol. 3, p. 276), where the incident is recorded, makes no suggestion that what Hamilton did was deliberate, nor that he gained any amusement or pleasure therefrom.

The report goes on to rely on Hamilton keeping his adoptive father outside his house at night for up to 20 minutes, as spoken to by Mr. Deuchars. In his statement to the Inquiry (Day 2, p. 208), there is no record made of this incident by Mr. Hamilton Snr. Had it been of significance or remembered, one might have expected him to tell the police of it.

We also have the evidence on Day 2 (pp. 204 and 207) from Mrs. Watt and Mrs. Sutherland respectively to the effect that the adoptive father had a drink problem. It is submitted that that fact alone could provide a perfectly plausible explanation as to why the father was kept out at night. It could also explain why such an apparently significant event has not been recalled by him. Indeed it might also give a completely innocuous explanation for why Mr. Hamilton complained that his son took over the whole house, moving the adoptive father's personal possessions, etc., into one room.

The final piece of evidence relied upon by/

by Professor Cooke, and on which I would seek to comment, is the incident when James Gillespie had a gun pointed at him by Hamilton, which incident is described on page 351 of Day 3. Again there is nothing in the transcript to suggest that amusement or pleasure was derived by Hamilton from this action.

The conclusion which is reached by Professor Cooke is that on balance there is insufficient evidence to make an absolute diagnosis. Given the evidence just narrated, he was able to conclude, however, that there were significant traits.

It is respectfully submitted that the evidence comes nowhere near demonstrating facets of Hamilton's behaviour -- by that I mean the amusement or pleasure from suffering -- which Professor Cooke states are necessary in order to constitute evidence of a sadistic personality disorder. All of the incidents are just as susceptible to an explanation which would not give rise to a conclusion that Hamilton had a sadistic personality disorder.

Also in support of the conclusion that there are some traits of sadistic personality disorder, Professor Cooke relies upon the video tape. He draws one conclusion from having seen it. He relies upon the evidence from somebody he describes as "a physical education expert" to say that the boys were pushed far beyond their abilities.

The only person who has given evidence with any training in physical education, as far as I could ascertain, is Mr. Boal, who gave evidence on Day 14, and said (p. 1470) that he was an under-graduate student in sport in the community, a position which hardly merits the title of "physical education expert".

Dr. Baird wondered if Hamilton might have destroyed pornographic material. If so it may be thought surprising that the collection of videos remained, if Hamilton did consider them to be pornographic.

Dr. Baird considered the possibility of Hamilton suffering from a sadistic personality disorder/

disorder, but thought the evidence in support could only be described as of a minor degree. Although he thought that some of the characteristics could overlap with a psychopathic personality disorder, it does appear that those aspects which Professor Cooke relied on to make his diagnosis, as set out in the Report and in evidence are distinct from the aspects Dr. Baird relied upon. The behavioural aspects may have overlapped, but in fact they didn't.

Professor Cooke discounted the possibility of Hamilton having a psychopathic personality disorder. He scored him as having six points when 18 would be needed. Dr. Baird considered that he did have such a disorder.

What one therefore has is a situation where two experts disagree. Given that one has already indicated that what he was doing was speculating after the fact, it is submitted that it would be unsafe to conclude that Hamilton did suffer from any personality disorder.

There was, however, agreement between the experts that he did not have a mental illness.

Even, however, if Professor Cooke is correct in his diagnosis of Hamilton having such a disorder, none of the aspects which constituted his reason to believe he was so suffering could have or should have been known to Central Scotland Police.

However, both Dr. Baird and Professor Cooke considered Hamilton to be a paedophile.

Again, in my submission, there is no evidence before you which would entitle you to conclude that Central Scotland Police should have been able to make that diagnosis of him. Most of the information upon which Dr. Baird relied in the transcripts to support this conclusion was information not known to the police. These aspects are set out in the supplementary report he prepared.

In any event, even if by some process the police ought to have been aware of Hamilton being a paedophile or of having such tendencies, ought that to have led them to the view that he should not have had a firearms certificate? It is submitted that there is no basis for that belief. Professor/

Professor Cooke offered the following view (Day 22, p. 2688) -- and I quote: "Dealing with the precise situation of Hamilton" -- and this is the question put to him -- "Dealing with the precise situation of Hamilton, we heard in evidence that a number of concerns arose in relation to him, both of cruelty and neglect of children, requiring boys to train in swimming trunks, taking photographs of them and taking videos of them, and showing weapons to them. There had been a number of parental complaints". The answer to which is "Yes".

The questioner goes on: "With that information would you have been able to make enquiries about Hamilton which would have enabled you to draw a conclusion as to his fitness to hold a firearms certificate?" The answer was: "I think it would be difficult. It is difficult to see the link between paedophilic interest and violence. In fact, paedophiles as a whole tend to be non-violent. The fact that he had these other interests would not necessarily be any indication of a propensity to be violent with firearms."

In/

3.40 p.m.

In his first report, Dr. Baird did not consider that Hamilton's sexuality provided any direct explanation for his heinous crimes. He said that the fact that he owned guns and was a paedophile were coincidence.

It was suggested in cross-examination that violence by Hamilton might be predicted should he be confronted by an angry parent who suspected that he was a paedophile. I have already addressed you, sir, on the way in which Hamilton was able to remain in control when confronted in similar situations.

Taken together, it is submitted that there is nothing in the evidence of the psychologists and psychiatrists to suggest that the police in any way failed to take factors known to them into account which, if they had, would have changed any of the decisions which were made in relation to the suitability of Hamilton to possess a firearm.

I would now like to turn, sir, to the question of Hamilton's membership of clubs. From 1987 there is clear evidence that Hamilton was a member of the Stirling Rifle & Pistol Club. That is Wood (Day 4, p.444) and Crawford (Day 4, p.392). In the early 1980s, he was a member at Callander Gun Club where he shot with Clive Wood. Wood, (Day 4, p.442; Moffat, Day 3, p.359). In 1982 he was also a member at Dunblane Rifle Club where he met Ewen Anderson. He attended there for some years. That is Anderson (Day 5, p.587). He taught the boys who attended the Dunblane Rover Group which Hamilton had formed in late 1981. G.F. Smith thought that the Stirling Club inherited Hamilton from the Dunblane Club when it folded (Day 4, p.429). Hamilton would still have required formal nomination and acceptance had this been his means of introduction to the Stirling Club (Day 4, p.432). We know, sir, that he was a member of the Clyde Valley Pistol Club in 1985 and 1986.

On balance, one can conclude that from the early 1980s Hamilton was probably a member of Dunblane Rifle Club until it closed in 1986/87. During this period he was also a member at the Callander/

Callander Gun Club and the Clyde Valley Pistol Club for at least some of the time. From the evidence, it is difficult to say what his membership was in the late seventies although it could have been with either Dunblane or Callander or both.

There has been evidence led, sir, on the frequency with which Hamilton shot. The ammunition sales suggest frequent shooting until 1986 and although there appears to be a break in recorded sales between 1979 and 1984, in 1987 sales drop. However, the evidence suggests that Hamilton continued to shoot. That is Crawford (Day 4, pp.392 and 417) and Wood (Day 4, pp. 444-446). Crawford saw him at shoots organised by the Stirling Club, albeit always with Clive Wood. Wood recalled a number of visits to Ashgill during the late eighties. Only in 1992/1993 did Wood consider Hamilton's shooting to have been insignificant. Crawford thought that from May, 1995 until June, (sic) 1996 he didn't shoot with the Stirling Club (p.397). Although the overwhelming evidence is to the effect that Hamilton did not manufacture his own ammunition, it would appear that he did purchase from the ranges he attended. Wood recalled him purchasing Early Target Ammunition manufactured by Mountain & Sowben. It was of a type which had been repacked. Wood (Day 4, pp.445-446). Such a purchase would not require to be recorded on Table 2 of Hamilton's firearms certificate provided it was all shot at the club where purchased. The only evidence contrary to that is from Mr. Cole (Day 17, p.2137). The overwhelming evidence points to there being no requirement for club purchases to be recorded unless some ammunition is not utilised and is subsequently to be removed from the range. Of course, home made ammunition does not require to be recorded under any circumstances. On balance, sir, it is submitted that Hamilton made use of his firearms certificate to a greater or lesser extent throughout the period from 1977 until his death.

The next section which I would wish to touch upon is in relation to his handling of guns. No witness spoke to Hamilton being unsafe with a firearm whilst on the range. The weight of evidence is in fact to the contrary. Mr. Ross Watt (Day 7, p.856) described Hamilton as being "very careful". Garry McDonald (Day 5, p.564) thought he was "very strict when it came to safety in shooting".

shooting". Anderson (Day 5, p.588) said "The discipline was excellent". Gordon Crawford (pp.401 and 416) considered his handling of firearms was safe. G.F. Smith (Day 4, p.428) thought he was careful with his firearms. W.P. Campbell (Day 4, pp.437 and 440) stated that everything he was asked to do he did properly. William Cole (Day 17, p.2136) had no reason to doubt Hamilton's safety with a gun. G.F. Smith, the present President of Stirling Rifle & Pistol Club (Day 4, p.428) could recall only one occasion when Hamilton had broken one of the club's safety rules. Hamilton had lowered a gun out of line with the target and had been corrected by one of the members, which criticism had been accepted by Hamilton. To put that incident in context, Mr. Smith said that everybody has at some time or another been picked up for something in relation to safety. On the same page, Mr. Smith recounted that at a meeting of various members of the club held after the 13th March, nobody could think of anything Hamilton had done or said which, even viewed with hindsight, should have resulted in some action having been taken by the club. That finding, sir, must be put in context of the evidence given by Crawford (Day 4, pp.394, 395 and 400), Smith (Day 4, p.427), Campbell (Day 4, p.439) and Wood (Day 4, p.488) to the effect that Hamilton shot rapidly. Crawford described him as shooting without a good understanding of competition shooting. It must also put in context the second factor, namely the evidence of Hamilton attaching stickers to the various targets at which he shot.

For what it may be worth, views on Hamilton's ability as a marksman were mixed. They ranged from "poor" as described by Crawford to "reasonably good shot" as described by Smith.

That is all I propose to say at this stage, sir, in relation to Hamilton as the evidence has described him.

I would now like to turn to the third section in the submissions which is that dealing with the law and practice relating to firearms. I will not set out the terms of Section 27(1). They are there for us to see.

It is clear that what firstly requires to/

to be done by a Chief Officer of Police is to be satisfied that the applicant has good reason to hold a firearm. The question then arises of what constitutes good reason. The Act, as we have seen, is silent and recent case law provides little or no assistance. The guidance issued by the Home Office and the Scottish Office, document 1L, provides at paragraph 6.8(e) "A certificate.....should not be granted.....unless the applicant has regular and legitimate opportunity of using the weapon. e.g. for target practice as a member of a pistol shooting club".

The joint submission made to you, sir, by the Secretary of State for Scotland and the Home Secretary, which hereafter I shall refer to as the joint submission, repeats the terms of the guidance and then goes on to state "This makes it clear to the police that membership of a target shooting club at which the applicant can use a particular pistol or revolver can be regarded as a good reason for the issue of a firearms certificate to possess it and the ammunition for it. We understand that all police forces in Great Britain adhere to this advice and will issue firearms certificates to members of clubs under the circumstances, provided that they are otherwise thought to be suitable" and that comes from page 11 and paragraph 55.

LORD CULLEN: Mr. Taylor, do you take the view that the first of the two sentences which you quoted from the Government evidence is dealing with the same proposition as the proposition quoted from the guidance?

MR. TAYLOR: Indeed, sir, yes.

LORD CULLEN: Well, it has of course turned the proposition around because the guidance is talking about what are the circumstances in which a certificate should not be granted.

MR. TAYLOR; I accept that entirely, sir.

LORD CULLEN: It might be suggested the guidance is dealing with a sine qua non without necessarily putting the criterion whereas if you look at the Government's evidence it is expressed positively as if it is enough. Do you see what I mean?/

mean?

MR. TAYLOR: Yes, sir.

LORD CULLEN: In other words, it may be, I don't know, that all the guidance is saying is that you must not grant a certificate unless something is the case. It doesn't follow that that is the only thing that requires to be satisfied.

MR. TAYLOR: I accept it is not necessarily the only thing which requires to be satisfied.

LORD CULLEN: But if you turn to the Government's evidence, it is talking about what the police should do. Perhaps giving an impression that is all that is necessary. That is the point I'm making to you.

MR. TAYLOR: The guidance is not exclusive. There may be other reasons which would entitle an applicant to satisfy the good reason test.

LORD CULLEN: Yes, it may be that the guidance as properly understood, and it is most unfortunate that we get into this argument as to what it means, is saying no more than that it is absolutely essential that the applicant should have the opportunity to shoot regularly and legitimately presumably at a club but that is not to say that good reason is satisfied if nothing more is the case. One has to get back to the question of what a good reason is.

MR. TAYLOR: In my submission, given the terms of the documents which are before us, which do not happily live together, the natural interpretation should be made of them is that good reason equates to opportunity.

LORD CULLEN: What about the intention?

MR. TAYLOR: The intention would be implied in the fact that the application is being made to exercise that opportunity.

LORD CULLEN: Well, does that mean that the intention is part of good reason? That seems to/

to be what you are saying.

MR. TAYLOR: No, I don't think I intend to say that, sir.

LORD CULLEN: What I am concerned about is a case where somebody has simply not exercised the opportunity, apparently demonstrating that he has not had the intention of exercising the opportunity and with that, looking at the past, there is reason to doubt whether he has good reason. We are talking about a renewal situation of course.

MR. TAYLOR: In my submission, sir, both the guidance and the joint submission are framed in such a way they are looking to the future, not to the past.

LORD CULLEN: No doubt but in a renewal situation surely what has happened during the previous period has to be relevant? If somebody says what he wants to do is to have the renewal of a certificate and past events have demonstrated that he has taken no steps to use the gun for which he is seeking to have a certificate, might it be said that there is a reason there to doubt whether he has good reason because past events demonstrate lack of intention? It might of course be when the police interview him they are completely convinced he genuinely does have that intention but what I'm suggesting is that it may be that past non-use may indicate lack of intention but I am more concerned at the moment with asking what good reason entails. Does it include intention or not?

MR. TAYLOR: In my submission, sir, it does not include intention.

LORD CULLEN: So you say it does not really matter whether a person has any intention to use a firearm? Provided he can point to an ability to use the weapon, that is enough?

MR. TAYLOR: Yes, sir. In my submission, sir, if actual use had been intended then one might have found the guidance expressed slightly differently from the way in which one does find it expressed. One may have found the guidance saying that unless the applicant makes or intends to make regular and legitimate use of the weapon. Perhaps/

Perhaps the joint submission might say "applicant did or does use" rather than the words which we do find which are just "can use". Therefore, in my submission, the words do point towards there being no need for intention.

It would not be surprising, sir, if in the guidance there was some other criteria which might be said established good reason but the guidance was silent on that point. If one considers that guidance ought normally to be a document which sets out a number of ways in which a particular goal can be achieved, one might expect to find set out a number of ways in which good reason could be satisfied.

That is not what we find when we look at the guidance. We see only one test, if I can put it that way, but no other test.

I/

4.00 p.m.

I think on the evidence the only suggestion which

there has been as meeting the "good reason" test other than that in my submission to you is that of the veterinary surgeon, who might require that in connection with his job.

LORD CULLEN: You mentioned vets. What is the position about collectors? Beyond target shooters and beyond vets are there other situations? By "collector" I mean someone who does not intend to use any part of his collection but merely to have it and to admire it.

MR. TAYLOR: I have not applied my mind to that. I think in terms of shotgun licensing there are specific provisions covering that.

LORD CULLEN: We can leave that for the moment. Perhaps we might get some assistance later from others.

MR. TAYLOR: Sir, if I can put forward a further argument in favour of the interpretation that I seek to put on the Guidance being exactly the same, that the test for the renewal is the same as for the grant, we have heard several witnesses speak to that, and I think that is correct, by looking at the various documents. If one was to include in the "good reason" test any concept of use one would require past usage by the applicant of a firearm he did not have permission to possess. I am not talking about past usage. But if the test is the same for grant as it is for renewal it would be difficult for anybody to be able to establish that they had used in the past a weapon which they were only about to obtain permission to acquire.

Mr. Richardson in his evidence sought to distinguish between the two, because I suspect he realised the absurdity which might arise. But the Guidance itself at Paragraph 73 indicates that there should be no distinction between the checks made by the police on renewal as opposed in a new application.

LORD CULLEN: I am not sure whether I see the point here. If you have got someone who is applying for the very first time, in the first place, /

place, they can presumably point to having achieved membership?

MR. TAYLOR: Yes.

LORD CULLEN: And I suppose they won't have membership without having practised with a firearm, and that in itself would indicate an intention to use one, and no doubt unless there was some contra indication, any expressions of intention to use a firearm would be taken at face value. So what is the problem? It is when you get round to renewal and someone has not been using the firearm in the past, in other words in the period expired, that might tend to indicate lack of genuine intention.

MR. TAYLOR: I can see how past non-usage might indicate lack of genuine intention. Where I suspect we part company in this dialogue is considering the relevance of the intention.

LORD CULLEN: Because you say it does not arise.

MR. TAYLOR: It does not arise.

Perhaps another way of looking at it, sir, which might derive some support for the position which I seek to urge upon you can be derived from the Guidance when one looks at 6.8(1) where "good reason" needs to be satisfactorily demonstrated for each individual firearm. Now, we know that the quality of the records kept by the Gun Clubs is not such as would record the calibre of weapons which are being used by the members at the various Club meetings.

Crawford (Day 4, p. 420) and Penn (Day 22, p. 2621) suggested that the normal reason records were kept of who shot at a Club was to provide a queuing system.

Other witnesses gave evidence to the same effect. Mr. Bennett (Day 21, p. 2547) made a plea for Clubs to keep records of how often a particular weapon was shot, the implication being that he, Mr. Bennett, did not consider such records were presently being kept. Only Mr. Moffat (Day 17 p. 2150) considered that Army ranges required individual/

individual weapons to be entered in the same record sheet, a record of which particular calibre of weapon was shot.

If no record is kept of the calibre of weapons being shot, then it follows that no check can be made of the use which a possessor of a particular handgun has made of that weapon. If past use is going to be the determinant of future intention it is going to be very difficult for an Enquiry Officer to verify the "good reason" requirement for each individual firearm, because there is no way that an Inquiry Officer is going to be able to know whether each individual firearm has been shot over the previous period of the certificate.

LORD CULLEN: Did Mr. Richardson say that past use was a determinant or merely a factor?

MR. TAYLOR: I will be able to assist you on that tomorrow, sir; perhaps not just now.

Sir, if past use was to be considered of some relevance in determining some future intention, the simplest way for that to be achieved would be to add an additional table to the two tables which presently exist on the Firearms Certificate. This would have facilitated a firearms certificate holder having his firearms certificate duly endorsed on the days on which he shot and recording the calibre of weapons which he used.

Moving perhaps from looking at the actual terms of the Guidance in the joint submission and looking to the practice, it may be thought at first sight that what was said by Mr. Bennett (Day 3, pp. 2555-2557) points to a different interpretation from that which I am urging upon you, sir. Bennett described the various steps taken in his Force to check with Gun Clubs to ascertain, inter alia how often a member shoots. However, the check on usage would not appear to be utilised in connection with any "good reason" test.

On Page 2557 Mr. Bennett said that even if an applicant had not shot for eight years he, Bennett would still be obliged to renew the Firearms Certificate for a further period if the applicant maintained that he had an intention to shoot. He did/

did not consider he could do other than grant the application unless he could persuade his staff to talk the applicant out of it.

According to the evidence at this Inquiry, the practice in Dumfries and Galloway Police Force on one view is that if the applicant is not an active shooter the certificate would not be renewed.

That was said by Mr. Cameron (Day 21, p. 2507). Mr. Cameron also said (p. 2508) his Force's practice was at the grant stage to check if the applicant was an active member of a Club, but at renewal the only check would be on membership. That is so in his opinion because the focus at renewal is on opportunity. This suggests that opportunity does not involve the concept of "use" in his Force.

(p. 2530) "At the time of renewal, however, I think it would be fair to say that provided there was some current membership, it would be not usual for any further-ranging enquiry". He did however say that the applicant would be asked during the Inquiry to confirm his continued usage, by which I take it to mean his intention to have future usage.

From the tenor of Mr. Penn's evidence (Day 22 p. 2618) it can readily be implied that checks are not made by the police at the Clubs of which he is a member to ascertain the extent of a member's frequency of shooting.

Mr. McCarthy, a member of the Bearsden Club, told the Inquiry (Day 21, p. 2574) that the only contact his Club had with the police was a call from an officer to confirm bona fide membership. The bulk of the Bearsden Club's members live in the Strathclyde Police area (Day 21, p. 2583). It would therefore appear that in Mr. Richardson's Force a check on usage is not undertaken.

On the other hand, Mr. Richardson (Day 19) said on several occasions that a check on use in order to determine "good reason" should be made at the Clubs of which an applicant for renewal was a member. Indeed, it was the different interpretation of what constituted "good reason" which formed the main basis for Mr. Richardson's criticism of CSP's procedures (Day 19, p. 2338). Mr. Richardson was not however saying that what he thought/

thought should happen was followed in practice by his or indeed any other Force.

Mr. Bennett (Day 22 pp. 2545-2555) introduced the concept that there should be enquiry made at the Gun Club of which the applicant is a member with a view to determining how the applicant conducts himself when shooting. This is not a practice adopted by CSP. The only arrangement which we heard of was the reporting of a member to CSP should he be expelled from his Club. Any conduct short of expulsion would not be reported.

Sir,/

Sir, it is submitted that whilst this may be superficially attractive it is improbable that much will come of it. One might expect a certain reticence on the part of the club officials to comment on members' attitudes. They certainly are under no current obligation to respond, and given the terms in which the Stirling Rifle and Pistol Club have made a submission to you, sir, it is improbable that they consider there to be any obligation on them just now. On my reading of the submission they have made, their complaint is that the police did not tell them of the rumours which were circulating about Hamilton, but their submission stays silent on any suggestion that they might have drawn to the attention of the police any of the behaviour of Hamilton when shooting.

In my submission, there is no evidence before the Inquiry to suggest that other Forces make enquiry of clubs to ascertain whether the members there are competent shots and/or properly behaving on the range. One can say that in relation to Mr. Cameron's evidence in relation to the Dumfries & Galloway Police Force (Day 21, pp.2507 and 2508), Mr. McCarthy (Day 21, p.2583) and Mr. Penn (Day 22, p.2618). As commented already, the concept of "good reason" extends to each and every firearm which it is sought to possess. In that situation, what does "good reason" amount to? The Guidance provides no indication other than a requirement that an applicant has a regular and legitimate opportunity to use the particular weapon. It is thus submitted that if the club of which the applicant is a member owns or has access to a range or ranges which can accommodate all calibres of weapon, the "good reason" for a particular calibre has been established. The limiting factor will be the security arrangements for the weapons and the cost to the applicant in acquiring them.

If over the life of the Certificate an applicant did not acquire one of the weapons which he has authority to possess he would be entitled to renewal of that authority providing he maintained the appropriate membership and continued to wish to have the opportunity to acquire the weapon during the currency of the certificate about to be granted. This is the approach impliedly advocated in the booklet published by the British Field Sport Society (Day 9, p.1126), and it would in my submission appear/

appear to be the approach also adopted by the Police Authority for the area in which Mr. Penn resides, and should that not be the Metropolitan Police, it would appear also to be the approach of the Metropolitan Police (Day 22, p.2635).

Mr. Cameron (Day 21, p.2505) confirmed that the interpretation which I have just sought to set out is that adopted in his Force. "If someone is involved in a range of shooting disciplines, as the law stands and as convention stands, if they can offer that as the reason for acquiring it, it would in all probability in most Forces I think be granted, because 'good reason' has been shown, and there is no concept in the Guidance of an upper limit, on the proviso that conditions are met in regard to security".

Mr. Bennett (Day 21, p.2556) commented adversely on the number of weapons which shooters are entitled to possess and in respect of which he felt he had no alternative but to allow.

The approach adopted by these two Forces is the one which on the evidence is adopted by Central Scotland Police. Lynch (Day 11, pp.1316 and 1317) said that he always went through the application form with every applicant to discuss any authority which they held to acquire a gun and which had not been acquired. Provided the Club still met the criteria for firing the weapon and the applicant still had an intention to purchase then he would recommend renewal of the authority.

We know that all the ranges used by the Stirling Club were able to accommodate all calibres (Day 17, p.2139).

The other question which cropped up from time to time in evidence was in relation to the possession by Hamilton and by others of more than one weapon of the same calibre. Again, it is submitted that the test must be "good reason". Bennett (Day 21, p.2560) gave examples of what constitutes good reason in such a situation as practised in Fife. He said that if someone wanted to shoot at 25 metres and 50 metres and he didn't want to zero his sights on each occasion he changed distance and he then wants a spare weapon in case he is shooting in a competition and one jams or breaks then/

then that would constitute good reason to possess three weapons.

Mr. Hyde (Day 3, p.324) thought it not unusual to have two weapons of the same calibre. Mr. Hyde operates a mail order gun business, and thus will have an overview of the practice throughout the UK. Mr. Cameron (Day 21, p.2505) echoed the view expressed by Mr. Bennett.

The approach taken by CSP is consistent with the foregoing. When giving evidence on Day 10, Mr. McKenzie set out their approach (pp.1191-1193). It is thus submitted that the interpretation which was made of the legislation and Guidance in respect of acquiring more than one weapon of the same calibre is to place a slightly higher hurdle in the path of the shooter but one which is readily overcome. Again, security will become the limiting factor.

Perhaps one can understand the view that is taken, because if an individual is a suitable person to possess a firearm he can do as much damage with one weapon as with a number. The events of the 13th March illustrate the point. Only one weapon was used to wreak the havoc of that day, save only for the bullet which Hamilton reserved for himself.

LORD CULLEN: I see you have come to a natural break. We will rise now and resume at 10 tomorrow.

Adjourned until tomorrow at
10 a.m.

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