SHOOTERS' JOURNAL

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PLYMOUTH INQUEST AFTERMATH

FIREARMS BILL 2023

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BOOK REVIEW McCUDDEN VC

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……

The Shooters' Rights Association is so called because Larry Watkins chose the name to which to rally shooters in 1973 in reaction to the Green Paper Cmnd 5297 issued by the Home Office that year. Everybody joined in; the shooting organisations that existed fifty years ago were all governing bodies of their bit of the shooting sports – the British Field Sports Society (BFFS), the Clay Pigeon Shooting Association (CPSA), the Historic Breechloading Smallarms Association (HBSA), the Muzzle Loaders Association of Great Britain (MLAGB) National Rifle Association (NRA), The National Smallbore Rifle Association (NSRA), the Wildfowlers Association of Great Britain and Northern Ireland (WAGBNI) & Larry as the SRA met in Purdey's Longroom – after which they were named and united by the common threat of paranoid bureaucracy, found ways of becoming a gun lobby of sorts.

Most of the work involved briefing MPs and Lords, of whom quite a few were members and in 1973 everyone in their fifties was a WW2 veteran and they knew the value of the rifle clubs to the defence of our realm. Nobody understood was what it had to do with the Home Office. Time would tell.

Formed in 1859 as volunteer rifle regiments, they quickly reorganised themselves into social clubs under the umbrella of the National Rifle Association and part of the social season in which upper class marriages are arranged. The working classes got involved with miniature rifle ranges at social clubs and their works. In 1900 the Prime Minister, Lord Salisbury, was happy to declare how much he would "laud the day when there was a rifle in every cottage in England".

2 world wars and the 60s later, the Home Office took over the approval of rifle clubs and the administration of prohibited weapons authorities, but far from the internal department taking responsibility for internal security, it was the exact opposite. The Green Paper was derived from an unpublished report prepared by a self-appointed committee convened by chief inspector of constabularies Sir John McKay as his paranoid reaction to the 600,000 shotgun certificate applications received by police forces in 1968. His plan was the disarmament of the public so that civilian policing could carry on as normal through any change of government – no matter what language the new government spoke.

COVER PICTURE Issue 77 Spring 2023
(SRA Photograph)

Students at Trinity St David University Re-enact a duel of champions in their 12th century costumes on the 25th March. We went to see our nephew Isaac Law but as a monk and didn't get to fight.

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PLYMOUTH INQUEST

On the 12th of August 2021, Jake Davison shot five people dead and wounded two others before committing suicide with his black pump action shotgun. The chief constable of Devon & Cornwall said on the day that it was a domestic incident that spilled out into the street.

Since Davison had a shotgun certificate and had used that to acquire the murder weapon it was only to be expected that the hundreds of thousands of certificate holders who do not behave like that would become the focus and target for media speculation about what the government would do to the shooting community as a reprisal for what turned out to be a case of the police not using the existing law properly with respect to Davison's status.

It is the case that all the spree killings in Britain in which licensed firearms have been used as murder weapons have taken place since the Home Office took over 'control' of the licensing system and the gun trade. And despite Home Office policies causing the problem, there are those who still seem to think that they can make yet more tweaks to their rotten system to prevent 'it' happening again.

The inquest itself, from which the comments below have been drawn, pinned blame squarely on the police for not following Home Office guidance: a second problem: most of them, it seems had not even read any of the stuff the Home Office has issued for police guidance so they do not follow it and a lot of the Home Office output is incompatible with the law anyway.

Stylistically, we quote other writers' work in italics bold. Where we have comments to add we will put them in the same style as this paragraph, in brackets.

"Families say police have "failed" them all and there had been "a consistent story of individual failures, breath-taking incompetence and systemic failings within every level of the firearms licensing unit" in Devon and Cornwall Police.

Over the course of the inquest the jury heard details of mistakes made by Devon and Cornwall Police in the granting of Jake Davison's shotgun certificate and the later seizing and returning of his weapon and certificate.

Here is a list of failures in the firearms licensing unit:

- ***High risk decisions were downgraded, those decisions were not passed to senior managers for reviewing, and dip sampling did not take place.*** (Central to this case is that Davison's guns were seized under the unlawful 'seizure policy'. The

Home Office policy places the decision to return guns on the assistant chief constable. The policy was never intended for the widespread use it has been put to and the complication its use causes is that it prevents judicial oversight of what the police are doing by the courts.)

- ***Staff were also failing to follow statutory Home Office guidance for assessing applications and were not using the force's own risk assessment matrix to assess suitability.*** (There is a national decision-making model that is supposed to be used) ***They had also not received nationally recognised training, which had been recommended in the aftermath of the Dunblane tragedy.*** (The Dunblane murders were twenty-seven years ago)
- ***Superintendent Brent Davison, who became head of unit after the incident, said the decision-making system was "fundamentally flawed" and was in place for at least five years.*** (So has the flawed non-statutory guidance to police)

– Granting the application

Superintendent Adrian Davis, the firearms licensing co-ordinator for the National Police Chiefs Council, said Davison should never have been granted a shotgun certificate because of a flawed assessment of his application.

He said there were far too many gaps in the then 18-year-old's original application that, had he been reviewing it, he would have wanted further information.

With a full picture of Davison's violent history, including the incidents at school and a domestic argument with his father, he would have refused the application.

David Rees, a firearms enquiry officer, assessed Davison's risk as "very low" even though it should have been high risk and recommended granting it.

Supervisor Steve Carder, who signed off the recommendation, accepted his role had become a "box ticking exercise".

Chief Superintendent Roy Linden, of Devon and Cornwall Police, said Davison should never have been granted the certificate.

"Jake Davison should not have had a licence. Jake Davison should not have had a licence again in 2020. For that, we very much apologise. It should not have happened," he said.

– Lack of medical information

Davison's GP followed BMA advice not to supply information to the police because he was not qualified to comment on the "assessment of behavioural and personality disorders" (Statutory Home Office guidance to police issued in 2021 says that GPs should not be asked for such assessments. The medical pro forma lists the matters of interest to the Home Office and is styled to preclude assumption making by anybody.)

Police never sought any further information and did not inform Davison's doctor he had been granted a shotgun certificate. (The statutory medical pro forma tells GPs to put a flag on the file to remind them that the patient has applied for a certificate. Police are supposed to tell GPs the outcome of applications.)

– Should Davison have been charged with assault after attacking two teenagers?

Detective Inspector Debbie Wyatt, who decided to refer Davison to the deferred prosecution Pathfinder scheme, maintained she had made the right decision.

A lawyer representing Davison's victims suggested Det Insp Wyatt's decision to treat the incident as battery rather than the more serious assault occasioning actual bodily harm was "plainly wrong", which she rejected.

Her colleague, Detective Sergeant Edward Bagshaw, said the case should have been sent to prosecutors to consider charges but officers were under "pressure" to use out-of-court disposals due to an increased backlog in the courts caused by the pandemic.

– The delay in informing the firearms licensing unit

The detective constable who investigated the assaults had seen an "FC" marker about Davison on the police national database but did not know it meant he held a firearms certificate.

It led to a two-month delay in the firearms licensing unit learning of the incident when they were told by a Pathfinder scheme worker.

– Seizing Davison's certificate and shotgun

Mr Rees assessed Davison risk to the public as medium, which he had downgraded from high risk because of the passage of time.

He seized the shotgun and certificate pending the outcome of the Pathfinder scheme.

Experts agreed it was the correct decision to seize them, but Mr Davis said they should not have been returned because of the history of violence. (Violence and history of same have been considered by a court in Chief Constable of Norfolk versus Edwards in 1998. That decision became the common law on the matter and directs how violence should be considered in the context of a certificate holder)

Responding to the findings of the Plymouth shooting inquest, Luke Pollard, Member of Parliament for Plymouth Sutton and Devonport, said: "Today is a difficult day for our city. My confidence in Devon and Cornwall Police has been shaken by this catalogue of catastrophic failings. The Inquest has shone a light on broken gun laws and licencing systems that are not fit for purpose. Firearms licensing must be beyond doubt and uphold the highest standards. I do not have confidence in Devon and Cornwall Police to issue firearms licences, and every gun certificate they have issued must be reviewed in light of the failings laid bare by the Inquest. I am angry. Our community is angry. We want to see comprehensive change to prevent a tragedy like this from ever happening again. My thoughts remain with the victims, their loved ones, survivors, witnesses and everyone else in our city who has been affected. Please remember that help and support is still available."

Back to the top; what will the Home Office want to do to us to punish us for Devon & Cornwall's gross negligence incompetence?

Up popped comparative newcomer to the House of Commons – 2017 intake – Luke Pollard MP who started by saying almost what Douglas Hurd said after the Hungerford murders in 1987 – that the public had no confidence in the police administration of the licensing system.

He was Home Secretary at the time, so it did not take the Home Office long to get him back on their message. A month later, he told 6th form pupils at St Edward's school that the Home Office had a package of measures for reigning in the licensed possession of firearms in the UK that had been ***"awaiting a suitable legislative opportunity."*** That turned into the firearms bill 1988, which when we saw it was clearly the 1973 Green Paper Cmnd 5297 that Parliament had robustly rejected fifteen years earlier.

This time around we observe that both the solicitor for the families and Luke Pollard have made calls for all the certificates on issue to be checked for processing flaws – exactly the same as the head-by-head check of certificate holders that was called for following the Atherton Inquest in 2012, which Andy Marsh – then the ACPO lead on firearms claimed he got the nod for from David Cameron. He later had to row back on it when it turned into a paranoid witch hunt. We had a more recent one of them after the Statutory Guidance was published in November 2021.

We wonder in amazement how anybody can assume that there might be mistakes in certificates issued but none in certificates refused or revoked.

Mr. Pollard also wandered off into speculating about banning the type of guns Davison used. So his campaign is to punish us for Devon & Cornwall's incompetence, as if the gun type makes any difference to anything.

That old chestnut is a perennial which gets raised every so often as a potential means of reducing the number of guns in the hands of the people acting lawfully for its own sake.

It was dealt with by a sheriff substitute in the 1966 case of Joy v chief constable of Dumfries and Galloway, in which he said that a firearm did not need to be suitable for its intended purpose, merely adequate.

We pause to mention that Davison's intended purpose was clay pigeon shooting. How he arrived at the choice of gun he acquired is a mystery. Single barrel repeaters might be adequate for clay pigeon shooting but were certainly frowned upon by other shooters on the skeet layout we started at. They objected to them because the slow reloading time meant them waiting longer for their turn and one cannot conform to the gun-handling etiquette of a clay ground with a fixed barrel gun anyway.

It is also the case that shooting competitions are gun versus gun. You get no concessions for age, youth or sex. Not having the 'right' gun gets you disbarred from some events and compromises your performance in others. Either or neither might happen if you turn up at a skeet shoot. It's a participant's choice. The police have no mechanism for preconditioning a shotgun certificate as to what can be bought on it because that has already been done in primary legislation.

'Suitable' v 'adequate' in the Joy case was the sheriff's way of heading off one of the police objections to Major Joy having his rifles back. He also said that the police should be considering the position from the point of view of the applicant and not from that of a possible objector.

Consider, for a moment, a motor vehicle. When you set out to acquire your first one you would have had in mind what was suitable for your purpose in owning one. You might have had to qualify 'suitable' down to 'adequate' on price, or availability – or peer pressure.

'Peer pressure' – the influence of family, mentors, teachers, the gun trade

and the club were fundamental to our choices of gun when we lacked the experience to properly judge where our price would put us on the 'suitable' to 'adequate' continuum.

It was the same with firearms and that is where club instructors and competition organisers came in. Clubs have rules about what firearms can be used in them and so do competitions. The new member must be trained and mentored in those parameters in order to make the right choices about which firearms to buy – and in the old days had to measure up satisfactorily to club committee standards before applying for a certificate.

Firearms competitions have always been firearm v firearm – like against like: who is holding it is irrelevant, so teenage girls competed in the same class as old men and the choice of firearm determines which competitions could be entered.

What the Home Office did after taking over 'control' of the gun trade and the rifle clubs in 1969 was to progressively peel away that peer pressure by taking the decisions about what firearms the newcomer could buy out of club hands and letting the police decide.

It was a double whammy: the Home Office assumption was that the people who would most certainly encounter that new member when he had loaded firearms after his application was granted were not to be trusted by the authorities at having a hand in deciding what he could have and when he could have it.

It was assumed in the ivory tower that firearms dealers would nod through any potential mass murderer in order to make sales and that clubs, who got to know people well through the dual facts that clubs are social entities into which only people who fit will be admissible and only nice, safe people will be acceptable was less of a safeguard than the police checks of gun cabinets would be.

The SRA's founding chairman observed that his 1974 application in Thames Valley when he went to Oxford as a student were perfunctory – just going through the motions. He had been a police officer in Alabama before becoming a senior Pinkerton detective. In that role, one of the tasks he performed was background checks on security guard applicants.

He would rattle off the checks he could and did carry out such that by the time he met the applicant he had a good working knowledge of the person's background – good enough to catch him in a lie if he told one.

Thames Valley undertook no such background checks and the perfunctory visit was mainly a security inspection. Eleven years later, new certificate holder Michael Ryan obtained variations on his firearm certificate for two full bore semiautomatic rifles for which there were no competitions at the time.

Each subsequent spree killer has slipped through the same cracks – all caused by Home Office policies – Thomas Hamilton's club had closed and other local clubs did not want him in the run up to his 1995 renewal. He would not have had handguns in 1996 if police had listened to the clubs.

Derrick Bird likewise in Cumbria; nobody but the police knew he had a firearm and a shotgun certificate. He had no mentors in the shooting community, in which nobody knew him.

Mike Atherton in Durham, like Jake Davison ten years later, had been disarmed by police, checked out inadequately and gotten his guns back in

time to murder his family. The shooting community were not consulted. And that is the problem with the seizure policy. Apart from being unlawful in the first place, it denies the individual judicial scrutiny and thus the judiciary peer scrutiny. Where people in that predicament approach their shooting club or organisation, policing tends to close in on itself, protecting their decision over seeking the truth.

We suspect they have been given targets as to what proportion of applications should be refused and what number of revocations should take place.

In the old days, nobody was put forwards for a firearm certificate without having passed social muster in their peer group rifle club after serving a period of probation and having satisfied the committee that it would be safe to let that person acquire firearms via a certificate. Police involvement in the application process was to carry out the checks required of them by the legislation and from 1969 onwards to check the intended security.

Where shotgun certificates differ from FACs is usually where someone tries to force in the thin end of their wedge. Shotgun certificates were introduced in 1968 to replace the Gun Licence: the 1870 Act was repealed in 1966. A 1968 shot gun had a smooth bored barrel more than 24 inches in length measured from where the charge is exploded on firing.

Worries about gun types came later – all of them intended to arbitrarily reduce the number of shotguns in the hands of the public by prohibiting something. The 1937 Act peeled off shot pistols by introducing a 20-inch barrel length – which the Firearms Act 1965 extended to 24 inches.

The panic after the Hungerford murders in 1987 was about 'fast firing guns'. Pump action and semiautomatic shotguns and rifles other than .22" were singled out for prohibition. The ban on shotguns caught those with non-rigid (folding etc) shoulder stocks by creating a minimum overall length of 40 inches. That was because the police wanted shotguns with folding stocks to be 'police only' and the legacy is that pump action and semiautomatic shotguns won't fit in a vehicle gun cabinet – or even in the boot of some cars. They must go on the roof rack.

There are four single barrel repeating type shotguns out there.

- Bolt action, developed by Johann Nicolaus von Dreyse in 1836.
- Pump action, introduced by Christopher Spencer in 1884.
- Underlever action, introduced by Winchester to shotguns in 1887.
- Semiautomatic, introduced by John Moses Browning in 1904

What they all have in common is a receiver and a magazine. The receiver makes the gun's overall length some six inches longer than a break-action gun and the magazine stores cartridges for immediate use out of the weather.

- Bolt action repeaters tend to have detachable magazines, which made them into section 1 firearms back in 1989. We had one – a Marlin Goose Gun centennial edition made in 1970 with a 36-inch fully choked barrel and 2-shot magazine. It was interesting to try and cheap to buy and er, that's it.
- We had a Spencer – interesting to try – our review was published in Handgunner Magazine issue 44 in August 1988. The whole of W W Greener's review of the gun in his

book 'the gun and its development' is taken up with him slagging off Doc Carver, who was promoting it. Spencer went bust in 1887. Winchester came out with an 1893 model and then their 1897, which was produced for sixty years. Pump action found its niche initially in security guard work and then in avian pest control.

- Winchester's underlever model 1887 was short-lived. Ray Russell had two but would not let us play with them. Arnold Schwarzenegger used one in 'Terminator 2' and that caused someone to bring the model back to the market.
- Browning's 1904 shotgun was a bit clunky. Other people had a go and the zenith is probably the Remington 1100 – a gun so successful at the 75-bird duck flush (a three-man team competition) at Country Landowners' Association Game Fair's that Famous Grouse, who sponsored it, created a separate competition for 1100 owners in the spirit of guns competing type with type.

The 1988 Firearms (Amendment) Act restricted all to two-shot and a fixed-on magazine to stay on shotgun certificates. Whether anyone will take Luke Pollard seriously, or just as a steppingstone to more restrictions for their own sake remains to be seen. The lead shot ban is likely to make a greater difference to the shooting sports in the nearer future.

FIREARMS BILL 2023

Up popped this private member's bill in March and shot through the House of Commons and into the Lords like diarrhoea through a goose; where it has stopped at the time of writing. The bill seeks to redefine the use of, and use at, of rifles at miniature rifle ranges.

The proprietors of ranges where only air rifles or sub.23" calibre cartridge rifles are used may possess them without holding a firearm certificate and anyone can use them at the range. You will have seen fairground and seaside pier galleries, but the main use of the exemption is clubs that do not qualify for Home Office approval by being too small and such. Numbers have increased slightly since the Home Office introduced a massive price hike for their approval. It went up from £84 to £444. The changes in the bill are discreet;

- it seeks to change 'use' by patrons to 'possession': the 1968 Firearms Act permitted 'use' of firearms in four circumstances. Two of these were changed to 'possession' in 2017 and if this change goes through the only permitted 'use' by non-certificate holders will be at clay pigeon shooting grounds operating with their chief constable's permission.
- The bill seeks to redefine sub .23" calibre rifles to .22" rimfire. That brings galleries into line with the 1988 Act, which exempted .22" semiautomatic rifles from the ban. The main impact is that since 1988 the .17" rimfire cartridge has been invented. And so has a .17" central fire cartridge. Neither of these could be semiautomatics because of the 1988 Act, so why anyone would be twitchy about clubs having them is a mystery. It seems to be one of those "for its own sake" alterations.
- The bill goes on to try to extend the prohibition on possession of ammunition components without

a certificate to include 'bullet' and 'cartridge case'. Good luck with that. The Home Office dropped their waste-of-time bullet controls introduced after the 1996 Dunblane murders in 2017. And the bill does not distinguish in the case of either bullets or cases between unused and used ones, so the scrap man is going to need a firearm certificate to take our brass.

- The nastiest piece of this bill comes last. Section 3(4)(a) intends to create authority for the Home Office to ***'make transitional, transitory or saving provision'*** and 3(4)(b) says ***'make different provision for different purposes'.*** In other words, the bill is just a stalking horse to open the door to the Home Office doing what it likes without proper scrutiny.

NEWS IN BRIEF

The (London) Evening Standard reported in January (just after Journal 76 went to the printers) on the case of Raymond Frederick NUGENT after he was convicted of 45 firearms offences at Snaresbrook Crown Court.

NUGENT, who it was said described himself as a 'gun nut', had been building firearms, some from scratch, by making cardboard templates before pressing metal to make his products, some of which included firing mechanisms of his own design.

His activities came to light via a lucky dip warrant obtained by the Metropolitan Police in November 2018 led them to raid his home in Coltishall Road, Hornchurch. **The police warrant was obtained after a tip off from the National Crime Agency that he had imported a blank firing gun from the Czech Republic**. Other blank firers found in the raid included an Italian Bruni revolver and a Turkish Atak self-loading pistol – both of which had been adapted to fire live ammunition.

He also converted blank ammunition into live rounds; he told police investigators that he had no intention of using or selling his products. Detective Victoria Sullivan said, ***"Though no evidence was found of any associated criminality linked to NUGENT's activities, the arsenal he had in his possession was lethal and, in the wrong hands, quite capable of causing serious harm. It's thanks to quick*** (?! November 2018-January 2023) ***and decisive partnership working with our colleagues in the National Crime Agency…that we have been able to bring him to justice."***

An expert pointed out during the trial that one weapon NUGENT had produced was 25% more powerful than a factory produced firearm of similar calibre and style. NUGENT was handed down a 7½ years sentence.

SRA COMMENT: some people hand-build working model railway engines in their retirement workshops. Britain is about the only 'free' country on the planet where an enthusiastic hobby gunsmith can neither pursue his hobby legally without documentation nor can he obtain that documentation from the powers that be due to the arbitrary barriers in legislation to prevent firearms development in the UK.

And NUGENT apparently came up with some innovations, although we wondered what sort of expert attributes '25% more power' to an inanimate metal object instead of to the ammunition…

Tim Bonner, Countryside Alliance, posted this online on 19th January:

POLICING REVIEW BACKFIRES ON HUNT SABOTEURS

I am sure that animal rights organisations thought that getting the North Wales Police and Crime Commissioner to engage Wrexham Glŵyndr University to undertake an independent review of the policing of hunting was some sort of victory. The review, however, has backfired and revealed exactly how dishonest and duplicitous anti-hunting activists are. Researchers reported that most videos submitted to the inquiry by activists purporting to show illegal hunting were "heavily edited, poor quality and had no date/time stamp".

They also revealed the experience of police officers in North Wales, who said hunt saboteurs had provided them with footage which is "often edited, or grainy, long distance and...of no evidential value". Officers also told researchers that gathering statements from anti-hunt protestors was "near impossible" and that the activists' "focus is on sabotage".

The report includes evidence from police officers who stated that anti-hunt campaigners often refuse to engage with them claiming that they "have the evidence but won't give it to us". Activists then "post on social media saying [the police] haven't done anything".

The report included a survey of the local population and the resounding response from the residents of North Wales was that they wanted resources to be directed to protecting "children and vulnerable people", rather than on policing hunting. Nor do the academics advocate the issue of hunting be given greater policing priority stating there are "serious cost implications" that come from training police forces to handle allegations of hunting-related crimes.

None of this is particularly surprising for those of us who have been involved in the politics of post-ban hunting. The anti-hunting movement has moved from elation at the implementation of the Hunting Act in 2005, through bemusement at the adaptability of hunts, to rage at their failure to exterminate hunting. This essentially circular journey has taken them back to where they started: driven by hatred and desperately looking for any lever to attack hunts. This report is a devastating exposé of their strategy.

And while of the subject of hunting, the **Hunting with Dogs (Scotland) Act 2023** completed its seven-year passage from being a bad idea to regional legislation on 24th January. No implementation date has yet been announced; the Countryside Alliance speculate that the commencement order will be in the late summer.

MARK HOLMES & THE JCB

We heard rumours shortly before Christmas 2022 that SRA member Mark Holmes was in trouble for being drunk in charge of a digger and attacking a house with it and the case came to Newport Crown Court at the beginning of February 2023 when it was confirmed that the rumours were true.

Mark pleaded guilty to aggravated vehicle taking, criminal damage (two cars in the way of the house he was attacking), driving under the influence of intoxicating liquor and battery – the last mentioned because the digger arm made contact with the dwelling's occupier Paula Brown – ex-partner of Mark's brother.

He broke off the attack when he realised he was being filmed and drove the digger to Blackwood police station to hand himself in and to fail a breath test. Defence barrister Marian Lewis said the

wrecking spree was the "***culmination of family problems, misunderstandings and disagreements…everything came to a head and he completely lost his self control."***

Handing down a 16-month term of imprisonment suspended for two years, a 3-year driving ban and a 10-year restraining order, Recorder Duncan Bould said, ***"None of those matters justify your behaviour in any way and you must appreciate you caused great stress and anxiety…it's clear there are issues you need to deal with in respect of your mental health."***

Victim Paula Brown said she had not returned home as the building was structurally unsound. An estimate of £28,000 was mentioned for the damage to the building.

Mark was a firearm certificate holder from the 1990s until 2010 when, feeling unwell, he handed his guns in at a police station and went to hospital where he was kept for four days until the effects of a spiked drink he was given while out night fishing wore off. Gwent police gave him the choice of taking two years' time out or revocation of the certificate. He took the time out, at the end of which it turned out that they had cancelled the certificate using a mechanism not known to law, meaning that he had to apply for a new one.

That application was refused, the police welching on the time out deal. Papers disclosed for the appeal included a 'for and against' discussion paper that cited matters not to be found as relevant in firearms legislation or Home Office guidance. The assistant chief constable's refusal letter cited Mark's convictions, of which he had none and when we got the bundle we found that he had been fitted up with someone else's 1990s drink-drive conviction: a Mark Holmes with a different middle name.

In court, Mark had his 1989 driving licence and a letter from the DVLA confirming that he had no convictions, while the police had the ACC on oath in the witness box claiming that he had. The judge said that in considering the physical evidence versus the ACC in the witness box he had to favour the police and dismissed the appeal with no costs order as the ACC had blown the first date by strolling in ¾ hour late for it. At the second fixed date he applied for an adjournment to produce a WPC as a witness whom he did not produce at the third hearing Mark had paid for a barrister to attend.

We reported the ACC to his police and crime commissioner for perjury. He dropped it down to his complaints department and then it got interesting. Police attended Mark's house to recover the court bundle, which he did not have, saying he had burned it. What he burned was the copy we provided him with. The original remains in our files. The investigator – presumably looking at the computer version – claimed that there was no criminal record for a drink-drive within it and refused to provide us with a snail mail address to which to send hard copy.

We pointed out that somebody removing the false criminal record from the bundle made matters worse for the ACC. While it was in there he could have adopted a 'made a mistake' position – which would have opened things up to a judicial review of the appeal being dismissed and thus towards recovery of Mark's costs. With it gone, the ACC's letter and evidence from the witness box appeared to be perjury, so we said so.

We do not know what was done about that if anything. Police departments

dedicated to weeding out corruption in their forces seem to be restricted to fictional dramas like 'line of duty', which we thought was a comedy. However, within six weeks of the judge dismissing the appeal, Mark had new firearm and shotgun certificates and we got five years of peace and quiet until that switch flicked in Mark's head just before Christmas. Whoever fitted Mark up with that false criminal record – and by extension the ACC – probably got away Scot free. One has to wonder how much the trauma of the way the police treated Mark for doing nothing wrong contributed to the mental health issue cited by the judge.

BRITISH SHOOTING SHOW 2023

Mid February at the NEC – last year's show was the first event after the lockdown disruption and attendance was muted by weather warnings telling everyone (on the day we went) to travel only if absolutely necessary. If the weather arrived it got there after us and left before us.

A good crowd attended this year, although as before it was by no means the busiest show on that day. We think the boat show won.

Still, we got some actual crowd photos, which still show plenty of floor space. Only 16% of visitors were women. There was nobody on the wildlife camera stand to ignore us this year, so that task fell to Kawasaki, where we waited fifteen minutes in vain for attention. Now we'll never know if their product is better than the Can Am we bought.

Kawasaki on stand at the NEC

Mark Pierce at the NEC. He left the SRA for Herts Constabulary in 1996 and had to slim down to pass the medical...

STAND YOUR GROUND is an American law in some States which came into the news in April after 16-year-old Ralph Yari was sent to collect siblings from a house in Kansas City Missouri and went to the wrong one where he was fired on through the front door by the octogenarian occupant. That reminded us of Oscar Pistorius firing through a closed bathroom door ten years ago, killing Reeva Steenkamp.

And of *R v Hussey* (1924) 18 Cr App R 160. Hussey was barricaded in his room while his landlady and some accomplices were trying to break down his door to evict him unlawfully. He had fired a gun through the door, and wounded one of them. He was acquitted of the wounding charge on the grounds of self-defence. It was stated that it would be lawful for a man to kill one who would unlawfully disposes him of his home. Using lethal force to defend property has doubtless been superseded by civil remedies that could now be used, but the castle doctrine principle that when under attack within your own home you need not retreat still holds good.

The Rust Saga continued with an announcement in April of criminal charges being dropped against Alec Baldwin. Investigation work is still ongoing.

AND FOR SOMETHING COMPLETELY DIFFERENT

We had to smile wryly when Gary Lineker ran into trouble at the BBC for comments he made about Britain's immigration policy, outraging whatever bit of the political – and media - spectrum that thinks the government plan to ship people who arrive in the UK unofficially off to central Africa is the solution to the problem of people from outside the EU

arriving in Calais, wishing to get to Britain and being unable to do so legally. Nobody, it seems, used Gary's tweet on the subject to reflect on the policy; all the tongues that wagged were directed at his violating the BBC's so-called impartiality rules, despite his not having made the comment via his BBC platform.

We regard the Immigration department as the Home Secretary's other problem child. Firearms and immigration are the two topics on which most opinion among politicians and people not directly involved in either is ignorant and most departmental policies are out of step with public opinion.

TV programmes that included a for and against telephone poll about firearms between the Hungerford and Dunblane murders regularly supported the legal ownership of firearms at better than 80% of the telephone voters. That 'changed' after the Dunblane murders. BBC 2's Newsnight programme did a telephone poll which came out in favour of the handgun ban. They achieved that result by installing 80 lines for voting 'yes' and 20 lines for voting 'no' – according to the engineer who installed them.

The effect was that the 'no' lines were engaged for the whole time we were speed dialling the number and after the poll closed we received calls from distressed members who, unable to get through on the 'no' line, called the 'yes' line in hope of speaking to someone who would take their 'no' vote and instead found their calls recorded as 'yes'. We referred each of them to the BBC's complaints number.

Wire TV's poll in Bristol was fairly conducted but was so against the handgun ban that the presenter told his TV audience that the system had failed instead of telling them the inconvenient result.

AND WHILE ON THE COMPLETELY DIFFERENT LINE OF THINKING

We learned from the National Rifle Association of America that, as a single issue organisation, we should not lend our weight to other issues, so we do not. We report on and comment on associated issues – fox hunting, the use of dogs and horses in field sports and such: and immigration is of interest because of the parallels exposed by the department trying to swim against the tide of public opinion, same as the firearms department.

We are entitled to our opinions and wise enough to know to keep them to ourselves, but on this occasion, we thought to share something completely different. In February, The BBC mentioned 17% food price inflation and then skated around what was causing it: the consequences of government policy.

Prior to the Covid 19 pandemic and Brexit, one heavy goods vehicle in eight on British roads was on foreign number plates – at least in the southeast of Britain – and a further one in eight of British plated lorries had a non-British driver at the wheel. Eastern Europeans mainly; people who came to help fill the vacancies in the transport industry.

Most came to work through employment agencies. Some would have become employees of transport companies, but for many years heavy goods drivers were employed by their own limited company, which was paid fees for their services through the agencies. This worked for both owner-drivers and drivers of other firm's vehicles.

We heard rumblings from the treasury about ending that system as long ago as when Gordon Brown was chancellor of

the exchequer, but nothing happened because no other system of employment provided the flexibility the transport industry needed.

When the pandemic struck, the government created various financial assistance packages, including the furlough scheme for employees and the bounce-back loans for businesses. They created nothing whatever for the self-employed, so the Eastern Europeans went home, taking their lorries with them.

The treasury had planned on ending the self-employed driver scheme in April 2020 but because of the pandemic postponed it for a year, so while all those European drivers were out of the country, two changes complicated their return. One was that to come back, they had to have a job to come to. The other was that the government did not recognise heavy goods vehicle driving as 'skilled' so to bring the Poles and such back meant inflating driver wages to get over that government hurdle.

And one cannot do that in a transport company without also increasing the wages of the existing staff to match, so the going rate for driving juggernauts doubled in the space of 12 months.

A quarter of the lorries on British roads are transporting foodstuffs in insulated fridge/freezer vehicles. You can spot the refrigerated articulated lorry trailers easily enough. The motor is on the front of the trailer and would usually identify itself as a French-made 'Carrier' or an Irish-made 'Thermo-King'. These are Euro 6 powered diesel generators and as they don't power the road vehicle, they ran on red diesel.

Until the treasury intervened, that is. In April 2022, the treasury reduced the entitlement to use red diesel to agriculture, building sites, forestry, fisheries. Temperature controlled distribution had to switch to white diesel, which increased the fuel cost by a third. Combine that with doubling lorry driver wages and those increased costs were all passed on to consumers via 17% food price inflation.

COLLEGE OF POLICING
Consultative Document

Published on the 12 January 2023 with a consultation closure date of 10 March, this 'have your say on firearms licensing guidance' was directed at police and police staff – the people the Home Office call 'stakeholders' – in reaction to the Statutory Guidance to police being launched and ahead of the Coroner's Inquest into the Plymouth shootings coming to its conclusions on that matter.

The college also welcomed feedback from members of the public to whom word of it started circulating online at the end of February – so they didn't make much effort to publicise what they were up to.

The document itself is called 'Firearms Licensing: Authorised Professional Practice' and is intended to serve as a handbook to the people who interact with firearm and shotgun certificate applicants and their backroom staff. Meanwhile, the Plymouth inquest was making it very plain through media reportage that witness after witness who dealt with Jake Davison and his shotgun certificate were untrained – or just ignorant.

That made us wonder whether this document was being prepared as a solution to the problem that the inquest was highlighting, the pre-emptive "things have moved on since then and we have a handbook to guide them" announcement.

That may be, and that may have been announced by the time you read this, or

not: at the time of writing the inquest has concluded – reported elsewhere in this issue – but with word that the criminal investigation, presumably of the police who failed to read, study, mark and inwardly digest the paperwork that amounts to their job description, is continuing.

An old hand at traffic policing told us many years ago to work from the legislation, as guidance about it tends to be incomplete or miss the point. Yet it is the case that most practitioners within a legal framework get guidance, training, or a manual of one sort or another from their chain of command rather than sight of the raw legislation. Necessarily; if you served in British armed forces in Northern Ireland, you would recall the rules of engagement card – Army Code No 70771 – which set out the live firing rules that Lee Clegg supposedly violated.

That makes the subject of firearms unique; on first joining a rifle club as a probationer we were told to buy a copy of the Firearms Act 1968. Everyone worked from the raw legislation, including firearms managers in their ivory towers. They had the advantage, if it can be called that, of also having a manual – the restricted and unpublished 'Memorandum of Guidance for the Police' that the Home Office issued in 1969 after taking over control of firearms matters from the Defence Council.

Using that manual to police the clubs and gun trade resulted in the massive crime wave among certificate holders and registered dealers in the 1970s & 80s, as firearms managers applied the new interpretations of their secret memorandum to certificate holders and the trade. By 1981 when a prosecutors' manual was published (The law relating to firearms by Clarke & Ellis) the authors were able to comment that there had been more firearms crime in the preceding 10 years than there had been in the rest of the 20th Century.

And that was true; only four firearms cases reached the courts of record between 1900 and 1968 followed by dozens after the Home Office redefined the definition of a section 5 weapon – in their guidance and without amending the Act. Firearms managers also manipulated interpretations to create new crimes for certificate holders, such as the Metropolitan Police view that it was impossible to transport firearms held on certificate from the place of storage to the range legally, as the security condition on FACs made no provision for that. Several court cases and a lot of lobbying later, the Home Office amended the conditions – via the Firearms Rules 1989 – to make it clear that FAC holders could do so. And that is just one example of how the post 1969 management of firearms legislation created crimes with which to entrap certificate holders.

We suspect that the same is happening now, except that the crime wave is being committed by police and police staff either following Home Office guidance and the unlawful seizure policy instead of the law, or just of which practitioners are kept ignorant by the guidance not mentioning it. And it is below the surface, as it is only when malpractice escapes into the open that outside investigations of the police take place beyond the reach of their cover-up departments. And the evidence given to the Davison inquest is that the people making decisions about your firearm and shotgun certificates do not read the Home Office stuff anyway. They seem to make it up as they go along.

We mentioned it in our response. The draft 'Authorised professional Practice' document is a thoughtful, clear manual;

but constrained and limited by being drafted as an interpretation solely of the statutory guidance to police and various current policy documents, thus ignoring both common and statute law.

One policy, which they deal with near the beginning – "***The term 'certificate' is used interchangeably with 'license' in this guidance"*** caught our attention. We noticed that license is spelt the American way. In English, 'licence' is a noun and 'license' is a verb – or an adjective, while 'certificate' is a noun.

Using the two words interchangeably strikes us as demonstrating basic ignorance. Police firearms departments call themselves 'licensing departments' for historical reasons, drawing the word 'licensing' from the explosives legislation they administer.

The difference between a *licence* and a *certificate* is that the issuer from whom you get a *licence* has no discretion to refuse you one provided you tick the boxes. In the case of a TV *licence,* for example, you cannot be refused one unless you refuse to pay the fee.

In the case of a *certificate*, the issuing entity has some discretion as to whether to give it to you or not. When you passed your driving test, the examiner gave you a *certificate* of competence to drive. You sent that and your provisional *licence* off to the DVLA, who returned you a driving *licence,* having no discretion not to. If Firearm *certificates* were made into *licences* 95% of the shooting communities' problems with the police would disappear overnight. And police management of *licences* would shrink back to the level afforded by the fees.

Back to the APP document: what's missing from it, we said, was the common law. Home Office guidance to the police is interpreted correctly, in paragraph 1.1.5, which says "***The main consideration for suitability should always be whether the applicant can possess a lethal barrelled weapon without danger to either:***

- ***Public safety (including themselves)***
- ***The peace.***

The giveaway '*including themselves'* is at the root of all the mischief over medicals. The Home Office want the police to prevent people committing suicide with guns and since one cannot prove a negative, it won't work: it will never work. Emile Durkheim established more than 120 years ago that you can cause a temporary dip in suicide rates by removing a method. Another method gains publicity and the suicide level goes back to normal. The way to tackle suicide levels is to address the root causes afflicting those who find ending their own lives is the only solution to their problems. You can't reduce suicide levels just by banning a method. For evidence of that, look at suicide statistics when coal gas was a way out, through to that being phased out by natural North Sea gas in the 1960s.

The main problem is that the guidance uses the phrase 'danger to public safety or the peace' more than 50 times in 36 pages without giving the reader any clue as to what that means. Nor a timescale: Clifford Owen forgot to mention a conviction for breach of blackout regulations in 1942 on his 1989 renewal…

As but one example, consider how the mission creep of medical checks was extended to firearm certificate holders, then to shotgun certificate holders and then to RFDs and their servants without a shred of legislation supporting it.

The Firearms Act, 1968, prevents a chief officer of police issuing a firearm

certificate to a person who is of 'unsound mind' and that is the extent of primary legislation about health. That phrase first appears in the Firearms Act 1920 and was drawn from contemporary mental health legislation. It has carried through the 1937 Act into the 1968 Act unamended and means a person who cannot look after themselves. Such a diagnosis prevents the person so diagnosed being registered to vote. Lunatics: Lords could not be registered to vote either and in 1920, nor could women…

The legislation also precludes from being licensed anybody of intemperate habits or otherwise unfitted to be entrusted with firearms or who is a danger to public safety or the peace. What the Home Office did was to blur these distinctions so that being of intemperate habits or otherwise unfitted to be entrusted with a firearm may also be evidence of 'danger to public safety or the peace'.

It's only when one unpicks it that the card trick becomes clear. There is no lawful authority for extending medical checks to shotgun certificate holders, registered firearms dealers, or their servants. It is just mission creep. Decided cases become common law, according to Lord Bingham; the cases that address what 'danger to public safety or the peace' is or is not become relevant, yet are entirely missing from the guidance, both by name and sentiment.

In brief, a conviction for a non-violent offence or an administrative firearms offence is not evidence of danger to public safety or the peace. (Spencer-Stewart v Kent, 1988 and Shepherd v chief constable of Devon & Cornwall 2002) So having excess ammunition or transposing a firearm number or failing to keep a firearm in a secure place are not evidence of danger to public safety or the peace – except in Home Office guidance. That'll be interesting: the Firearms Act creates absolute offences and we have a Lancashire firearm certificate holder in our ranks whose constabulary has never gotten his certificate right yet. Presumably that makes them a danger to public safety or the peace, since a law that creates absolute offences works in both directions – at both the people trying to comply with it and the people trying to implement it.

Getting involved in domestic violence is not evidence of danger to public safety or the peace if accessible firearms were not used (Chief constable of Norfolk v Edwards 1997) – the court did say it was reasonable of the police to ask the question. Thames Valley Police stretched revocation for domestic violence to include a farmer who moved to the address a month after the reported incident – which called investigating officers to an empty house, so they marked it no further action. Devon & Cornwall also revoked certificates of people whose addresses appeared on the domestic violence callout register without any further investigation.

Conviction for a second drink-drive in a ten-year period is evidence of danger to public safety of the peace – for the duration of the driving ban – (Essex Chief Constable v Germain 1991). We could go on, but the point is that statutory guidance and an APP manual that do not tell readers these things can and will lead them into error if not into criminality.

At 1.1.7 ***"Forces must also deliver a quality service though public engagement that complies with the Human Rights Act 1998 and the Equality Act 2010. Adopting a procedurally just approach can help achieve this, for example:***

- ***Making impartial decisions and explaining how they are reached***
- ***Showing trustworthiness by being open and honest***
- ***Treating people with dignity and respect."***

To which we added the suggestion 'in compliance with the common law'. Two Scottish cases, which Lord Bingham says became common law – Anderson v Neilans (1940 SLT 13) and Joy v chief constable of Dumfries and Galloway (1966 SLT 93) tell the police to consider any application from the point of view of the applicant and not from that of a possible objector. A position that is entirely reversed in modern policing.

The Home Office does ignore inconvenient truths. Much of their 50+ mentions of 'danger to public safety or the peace' in the statutory guidance relate to matters the police have tried and failed to tug certificates off the public for. Here's what they think is included in 'danger to public safety or the peace'.

1. ***(i) previous convictions, cautions and any other disposal, for any offence (including speeding but not including parking offences or fixed penalty notices);*** No: see Spencer-Stewart and Shepherd.
2. ***(ii) all overseas convictions and disposals;*** ditto. We had a case where the overseas conviction was for spying in a country notorious for making such stuff up. He was sentenced to death and then traded back to Britain in a prisoner exchange.
3. ***(iii) arrests, police call-outs and bind-overs;*** No; cases defining activity as 'danger to public safety or the peace' mentions none of these. Prior to Tony Blair making everything arrestable, two thirds of our case load on the criminal side had been unlawfully arrested in the first instance. (See Harold Winckler, below). Police 'call-outs' could be by anybody; we have a steady stream of reports from members that the police have been set on to them by people who see them with their firearms out pheasant shooting, deer stalking etc. A 'bind-over' is a judicial order to keep the peace, so to be a danger to the peace one would have to breach it.
4. ***(iv) any civil orders the applicant has been subject to, for example Domestic Violence Protection Notices (DVPN) or Domestic Violence Protection Orders (DVPO) or their Scottish equivalents, and compliance with those orders:*** No; see Chief constable of Norfolk v Edwards 1997. And 'Outlaw' in his book 'Policing the Police' reminds us that in civil matters, police powers are equal to everyone's: no greater.
5. ***(v) evidence relating to criminal proceedings that resulted in an acquittal;*** Huh? How could the police getting something so wrong make their victim into a danger to public safety or the peace? See Harold Winckler, below.
6. ***(vi) evidence, including intelligence, of any criminal behaviour where no charges, conviction or other disposal resulted; (***Character assassination has been used against certificate holders and applicants with mixed results; the problem is police 'intelligence' that is shielded from being seen and corrected under Freedom of Information, data protection, European law and

Human Rights legislation and which is therefore wrong in many cases anyway) ***and***

7. ***(vii) safeguarding assessments, including domestic abuse, stalking and honour- based violence (DASH) assessments or those made by multi-agency safeguarding hubs.*** Norfolk v Edwards again. To be fair, the court in that case said the police were right to ask the question – it was them appealing a crown court decision to give the certificate back – but it is very much a question of fact and degree.

We got caught amid a divorce twenty years ago in which the gent, at every opportunity, tried everything to get his ex to return to him. She presented that as evidence of his controlling and coercive nature to the court. He had let his firearm certificate go somewhere during the process and had sold his antiques collection so that the money could be divided in the settlement before blotting his copybook with the police on other matters. Twenty years on, the police would be uncomfortable looking at an application from him because Home Office guidance takes no account whatever of water under the bridge – the lapse of time between the breach of blackout regulations and the Home Office retrospectively changing their guidance to the police.

We mentioned the late Harold Winckler above: twice. An SRA founder member, certificate holder and part time RFD, Harold was in the back of his Land Rover being driven around fields in search of foxes with the aid of a lamp man when a policeman spotted the lamp and from 'local knowledge' decided they were trespassing in the grounds of a vacant country house that had been a boarding school. He shot round there and left an impressive skid mark on their lawn because, as he barrelled towards the lamp light, he had to brake very hard because of the fence between the property he was trespassing upon and the field Harold was in with permission.

In response to police demands that he approach them, Harold sent the lamp man, who produced their written authority to be on the land for pest control purposes. We pause to mention that Harold was a type 1 diabetic who had lost the feeling in his feet and by this stage in his shooting career was getting 150 foxes a season by lamplight to ease their pressure on his pheasants and those of surrounding shoots. The season started when cornfields were harvested and finished when planting started.

Anyway, the policeman was not satisfied that Harold had not been trespassing on the estate he'd left his skid marks on and arrested him and seized his two rifles. Both single shot weapons, he had a .17 Remington and a .220" Swift and had recorded a 440-yard shot with the Swift. By the time Harold walked into the police station it was time for his medication, so the police had to take him to hospital to be treated, after which he was returned to the police station and bailed without being interviewed on thje six-hour rule.

He called us at 8am to say what had happened. We gave him our standard advice, which was to shower and shave, put on a good suit and return to the police station to obtain a copy of the custody record. Had he been

interviewed we would also have said to get a copy of the tape. Everyone is entitled to those copies, but only once. Clued up people get them on the way out or leave it to the solicitor to get them. The next thing Harold had to do was to write his notes on the events. Policemen do that and their notes can be referred to in court, provided they were made as soon as practicable after the event.

Harold did all that. We attended with him when he answered his bail, having beforehand inspected the crime scene. The police skid marks on the lawn were still glaringly obvious, as was the fence. There was no way through the fence for a vehicle to transit between the field and the school gardens. The only way of doing that was via the road the policeman used from where he first saw the lamp to the school entrance and his evidence was that he could see the light in the field while driving round.

A straightforward 'no case to answer' was presented in the interview by Harold and his attorney: but the interviewer proclaimed that he was 'not satisfied' with the defence and referred the matter to the Crown Prosecution Service, who issued the summons.

Harold spent the nine months waiting for the trial date badgering both the SRA and his lawyer to get the CPS to review the case. Without effect, as when the prosecutor turned up on the stroke of 10am to prosecute Harold for armed trespass, he opened by asking for a ten-minute adjournment to read the papers.

In the witness box, the policeman was unable to explain how Harold managed to trespass on the school grounds and then magic himself into the field next door where he had permission to be without the policeman seeing how he did it.

Harold's lawyer said there was no case to answer and the magistrates agreed with him. They dismissed the case and awarded Harold his costs. A very unsavoury case: a policeman lying his socks off to get the prosecution going in the first place, Harold's two rifles were getting bore rust while kept in police custody all that time without being cleaned and then taxation only refunded two thirds of the lawyer's bill.

There were two reasons for that: one was that the lawyer he chose was more expensive than legal aid usually allowed and the other was that the lawyer's meter was running throughout those weekly 45-minute calls Harold made trying to get some action. Doing nothing is usually best, unless one is prepared to act in the civil courts, via the Police Property Acy 1897 in the magistrates' court, an injunction in the county court or a judicial review in the High Court, as appropriate to circumstances.

One must wonder what West Mercia would make of the APP instruction to revoke Harold's certificate in 2023 because of a 1991 false arrest. We'll never know because Harold passed away some years ago.

AROUND THE COURTS – OR NOT

WEST MERCIA 'Ryan Bin Richard'

The police grounds for revoking his FAC in the wave of official panic sparked by the November 2021 statutory guidance coming out of the Home Office included his using 'Bin' (means 'son of' in Arabic) in his on-line handle, publishing a photo of someone holding a deactivated Norinco Type 56(S) over ten years ago

and his enquiring as to whether a Glock pistol could be held on a section 7(3) exemption for use at a club. (Yes it can; there is no age related cut-off date for 7(3) unlike the collectors 7(1), but there has to be something special about the gun that makes it exceptional, such as a famous previous owner.)

Paranoia and legal fees being what they are, his lawyer recommended a cooling off period followed by a further application.

SRA Comment: the problem with time-out deals is the police do not recognise them and where it was their idea, no police force has lived up to the plan when the time comes.

WEST YORKSHIRE Phillip Morris

He got a 'refusal to renew' letter handed him in the spring of 2022 by an officer who insisted he put his firearms into expensive storage. The refusal grounds were that he had not been to his club since April 2020. That date rang a bell with us, so after drafting his appeal documents, we checked with his club and guess what? They had been shut down by the government for the duration of the Covid 19 lockdowns, which started in April 2020.

We wrote to West Yorkshire begging to point out that the Firearms Act says a renewal is the same as a grant, which means that the applicant is declaring what he wants to do over the next five years and in the case of a grant, of course, what happened in the last five is irrelevant. Meanwhile, he had missed the club reopening on account of not having his rifles.

Firearms law is quite straightforward: had it been necessary, on public safety grounds to separate Mr. Morris from his firearms, the police should have revoked his certificate before it expired and seized his firearms under section 12 of the Firearms (Amendment) Act 1988. Then when the matter got to court, a judge would decide whether he was a fit and proper person to have them back or not.

If no danger to public safety or the peace has been detected by the time the certificate expires, the seizure option expired with it and after the eight week's grace permitted the police to be lax about renewal times, section 7 permits are supposed to be issued to cover the period of police reflection and if refusal to renew is decided upon, to cover 21 days after that decision is announced to give the applicant time to dispose of his property in an orderly manner or to appeal; whereupon permits would cover his continued possession until the appeal hearing.

West Yorkshire's decision not to issue permits was based on the November 2021 statutory guidance to police advising them to obligate Mr. Morris to put his firearms in storage because his renewal application reached them less than eight weeks before the expiry date of his old certificate. In his case, putting the renewal in was delayed by the time it took to get the medical pro forma signed. That is just the latest complication in the renewal process. After the Firearms Rules 1989 kicked in, the two problems that assailed shotgun certificate holders were getting an appropriate countersignature and getting a photo. Countersignatures were sorted by the Home Office – eventually – agreeing that the function of the list in the legislation was so that the person signing could himself be checked out in a public reference book. 'Members of Parliament' are listed in Dods Parliamentary Companion, 'ministers of religion' are in Crockfords and so forth. The breakthrough was when the Home Office

agreed that a telephone book is a public reference book. Back in the days when we had telephone books…

Photographs were complicated in 1989 and progressively less so once digital cameras were invented. Then we had a period of calm before the health forms debacle started.

Mr. Morris had attended six of the monthly meetings of his club without rifles by the time the police decided not resist his appeal in court and then a further two without rifles, as no permit was issued for him to recover them while the FAC was prepared. And when he got it, they had backdated its start date to April 2022, thus ignoring the grant aspect of the renewal process and retrospectively covering him for possessing rifles for the eight months they did not allow him to. We drafted documents to adjourn the appeal sine die and raised the matter of costs, which in Mr. Morris' case only amounted to the costs of storage at a dealer's; the delivery and collection. We got a robust response about the 2021 regulations tell them to make owners put guns into trade storage if the renewal application gets to them less than eight weeks before the due date, to which we replied pointing out that it's the Act which compels the issue of section 7 permits and secondary legislation does not overwrite primary legislation. We also pointed out that the certificate should have been running five years from the date of issue and not backdated.

We left it to Mr. Morris to decide whether he wanted to test the position by turning the appeal date into a costs application or let it go and suffer the financial penalty imposed on him by the police. He decided not to and we received a big thank you from Mr. Morris, written on an empty envelope…

SURREY – Brent Slade

Mr. Slade trades as Lingfield Arms and has been in the gun trade one way or another – he was at Soldiers Three in the old days and a film armourer in the 1980s - for over four decades. Lingfield Arms was a deactivation specialist, mainly of otherwise unwanted shotguns. UK legislation and Home Office policy has, over the past few decades, made possession and use of cheaper American and third world guns harder and the expansion of the shooting sports to include all those who would like to participate a non-starter. The net result has been a shrinkage – both proportionately and actually – in the number of shotgun certificate holders, a reduction in the number and types of shotguns that can be held on shotgun certificates and a shrinkage in real terms of the gun trade.

The police landed on Lingfield Arms shortly before the famous Covid 19 lockdowns started in 2020. It began for us with him telephoning to say that he was at a show in the Midlands and had learned that the police were at his house because a neighbour had reported seeing his front door open.

Next, we heard they would not let him return home, while they gutted the place of over 2,000 deactivated shotguns and the few live arms he had in stock.

We received 'phone calls over a period of months, but never sight of any documents. When he told us he was going to be prosecuted we put him in touch with a criminal lawyer after which we heard nothing other than a brief mention by the lawyer during another matter that he had kept Mr. Slade out of prison.

We eventually saw papers confirming that he had been convicted in November 2019 of possession of two air weapons using a self-contained gas cartridge

system and three counts relating to what might have been stun guns; but the definition used in the charges would also cover a water pistol containing ammonia and such. The papers confirmed that he got a two-year term of imprisonment suspended for two years.

Approaching the halfway mark through the five-year prohibition the sentence brought free with it, Mr. Slade contacted us again about early release from the prohibition. We have done quite a few of these applications over the years. There are two types: anyone sentenced to more than three months but less than three years – whether any part of the sentence is suspended or not – is prohibited from possessing firearms, shotguns, air weapons and antique firearms of any type for five years from 48 hours after the sentence was handed down.

Sentences of three years in prison or more attract a permanent prohibition on firearms possession. In both instances, an application can be made to the crown court for the prohibition to be lifted. Non-statutory 2016 Home Office guidance to the police says that applications for relief should not be opposed unless the original sentence involved firearms or violence.

The first one we dealt with after Antisocial Behaviour Crime and Policing Act 2014 superseded R. v. Fordham to include suspended sentences in the calculation of prohibition was Steve Johnson. The 1969 Fordham case decided that suspended sentences did not count toward prohibition because the Act says that prohibition runs for five years from the date of 'release' and when the sentence was suspended there is no release date.

The Home Affairs Select Committee recommended two changes to the law following the Cumbria shootings by Derrick Bird in 2010. These were enacted in 2014 to extend prohibition to antique firearms and to include suspended sentences of three months or more in the prohibition calculation. The reason they proposed these changes was because Derrick Bird had received a short suspended sentence many years before his firearm and shotgun certificates were issued by Cumbria Police; so his criminal record was taken account of when he applied for the certificates and did not prevent them being issued. The 2014 changes would not have made any difference to that outcome had they been enacted sooner, such as in 1968.

Steve Johnson contacted us from Devon & Cornwall area for help getting his prohibition lifted. His crime was neither violent nor firearms related; he was growing cannabis and self-medicating to ease the pain of injuries he sustained in a motorcycle crash many years before – until the police detected his market garden.

Drugs; about which Home Office guidance was and is silent. Possession of cannabis varies from one decade to the next as to how serious it is or is not and production varies from the few plants for medicinal purposes that Steve Johnson kept until the police landed on him to industrial quantities growing under lights in rented-for-cash properties where, if the market gardeners are captured at all they always seem to be Vietnamese people, as mentioned in Parm Sandhu's book 'Black and Blue' in 2021 & reviewed in issue 71.

We drafted his application and this being uncharted territory following new primary legislation, we put before the court everything we had on the subject, including the case of Francis William Gordon v Northampton Crown Court in 1999 – the only prohibited person

application we know of to reach a court of record.

What we got back in response was alarming: Devon & Cornwall police vigorously opposed the application, stating that William Francis Gordon was one of four aliases by which Steve Johnson was known and thus that he was familiar with the consequences of being a person convicted of crime.

We reported the author of the Respondent's statement for perjury and when Mr. Johnson turned up to represent himself at the hearing, a barrister representing the chief constable was on hand to tell the court that the resistance to his application had been a 'mistake' and that the police had no objections to his prohibition being lifted.

Steve told us afterwards that he had been told he could have his air weapons back but not to even think about applying for his shotgun certificate again. His doctor had taken over the business of managing his pain relief and he said he was on the lowest dose of whatever painkiller was being prescribed.

We learned of his death a few weeks later from his partner who said that the police had not returned his air weapons and now that he had died would not return them to her, which seemed to be a question of title.

By the time Brent Slade wanted to make an application, we had prepared quite a few of these and the police forces involved all followed the guidance and did not oppose the applications. The wrinkle in the Slade case was that the original crime was firearms related.

Where the original crime was violent, we can understand the logic of resisting an application to lift prohibition on danger to public safety or the peace grounds, but firearms?

To explain, there are two types of firearms cases and then there's a third category of crimes involving firearms. The Bamber family massacre in 1985 was a crime involving a firearm and the subsequent conviction was for murder contrary to the common law and not an offence contrary to the Firearms Act.

Brent Slade's case was one type of case involving firearms – which the Court of Appeal said in Spencer-Stewart v Kent (1988) and which the High Court followed in Shepherd v chief constable of Devon & Cornwall in 2002 – is not evidence of danger to public safety or the peace.

People within the licensed firearms community and gun trade don't become a danger to public safety or the peace by putting a gun in the wrong column, misreading a serial number or not putting it in the register: so says the Court of Appeal and thus the common law. The Home Office statutory guidance to police mentions 'danger to public safety or the peace' more than fifty times in relation to circumstances where there could be none. It's one long sulk about their past failures at preventing the public peacefully enjoying their private possessions and taking part in the shooting sports.

The other type of firearms crime is when someone in the scrote community is caught with a gun or something that looks like a gun before they do something violent with it. If they do not have lawful authority to possess it, the charge is possession without a certificate, or possession while being a prohibited person according to circumstances, but if the gun is possessed lawfully, a charge under section 19 of the Firearms Act 1968 – firearms and ammunition in a public place – reverses the burden of proof as to why the firearm and

ammunition was possessed in a public place such that the defendant has to explain himself to the jury's satisfaction, as in the Pullenger case.

That was until Jack Straw was briefly Home Secretary some years ago and section 19 was expanded. As enacted, it was to give police a prosecution option when they detected a firearm certificate holder, who also had suitable ammunition for his firearm, or a shotgun certificate holder with a loaded shotgun in a public place 'without lawful authority or a reasonable excuse'.

It was an assumption that section 19 was directed at certificate holders – and RFDs – as someone detected in possession of firearms or shotguns without holding a certificate would be charged as possessing without a certificate. Where a certificate is held, the issue becomes what the certificate holder is doing at the time. Firearm certificates have borne conditions about the holder's use of his property since the Home Office took over 'control' of administering the Firearms Act 1968 in 1969.

Peter Pullenger and his dad Harry held some thirty firearms between them, which shocked the new sergeant who came to inspect them at renewal. He demanded to know what they did with them all and when they would next be doing it.

When they left home to go to Andrewsfield Range in Essex the next Saturday morning, a police roadblock awaited them just around the corner. They were arrested and a number of firearms recovered from their vehicle. Then they were escorted home to hand over the firearms at home to the police and then de-arrested. They arrived at the range, very late and empty handed.

Summonses were issued for violating section 19 and a few weeks later fresh police statements were issued in which the allegation that they had 'firearms and suitable ammunition in a public place' had been changed to 'loaded firearms in a public place'. It makes no difference to section 19 and was a case of over-egging the pudding to suggest whatever: it was never suggested that they were on some mission other than attending the club, but at the time – in 1988 – the Metropolitan Police position was that there was no legal way for certificate holders to transport firearms to and from a range.

That changed in 1989 with the Firearms Rules of that year introducing the two part security condition. The Pullengers were acquitted of all charges and got their certificates back two and a half years after they were seized.

Aside from the statutory conditions printed on certificates, additional conditions are put on it 'limiting', as it were, the certificate holder's use of his private property to the good reason he put forwards when applying for the certificate in the first place. The 'why' for doing that is to put before a policeman carrying out roadside checks what the certificate holder is supposed to be doing with the firearm and thus to give the policeman a prosecution opportunity if he is not satisfied with the explanation given.

As an example, and many years ago, a firearm certificate holder was detected in possession of his revolver when it fell out of his shoulder holster during a ruck with door security staff trying to eject him from a public house after closing time one Boxing Day. Police were called and his explanation was that he had been shooting at Bisley – which was closed for the Christmas holidays.

This public safety safeguard exists because under common law you can use

anything you lawfully possess for any lawful purpose. To think that through you can use your car within the terms of your insurance – 'social, domestic and pleasure' 'to or from work' 'on business' etc. but it's not legal to exceed the speed limit in it. Taking someone else's car and driving it away is an offence under the Theft Act and is not a motoring offence.

There was a lengthy battle over the extent of what RFDs and their servants can do – on three fronts – one being the RFD's power to delegate his authority to servants and the other two being about whether he can legally possess firearms outside his own premises or use them.

We had the absurd case in 1988 in which Dyfed Powys police were trying to convince a jury that RFD Jan Stevenson was lying when he said Richard Law was his servant. Some policemen just find it unpalatable that dealers can choose their own staff. Since 2016 there has been a form for registering servants with the local chief constable. If we'd had that back in the 1980s the police would have had much less opportunity for mischief.

Such as the attack on London Firearms proprietor Chris Lupton as he arrived home late one night after testing sound moderators at a range. The police case amounted to disbelief that he had a good reason for having firearms and sound moderators in his car at that time. His counterbalance was the logic of testing firearms late at night when the background noise is much reduced and his having legitimate opportunity to so in his capacity as a one of the club's key holders.

With firearm certificate holders, the conditions on the certificate tell officers at a roadside check what the owner has firearms for, from which they can make deductions about what he is doing at the time they stopped him; as in a Scottish case where they believed the driver was after deer and using the vehicle as mechanical propulsion in the immediate pursuit of game. He had a .22" rifle in the car and a firearm certificate varied for target shooting.

The bullet track through the one deer carcass found in the vicinity had fragments of a bullet's bronze jacket in the wound track. .22"LR ammunition is not jacketed; the bullets are lead which may be copper or brass washed. .22" Magnum ammunition is jacketed but neither a rifle that would chamber it nor any such ammunition was found in the car and the certificate did not list one either.

Nevertheless, driving through the Highlands at night with a firearm and ammunition that could not be legally used there is suspicious and section 19 kicked in for the owner to explain himself to the sheriff.

No such luck with shotgun certificates, RFDs and their servants. The presumption in law is that it is legal at just about any time and in any place. Dealers can deliver and collect firearms from certificate holders' homes, cart them to and from trade shows, auction houses and each others premises without committing any offence.

Where the lines blur is when dealers use them, as with Chris Lupton. Section 3 of the Firearms Act 1968 rattles off a list of the things registered dealers can do; it's not a pick and choose list – every dealer is registered to do all the things listed in section 3. The first firearms case we remember was when Mike Priest was prosecuted for possession of prohibited weapons. He had acquired two Browning Automatic Rifles that had been converted to semiautomatic only in the early 1980s.

In the spring of 1982, Britain sent a task force to the South Atlantic to evict

Argentine armed forces from the Falkland Islands. They would have taken the reserve stocks of small arms ammunition with them, but the store was empty so they sailed without it and while they were heading over the equator the search was on for someone to supply them with ammunition.

Out NATO allies will not help a NATO partner prosecute a non-NATO military expedition. Scuttlebutt is that help came from Israel in the form of ammunition. After the hostilities ceased, the foreign ammunition was brought back to the UK and remanufactured during which the IMI headstamp was ground off. Ammunition with that modification was in use in 1983, which is when we saw cases modified thus in scrap brass bins.

The search was also on for whoever had misappropriated the reserve stock and that investigation led police and army investigators to Mike Priest.

He was innocent: but sight of the contents of his gun cabinet caused them to change horses. In court, the prosecution claimed that the BARs had not been converted properly and were still capable of automatic fire. That is actually true of all semiautomatic firearms, but Mike was not seeking to fight the case. In mitigation he said that although he had applied for everything it says in section 3 on his application form, the certificate did not include the word 'test', so he felt unable to test the BARs and thus unable to detect the apparent defect. The magistrates gave him an absolute discharge and the Metropolitan Police, who had been stalling the renewal of his RFD certificate, released the new document with the word 'test' included on it.

We had cases relating to that missing ammunition into the 1990s. Radway Green officials gave statements to the effect that anybody in possession of small arms ammunition with their RG headstamp and the NATO cross on the cases must have stolen them. This despite the fact that they supplied the National Rifle Association with it for the army and Imperial meetings.

Surrey were disinclined to be sympathetic to Brent Slade getting back into the deactivation business and resisted his application. Foot dragging about the date for the hearing shifted it to after the halfway point of the prohibition before a further delay kicked it into 2023, at which point Mr. Slade thought he might as well wait it out and adjourned his application sine die. The police reacted to that by seeking a costs application to recover the costs they said they had incurred in resisting his application to that point.

The court can make any costs order it sees fit on determination of an appeal. Abandoning an appeal is a 'determination' according to the guy in North Wales who does this stuff for the police there and logically a hearing that concludes with an appeal being allowed, such as Luke Jolly's in issue 75, has been determined, as it would have been if the appeal had been dismissed.

We probed the question of costs for Mr. Morris (above) after West Yorkshire withdrew resistance to his appeal and got a sharp indication of resistance based on his having been two weeks after the 8-week rule. They strung it out for as long as possible, denying him his property for over eight months and then backdating the certificate to deny him 12½% of the time his fee paid for and they justified that because his doctor was slow to fill the form in. That is maybe why Mr. Morris' thank you envelope was empty.

In a section 21 application, the key difference is that the court is not able to

award an applicant costs against the police. The question in Mr. Slade's case, pending at the time of writing, is the status of his application, since adjournment sine die is not a determination of the court.

GUNMART MAGAZINE
UNDER NEW MANAGEMENT

We were at the British Shooting Show at the NEC in February when we learned that Gunmart Magazine was to close with the April 2023 issue.

The word was that all the Aceville titles were closing with the loss of 150 Jobs. The middle of March came and with it April's GunMart, which contained not a word about closing.

Next, we got a call from the advertising manager who said she was holding her breath for something to happen on the 'sale of the title' front. We heard nothing more until Mid April when Sarah said.

"From all of us at Gun Mart Magazine we are pleased to announce that as of Friday 31st March, an offer was accepted in the purchase of our Shooting portfolio by The Enthuse Group.

Enthuse Group are publishers and owners of a number of companies including DHP who publish Gun Trade World, Total Carp, Match Fishing and a number of B2b and consumer titles.

We are in the process of ironing out all the details and I will be in touch shortly to discuss our next issue- June 2023, out on sale Thursday 18th May."

The March issue's on-the-shelf slot was extended to six weeks as was April so unsold April editions should be flying the flag until the June issue comes in.

DORSAL FINS

Brian Fagan wrote, ***"I've just had police call me enquiring why I want replicas, & blank firers. Where they're kept, and if I used them outside. They seemed o.k. about where kept them and my camera security."***

What we hear is that purchases of blank firers from the trade are notified to the National Crime Agency but we haven't found a regulation or anything official that makes this a legal requirement and not all the people dealing in BFs seem aware of it. Dealers have always had to notify police of live arms sales to certificate holders and de-ac sales have had to be notified to the Home Office 'Serious Violence Unit' since 2017. Sales of air guns are logged in the dealer's shop and the log can be inspected by authorised police officers at any time. These notifications presumably become 'intelligence'. We also have a couple of cases now where blank firers have been seized for 'checks' and the police have had them for over six months at the time of writing.

In reply to questions about Scotrail's policy of not allowing the public to carry firearms in hand luggage, the company replied thus:

Dear Francis, Thanks for your contact with us at ScotRail Customer Services. In answer to your question, this is anecdotal evidence from our conductors and their own experiences, which led to ScotRail deciding on the complete ban in regards to carrying firearms on trains.

Here is the website that outlines the policy for your convenience:
https://www.scotrail.co.uk/about-scotrail/our-rules-travel/carriage-firearms
Hope this helps, and please let us know if we can help further,
Shaun McClure Customer Relations ScotRail

To which Mr. Berry commented: "So, the whole thing was made up".

And the SRA Secretary said, "I suppose the problem was drugs dealers using public transport."

Many years ago an IRA bomber blew himself up on a bus outside our publisher's office in the Aldwych, Another passenger was armed with a handgun and was initially thought to be an accomplice, but turned out to be a London Transport club member on his way to the range at Baker Street Underground station. That's the extent of our knowledge about problems with people carrying guns on public transport. I thought bombs were the problem and our members don't do that." RL ⚖

FLYING FURY – FIVE YEARS IN THE ROYAL FLYING CORPS by James Thomas Byford McCudden V.C., D.S.O., M.C., M.M., several bars and a Croix de Guerre. (1895-1918)

Our review is based on reading (and cribbing from) the edition published on Kindle by Pickle Partners Publishing in 2013. They don't seem to have given it an ISBN – or proof-read it (little errors creep in when text is scanned and made into a pdf) - but it's an easy download nevertheless.

McCudden's book was first published in 1918 as **'Five Years in the Royal Flying Corps'**; he handed the written-in-pencil manuscript to his publisher just two days before he was killed in France.

In 1930, it was reprinted as **'Flying Fury'** (with expanded notes). What was added was probably most of the footnotes and the code letters the author gave squadrons were replaced by their numbers.

Greenhill Books published it as '**Flying Fury: Five Years in the Royal Flying Corps'** in 1987 (ISBN 0-947898-67-0) in their Vintage Aviation Library series, describing it as '*the complete and unabridged text of the 1930 edition to which has been added the half-tone illustrations from the 1918 edition'.* Our copy of this version, from World of Books, had never been opened by anybody before us in the thirty-five years since it was printed. As promised, it has all the illustrations; it also has the names of towns and squadron numbers that McCudden encoded in his original work, while the Kindle edition still has them as per 1918.

We were drawn into the subject of WW1 aviation and the Victoria Crosses awarded from reading Billy Bishop. James McCudden is a quite different writer, as we will show you. There are also several points we made in previous issues of our Journal that we can revisit through this memoir – because he was there and fills in gaps that surviving records do not.

The ones that leap to mind are concerns about 'other ranks' having handguns, the veil of secrecy about naming ace fliers, the class divide between officers and other ranks and the question marks about whether 'other ranks' not ranked as 'flight' were in the air officially.

To start at the beginning, James was born in 1895, the middle one of three brothers; sons of Irishman Regimental Sgt Major William McCudden, who served a full career in the Royal Engineers and reenlisted in the RFC for the Great War as a warrant officer in the Air Ministry. He was killed in a railway accident in 1920.

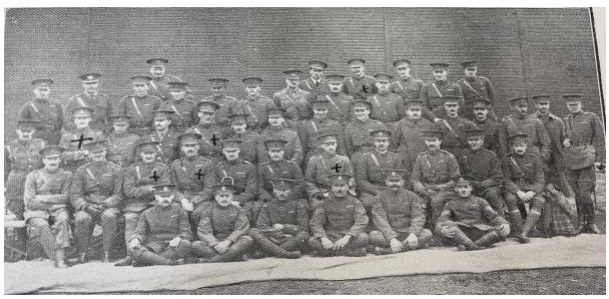
Army family; James joined his dad's corps, which he regarded as the finest in the British army, as a bugler aged 14 and did three years of that before aging

enough to join its ranks in 1913 as a sapper.

Next, he applied for transfer to the Royal Flying Corps, in which his older brother William was already enlisted as number 61. James was number 892: the third brother John joined in 1916 as number 49535.

Older brother William was killed in a flying accident in 1915 and John was killed in action in March 1918, a month before being gazetted for the Military Cross. Both these bereavements and many other lost comrades are mentioned in the book, adding detail to the bland Commonwealth War Graves reports.

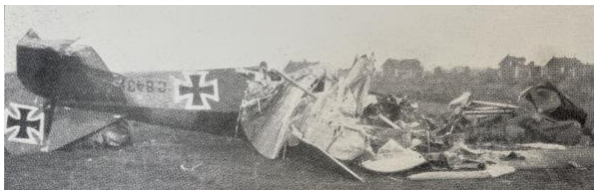
The book itself amounts to an expansion of his flight log with his personal biographical details, anecdotes and recollections. That makes it repetitious, as so many sorties are much the same with slightly different outcomes, but the joy of being so close to what was going on is in the detail: of the machines and engines and of the numerous difficulties, shortcomings and failures of the equipment. He also conveys his respect for skilled enemy fliers while also telling us which of his victories were sitting ducks.



McCudden is right of those sitting cross legged. Chalmondeley is directly above him, two rows up. The + signs signify those who'd died. More would before the armistice.

A 1913 photo of the RFC at Farnborough shows forty-seven people, of whom fourteen died in the Great War; only four through enemy action. We wondered what the proportion of casualties – accidents v enemy action – might be. Our limited research into burial locations suggests more accidents than KIAs, but battle zone burials on the allied side of the lines hold the balance and the records do not say. Mrs McCudden would likely agree with us, having lost two sons to aeroplane accidents and then her husband to a railway one.

McCudden takes us into the pain of forcing his air machines ever higher ***"By getting high I had many more fights over our lines than most people, because they could not get up to the Rumplers' height,***



German Rumpler aircraft. This one came second to McCudden's technique in October 1917; his 18th victory.

What goes up must come down and ***"(as I) got down to a lower altitude, and could breathe more oxygen, my heart beat more strongly and tried to force my sluggish and cold blood around my veins too quickly. The effect of this was to give me a feeling of faintness and exhaustion that can only be appreciated by those who have experienced it. My word, I did feel ill, and when I got on the ground and the blood returned to my veins, I can only describe the feeling as agony."***

It was worth it; he describes his methodology thus; ***"My system was to always attack the Hun at his disadvantage if possible, and if I were attacked at my disadvantage I usually broke off the combat, for in my opinion the Hun in the air must be beaten at his own game, which is cunning. I think that the correct way to wage war is to down as many as possible of the enemy at the least risk, expense and casualties to one's own side."***

Bishop did not mention any of this in his work, writing as he was to a specific

pro-recruiting agenda. Willie Fry mentions the cold, but not the equipment failures McCudden ascribes to it. Our other observation at this point, and possibly out of sequence, is that McCudden was finding and destroying German aircraft high over Allied territory. Bishop was also out seeking Germans, but usually on their side of the line, so his 'claims' were unsupported by evidence on the ground. Brereton Greenhous, Bishop's main detractor, does not believe Bishop could find the enemy aircraft he says he did in the empty skies, while McCudden did find them and Willie Fry wrote of the huge numbers of aircraft in the air over the Ypres Salient to be seen all at once.

McCudden's publisher, Mr. C G Grey introduces the book with his recollection of receiving the manuscript in 1918; ***"he had in about 20 hours gone from Scotland to France, tested an experimental machine, discussed an important matter of aerial tactics with the great ones of the military earth, had a decent night's rest, fought a couple of Huns, flown back to London, and had on the return journey been chiefly thinking over the "Bolo Book."*** Which he delivered to Mr. Grey on his way to his fatal accident.

Mr. Grey says, ***"he must have written*** (what he called the bolo book) ***at the rate of something over a thousand words an hour,*** (that's about half our typing speed) ***and his manuscript shows that he never re-wrote or corrected anything. The story must just have poured out at the end of his pencil as if he were sitting telling yarns across the table; which fully proves that he had the traditional Irishman's gift for story-telling. Also he had a memory like a gramophone record, for it was practically impossible to trip him up on a point of historical fact."***

McCudden was accepted into the corps as an engine fitter – no idea why since he described his motorbike as only capable of moving when he pedalled it – he nevertheless became ***"one of the best engine fitters we had"*** in number 3 squadron, according to Major General John Maitland Salmond, who commanded the squadron in 1914. He got a week in the glasshouse for causing a crash while a trainee and tells us that he went up in aircraft at every opportunity. That answers the question about any divide between 'flight' and non-flight ranks. As a corps, and given the sort of people in it with two and three digit numbers, its Esprit de Corps seems to be much like that of the Royal Engineers.

Mobilized for the Great War, McCudden was there when the corps sustained its first casualties; ***" Mr. Skene, who was a good pilot and one of the few who had at that early date looped the loop, landed again for some adjustment, and then took off for the second time. I can see Keith Barlow now standing in the passenger's seat speaking to Corporal Macrostie, and I never shall forget it. Barlow knew that the machine was slow and unhandy. I started the engine, which the pilot ran all out, and then waved the chocks away. They left the ground, and I noticed the machine flying very tail low, until it was lost to view behind our shed up at about 80 feet. We then heard the engine stop and following that the awful crash, which once heard is never forgotten. I ran for half a mile, and found the machine in a small copse of firs, so I got over the fence and pulled the wreckage away from the occupants, and found them both dead. By this time help had arrived, and we***

did what we could to see if there was any hope of life. I shall never forget that morning at about half-past six kneeling by poor Keith Barlow and looking at the rising sun and then again at poor Barlow, who had no superficial injury, and was killed purely by concussion, and wondering if war was going to be like this always. I have experienced that feeling since, and I realise that war is the most fiendish and cruel slaughter that it is possible to conceive."

We speculated on this accident before, and now we know. Once in France, ***"the machines left about mid-day on August 17th, and on leaving Amiens my Squadron suffered another loss in the death of Lieutenant Copland Perry and A.M. Parfitt, who were killed on a B.E. 4, and were unfortunately burned too. No. 3 Squadron certainly was rather unlucky at the beginning."***

Lieutenant Copland Perry is cited as 'first on the roll of honour' by his family on his Commonwealth War Graves Commission headstone in St Acheul French National Cemetery where he was interred along with Herbert Parfitt and ten British Soldiers, all from different outfits and dates.

McCudden mentions various smallarms in his book, and the first mentioned is a revolver; ***"I thought that it was a good opportunity to test my Webley "Mark IV" revolver, so I held a Bisley on my own, but I strongly deprecate the view taken by a certain unkind critic (he is now a General, by the way), who afterwards stated that I stood on a petrol can to increase the height of the Webley's trajectory."***

Nobody minded him having a revolver in 1914 then. The late Peter Alder MBE, who was President of the SRA's Charter Gun Club prior to his demise and a Royal Marine 1944-6, started the rumour about 'other ranks' being discouraged from having sidearms. At the time we were in a military museum in Zonnebeke looking at a display of improvised trench weapons; one of which was a Lee Enfield rifle cut down to pistol dimensions.

The need for compact weapons for trench raiding led to such developments, as well as jam tin grenades and eventually submachine guns. The M1921 Thompson was described as a 'trench broom' but was too late to be used as such. Another reason for revolvers being discouraged was that they marked officers out to snipers.

Aside from the revolver, he mentions Martini carbines and a .20" Winchester, of which scuttlebutt online says that the Corps acquired a quantity of 1886 Winchester rifles in .45"-90. The 'twenty-inch' refers to the barrel length, so it was a bit longer than the single shot Martini carbines and shorter than the short Lee Enfields.

The aircraft of 1914 struggled to get off the ground with two adults on board, never mind heavy luggage, and their airborne role as observers for the field artillery did not involve them in direct combat. There are anecdotes of bullet exchanges but a lot of the early flights did not involve contact with the enemy – not in the air anyway.

The first offensive use of aircraft was as bombers, of which he says, ***"our bombs still being hand and rifle grenades, and also petrol bombs, which consisted of a gallon of petrol carried in a streamlined canister which was ignited on impact with the ground. These last proved very useful for dropping on German hangars.***"

Later 'developments' included ***"a shrapnel bomb. It was painted red, weighed ten pounds, and had a small***

parachute attached to give it directional stability; Another new type, which was called the Mélinite bomb, weighed twenty-six pounds, and had a striker in the nose to detonate it. This bomb was really a converted French shell, and was afterwards condemned as being highly unsafe. I mention these types of bombs because they were our early attempts at producing this very necessary adjunct to aerial warfare."

These early attempts at taking the war to the Hun were, sort of, matched by the Teutons; "***Another German aeroplane flew over us at a considerable height*** (He says that German planes flew higher than British ones) ***whilst we were camped here : in fact, as soon as we got to a new aerodrome a German machine invariably found us."*** He never mentions being attacked on an aerodrome. We speculated the Billy Bishop's VC was for being the first to conduct a ground attack on an enemy airfield, but the technique does not seem to have caught on.

Another area of speculation has been why enemy anti-aircraft fire got called Archies. McCudden says, ***"Archibalds," probably because they always missed our machines, and the pilots used to sing the refrain of "Archibald! Certainly not!!" when they were missed."*** And he was there.

He says that they started getting wireless units in their aircraft in January 1915. A year later Billy Bishop was flying as an observer without one, so presumably progress was slow, kit unreliable etc.

He records that on 12 March 1915 ***"11 killed by two Melanie bombs exploding as they were loaded onto a Morane"*** so we looked that one up and found Captain Reginald Chalmondeley (who was in that 1913 photo) and Flight Sergeant Joseph L Costigan killed that day along with six ground crew – all No3 Squadron.

R Chalmondeley

"About the first week in May I got news that my elder brother William had been killed at Gosport on May 1 whilst instructing on a Blériot."

One morning (10th May 1915) ***Mr. Corbett-Wilson and Mr. Woodiwiss went out to do a reconnaissance on Morane No. 1872. They never returned".***

We went looking and found that they were moved from marked graves (Souchez 1?) into the Cabaret Rouge cemetery in 1923; part of a concentration of some 7,000 graves from up to a hundred other sites. Both sides gave respectful burials to each other's airmen casualties, so the balance of probability is they came down behind German lines and were moved from where the Germans buried them to where they are now in 1923.

William McCudden was buried in Chatham. Burial locations are a clue. We assume all those RFC graves in the UK were accidental deaths. Burials behind German lines were KIAs and those in casualty clearing or hospital graveyards died of wounds, but whether those wounds were accidents or enemy action is left unsaid by the Commonwealth War Graves Commission.

James was turned down for pilot training on his first application because he was too valuable on the ground as an engine fitter. He qualified as an observer and was using a Lewis gun by July 1915 and was awarded a French Croix De Guerre – a mention in despatches – before getting released to train as a pilot.

Here's some random clips from his observer days;

"The propeller had four bullet holes in it, and at this present time I still have a walking-stick made from the remains of that propeller. The machine had holes everywhere, and how it held together was a marvel."

(Mid 1915) ***"Germans have scout aircraft with guns shooting through the propeller arc…. Bölcke and Immelmann, are best at the scout job and our Morane was not detailed to that work and everyone was busy spotting for the artillery etc."***

(Battle of loos) ***"… flight Sgt Burns in a shell hole with a morse lamp exchanging messages with an aircraft and passing data back to division when mortally wounded by shrapnel…"*** William Henry Burns, No.3 Squadron, service number 100, died 6th October 1915 and is buried at Etaples, near Boulogne. That was where stabilised casualties were shipped to by rail to die or improve enough to make the cross-channel trip to hospitals in England.

After qualifying as a pilot, ***"15 December Lieutenant Hobbs, with his observer, Lieutenant Tudor-Jones, went off to do the long reconnaissance to Valenciennes. They never returned, their loss resulted in no 3 squadron adopting formation flying to protect each other…"*** The Germans buried them in Raismes Communal Cemetery Extension, where they are still to be found.

"….arrived, and by now the enemy were making a most determined effort to prevent our machines from working over the lines…. Short time later he made a forced landing ….other plane in his flight crashed about a mile away and that both occupants were dead. They were Captain Teale and Corporal Stringer who was really my Observer…" 20th July 1916. Both lie in St Pol Communal Cemetery Extension.

(19/01/1916) He's up with a rifle and a Lewis gun when overtaken by a Fokker who fires a very rapid gun. He uses up the rifle ammunition as the Lewis jammed. His unnamed pilot took Fielding Johnson up after lunch and crashed on take-off. Johnson is in Lapugnoy Military Cemetery. No other RFC casualty was buried there that month so we cannot put a name to the pilot.

After that he was relocated to England until July 1916, as having qualified as a pilot he was kept on as an instructor and logged 100 flying hours in two months. Of making the transition from being an 'other rank' to being an officer he only says that being in London enabled him to pick up his new kit. Willie Fry likewise describes picking up his new kit as an officer a year earlier. He says he was given a £25 allowance for the uniform and stuff; he obtained it all on credit and spent the £25.

We drift off McCudden's autobiography for a moment to look at the class divide. Of the 18 Great War VCs, only one went to a Flight Sergeant – the others were all officers – at the time. The first pilots were all commissioned officers, loaned to the RFC by their parent regiments. As the war progressed, 'other ranks' transferred into the RFC from the army and trained as pilots. They seem to have been commissioned while RFC 'other ranks' became pilots and observers without getting pips immediately.

Looking at the VCs, eight of the eighteen initially served as 'other ranks'; seven of them received commissions after pilot training leaving just Mottershead to earn his VC as a flight sergeant and looking at his photo, he is exactly what BBC central casting would

send you if you wanted someone to play a flight sergeant. In the order in which they were decorated:

- William Rhodes-Moorhouse was a pre-war qualified private pilot who enlisted in the RFC as a second lieutenant in 1914.
- Reginald 'Rex' Warneford was a 1914 volunteer to the Royal Fusiliers who transferred to the Royal Naval Air Service and was commissioned as a sub-lieutenant.
- Lanoe George Hawker was a pre-war qualified private pilot and commissioned in the Royal Engineers before transferring to the RFC.
- Richard Bell Davies enlisted in the Royal Navy aged 15 and was a pre-war private pilot before joining the Royal Naval Air Service as a Squadron Commander. Whether he was a 'rating' or a 'snotty' to start with is not said.
- Gilbert Insall went into the RFC for a commission and wings in 1914.
- Lionel Rees was commissioned in the Royal Garrison Artillery and a pre-war private pilot who was seconded to the RFC.
- Leefe Robinson was commissioned into the Worcestershire Regiment and seconded to the RFC.
- Thomas Mottershead enlisted in the RFC (service number 1396) as a mechanic in 1914 and went on to pilot training to the rank of Flight Sergeant.
- Frank McNamara was commissioned to militia in 1913 and was seconded to the RFC in 1916.
- Albert Ball enlisted in the Sherwood Forresters in 1914, was promoted sergeant and then commissioned. He took private flying lessons prior to secondment to the RFC.
- Billy Bishop was commissioned into a cavalry unit from the military academy and then transferred to the RFC.
- Alan McLeod enlisted in the 34th Fort Garry Horse in 1913 and was sent home for being underage. He got into flight training and was commissioned into the RFC.
- Alan Jerrard was commissioned in the South Staffordshire regiment and seconded to the RFC.
- Edward Mannock enlisted in the Royal Army Medical Corps in 1913, moved to the Royal Engineers prior to the RFC in which he was commissioned.
- Andrew Beauchamp-Proctor enlisted in the Duke of Edinburgh's Own Rifles in 1914 and was honourably discharged the following year, went back to university and then joined the RFC at the lowest possible rank, went through pilot training and was commissioned.
- Ferdinand West enlisted as a private in the Royal Army Medical Corps, was commissioned in the Royal Munster Fusiliers and then transferred to the RFC.
- William Barker enlisted in the Canadian Mounted Rifles where he was a machine gunner before transferring to the RFC as an observer. Then he was pilot trained and commissioned.

Willie Fry mentions McCudden as, having risen from the ranks, was uncomfortable around the officer class. He was in the same boat, career-wise,

having gained his 1914 Star in the trenches prior to moving to the RFC and thus might be attributing his own discomfort to McCudden. Of Fry, we can say that throughout his book he was broke; on one leave he asked to go back to the front early as the pay was higher and there was less to spend it on.

He may have been feeling the pinch acutely while in the company of upper crust officers who could afford to be the idle rich when on leave. James McCudden does not mention money once in his book.

In contrast, here's McCudden mentioning a leave***; "In Norfolk with an afternoon to spare to shoot hares with a .303 rifle, as the country up in Norfolk is overrun with them. I had some fine fun and managed to bag four hares and a partridge who, I must admit, was a sitter in more ways than one. When I got back to the Squadron, very pleased with my morning's bag, the C.O. was rather angry, as apart from game being out of season I had also been poaching. Oh! This weary world and all its troubles."***

On other periods away from the front he met Albert Ball who observed that they both had three ribbons by then and at a training depot "***One I particularly remember named Mannock."*** So he met and noted three future VCs for their great potential – the third being Mottershead, who pops up in the passage upon graduating to wings: "***Four N.C.O. pilots left the C.F.S. in the first week of July; these were Serjeants Mottershed, Haxton, Pateman and myself. They have all given their lives for their country I am sorry to say, with the exception of myself…Haxton dead in a fortnight… Paceman end of year."***

July 16 Cruikshank and cousin (crash) land wounded one died…Posted to x squadron…C.O. killed same evening… just won a commission. His name was Leech, and he was afterwards killed in France after having gained a D.S.O.

So much in so few words. Flight Sgt 649 Haxton (Hoxton on the original burial records) was with No 11 Squadron when killed on 10 October 1916. From the concentration of burials information, he came down behind German lines. Henry Lewis Pateman had been commissioned a 2nd Lieutenant and served in No 15 Squadron until his death on the 6th of February 1917. He is in Varennes military cemetery, which was a graveyard for several casualty clearing stations. All that can thus be said is that he died in British held territory. Flight Sgt 649 Mottershead died 12 January 1917 of wounds sustained in a crash landing five days earlier. 'X' was No.20 Squadron. The commanding officer of which, until he was killed on the 9th of July 1916, aged 26, was Major George John Malcolm. 2nd Lieutenant William Frederick Leech was with No 9 Squadron until 18th August 1917. Like Mr. Pateman, he lies in a casualty clearing station graveyard.

And there's more***; Gratton-Bellow, commander of Y Squadron (No. 29) killed in February 1917*** – we could not find him – and ***"Serjeant Webb, who had been a comrade of mine in No. 3, had been officially reported killed in action. Poor old Ned. He was a jolly stout fellow. I found that he was shot down over Menin while on reconnaissance in December 1916.*** (No 45 Squadron, died 26th January 1917)… ***Late September poor Sloley went down*** (not found in the records)… ***in Oct 17 Cunningham had been severely wounded and had landed near Armentières. He died a few days later, poor fellow. He was the second casualty***

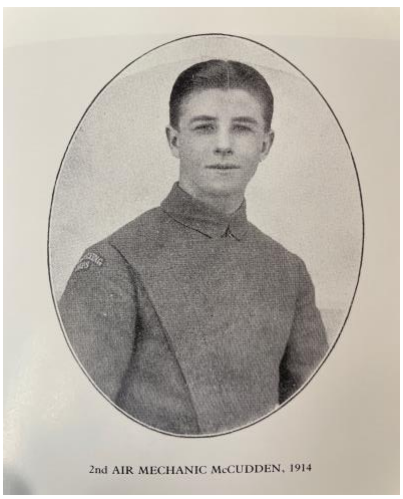
in my flight from August 15th, the other being Craine… Rhys Davids went missing 24. 10.17 19.12.17 lost. Mayberry he was 21st lancers and used cavalry tactics in the air…In contrast, Billy Bishop hardly mentions any casualties by name.

Here are McCudden's various random comments about machine guns: "***Double feed, broken bolt… new form of gun interrupter gear called the Constantinesco gear, heard of it while a trainer… I fitted a Lewis on the top plane instead of a Vickers shooting through the propeller, because the Lewis could shoot forward and upwards as well, for I could pull the near end of it down and shoot vertically above me. This, of course, would enable me to engage a Hun who had the superior advantage of height. I made myself a rough sight of wire and rings and beads, and very soon the machine was ready to wage war with great skill… The idea of using a Lewis gun on the top plane of an S.E. was first put forward by the late Captain Ball, who used his top gun with such excellent success in another Squadron whilst flying Nieuports…Unmistakeable smell of German tracer …stoppage, which was caused by a separated case… the trigger of my Vickers had broken…pressing the triggers of both guns, nothing happened. This was cold guns*** (he usually tested his guns before climbing to 17000 feet but didn't on this occasion. His editor says the guns now have electric heaters)… ***My Vickers was now out of action owing to a fault in my interrupter gear… I spent the remainder of the morning working on my Constantinesco interrupter gear, which was giving a lot of trouble on my new machine, for up till now I had hardly fired my Vickers guns at all. had now got a bad No. 3 stoppage in my Vickers gun which I could not rectify in the air… guns jammed again due to the cold so I tried firing my Verey pistol at the hun… Vickers belt broke, the metal belt having become brittle owing to the intense cold… both my guns stopped at once, the Vickers owing to a broken belt, and the Lewis because of the intense cold at 21000 feet"***

Number 3 stoppage on a Vickers Gun was a feed fault. There were 25 immediate action drills to learn for rectifying stoppages.

The F.E.2d aircraft with a Rolls Royce engine features several times in anecdotes. In this machine the gunner is in the nose; the pilot is behind him and the pusher engine is behind the pilot, so neither of them get any heat from the engine. He lost a glove one time, which the engine gobbled up and on another occasion a jolt threw his magazines out of the cockpit into the prop behind him, causing the blades to sheer off.

Aside from the repetition of guns jamming and colleagues dying, James McCudden is a rattling good read. There is a lot of detail about machine types and engines that we have not repeated – you can find that for yourselves – and if there is anything missing it is the sense of being part of the huge war machine. Willie Fry articulates that rather better, so we'll look at him next time. We might have promised that before…



2nd AIR MECHANIC McCUDDEN, 1914