

**DETERMINATION BY CHARLES W. McFARLANE INTO THE DEATHS OF JAMES FRASER AND DANIEL  
HERON v.**

**SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW**

**INQUIRY HELD UNDER FATAL ACCIDENTS AND SUDDEN DEATHS INQUIRY (SCOTLAND) ACT 1976**

**SECTION 1(1)(a)**

**SECTION 1(1)(b)**

**DETERMINATION by CHARLES W McFARLANE, Queen's Counsel, Sheriff of the Sheriffdom of Glasgow and Strathkelvin following an Inquiry held at Glasgow on the Eighteenth, Nineteenth and Twentieth days of September and Fourth day of October all Two Thousand Years into the death of JAMES FRASER, aged 20, who formerly resided at Moniack, Balmaha and DANIEL HERON, aged 20, who formerly resided at Station Road, Kippen.**

GLASGOW, , 2001.

The Sheriff, having considered all the evidence adduced, DETERMINES:

(1)In terms of section 6(1)(a) of the Fatal Accident and Sudden Deaths Inquiry (Scotland) Act 1976 (the "1976 Act") that James Fraser, aged 20 years who resided at Moniack, Balmaha died in the kitchen within the basement flat left at No. 6 Melrose Street, Glasgow at between about 03.15 hours and 04.15 hours on Thursday, 4 March, 1999. Life was pronounced extinct at 05.15 hours on Thursday, 4 March 1999.

In terms of section 6(1)(a) of the 1976 Act that Daniel Heron, aged 20 years who resided at Station Road, Kippen died in a bedroom within the basement flat left at No. 6 Melrose Street, Glasgow at between about 0315 hours and 04.15 hours on Thursday, 4 March, 1999. Life was pronounced extinct at 05.15 hours on Thursday, 4 March, 1999.

In terms of section 6(1)(b) of the 1976 Act that the cause of death of James Fraser was (a) the inhalation of smoke and fire gases due to (b) a house or domestic fire. The cause of the accident resulting in the death was the careless use or disposal of smoking material.

In terms of the section 6(1)(b) of the 1976 Act that the cause of death of Daniel Heron was (a) burns and the inhalation of toxic fumes which were carbon monoxide due to (b) a house or domestic fire. The cause of the accident resulting in the death was the careless use or disposal of smoking material.

In terms of section 6(1)(c) of the 1976 Act that the installation of a properly operating smoke detector/alarm system throughout the basement flat at No. 6 Melrose Street, Glasgow was a

reasonable precaution which could have been taken whereby the deaths of both James Fraser and Daniel Heron might have been avoided.

In terms of section 6(1)(c) of the 1976 Act that the installation of fire resistant doors in every room leading onto the hallway and thence to the front door of the basement flat left at No. 6 Melrose Street, Glasgow (being the only feasible exit route) was a reasonable precaution which could have been taken whereby the death of James Fraser might have been avoided.

In terms of section 6(1)(e) of the 1976 Act that consideration should be given to requiring houses in multiple occupation, as legally defined, to be fitted with hard-wired smoke detector/alarm systems.

In terms of section 6(1)(e) of the 1976 Act that consideration should be given to requiring all rooms adjoining potential escape routes in houses in multiple occupation (as legally defined) to be fitted with fire resistant doors.

The Sheriff, having considered all the evidence adduced, found the following facts admitted or proved:-

Mr James Fraser (hereinafter referred to as Mr Fraser) died on 4 March, 1999. He was 20 years of age. At the time of his death he shared a basement flat with two of his old school-friends, Mr Daniel Heron (hereinafter referred to as Mr Heron) and Mr Christopher Lewis (hereinafter referred to as Mr Lewis). Mr Fraser was a student of computing.

Mr Heron died on 4 March, 1999. He was 20 years of age. At the time of his death he shared a basement flat with two of his old school-friends, Mr Fraser and Mr Lewis. Mr Heron worked for the Bank of Scotland. Mr Lewis was 21 years of age and was employed as a labourer.

In February, 1999 Mr Fraser, Mr Heron and Mr Lewis decided to move into a flat together at No. 6 Melrose Street, Glasgow. Said flat was a basement flat owned and let out by Mr Harpal Singh (hereinafter referred to as Mr Singh) who was the landlord. Mr Singh lived at 35 Monreith Road, Newlands, Glasgow.

Said flat at No. 6 Melrose Street had been advertised to let in a local newsagent's shop window in Byres Road, Glasgow. Said flat was situated in the Woodlands area of Glasgow in the west end of the city in a relatively high density area of student accommodation.

In or around February, 1999 both Mr Fraser and Mr Heron had been looking for a flat to rent. When they found the flat at No. 6 Melrose Street they looked for someone with whom to share the rent. In this connection Mr Lewis decided to move into the flat with his old school-friends, Mr Fraser and Mr Heron.

About a week prior to moving into the flat on or about 28 February, 1999, Mr Lewis went to view the flat along with Mr Fraser and Mr Heron. Mr Singh was present. After viewing the flat they decided to take it on. The monthly rent was £150 for each of Mr Lewis, Mr Fraser and Mr Heron. There was also a deposit of one month's rent totalling £450 which was paid over to Mr Singh.

Mrs Lucy Fraser (hereinafter referred to as Mrs Fraser) was the mother of Mr Fraser. She was a hotelier and lived at Rowardennan, Loch Lomond. Mrs Fraser was aware that her son intended to move into a flat in Glasgow some time during the week ending 28 February, 1999. Prior to doing so, there had been a discussion between them about the rental payments. In particular on or about 26

February, 1999 Mr Fraser explained to his mother that he was intending to move into the said flat at No. 6 Melrose Street and that he would need a month's rent of £150 as a deposit.

Mr Fraser told his mother that the total monthly rent for the flat was £450 and that the monthly rent for each of himself, Mr Heron and Mr Lewis was £150 (see Finding-in-Fact No. (6) (supra)). Mrs Fraser accordingly wrote out two cheques each for £150 on separate accounts in respect of Mr Fraser's share of the deposit and of his monthly rent. Mrs Fraser set up an account to which her son was to have access and from which he was to withdraw his monthly rental and the cost of his share of the electricity and other necessary household bills.

At the said meeting about a week prior to moving into the flat on or about 28 February, 1999 (see Finding-in-Fact No. (6) (supra)) Mr Singh explained to Mr Fraser, Mr Heron and Mr Lewis that they would be sharing the costs of the electricity with the basement flat next door (which was also owned and rented out by Mr Singh) and that cash had to be put into the one meter which operated for both basement flats. Mr Lewis, Mr Fraser and Mr Heron were not entirely satisfied with this arrangement and intended to discuss it further with Mr Singh at a later date.

On or about 28 February, 1999 the said deposit of £450 together with the three separate monthly rental payments of £150 were handed over to Mr Singh in exchange for the keys to the flat. A lease for the said property, to run from 28 February, 1999 was signed by both Mr Fraser and Mr Heron. Clause 4 of the said lease (headed "Memorandum of Agreement") (see Crown Production No. 21) was in the following terms:-

"The Tenant accepts the subjects of let and the fixtures, fittings, furniture, installations and appliances therein as they stand as being in good tenantable order and repair and agrees to leave the same in the same good state of repair and tenantable order".

When Mr Lewis, Mr Fraser and Mr Heron moved into the flat on or about 28 February, 1999 they were still in effect sorting things out. It was however agreed that Mr Lewis was to have bedroom No. 2 marked on the plan of the said flat (see Crown Production No. 17) and that Mr Fraser and Mr Heron were to share bedroom No. 1 marked on the said plan. There was a double bed in bedroom No. 2 but only one single bed in bedroom No. 1. Mr Singh accordingly arranged for an additional single bed for bedroom No. 1 to be delivered to the said flat. Said single bed was delivered to the flat in the course of the next few days. Mr Lewis, Mr Fraser and Mr Heron talked about the necessity of getting smoke detectors/alarms for the flat. At no time did Mr Singh say anything to them about either smoke detectors/alarms or fire extinguishers.

At about 9.00 pm on Wednesday, 3 March, 1999 Mr Fraser telephoned his mother who asked him about the flat. He told her that there were no smoke detectors/alarms in the flat and gave her a list of things which he required. He arranged to meet her the following day. His priority was the lack of smoke detectors/alarms in the flat. Mr Heron also spoke to his mother on the telephone that evening when the question of the lack of smoke detectors/alarms was also discussed. Mr Heron had assured his mother that Mrs Fraser would be bringing in smoke detectors/alarms to the flat. Mrs Fraser arranged to bring in battery operated smoke detectors/alarms the following day. Mr Fraser knew that his mother had new battery operated smoke detectors/alarms in her house some of which he had used in his previous flat in Anniesland.

Mrs Fraser's family were quite conscious about the whole question of fire safety. She had a Canadian style house with a basement in it and her children had always been made aware of the dangers and

what they should do if a smoke detector/alarm ever went off. Being in the hotel business Mrs Fraser stated that she had always been aware of the danger of fire, both to herself, her staff and her customers.

On the evening of Wednesday, 3 March, 1999 Manchester United were playing in a football match which was being televised. Mr Lewis, Mr Fraser and Mr Heron telephoned a few friends to come round to the flat to watch the match on television. The television was situated in the living room (see Crown Production No. 17). About 10 to 15 friends came round to the flat to watch the match and a few more friends came round later on.

The evening referred to in Finding-in-Fact No. (14) (supra) developed into a party. Not much organisation had been put into the party. Mr Lewis, Mr Fraser and Mr Heron had telephoned their friends to come round to the flat for the purpose of watching the football match. Some of their friends brought drink with them. When the match finished quite a lot of them stayed on whilst a few left. People were drinking various types of alcoholic beverages, including cider, beer, vodka and whisky. Several people were smoking cigarettes including Mr Lewis, Mr Fraser and Mr Heron. The guests moved around different rooms in the flat, in particular bedroom No. 1 and the living room. Several people played the computer which was situated in the hallway (see Crown Production No. 17).

By about 12.30 am on Thursday, 4 March, 1999 all the guests had left the flat apart from Miss Victoria Winchester (see Finding-in-Fact No. 20 (infra)). Mr Fraser went to bed in bedroom No. 1 at about midnight. He had been drinking cider. Mr Lewis, Mr Heron and Miss Winchester stayed on in the living room for some time. Mr Heron then went to bed in the bed nearest the door in bedroom No. 1 sometime before 2.00 am. He had been drinking cider and vodka. By said date, there were two single beds in bedroom No. 1. Miss Winchester left the flat at about 2.15 am. Although Mr Lewis could not say whether either Mr Fraser or Mr Heron had gone to bed with a cigarette, he thought that it was probable that they had done so.

At about 2.45 am on Thursday, 4 March, 1999 Mr Lewis left the living room to go to the toilet situated directly across from the living room. The bedroom door to bedroom No. 1 was partially opened and Mr Lewis could see Mr Heron sleeping in bedroom No. 1. Mr Lewis then returned to the living room where he fell asleep on the sofa shortly before 3.00 am.

After falling asleep in the living room shortly before 3.00 am on Thursday, 4 March 1999, the next thing which Mr Lewis remembered was being carried out of the flat by two firemen and taken into the fresh air (see Finding-in-Fact No.(52) (infra)). At the time Mr Lewis was disorientated as a result of the smoke which he had inhaled. He thought he was at work and when asked by one of the firemen how many people were in the flat he initially told them there were about 5. However, he came round soon afterwards when he was able to tell the firemen that there were two other people in the flat. Prior to being taken out of the flat by the firemen, Mr Lewis had no recollection of what had happened. He was thereafter taken by ambulance to the Western Infirmary, Glasgow where after being X-rayed and medically examined he was subsequently discharged from hospital that day. As a result of the fire, Mr Lewis was on anti-depressants for a month.

Prior to the fire, Mr Lewis had not seen any smoke detectors/alarms in the flat. Someone had however told him after the fire that an object lying in the kitchen on the top of the refrigerator was probably a smoke detector/alarm. When Mr Lewis looked at the said object however he had thought that it was something electrical (see Crown Production No. 18).

Miss Victoria Winchester was a fourth year medical student at Glasgow University. She was 21 years of age and lived at No. 8 Mingarry Street, Glasgow. In March, 1999 she had known Mr Heron for just over about two years and had only known Mr Fraser for about one month. She had stayed in a Hall of Residence during her first year at University when she met Mr Heron. Thereafter she moved into her flat at No. 8 Mingarry Street, Glasgow.

During the evening of Wednesday, 3 March, 1999 Miss Winchester had been in the University Library until about 9.15pm. She then went round to visit Mr Heron and Mr Fraser at the said basement flat at No. 6 Melrose Street. She arrived there at about 9.45 pm. There were a number of people in the flat, some of whom had brought carry-outs with them. The atmosphere was generally good. People were sitting about chatting, watching television and having a few drinks. This was the first occasion on which Miss Winchester had visited the flat. She was quite surprised at its messy state and would not herself have been happy to move into it in the condition it was in. Even by comparison with other student flats which could be quite rundown and scruffy, the basement flat at No. 6 Melrose Street was messy.

Miss Winchester remembered seeing the smoke detector/alarm on top of the refrigerator in the kitchen that evening and that it was totally disconnected (see Finding-in-Fact No. (19) (supra) and Crown Production No. 18). Prior to the fire there had been no working smoke detector/alarm at her flat at No.8 Mingarry Street. On the day following the fire however her parents got her a smoke detector/alarm for her said flat.

As the evening wore on all the guests left the flat at No. 6 Melrose Street with the exception of Miss Winchester, leaving only herself, Mr Lewis, Mr Fraser and Mr Heron in the flat. After Mr Fraser and Mr Heron had gone to bed in bedroom No. 1 Miss Winchester was left talking to Mr Lewis in the living room. At about 2.00 am on Thursday, 4 March, 1999 Miss Winchester telephoned for a taxi to take her back to her flat. The taxi arrived at about 2.15 am when Miss Winchester left the flat and returned home. When she left the flat, Mr Lewis was lying on the sofa in the living room and Mr Fraser and Mr Heron were both in bedroom No. 1.

Police Constable Thomas Hill was a police constable with Strathclyde Police based at Cranstonhill Police Office. He was 40 years of age with 18 years' police service. On Wednesday, 3 March 1999 Police Constable Hill was on uniform foot patrol along with a colleague Police Constable John Dundas in Melrose Street, near to Great Western Road. Whilst on patrol in that area at about 11.40 pm he heard music coming from the basement flat at No. 6 Melrose Street. By reference to Crown Production No. 9, photograph A, both Police Constable Hill and his colleague went over to the railings in the middle of said photograph where they looked over and could see the living room windows of the said basement flat (see Crown Production No. 9 photograph C). Whilst doing so, they saw an empty bottle being placed on a window ledge of one of the said windows, beside several other empty bottles. Police Constable Hill confirmed that he had received no complaints of any sort about any noise or otherwise coming from the said basement flat and went about his duties. Later on, at about 4.20 am Police Constable Hill was called to attend again at No. 6 Melrose Street. When he arrived at the locus shortly afterwards the Fire Service Personnel were already on the scene. He was advised by a member of the said personnel that there had been two fatalities in the said basement flat at No. 6 Melrose Street. Police Constable Hill then contacted Police Force Control and advised them of the position. He was also advised that Mr Lewis has survived the fire and arranged for him to be taken to the Western Infirmary, Glasgow.

Police Constable Hill was present when the police casualty surgeon subsequently attended at the scene and pronounced life extinct in respect of each of Mr Fraser and Mr Heron at 5.15 am on Thursday, 4 March, 1999.

Inspector Gregor McKenzie was an inspector with Strathclyde Police based at Wishaw Police Office. He was 39 years of age with 17 years' police service. In March, 1999 he was a sergeant based at Cranstonhill Police Office, Glasgow. In the early hours of Thursday, 4 March, 1999 Inspector McKenzie was on duty at Cranstonhill Police Office when he received a telephone call regarding a fire at No. 6 Melrose Street. He attended at the locus along with other police officers and arrived there at about 4.15 am. By that time members of Strathclyde Fire Brigade were already in attendance. Two ambulances were also sitting in Great Western Road when Inspector McKenzie and his colleagues arrived. Inspector McKenzie was advised that there had been three persons in the said basement flat at the time of the fire, two of whom had died, namely Mr Fraser and Mr Heron. He was also advised that the third person, Mr Lewis had survived. Inspector McKenzie spoke at the locus to Mr Mark Stockton who was also from Strathclyde Fire Brigade in charge of the fire investigation at that time (see Finding-in-Fact No. (35) (infra)).

Inspector McKenzie examined part of the basement flat at No. 6 Melrose Street. In this connection he remained at the door of bedroom No. 1 (see Crown Production No. 17) and was shown the scene by Mr Stockton. There were also a number of other police officers in attendance. Inspector McKenzie made sure that the surrounding properties had been evacuated. He had his officers speak to the occupants of the surrounding flats to ensure that they had somewhere to go for the night. Inspector McKenzie confirmed that No. 6 Melrose Street was made up of a number of flats and that the people who had been evacuated from that address that night were primarily students and other young people.

Joanne Childs lived at No. 2 Clarence Lane, Glasgow. She was 19 years of age and a student at Glasgow Caledonian University. In March, 1999 Miss Childs lived in the ground floor flat at No. 4 Melrose Street. By reference to Crown Production No. 9, photograph A shows the entrances to Nos 4 and 6 Melrose Street (from left to right) in the centre of the said photograph. The first two windows at street level on the left-hand side of the said photograph were the front windows of the said ground floor flat at No. 4 Melrose Street occupied by Miss Childs. The two windows at street level to the right-hand side of the entrance to No. 6 Melrose Street (see Crown Production No. 9, photographs A and B) were the front windows of the said ground floor flat at No.6 Melrose Street.

On Wednesday, 3 March 1999 Miss Childs was staying in her said ground floor flat at No. 4 Melrose Street. In the early hours of Thursday, 4 March, 1999 she was wakened up by a noise and smelt smoke in her flat. She opened her bedroom door and was faced with a wall of smoke. Accordingly she immediately telephoned the Fire Brigade for assistance. This she did at 3.54 am. Very shortly thereafter at 4.01 am the first of the Fire Brigade appliances arrived at the scene.

Mr Michael Moffat was a Scenes of Crime Officer with Strathclyde Police. He had been employed in that capacity for 12 years and was 39 years of age. He was based at the Identification Bureau in Dumbarton. He had a Diploma in Photography and a Certificate in Crimes Scenes Investigation from the Police College at Durham University.

On Thursday, 4 March 1999 Mr Moffat was instructed to attend at No. 6 Melrose Street to take a number of photographs at the said address in connection with a fire which had occurred in the early hours of the morning on said date. Mr Moffat arrived at the said address at about 7.45 am on said date and took a number of photographs of Nos. 4 and 6 Melrose Street. In particular he took a series

of photographs both internally and externally of the said basement flat at No. 6 Melrose Street where the fire had occurred. Said photographs are contained in Crown Productions Nos. 9 and 10 (see Findings-in-Fact Nos. 32 and 33) (infra).

Crown Production No. 9 photograph A is a general view of Nos. 4 and 6 Melrose Street looking towards Great Western Road, Glasgow. Photograph B is a close up of the front door of No. 6 Melrose Street. Photograph C shows the two living room windows of the basement flat of No. 6 Melrose Street, looking onto the basement well. The narrow window to the extreme right-hand side of said photograph is the kitchen window of the said basement flat. Photograph D is a doorway leading from the area of the said basement flat looking onto the basement well to the right-hand side of the stairway in photograph A. Photograph E is the back court of the basement flat at No. 6 Melrose Street. Photograph G shows the view into No. 6 Melrose Street where the door shown in photograph B is opened. The stairs in the middle of photograph G lead down into the basement area of No. 6 Melrose Street. Photograph H shows the said stairs leading down into the basement area. The front door of the said basement flat at No. 6 Melrose Street is immediately to the left at the foot of the said stairs (not shown in the photograph). Photographs I and J show the back corridor immediately to the right at the foot of the said stairs leading to the back court shown in photograph E. The doorway immediately to the left of photograph J leads to a storage area. Photograph K shows the said back corridor shown in photographs I and J looking in from the back court. The door at the end of the said corridor is the door to the adjoining flat to the said basement flat at No. 6 Melrose Street and is immediately to the right at the foot of the said stairs shown in photograph H. Photograph L is the front door of the said basement flat at No. 6 Melrose Street and is immediately to the left at the foot of the said stairs shown in photograph H. Photograph M is a view from inside the hallway of the said basement flat at No. 6 Melrose Street, looking at the other side of the said front door shown in photograph L. Photograph N is a view from inside the hallway of No. 6 Melrose Street showing in the middle of said photograph the doorway to bedroom No. 1. The doorway to the right-hand side of said photograph leads to bedroom No. 2. The door to the left-hand side of the said photograph leads to a hall cupboard. Photograph P shows two single beds and mattresses, all of which have been very badly damaged by fire. Said beds and mattresses were situated within bedroom No. 1. Photographs Q, V, W, X, Y, Z, A2, B2, C2, D2, E2 and F2, were all taken from within bedroom No. 1 showing extensive fire and smoke damage to the said bedroom and its contents.

Crown Production No. 10, photograph A shows a general view of the living room of the said basement flat at No. 6 Melrose Street. Photograph B shows a close up view of the coffee table in the said living room showing inter alia empty cigarette packets. Photograph C shows part of the living room showing inter alia cigarette lighters and an ashtray full of cigarette stubs. Photograph D shows a general view of the kitchen. Photograph E shows a view from the kitchen looking out into the hallway. Photograph F shows a close up view of the fusebox in the kitchen. Said fusebox was situated in the kitchen at the top left-hand corner of photograph D (not shown in the photograph). Photograph G shows five fuses which had been removed from the said fusebox shown in photograph F. Photograph H shows a view from the hallway looking into the bathroom (centre-left of said photograph). The doorway to the right-hand side of said photograph (adjacent to a wooden cabinet partially obstructing the entrance to said doorway) leads into bedroom No. 2. Photograph I shows a general view of bedroom No. 2 with a double bed. Photograph J shows a general view of the bathroom from the hallway. Photograph K shows a view of the bathroom door taken from inside the bathroom, looking out into the hallway. Photograph L shows a view from inside the bathroom to the living room door directly across the hallway. Photograph M shows a storage area immediately to the left of the front door on entering the said basement flat. Photograph N shows some wiring in the

ceiling area above the doorway on stepping into the said storage area and photograph U shows a blocked-off stairway between the living room and the cupboard next to bedroom No. 1.

Mr Mark Stockton was 38 years of age. He was employed by Strathclyde Fire Brigade and stationed at Motherwell. He had worked for the Fire Brigade for 181/2 years. In March, 1999 he was stationed in Cowcaddens where he was a temporary sub-officer.

On the morning of Thursday, 4 March, 1999 Mr Stockton was on duty as the officer in charge at Cranstonhill Fire Station. At 3.54 am that morning he received a telephone call about a report of smoke in the house at No. 6 Melrose Street, Glasgow (see Finding-in-Fact No. (29) (supra)). Crown production No. 1 is a Fire Report dated 4 March, 1999 prepared by Mr Stockton relating to the fire at No. 6 Melrose Street. The mobilising time during which the fire appliances left the fire station took just 2 minutes (from 3.54 am to 3.56 am) and the first fire appliance arrived at the scene only 6 minutes after the initial telephone call, arriving at 4.01 am. Mr Stockton was in charge of the said first fire appliance.

On arrival at Melrose Street, Mr Stockton noticed a number of people outside the premises. The fact that people had either left or been evacuated from the premises suggested to Mr Stockton that he was facing a serious fire situation. Mr Stockton ascertained that people had been evacuated from the premises. Several people were standing about the street. Mr Stockton immediately began to address the situation.

When Mr Stockton arrived at the front doors of No. 4 and 6 Melrose Street (see Crown Production No. 9, photograph A) there was no sign of smoke. He started to identify the persons who were standing in the street. He was approached by several girls outside No. 4 Melrose Street. They took him into their ground floor flat at said address. He became aware of smoke coming through the floorboards of said ground floor flat. The girls confirmed in response to a question from Mr Stockton that there was a basement flat below them. Mr Stockton enquired as to whether or not the said basement flat was occupied to which he received no affirmative response. At the beginning of said operations, Mr Stockton had no idea whether the said basement flat was occupied or not.

Mr Stockton then entered through the main black door to No. 6 Melrose Street (see Crown Production No. 9, photograph B). Behind said black door there was another door at the top of the said stairway leading down from ground level at Melrose Street to the said basement flat (see Crown Production No. 9, photograph G). The said door is shown in the bottom left-hand corner of photograph H of said Crown Production. Anyone ascending the said stairway would have had to step back and open the said door in towards themselves.

Mr Stockton descended the said stairway. The said door at the top of the said stairway had been locked and a limited amount of force had been required to gain access to the said stairway. As soon as Mr Stockton got to the bottom of the said stairway, he saw smoke issuing from the spaces around the front door of the said basement flat at No. 6 Melrose Street (see Crown Production No. 9, photograph L and Finding-in-Fact No. 32 (supra)). Mr Stockton knew that there was a fire within the said premises and immediately obtained a hose reel and ordered two fire fighters to man it and deal with the fire. Both were wearing breathing apparatus. Prior to the arrival of the fire brigade, nothing had been done to fight the fire. One hose reel jet from a water tender ladder sourced from a street hydrant was sufficient to extinguish the fire.

The front door of the said basement flat at No. 6 Melrose Street also had to be forced open by the said fire fighters. Mr Stockton was standing just outside the said door when this was done. As soon as the door was forced open the built up smoke from inside the flat was released and quickly filled

up the stairwell. The flat itself was very much in darkness. The smoke was very thick in the hallway and at a very low level close to the floor. There were no lights on in the flat. There was no visibility. The two man firefighting crew then entered the flat in a crouched position. Mr Stockton remained at the front door. The said fire fighting crew very quickly went out of Mr Stockton's visibility, after about one or two metres. However, they kept him advised of their actions.

After about one minute the said fire fighting crew indicated to Mr Stockton that they had found a casualty. Said casualty was subsequently identified as Mr Fraser (see Finding-in-Fact No. (49) (infra)). They asked for assistance in removing the casualty. Mr Stockton and two or three other firefighters then entered the hallway and took the casualty from the said fire fighting crew. They took him to the common close just outside the front door of the said flat for fresh air. Mr Stockton then passed a message to Brigade Control advising them that there were persons in the flat. An ambulance was immediately summoned. In the meantime Mr Stockton initially assisted two or three firefighters in administering artificial resuscitation to Mr Fraser outside the front door of the flat before getting on with other duties. Realising that the flat was occupied Mr Stockton then went to check the courtyard at the back of the building to see if there were any casualties there or smoke coming from any of the back windows (see Findings-in-Fact Nos. (43) and (44) (infra)).

At the foot of the said stairway from ground floor level and immediately outside the said basement flat at No. 6 Melrose Street was an oxygen cylinder (see Crown Production No. 9 photographs H and I). Said cylinders can be dangerous in a fire situation in that when subjected to heat they can rupture and explode. Mr Stockton did not examine the said cylinder.

To the right of the said cylinder, looking down from the top of the said stairway (see Crown Production No. 9, photograph H) was a set of ladders which extended to a doorway leading into the said courtyard at the back of the house (see Crown Production No. 9, photographs I and J). When Mr Stockton arrived at the scene that morning, the push-door at the back of the passageway in photograph J was ajar. There was quite a lot of material lying in the said passageway. In particular old pieces of carpet were lying on top of the said set of ladders and several long metal poles were lying on top of the carpet. In addition there was a partially full bag of cement lying to the right of said set of ladders.

To the left of the said passageway leading to the said back courtyard was a storage area which was full of materials which spilled into the said passageway. In particular there were a number of plastic rubbish bags, another cement bag and some valves and cabling lying at the doorway to the said storage area (see Crown Production No. 9, photograph J). Mr Stockton had to clamber over the said materials which were lying in the said passageway in order to reach the said push-door which led into the said back courtyard. He was able to do so, albeit only with difficulty. On reaching the courtyard, he checked to see if there were any casualties or smoke coming from any of the back windows. On ascertaining that there were no casualties or smoke coming from any of the back windows Mr Stockton returned to the front door of the said basement flat further to monitor the situation.

There was a lot of debris, building material and refuse situated in and lying about the said back courtyard. Production No. 1 for Strathclyde Fire Brigade is a photograph of the back of the said basement flat at No. 6 Melrose Street showing also the said back courtyard with scaffolding erected along the length of the said basement flat. The window to the right-hand side of the said photograph is the window to bedroom No. 1. The window to the left-hand side of the said photograph is the window to bedroom No. 2. The narrow window between the said windows to bedrooms Nos. 1 and 2 is the bathroom window. All the said windows were closed and had metal bars running up and

down their full extent on the outside. Said photograph was taken on the morning immediately after the fire by a Mr Hannah who was a member of the Fire Brigade Audio Visual Department (see also Crown Production No. 17).

As narrated in Finding-in-Fact No. (32) (supra) photograph C of Crown Production No. 9 shows the two living room windows of the said basement flat looking onto the basement well on the Melrose Street side. The narrow window to the extreme right-hand side of the said photograph is the kitchen window of the said basement flat (see also Crown Production No. 17). All of said windows were closed and also had metal bars running up and down their full extent on the outside. Accordingly, all the said windows in the said basement flat at No. 6 Melrose Street had metal bars running up and down their full extent. All of said metal bars which had been installed for security purposes, were firmly secured. All the said windows in the basement flat were closed during the fire. Some of them were however opened after the fire to aid ventilation.

Mr Alex Muir was 39 years of age. He was employed by Strathclyde Fire Brigade at Brigade Headquarters, Port Dundas Road, Cowcaddens. He had 21 years' service with the Fire Brigade. At 3.56 am on Thursday, 4 March 1999, whilst he was working night-shift he received a telephone call about a smell of burning at a house at No. 6 Melrose Street, Glasgow. He and his colleagues immediately attended at that address. En route, they donned their breathing apparatus. On arrival, Mr Muir and his colleagues entered through the main black door to No. 6 Melrose Street. Said door was open as was the interior door leading down to the said basement flat by the time Mr Muir arrived. Mr Muir and his colleagues descended the stairway which led down to the said basement flat (see Crown Production No. 9, photographs B, G and H).

On arrival at the front door of the said basement flat at No. 6 Melrose Street (which was immediately to the left at the bottom of the said stairway) (see Crown Production No. 9 photographs H and L), Mr Muir noticed smoke percolating from the sides and top of the said door. It was obvious to him that there was a fire within the said flat. He and his colleagues immediately donned their face masks and after one of his colleagues made sure they had water, took a branch of their hose reel and kicked the door in. The door swung fully open and Mr Muir and his colleagues were confronted by a wall of smoke which came towards them. He and a colleague crouched down on their hands and knees and entered the flat. Mr Muir took the hose reel with him.

Mr Muir and his colleague entered the hallway on their hands and knees and crawled into the kitchen which was on their left-hand side. There was no door to the kitchen and they went straight in. It was pitch black and they could see nothing. They had to move along by touch. On entering the kitchen Mr Muir came across what he knew to be a person. He was lying about 4 to 5 feet in from the entrance to the kitchen to the right-hand side, approximately where the number "3" is marked on the plan of the said premises (see Crown Production No. 17). Said person was subsequently identified as Mr Fraser. Because of the darkness, Mr Muir was unable to say precisely in what position Mr Fraser was lying although his head was facing towards the kitchen window. Mr Muir immediately notified his colleague who was to the left-hand side of the kitchen and they both started to remove Mr Fraser from the kitchen. Because of the difficulty involved, they shouted for assistance. They removed Mr Fraser to the door of the kitchen where they were assisted by other members of the fire fighting crew. The kitchen was completely smoke logged. The smoke level had dropped to the floor. In these circumstances the first priority was to get Mr Fraser out of the area and into fresh air "as quickly as [was] humanly possible". This was immediately done (see Crown Production No. 10, photographs D and E).

After removing Mr Fraser from the kitchen Mr Muir and his colleague then carried on into the rest of the flat. In his capacity as team leader Mr Muir decided that the smoke had lifted sufficiently. He could see a bedroom which he believed had been involved in the fire. He made his way directly towards this bedroom and entered it followed by his colleague. Said bedroom was bedroom No. 1 (see Crown Production No. 17). The smoke had lifted approximately to waist height so that the lower half of the room was clear. On entering the bedroom Mr Muir could see a further casualty lying below the window. Said casualty was subsequently identified as Mr Heron. The window was intact when Mr Muir entered the bedroom, although there were cracks along its bottom.

There was a bicycle lying immediately in front of the window in bedroom No. 1. Said bicycle was in the upside down position shown in photograph Crown Production No. 19. Mr Heron was lying prone below the window, in front of the bicycle on the camera side. One of his hands was touching the bicycle. Arrangements were made for Mr Heron to be removed from the bedroom. There was an extensive amount of fire damage to the bedroom and its furniture. The charred bed and the extensive damage to the walls around the door are shown in Crown Production No. 9, photograph Q.

Mr Muir then entered the living room which had been subject to very little damage. Although there was some smoke damage, there was no fire damage and the damage was not nearly as extensive as in some of the other rooms in the flat, in particular bedroom No. 1 and the kitchen. In the living room Mr Muir found Mr Lewis lying on the sofa, shown in Crown Production No. 10, photograph A. He was unconscious at the time. Mr Muir then went back outside to advise his colleagues that there was another casualty. He and a colleague then returned to the living room and proceeded to remove Mr Lewis from the sofa. As he moved towards the door, Mr Lewis became conscious and started struggling with Mr Muir and his colleagues. Mr Lewis was very frightened and confused. He was taken out into the fresh air where oxygen was administered to him to assist his recovery. Attempts had also been made to resuscitate Mr Fraser (see Finding-in-Fact No. (41) (supra)). Shortly afterwards the ambulance services arrived at the scene (see Finding-in-Fact No (18) (supra)).

Mr Muir and his colleagues were primarily involved in rescue and not in fire fighting operations. There was very little fire fighting to be done. By the time Mr Muir and his colleagues arrived at the scene there was only a small "bulls eye of fire" in bedroom No. 1. The fire had in effect burned itself out and Mr Muir and his colleagues were primarily involved in "damping down" operations.

Very shortly after returning to the front door of the said flat, having ascertained that there were no casualties in the back courtyard and no smoke coming from any of the back windows (see Findings-in-Fact Nos. (41) and (44) (supra)), the fire fighters located a second casualty (Mr Heron) in bedroom No. 1 (see Findings-in-Fact Nos. (50) and (51) (supra)). Mr Stockton was advised that that casualty had been fatal. Within minutes of Mr Heron's being located the fire fighters indicated that they had found the third casualty (Mr Lewis) in the living room. As narrated in Finding-in-Fact No. (52) (supra) Mr Lewis was removed from the flat and with assistance was able to walk up the said stairway leading to street level (see Crown Production No. 9, photograph H).

As narrated in Finding-in-Fact No. (49) (supra) there was no door to the kitchen. Accordingly, during the fire the kitchen would have filled up with smoke much more quickly without a door that would have been the case if there had been a door which was capable of being closed and had in fact been closed. There were doors to both bedrooms Nos. 1 and 2 and also to the bathroom. Propped up against a cupboard door in the hallway immediately to the left of the doorway on exiting from bedroom No. 2 was a blue and white mattress. In front of the said mattress also in the hallway was a long wooden chest or dressing table (see Crown Production No. 9 photograph N and Crown Production No. 10 photograph H). Said wooden chest or dressing table partially obstructed the

doorway to bedroom No. 2. The floor area of the hallway was accordingly partially obstructed by said mattress and said wooden chest or dressing table and also by certain other items of furniture.

After the fire had been extinguished and the casualties removed from the premises Mr Stockton entered the flat and made an inspection of all the rooms having communicated further with the fire fighters. As a result of said inspection, Mr Stockton prepared his Fire Report, dated 4 March 1999 (see Crown Production No. 1). Said Fire Report is true and accurate in its terms. Said Fire Report was prepared by Mr Stockton in consultation with Mr John Gow of the Strathclyde Fire Brigade Investigations Unit. Mr Gow himself prepared a comprehensive Fire Investigation Report into the fire following upon a detailed investigation by him of the whole incident and a detailed inspection by him of the premises on the morning immediately following the fire ie on Thursday, 4 March, 1999. Said Fire Investigation Report which was completed on and dated 12 May, 1999 is true and accurate in its terms (see Crown Production No. 2). Much of the information contained in Mr Stockton's said Fire Report was obtained from Mr Gow and is also contained in Mr Gow's said Fire Investigation Report. Suffice to say that in terms of Mr Stockton's said Fire Report it is narrated in paragraphs 2.13, 2.14, 2.15 and 2.16 that there was a battery operated smoke alarm in the premises but that said alarm did not operate. In terms of paragraph 2.17 of the said Report the reason given for the non operation of the said alarm was as follows:-

"Domestic smoke detector had not been installed properly and the battery had been removed."

In terms of paragraph 3.5 of the said Report it is noted that the flat was in multi-occupancy and that the fire started in a bedroom (bedroom No. 1). In terms of paragraph 4.6 of the said Report it is noted that no attempts had been made to fight the fire prior to the arrival of the Fire Brigade, (see Finding-in-Fact No.(39)) (supra)) and in terms of paragraph 4.7 thereof it is noted that one hose reel jet from a water tender ladder was used to extinguish the fire. Under the heading "Supposed Cause Damage and Other Fire Details" it is noted in terms of paragraph 5.1 of the said Report that the most likely cause of the fire was accidental and that it was caused by one of the male occupiers. The defect, act or omission giving rise to ignition is described as being "dropped light probably smokers materials". In terms of paragraph 5.2 of the said Report the source of ignition is described as "Smokers materials, probably cigarette" and in terms of paragraphs 5.3(a) and (b) thereof, the description of the item first ignited and its composition are respectively given as "bedding materials" and "combination of natural/man-man textiles". The said Report then deals with the particulars of the three casualties and the separate locations in the flat where each of them was found (see Findings-in-Fact Nos.(49), (50) and (52) (supra)).

Mr John Gow was 43 years of age. He was a sub-officer employed by Strathclyde Fire Brigade Fire Investigation Unit based at Bothwell Road, Hamilton. He had been employed by the Fire Brigade for 21 years and had worked for the Fire Investigation Unit for 21/2 years to date. Other officers working in the Fire Investigation Unit were seconded from other branches of the Fire Brigade. As well as his experience with the Fire Brigade Mr Gow had received specialist training. He had received a two week initial training course at the inception of the Fire Investigation Unit followed by a one week course at the Fire Service National Training College. His general duties within the said Fire Investigation Unit included his attendance at incidents where he was requested to do so by the officer in charge or at the direction of a police officer. He also required to attend incidents where

there was a fatality or where there may be a potential casualty. His duties included investigation of the cause of the fire and also establishing, so far as possible the events leading up to the fire.

At about 4.15 am on Thursday, 4 March, 1999 the said Fire Investigation Unit received a telephone call to attend a fire which had taken place at No. 6 Melrose Street, Glasgow. Said telephone call was as a result of a message from Mr Stockton to Brigade Control indicating that there were persons in the flat and that there were possible fatalities (see Finding-in-Fact (41)) (supra). On mobilisation it is standard practice in such situations for Brigade Control to inform the Fire Investigation Unit. The said Fire Investigation Unit was on an on-call system, available 24 hours a day on a shift basis. Mr Gow left Hamilton immediately at 4.15 am and arrived at Melrose Street at 4.40 am. On arrival he was briefed by Mr Stockton who was the officer in charge. He thereafter started his own investigations.

As narrated in Finding-in-Fact No. (56) (supra) after a detailed investigation by Mr Gow of the whole incident and a detailed inspection by him of the said premises on the morning of Thursday, 4 March, 1999 he produced said Fire Investigation Report, dated 12 May, 1999 (see Crown Production No. 2). Appended to said Report was a sketch of the general geographical location of Nos. 4 and 6 Melrose Street together with a detailed plan of the general layout of the said basement flat at No.6 Melrose Street. Said detailed plan was substantially similar to Crown Production No. 17.

At page 1 of the said Fire Investigation Report the premises were described as being a tenement building providing residential accommodation of five floors, the lowest being a basement (see Crown Production No. 9, photographs A and C). The affected property was a basement level unregistered house in multiple occupation. Said information was obtained by Mr Gow after the fire from the Fire Safety Authorities and Glasgow City Council. Access to the basement was gained via an internal door and stairway from the ground floor communal landing, the outside door being a security entry (see Crown Production No. 9, photographs B, G and H). The basement floors were concrete; all others were timber. The roof was timber pitched and slated. The windows were single glazed, timber sliding sash. All the basement windows were barred to the front and rear of the building (see Crown Production No. 9, photograph C and Scottish Fire Brigade Production No. 1). The scheme for registering houses in multiple occupancy in Glasgow is regulated and operated by Glasgow City Council direct and not by the Fire Authority.

Mr Gow examined all the bars to the windows of the said basement flat at No. 6 Melrose Street. They were made of metal and were all firmly secured both top and bottom. In particular, Mr Gow examined the bars to the window in bedroom No. 1 (see Scottish Fire Brigade, Production No. 1 and Finding-in-Fact No. (45) (supra)). They were all firmly secured both top and bottom. All the other windows to the said basement flat, in particular to the kitchen had similar metal bars (see Crown Production No. 9, photograph C; Finding-in-Fact No. (32) (supra) and Crown Production No. 10, photograph D). Said bars were of fairly strong construction. Whilst some of the sliding sash windows could be opened, the said metal bars could not be readily accessed.

The most severe damage to the said basement flat occurred in bedroom No. 1. The fittings, contents and decor were severely damaged by fire, heat and smoke (see Crown Production No. 9, photographs P to F2 and Crown Production No. 19). The hall sustained fire, heat and severe smoke damage (see Crown Production No. 9, photographs M and N and Crown Production No. 10, photographs H and L). The internal face of the bathroom door sustained fire damage (see Crown Production No. 10, photograph K). The bathroom fittings and contents suffered heat and severe smoke damage (see Crown Production No. 10, photographs J, K and L). There was severe smoke damage to the double bedroom (bedroom No. 2) (see Crown Production No.10, photograph I),

kitchen (see Crown Production No. 10, photographs D and E) and a box room. The living room sustained moderate smoke damage (see Crown Production No. 10, photograph A).

The body of Mr Heron was found in bedroom No. 1 which was the location of the fire. His body was sprawled over an upturned bicycle (see Crown Production No. 19). The bicycle was in front of the rear facing window. An examination of his body revealed the most severe damage to be on his left side. There were partial thickness burns to the underside of Mr Heron's left jaw, the left side of his face and chest, his left arm, the palm of his left hand and to the outside of his left leg and across the top of his left foot. Partial thickness burns were observed on the inside of his right leg, around the area of the knee, to the outside of his right lower leg and thigh. His right hand fingers were curled towards his palm. In addition, Mr Heron's forehead was burnt with his hair being singed in this area. Mr Gow's examination also revealed indentation marks on the left side of Mr Heron's chest which were consistent with having been caused by the cogs on the bicycle that was in front of the window. Sloughing of the skin was evident over much of the body.

The body of Mr Fraser was located in the kitchen. He was face down on the floor. An examination of Mr Fraser revealed reddening to much of his body. His face was heavily smoke stained. There was evidence of smoke in his nasal passages.

The fire load density in bedroom No. 1 increased. Some clothing, cardboard boxes and plastic bags were in the room. A television and some computer equipment were also in the room. Most of the items however were stored in a haphazard fashion across the floor. The damage patterns evident were consistent with that of a slowly developing fire. Initially it was a low level fire, smouldering for some 20 to 30 minutes before ignition. The fire originated close to the south side of the radiator (see Crown Production No. 9, photograph V). The foam backed carpet ignited. The fire then spread horizontally east (towards the door) and north under the bed nearest the door (see Crown Production No. 9, photographs P and Q). The hot gas layer and the unburnt products of combustion rose to ceiling height spreading throughout the room. The bedroom door being closed over, the gas layer and smoke lowered to approximately 0.5 metres from the floor. During this time the bedroom door was opened allowing a fresh oxygen supply to enter. The fire then increased in intensity. As the fire developed a "Lynx" aerosol can under the bed burst releasing its contents into the room (see Crown Production No. 9, photograph E2). The vapour ignited flame impinged onto the bathroom door via the now open bedroom door (see Crown Production No. 9, photograph N and Crown Production No. 10, photograph H). As the temperature increased areas of wallpaper started to flame. The oxygen levels within the flat depleted, the fire then dying down to a smouldering state. The smoke from bedroom No. 1 then spread throughout the hall (see Crown Production No. 9, photographs M and N); bedroom No. 2 (see Crown Production No. 10, photograph I); the bathroom (see Crown Production No. 10, photographs J and K) and the kitchen (see Crown Production No. 10, photographs D and E). As the smoke layer cooled it descended to floor level in the kitchen area. The fire did not develop further due to fire fighting actions.

So far as the damage to bedroom No. 1 (being the location of the fire) was concerned, this appeared even in its distribution. An examination of the bedroom door revealed it to be fire damaged on its external surface (hall side) (see Crown Production No. 9, photograph N). The room side of the door was severely smoke stained and a demarcation line was evident approximately 0.5 metres from floor level (see Crown Production No. 12). Fire and heat damage were observed on the inside faces of the bedroom door frame (see Crown Production No. 9, photograph Q and Crown Production No. 12). The damage extended into the hall towards the bathroom and living room. The bedroom wall to the rear of the bedroom door was less severely damaged than the remainder of the room. A clear vertical demarcation line was evident on the wall. The damage patterns on the bedroom door were

consistent with the door being closed over in the early stages of the fire. The door was later opened during the development of the fire. Fire damage in the form of an inverted cone pattern was observed at the bottom right-hand corner of the bedroom door (viewed from inside the bedroom). The base of the cone was level with the bottom edge of the door. A duvet cover and foam pillow were located on the floor close to the left side of the door frame (viewed from inside the bedroom). Burn damage was evident on both these items.

Two single beds were located within bedroom No. 1. One was against the south west wall, the head of this bed being against the south east wall. The second bed was adjacent to the first close to the centre of the room. One end of this bed (south east wall) was angled towards the bedroom door; the other ends of the beds were almost touching (see Crown Production No. 17 and Crown Production No. 9, photograph P). The top surfaces of both beds were severely damaged by heat.

The single bed nearest the door was the most severely damaged. In particular the fabric covering the bed base was fused to the edge of the mattress. This damage was on the side nearest the bedroom door. Fire damage to the external surfaces was more severe on the east and north sides of the bed base and mattress. The underside of the mattress was heat damaged. An impression was evident on this surface indicating that the bed had been occupied at the time of the fire. A similar impression was evident on the horizontal surface of the material covering the bed base. The hardboard base on the underside of the bed was fire damaged. This was the end of the bed near the radiator. The fire damage to the said hardboard base was at its narrowest near its south west corner spreading outwards towards the east and north. The bed base was severely charred. This damage was on the underside of the lowest timbers. The charring was also more severe on the inside faces of the remaining timber framework.

An examination of the bed against the south west wall revealed that the timber bed base was most severely charred on the east side facing the other bed. The mattress on this bed was also most severely damaged on the east side. The timbers on the underside of this bed sustained heat damage. Two fire damaged pillows were at the head of this bed. These pillows were damaged on the side nearest the door. A duvet cover was pushed back against the south west wall. The duvet was severely damaged by heat.

A radiator was fixed to the south east wall of bedroom No. 1 close to the door. An ashtray was located on the floor below the radiator, to its east side. Several used cigarette ends were found around this area (see Crown Production No. 9 photograph V). Used cigarette ends were found on the floor. They were below the bed nearest the door (see Crown Production No. 9, photographs V and W). Further used cigarette ends were found on the carpet between both beds. A broken half bottle of vodka and a burst "Lynx" aerosol can were found below the bed nearest the door. The aerosol can was damaged by heat and had ruptured (see Crown Production No. 9, photograph E2). A candle stub was found on the floor between the beds and the window. The wick on the candle was blackened, indicating that it had been used. Several disposable lighters were found in the debris between the beds and the window.

The window to bedroom No. 1 was of the sliding sash type. The top sash had six panes of glass; the lower sash had one. The upper panes were in place, heat damaged and heavily smoke stained. The lower pane had broken; the exposed edges were smoke stained. Mr Heron was found with one hand close to this lower pane.

Damage to the carpet in bedroom No. 1 revealed a burn pattern emanating from the south side of the radiator. This pattern extended outwards towards the door and between both beds. The burn

pattern spread under the adjacent bed, and along the north east edge. A burn pattern was also evident along the window side of both beds. An empty Jim Beam whisky bottle and a part-filled Southern Comfort whisky bottle were found on the floor between the beds and the window. No other possible ignition sources were located.

The body of Mr Fraser was recovered from the kitchen floor. The kitchen was heavily smoke stained down to floor level. Smoke condensates were evident on the kitchen walls and windows. The kitchen floor was heavily smoke stained (see Crown Production No. 10, photographs D and E). A clear area could be seen on the floor indicating Mr Fraser's position at the time of the fire. This outline showed Mr Fraser's body to be lying with his feet pointing towards the kitchen doorway. A domestic smoke detector was lying on top of the refrigerator. The smoke detector had not yet been assembled and no battery was in evidence. It did not operate (see Crown Production No. 18). The horizontal surfaces of all worktops and appliances were heavily stained with smoke. The central heating boiler system had not been installed according to the appropriate regulations.

The domestic electrical consumer unit was located in the kitchen. With the assistance of an electrician from Scottish Power an examination of the fusebox (see Crown Production No. 10, photograph F), and a number of fuses removed therefrom (see Crown Production No. 10, photograph G) revealed the following - (fuses numbered from left to right, 1 - 6):-

Fuse 1 -

Fuse 2 -

Fuse 3 -

Fuse 4 -

Fuse 5 -

Fuse 6 -

Fuse holder missing; nothing connected.

15 amp fuse holder; flex used as fuse wire. Fuse had blown and was feeding old sockets in the flat.

15 amp fuse holder; 30 amp fuse wire fitted. The fuse had not blown and was feeding the kitchen sockets and the gas boiler supply.

30 amp fuse holder; 30 amp fuse fitted. The fuse had not blown and fed the ring main sockets.

5 amp fuse holder; flex used as fuse wire. The fuse had blown and fed the lights.

5 amp fuse holder; flex used as a fuse wire. The fuse had not blown and fed the lights and the gas boiler timer.

A 1.5 mm square flex was wired off the sockets of the flat, feeding the next door flat by means of a private coin meter. Scottish Power Revenue Protection Unit was advised. Whilst the said connection did not break Scottish Power Rules, it did not conform to the Institute of Electrical Engineers' regulations in certain respects.

(75) From an examination of the said fuse box and fuses (see Finding-in-Fact No. (74) (supra)) the electrical supply to the sockets in bedroom No. 1 remained intact and no electrical fault was established. Accordingly, the cause of the fire was in no way connected with any electrical fault.

Mr Lewis was located in a sofa in the living room. The sofa was against the north east wall. A full ashtray was found beside the sofa (see Crown Production No. 10, photographs A and C). Two disposable lighters, empty cigarette packets, cigarette roll-up papers and cigarette ends were found on the living room floor and living room table (see Crown Production No. 10, photographs A, B and C). Paraphernalia associated with the use of recreational drug taking was found on the window sill. The remains of two candles were found in the living room. Fifteen empty bottles of extra strong cider were found in the living room. One partially full litre bottle of Jim Beam whisky was also found. An examination of the damage patterns evident on the living room door indicated that it was closed at the time of the fire. An area of severe smoke staining was evident on the living room wall. This damage was above the top left corner of the living room door (as viewed from inside the living room). This staining happened because the door was not close fitting to its frame. The living room sustained moderate smoke damage.

The inside surface of the bathroom door sustained fire and heat damage. This damage was confined to the top half of the door and door frame. This door opened out into the hall (see Crown Production No. 10, photograph K). An examination of the hall carpet below the bathroom door revealed a clean line. This pattern and the said damage to the door indicated that it was open at the time of the fire. The bathroom sustained heavy smoke damage down to floor level (see Crown Production No. 10, photographs J and K).

The hall was severely heat and smoke damaged (see Crown Production No. 10 photographs M and N). This damage was a "V" like shape, the base of the "V" emanating from bedroom No. 1. This pattern indicated that bedroom No. 1 was the seat of the fire. An examination of bedroom No. 2 and adjacent cupboard revealed heavy smoke staining to the fittings, contents and decor (see Crown Production No. 10, photographs H and I).

An examination of the communal entrance revealed a large amount of combustibles in this area (see Crown Production No. 9, photographs H and I). A storage cupboard was full of carpet rolls, bedding,

cardboard boxes, a butane cylinder and materials of unknown description. The cupboard was open to the common area (see Crown Production No. 9, photograph J). The exit passageway to the rear yard was obstructed by a metal extending ladder and general building materials (see Crown Production No. 9, photographs J and K). In addition an oxygen cylinder was located outside the front door of the said basement flat (see Crown Production No. 9, photographs H and I).

Immediately to the left of the front door on entering the said basement flat (see Crown Production No. 9, photograph L) (viewed from the outside) and M (viewed from the inside) there was a storage area. Said storage area was full of scaffolding poles and other general equipment and debris, including a metal cabinet, cardboard boxes and a vacuum cleaner. The scaffolding poles were propped up against both sides of said storage area and also along the floor (see Crown Production No. 10, photograph M). The blue door at the far end of said storage area could only be reached by negotiating said obstacles. Said door was made of timber. On turning right on exiting through said door one came to a black door which led into the basement well on the Melrose Street side of the premises (see Crown Production No. 9, photograph D).

In addition to the said obstacles which were stored in the storage area (see Finding-in-Fact No. (80) (supra)) there were materials lying in front of the said blue door which would have made it difficult to open. Said blue door opened inwards. In any event, it neither had a handle nor an opening mechanism. The said black door leading onto the said basement well (see Finding-in-Fact No. (80) (supra)) did not appear to have been in [regular] use.

The seat of the fire was at the far end of the radiator in bedroom No. 1, between the two single beds all as shown in Crown Production No. 9, photograph V. Accordingly, the seat of the fire was in the area to the right hand side of the said radiator as shown in Crown Production No. 9, photograph D2, at the other end from where the said ashtray was lying (see Crown Production No. 9, photographs V and W). In the area of the seat of the fire materials and items of clothing had sustained fire damage.

The fire was accidental in origin. The cause of the fire was the careless use or disposal of smoking materials.

Acting on the instructions of Alfred D Vannet, Esq, Procurator Fiscal at Glasgow, Dr Marjorie Black, MB, ChB, MRC Path, Dip FM, Consultant Forensic Pathologist, Department of Forensic Medicine and Science at the University of Glasgow at 15.30 hours on Tuesday, 9 March 1999 within the City Mortuary, Glasgow, made a post-mortem examination of the body of Mr Fraser who was pronounced dead at 15.15 hours on Thursday, 4 March 1999, within the said basement flat at No. 6 Melrose Street, Glasgow. Mr Fraser's body was identified to her by Mr Jackie Watt and Mr Alexander McCreadie, both mortuary technicians at the City Mortuary, Glasgow and by an identification tag around Mr Fraser's right wrist. Dr Black had been employed as a Consultant Forensic Pathologist at Glasgow University for 7 years.

Pursuant to Dr Black's post-mortem examination of Mr Fraser she produced a post-mortem report. Said post-mortem report is true and accurate in its terms (see Crown Production No. 6). Dr Black carried out both an external and internal examination of Mr Fraser's body. So far as relevant to the present Fatal Accident Inquiry there was soot over Mr Fraser's lower abdomen, legs and lower arms. There were no burns or any significant injuries to Mr Fraser's body. The trachea and major bronchi contained a large quantity of soot material. Both lungs (left 600 g, right 720 g) were congested. Samples of blood and urine from Mr Fraser's body were retained for analysis. Said samples were sent to Dr John S Oliver, Senior Lecturer in Forensic Medicine (Toxicology) at Glasgow University for analysis (see Finding-in-Fact No. (93) (infra)).

The findings of the said post-mortem report so far as Mr Fraser was concerned (see Finding-in-Fact No. (85) (supra)) were entirely consistent with death due to inhalation of smoke and fire gases; marked pinkish/red discoloration of the tissues and blood and abundant soot in the airway. Analysis of carbon monoxide in Mr Fraser's blood confirmed this. A mixture of other gases produced in fires, including cyanide are usually inhaled by a person in a fire.

The cause of Mr Fraser's death was:-

1 (a) INHALATION OF SMOKE AND FIRE GASES

due to

1 (b) HOUSE FIRE.

Acting on the instructions of Alfred D Vannet, Esq, Procurator Fiscal at Glasgow, Dr Louay M al-Alousi, MB, ChB, PhD, MRC Path, DMJ (Path), Senior Lecturer in Forensic Medicine and Consultant Forensic Pathologist, Department of Forensic Medicine and Science, University of Glasgow at 3.30 pm on 9 March, 1999 within the City Mortuary, Glasgow made a post-mortem examination of the body of Mr Heron, who was pronounced dead at 05.15 hours on 4 March, 1999 within the said basement flat at No. 6 Melrose Street, Glasgow. Mr Heron's body was identified as a result of a dental examination carried out by Mr Gaenor Davison, B ChD, FDRS, RCS, (Edin) at the City Mortuary, Glasgow at 9.30 hours on Thursday, 11 March, 1999. Mr Davison's report dated 25 March 1999 is true and accurate in its terms (see Crown Production No. 5). On the basis of Mr Davison's said report, identification was provided to Dr al-Alousi that the body was that of Mr Heron. The requirement for this mode of identification was as a result of the injuries which Mr Heron had sustained.

Pursuant to Dr al-Alousi's post-mortem examination of Mr Heron he produced a post-mortem report. Said post-mortem report is true and accurate in its terms (see Crown Production No. 3). Dr al-Alousi carried out an external and internal examination of Mr Heron's body. So far as relevant to the present Fatal Accident Inquiry Mr Heron had singeing of his head hair, eyebrows and eyelashes as well as extensive first and second degree burns distributed almost all over his body including his face, neck, upper limbs, particularly his hands, back of his shoulders, front of his chest and also on the entire length of his lower limbs, front and back. There were large ruptured heat blisters leading to peeling of the skin, particularly of the hands and feet and on the front of the body including the face and neck. There was a large amount of soot on the entire body, particularly in the nose and mouth. There was no mark of injury.

So far as Mr Heron's respiratory system was concerned his voice box, trachea and lower air passages were full of soot. The mucus membranes of his air passages showed reddening as a result of burn due to heat. Both lungs (left 800 g, right 1040 g) were markedly congested and oedematous. Samples of blood and urine were retained for toxicological investigation. Said samples were sent to Dr John S Oliver, senior lecturer in Forensic Medicine (Toxicology) at Glasgow University for analysis. Toxicology confirmed toxic levels of carboxyhaemoglobin and alcohol in the blood (see Finding-in-Fact No. (97) (infra)).

The cause of Mr Heron's death was:-

1 (a) BURNS AND INHALATION OF TOXIC FUMES (CARBON MONOXIDE).

due to

1 (b) DOMESTIC FIRE.

Dr John Samuel Oliver BSc, PhD, CChem, FRSC, was 56 years of age, he was a Reader and Senior Lecturer in Forensic Science and Medicine (Toxicology) at the University of Glasgow. He had been a Research Assistant at Glasgow University since 1966 and a member of staff since 1970. Acting on instructions from Alfred D Vannet Esq, Procurator Fiscal, Glasgow he received on 11 March, 1999 samples of blood and urine labelled "James Fraser" from Dr Marjorie Black, Consultant Forensic Pathologist at Glasgow University (see Finding-in-Fact No. (85) (supra)). The blood and urine samples were analysed by Dr Oliver and the results which were obtained were detailed in a Toxicology Report prepared by him, dated 14 April, 1999. Said Toxicology Report is true and accurate in its terms (see Crown Production No. 7).

Pursuant to said Toxicology Report referred to in Finding-in-Fact No. (92) (supra) the blood sample relating to Mr Fraser was analysed for acidic drugs, alcohol, amphetamines, basic drugs, benzodiazepine drugs, buprenorphine, cannabinoids, carboxyhaemoglobin, cocaine, LSD, methadone, opiate drugs, paracetamol and solvents; the urine sample was analysed for alcohol. The results obtained were as follows:-

1.

185 milligrammes of alcohol per 100 millilitres of blood.

2.

59.3 per cent carboxyhaemoglobin in the blood.

3.

224 milligrammes of alcohol per 100 millilitres of urine.

4.

All other analyses gave negative results.

The blood/alcohol level relating to Mr Fraser referred to in the said Toxicology Report (185 milligrammes of alcohol per 100 millilitres of blood) (see Finding-in-Fact No. (93) (supra)) and Crown Production No. 7) was up to 21/4 times the legal limit for driving. The degree of impairment of an individual with such a reading is a matter of personal tolerance. However, the likelihood is that at such a level an individual such as Mr Fraser would have been severely impaired at least to the extent of slowing down his responses. The 59.3 per cent carboxyhaemoglobin level found in Mr Fraser's blood (see Finding-in-Fact No. (93) (supra)) and Crown Production No. 7) was the classic sort of reading giving rise to carbon monoxide poisoning. Said reading was well within the fatal range. There was no hint from any of the findings of Dr Oliver of any form of drug misuse on the part of Mr Fraser.

Dr Samuel Oliver also on the instructions of Alfred D Vannet, Esq, Procurator Fiscal, Glasgow received on 17 March, 1999 samples of blood and urine labelled "Daniel Heron" from Dr Louay al-Alousi, Consultant Forensic Pathologist at Glasgow University (see Finding-in-Fact No. (90) (supra)). The blood and urine samples were analysed by Dr Oliver and the results which were obtained were detailed in a Toxicology Report prepared by him dated 26 April, 1999. Said Toxicology Report is true and accurate in its terms (see Crown Production No. 4).

Pursuant to said Toxicology Report referred to in Finding-in-Fact No. (95) (supra) the blood sample relating to Mr Heron was analysed for acidic drugs, alcohol, amphetamines, basic drugs, benzodiazepine drugs, buprenorphine, cannabinoids, carboxyhaemoglobin, cocaine, LSD, methadone, opiate drugs, paracetamol and solvents; the urine sample was analysed for alcohol. The results obtained were as follows:-

1.

120 milligrammes of alcohol per 100 millilitres of blood.

2.

0.12 milligrammes of desmethyldiazepam per litre of blood.

3.

0.18 milligrammes of diazepam per litre of blood.

4.

38.1 per cent carboxyhaemoglobin in the blood.

5.

178 milligrammes of alcohol per 100 millilitres of urine.

6.

All other analyses gave negative results.

(97)The blood/alcohol level relating to Mr Heron referred to in the said Toxicology Report (120 milligrammes of alcohol per 100 millilitres of blood) (see Finding-in-Fact (96) (supra) and Crown Production No 4) was 11/2 times the legal limit for driving. The degree of impairment of an individual with such a reading was a matter of personal tolerance. However, the likelihood was that at such a level an individual such as Mr Heron would have had at least some degree of impairment. The 38.1% carboxyhaemoglobin level found in Mr Heron's blood (see Finding-in-Fact No 96) (supra) and Crown Production No 4) was consistent with exposure to carbon monoxide and fire gas. Said level was within the fatal range and consistent with a finding of fire death.

(98)The medical records of Mr Heron disclosed that he had been prescribed diazepam by his general practitioner. Desmethyldiazepam is the major metabolite of diazepam. The said blood/desmethyldiazepam and blood/diazepam levels relating to Mr Heron referred to in the said Toxicology Report (0.12 milligrammes of desmethyldiazepam per litre of blood and 0.18 milligrammes of diazepam per litre of blood respectively) (see Finding-in-Fact No 96 (supra) and Crown Production No 4) suggested that there had been a long-term prescribed and purely therapeutic usage of diazepam by Mr Heron which was at an almost insignificant level. There was no hint from any of the findings of Dr Oliver of any form of drug misuse on the part of Mr Heron.

(99)Mr Singh was 47 years of age. He lived at No 35 Monreith Road, Newlands, Glasgow. He had some sort of training as an electrician. He was a landlord by occupation, having interests in about 12 to 14 different properties in Glasgow. He owned said properties and let them out to tenants. Said properties were situated at Queens Crescent, Clarkston Road and Rupert Street in Glasgow. Mr Singh used to occupy the property at Rupert Street before moving to his present address in Newlands. A company in which Mr Singh had an interest, owned flats at No 20 Bridge Street, Glasgow. Mr Singh also owned said properties at Nos 4 and 6 Melrose Street, Glasgow and in particular the said basement flat at No 6 Melrose Street where the fire had occurred. Said properties consisted of a basement area, ground floor, first and second floor and also an attic area. He had owned said properties for 16 years. He had been involved in renting out property in Glasgow since about 1974/1975.

(100)In or around 1987 various conversions to the said properties at Nos 4 and 6 Melrose Street were made. In particular No 4 Melrose Street used to be a main-door flat with a basement flat

attached to it. In or about 1987 the staircase to No 4 Melrose Street was blocked off and a separate basement flat was created. Said separate basement flat was no longer part of No 4 Melrose Street and became the said basement flat at No 6 Melrose Street where the fire had occurred. Said basement flat had been let out to tenants by Mr Singh for the whole period in which he owned it apart from the first two years, when it was used as a store for building materials. Over the years, said properties at Nos 4 and 6 Melrose Street had been let out by Mr Singh mainly to students and other young people.

(101) In 1984, Mr Singh applied to Glasgow District Council for planning permission for Nos 4 and 6 Melrose Street, including the said basement flat at No 6 Melrose Street to allow their use to be changed to ones of multiple occupation. Said application was refused. Mr Singh then lodged an appeal to The Secretary of State for Scotland against said refusal. Said appeal was itself refused in 1987.

(102) In or around 1986, during the course of the said appeal procedure to The Secretary of State for Scotland (see Finding-in-Fact No 101 (supra)) a number of young people lived in the said properties at Nos 4 and 6 Melrose Street, in particular each of the two first floor flats at No 6 Melrose Street was occupied by 3 men. On the second floor at No 6 Melrose Street one of the flats was occupied by three people and the other flat was occupied by four people. The attic flat at No 6 Melrose Street was also occupied by 4 people.

(103) Notwithstanding the refusal in 1987 by The Secretary of State for Scotland of Mr Singh's appeal against the decision of Glasgow City Council to refuse a change of use of the said properties at Nos 4 and 6 Melrose Street to one of multiple occupation, Mr Singh continued to rent out the said properties as a number of flats to various tenants over all the intervening years (see Findings-in-Fact Nos 101 and 102 (supra)).

(104) In or around March, 1999 four people occupied the ground floor flat at No 4 Melrose Street, Glasgow; three people, namely Mr Fraser, Mr Heron and Mr Lewis occupied the said basement flat at No 6 Melrose Street in which the fire occurred and two people occupied the other basement flat at No 6 Melrose Street. On the first floor at No 6 Melrose Street there were two flats each occupied by two people; on the second floor at No 6 Melrose Street there were also two flats, each occupied by two people and the attic flat at No 6 Melrose Street was occupied by five students.

(105) Prior to renting out the said basement flat at No 6 Melrose Street to Mr Fraser, Mr Heron and Mr Lewis the said flat had been rented out to two people. Mr Singh was however aware at the said meeting which he had with Mr Fraser, Mr Heron and Mr Lewis about a week prior to their moving into the said flat that all three of them were to be tenants. In particular, Mr Singh was aware that Mr Lewis, in addition to Mr Fraser and Mr Heron was to be a tenant. In these circumstances Mr Singh arranged for an extra single bed to be delivered to the flat. He was accordingly aware that the said flat was to be leased to all three young men. By the date of the fire he had taken no steps to register with Glasgow City Council the fact that the said flat was being leased on a multiple occupation basis

(see also Findings-in-Fact Nos 5, 6, 9 and 10 (supra)). It had never been his intention to do so. At no time did Mr Singh tell any of the three young men that he was not allowed to take on a third tenant. Mr Singh's primary concern was in receiving the rental income from the flat.

(106) On or about 28 February 1999 Mr Singh received a total of £900 from Mr Fraser, Mr Heron and Mr Lewis. Said sum represented the said monthly rental of £150 from each of the three young men together with the said deposit of £450. Since the date of the fire no attempt had been made by Mr Singh to return either to Mr Lewis or to the parents/families of Mr Fraser or Mr Heron their respective shares of the said deposit. Further, Mr Singh had made no attempt whatsoever to contact the parents/families of either of the deceased. The lease or Memorandum of Agreement relating to the said flat was signed by both Mr Fraser and Mr Heron (see Finding-in-Fact No 10 (supra)). In or about March 1999 Mr Singh was receiving a total annual rental income of about £30,000 from said flats at Nos 4 and 6 Melrose Street. Mr Singh had bought said properties in about 1983/84 for about £24,000.

(107) At various times during the past 5 to 12 months Mr Singh received notices from Glasgow City Council advising him that fire doors and fire alarms required to be installed in several of the flats at Nos 4 and 6 Melrose Street. Mr Singh contended that he had received such notices in respect of all the flats at No 6 Melrose Street but not in respect of the said basement flat at said address.

(108) As narrated in Findings-in-Fact Nos 56 and 73 (supra) there was only one smoke detector/alarm in the said basement flat at No 6 Melrose Street. Said smoke detector/alarm which was battery-operated lay on top of the refrigerator in the kitchen (see Crown Production No 18). It had neither been properly assembled nor installed and did not have any battery. Accordingly it did not operate when the tenancy was taken up by Mr Fraser, Mr Heron and Mr Lewis on 28 February 1999. It had not been tested by Mr Singh prior to said date. There was no other smoke detector/alarm in the said basement flat on said date. In particular there was no smoke detector/alarm attached to the hallway ceiling above the entry phone outside the kitchen (see Crown Production No 9, photograph H). Since the date of the fire Mr Singh had installed electrically operated smoke detectors/alarms in [some of] the flats owned by him.

(109) For about 3 months prior to March 1999 work had been taking place at the back of the said basement flat at No 6 Melrose Street. Said work was carried out by a fabricating company assisted by Mr Singh and two of his workers. A metal girder had been fastened to the outside wall of the said basement flat just above the windows to stop any movement of the building (see Production No 1 for Strathclyde Fire Brigade).

(110) The said metal bars outside all the windows to the said basement flat at No 6 Melrose Street (see Findings-in-Fact Nos 45, 46 and 61 (supra)) had been there when Mr Singh bought the property in or about 1984. Said metal bars had been installed for security reasons. Prior to the fire Mr Singh had never considered removing any of said metal bars. At no time had he considered that they might represent a hazard. In particular, in the event of a fire in the said basement flat, Mr Singh had never

considered that they might represent a hazard to the safety of those who were occupying the said basement flat.

(111) In the adjacent basement flat at No 6 Melrose Street also owned and hired out by Mr Singh, Mr Singh had installed louvred wooden window shutters on the inside of the window to the front of the building (See Crown Production No 9, photograph D). There had never been any metal bars outside said window. Said wooden shutters had been installed by Mr Singh to improve the security to said flat as a result of break-ins. He had however never thought of removing the said metal bars outside the windows to the said basement flat occupied by Mr Fraser, Mr Heron and Mr Lewis and installing similar wooden shutters for security purposes.

(112) Since the date of the fire Mr Singh had removed the lower sections of the middle four metal bars (below the horizontal control bar) outside the windows to bedrooms Nos 1 and 2 of the said basement flat at No 6 Melrose Street. He had not removed any of the metal bars outside the bathroom window (see Strathclyde Fire Brigade Production No 1 and Crown Production No 17). Mr Singh had similarly removed the lower sections of the middle four metal bars to the living-room window shown on the extreme left handside of photograph C of Crown Production No 9. The wire leading from the said living-room window was a television aerial. None of the metal bars from the other living-room window or the kitchen window had been removed. By so removing said lower sections of the said metal bars Mr Singh considered that in an emergency any future tenants would be able to enter and exit the said basement flat on either side through the bottom halves of the said windows. It was Mr Singh's intention again to rent out the said basement flat.

(113) As narrated in Finding-in-Fact No 9 (supra) Mr Singh explained to Mr Fraser, Mr Heron and Mr Lewis that they would be sharing their electricity costs with the basement flat next door. In particular, it was explained to them that there was an arrangement whereby electricity cards would be fed into the meter in one flat and that that meter covered both basement flats. It had at one time been Mr Singh's intention to instal a separate meter in each basement flat at No 6 Melrose Street, but this had never been done.

(114) Mr Singh stated that he considered the general state of the electrical supply and the electrical equipment in the said basement flat at No 6 Melrose Street to be satisfactory. The fuse-box shown in photograph F of Crown Production No 10 covered both basement flats at said address. Mr Singh had not inspected the said fuse-box before Mr Fraser, Mr Heron and Mr Lewis moved in on 28 February 1999. He was unaware of the condition of the fuses and had not examined them. In particular he was unaware that in one of the 15 amp fuse holders flex had been used as fuse wire and that the fuse had blown. Mr Singh was unaware that five fuses had been removed from the fuse-box and that in respect of three of them flex had been used instead of fuse wire. He maintained that as a qualified electrician he was nevertheless unaware of the likely consequences of using flex instead of fuse wire (see also Finding-in-Fact No 74 (supra)).

(115) In or about 1988/1989 Mr Singh received from Glasgow City Council a Registration Form headed "Glasgow City Council - The City of Glasgow (Registration of Houses in Multiple Occupation) Scheme 1988" (see Crown Production No 22). Said Form was issued in connection with the registration of the flats at Nos 4 and 6 Melrose Street. Mr Singh had no recollection however as to whether the said form also related to and included the basement flat at No 6 Melrose Street.

(116) Standing the fact that all the windows in the said basement flat at No 6 Melrose Street had said metal bars running up and down their full extent on the outside and the said metal bars were firmly secured, both top and bottom (see Findings-in-Fact Nos 45 and 61 (supra)) Mr Singh envisaged that the only possible means of escape from the said flat for persons such as Mr Fraser, Mr Heron and Mr Lewis in the event of an emergency such as a fire where there might be low visibility and very thick smoke was through the main front door (see Crown Production No 9, photographs M and L) and thereafter turn right up the staircase leading onto ground floor level at Melrose Street (see Crown Production No 9, photographs H and G).

(117) Mr John Docherty was 48 years of age. He was employed as a Team Leader by Glasgow City Council in the Environmental Health Department. He had been employed by the City Council or its predecessor for almost 30 years. He was attached to the Houses in Multiple Occupation Unit which he joined four years ago. He took over the Team Leadership of said Unit three years ago.

(118) The Houses in Multiple Occupation Unit was formed in the 1980s. Essentially it had an inspection and monitoring role. It inspected all houses known to be in multiple occupation within Glasgow on a cyclical basis. It attempted to achieve an inspection of each house in multiple occupation every three years.

(119) Houses in multiple occupation could be brought to the attention of the City Council in a variety of ways. The Council operated a registration scheme which had been set up under the auspices of the Housing (Scotland) Act 1987. Said scheme came into operation in 1988 and was called The City of Glasgow (Registration of Houses in Multiple Occupation) Scheme 1988 (see Crown Production No 8). It was a local scheme whereby inter alios a landlord required to notify the Council of the existence of a house in multiple occupation within 28 days of its so becoming. Over and above that, the Council also sometimes received complaints from tenants and neighbours. On occasions, universities and colleges themselves notified the Council to alert it to the fact that they considered that a house might be in multiple occupation. It would accordingly have been open to any member of the public or newspaper to contact the Council with information that a house might be in multiple occupation.

(120) On being informed that a particular house might be in multiple occupation the said Houses in Multiple Unit would then arrange for the property to be inspected with a view to establishing whether or not it was in fact in multiple occupation and, if so, for an inspection to be carried out. Registration was accordingly the only legislative tool available to the said Unit as at March 1999 in terms of which landlords were required by law to register houses in multiple occupation. Crown

Production No 22 was the Registration Form which required to be completed by landlords, such as Mr Singh, in respect of properties owned by them which were in multiple occupation (see Finding-in-Fact No 115 (supra)).

(121) Whilst many landlords (being "the person managing the premises") (see Finding-in-Fact No 122 (infra)) did in fact register under the 1988 Scheme, the majority did not do so. A failure to do so constituted an offence under the Scheme which was liable on summary conviction to a fine. Said Registration Form (Crown Production No 22) was usually sent out to landlords as a result of information received by the Council that a particular property in multiple occupation was being rented out. On occasions, officers from the said Houses in Multiple Occupation Unit discovered on their rounds properties which were so rented out. On said occasions an inspection was carried out and if there were any matters relating to health, safety or welfare which required attention, the landlord was notified of said matters and a Registration Form sent out to him for completion and return.

(122) As at March 1999 a property in multiple occupation under the 1988 Scheme included a property which was leased to two or more tenants, provided they were unrelated and the property otherwise met the Registration criteria. Paragraphs 2(d) and (e) of the 1988 Scheme were inter alia in the following terms:-

"(d) 'house' includes any part of a building unit which is occupied or intended to be occupied as a separate dwelling, including a flat;

(e) 'the person managing the premises' means in relation to any registerable premises -

(1) a person who is an owner... of the premises and, who, directly or through an agent, receives rents or other payments from persons who are tenants of parts of the premises or who are lodgers; ..."

(123) Multiple occupation was defined by statute in a number of different ways for different purposes. For general purposes the definition in Section 152 of the Housing (Scotland) Act 1987 could be regarded as reasonably comprehensive. That definition included -

"(a) houses which or part of which were let in lodgings, or which were occupied by members of more than one family"

(see Crown Production No 13 - Houses in Multiple Occupation - Guidance Note, paragraph 2.1, issued by The Scottish Office, Environment Department on 28 August 1991 (circular No ENV 20/1991)). Said definition, which was issued to the various local authorities in Scotland was in

essence the definition with which the said Houses in Multiple Occupation Unit worked. There was however room for some discretion in the interpretation of the minimum number of persons from more than one family who rented out property before it became registerable under the 1988 scheme. Glasgow City Council applied the scheme (partly on account of resourcing difficulties) to properties rented out to three or more persons from different families, regardless of how many names might appear on any lease, rental agreement or rent book. Accordingly, property such as the said basement flat at No. 6 Melrose Street having been rented out to three people (viz Mr Fraser, Mr Heron and Mr Lewis) from different families required to be registered under the 1988 scheme within 28 days from 28 February, 1999.

On receipt of the said Registration Form (see Crown Production No. 22) duly completed by the landlord, the said Housing in Multiple Occupation Unit then arranged for an inspection of the property to be carried out first to establish that it was registerable as a house in multiple occupation and secondly, if appropriate, to check on the property's health, safety and welfare situation, including means of escape from fire. A designated officer for the particular area in which the property was situated carried out said inspection.

Pursuant to said inspection referred to in Finding-in-Fact No. (123) (supra) if appropriate, the said designated inspector prepared a priority programme based on the conditions which he found in the property. So far as means of escape from fire were concerned, if appropriate he completed an assessment in light of the situation which he found in the property and thereafter arranged for the Council's Building Control Department to carry out a fire safety inspection. The report on said fire safety inspection included, if appropriate the means of escape from fire which were required to bring the property up to a satisfactory standard together with any recommendation which might be deemed appropriate with regard to the installation of a smoke detector/alarm system.

Any form of smoke detector/alarm system including a battery operated one was preferable to none at all. However, from the point of view of what was acceptable to Glasgow City Council, any battery operated system would require to be upgraded to a hard-wired system. The City Council would however encourage the use of any system until the landlord had installed a hard-wired system.

Pursuant to said inspections referred to in Findings-in-Fact Nos. (124) and (125) (supra) there was a statutory procedure whereby notice required to be served by the City Council on the landlord responsible for bringing the property up to a satisfactory standard. The said fire safety control report prepared by the Council's Building Control Department (see Finding-in-Fact No. (125) (supra)) was then forwarded, as required by the statutory consultation process to the Fire Authority to enable it to make such comments on or additions to the report as it deemed appropriate. Thereafter the report was returned to the said Building Control Department who in turn passed it to the said Houses in Multiple Occupation Unit. The said Unit then became responsible for formatting the report into a statutory notice and serving it on the landlord responsible for the property. Said statutory notice included any matters which the said Unit considered required to be carried out to bring the property up to a satisfactory standard.

(128)The said statutory notice referred to in Finding-in-Fact No. (127) (supra) was normally served on the landlord by recorded delivery. However, if the City Council had any doubts as to whether or not recorded delivery would be accepted personal service was normally effected provided the landlord lived within a reasonable distance. The minimum period given to a landlord to carry out the necessary alterations to bring the property up to a satisfactory standard in terms of the said

statutory notice was 21 days. However, the length of period was in practice dictated by the amount of work which required to be carried out. As a general rule Glasgow City Council allowed a period of 6 months for the necessary work to be carried out.

During the said period of 6 months allowed by the City Council to a landlord to carry out the necessary work (see Finding-in-Fact No. (128) (supra)) the occupiers of the property were allowed to remain in the property. The City Council was however under a statutory obligation to advise the occupiers that the landlord had been served with a statutory notice within a few days of its issue. Said advice was not specific about the precise work which the landlord required to carry out in order to bring the property up to a satisfactory standard. It took the form of a letter advising the occupiers that the landlord had been served with a statutory notice relating, for example to the means of escape from the property in the event of a fire. The said letter did not specify precisely what the terms of the statutory notice were.

Under the said 1988 Scheme houses in multiple occupation required to be registered as such within 28 days of their so becoming (see Finding-in-Fact No. (121) (supra)). If a property fell outwith multiple occupation use within the 6 months period allowed by the City Council to bring it up to a satisfactory standard (see Finding-in-Fact No. (128) (supra)) and fell back into such use within the said period the landlord would not require to re-register unless, for example there had been an increase in the number of tenants or there had been substantial alterations to the property such as the creation of additional rooms or an additional flat.

Since the creation of the Scottish Executive under section 44 of the Scotland Act 1998 a change in the law with regard to houses in multiple occupation has been introduced. Essentially, the position now is that a landlord cannot operate licensable premises in multiple occupation without a licence. It is a criminal offence to do so. Whilst the City Council still accepts the registration of houses in multiple occupation under the 1988 Scheme it does so primarily as an information gathering exercise. The crucial matter now is the requirement that all such houses be licensed. Eventually all such houses will require either to be licensed or taken out of operation. It is envisaged that the new Licensing Scheme which is now in place will take effect over a number of years.

Crown Production No. 15 is a draft Statutory Instrument which was laid before and approved by a resolution of the Scottish Parliament. The said Order which has now been brought into force is headed "The Civic Government (Scotland) Act 1982 (Licensing of Houses in Multiple Occupation) Order 2000". Said Order was passed by the Scottish Executive as a matter of priority following upon the tragic consequences of the said fire at the basement flat at No. 6 Melrose Street.

Prior to the passing of the said Licensing Order referred to in Finding-in-Fact No. (132) (supra) the said Houses in Multiple Occupation Unit had no direct control over the carrying out of the works which were required to bring a property up to a satisfactory standard. The said Unit required to work in tandem with the landlord in this regard. The major change introduced by the said Licensing Order is that an owner cannot now operate a house in multiple occupation unless he has a licence to do so. If he continues to operate such a house without a licence the local authority is empowered to report the matter to the procurator fiscal. The maximum fine for a contravention of the new licensing provisions is £5,000. A local authority is now also empowered to enter subjects, subject first to obtaining an appropriate warrant where it has reasonable grounds for suspecting that a house is a licensable house in multiple occupation which is operating without a licence. Accordingly, under the new licensing provisions, a local authority effectively has the power to close down houses

in multiple occupation where it is not satisfied that the requirements of the new licensing provisions are being complied with.

In terms of Article 5 of the said Licensing Order referred to in Finding-in-Fact No. (132) (supra) the said Order introduces, by a stepped process, the licensing régime starting on 1 October, 2000 where it applies to houses occupied by six or more persons, being members of two families ("qualifying persons"). The number of qualifying persons will reduce:-

(a) To 5 in the period beginning with 1 October, 2000 and ending with 30 September, 2001;

(b) To 4 in the period beginning with 1 October, 2001 and ending with 30 September, 2002;

(c) To 3 in the period beginning with 1 October, 2002 and ending with 30 September, 2003 and

(d) To 2 in the period beginning with 1 October, 2003.

At present, the said 1988 Registration Scheme (see Finding-in-Fact No. (119)) (supra) runs in parallel with the said new Licensing Scheme (see Findings-in-Fact Nos. (132) and (134) (supra)). However, as narrated in Finding-in-Fact No. (131) (supra) the said Registration Scheme was primarily a means by which the City Council could gather information. Registration of a house in multiple occupation did not mean that a house was satisfactory or that it had been approved as such by the City Council. In essence, registration put the onus on a landlord to inform the City Council of the existence of a house in multiple occupation so that it could initiate the relevant inspections (see Findings-in-Fact Nos. (124) and (125) (supra)). The said new Licensing Scheme is designed on the other hand to ensure that premises in multiple occupation meet the required new standards before a licence is granted.

Mr Alistair MacIntyre was 53 years of age. He was a Senior Divisional Officer with Strathclyde Fire Brigade based at Central Command in Glasgow. He had served with the Fire Brigade for 25 years. He was responsible for fire safety matters and operational duties within the greater Glasgow area. He had heard the evidence of and examined the said Fire Investigation Report prepared by his junior colleague, Mr John Gow (see Findings-in-Fact Nos. (56) and (59) (supra)). He was quite satisfied with the terms of the said Report and the conclusions reached by Mr Gow, both with regard to the circumstances of the fire and its causation.

Mr MacIntyre also had some experience in dealing with houses in multiple occupation in Glasgow. The number of such houses which had been identified for the purpose of a draft Report which had been prepared by the Fire Brigade leading up to the implementation of the said new Licensing Scheme (see Findings-in-Fact Nos. (132) and (134) (supra)) indicated that Glasgow had a very high number of houses in multiple occupation within its boundaries. There were concentrations of such houses in certain areas of the City. In particular the St George's Cross/Woodlands area of the City in which the said basement flat at No. 6 Melrose Street was situated was an area where there were a number of flats for students and other young people.

The Fire Brigade had certain general powers in relation to the enforcement of fire safety. The main legislation under which the Fire Brigade worked in relation to houses in multiple occupation were

the powers granted to it in terms of the Housing (Scotland) Act 1987 as consultee of the local authorities. In terms of section 10 of the Fire Precautions Act 1971, the fire authority was also empowered to make application to the Court to prohibit or restrict the use of certain premises until excessive risk to persons in case of fire was reduced. It was also empowered to inspect premises with a view, if appropriate to making such applications.

As narrated in Finding-in-Fact No. (127) (supra) the Council's Building Control Department forwarded, as required by the statutory consultation process its Fire Safety Report to the Fire Authority to enable it to make such comments or additions to the said Report as it deemed appropriate. Mr MacIntyre was experienced in dealing with said Reports. The issues dealt with in said Reports were primarily concerned with the means of escape from premises in the event of a fire. This entailed that the Fire Authority ensure that the means of escape was structurally protected to enable occupants to walk out of the premises unaided in the event of a fire.

The Fire Brigade first received notification about No. 4 Melrose Street in 1986 which at that time was the main entrance flat from the street which gave access to the basement area. Accordingly, at that time there was a main door flat with a basement attached to it as part of the one unit as opposed to the configuration and layout in 1999. (see Findings-in-Fact Nos. (60) and (100) (supra)). In 1986, when different procedures in relation to the Fire Brigade were in operation in Glasgow, an officer from the Fire Brigade inspected the said property and submitted a report to the Council's Environmental Health Department on the means of escape from the property in the event of a fire. In 1986 there was a certain amount of correspondence with Mr Singh in connection with the means of exit from the property which was then known as No. 4 Melrose Street. The said Fire Brigade officer who inspected the property submitted a Report to the Council recommending that the means of escape from the basement and the flat area be protected by half-hour fire resistant doors.

At the end of 1986 the Fire Brigade notified Mr Singh that it had submitted a Report to the Council in relation to No. 4 Melrose Street and also the attic space of No. 6 Melrose Street. The Fire Brigade also advised Mr Singh that it had concerns over certain aspects of the general fire safety position with regard to both Nos. 4 and 6 Melrose Street. The said Fire Brigade Officer in addition to submitting his said Report was also concerned with the means of escape and the general condition of the basement area. Accordingly, Mr Singh agreed not to use the basement area for sleeping purposes until the necessary remedial works had been carried out. He accepted a voluntary closure of the basement area. Said remedial works were eventually carried out and the voluntary closure was lifted.

Mr MacIntyre had never visited the said properties at Nos. 4 and 6 Melrose Street. In particular he had neither visited nor inspected the said basement flat at No. 6 Melrose Street or any possible escape routes therefrom. He had however sat in and listened to the evidence which had been given at the present Fatal Accident Enquiry and in particular the evidence of his junior colleague, Mr John Gow (see Finding-in-Fact No. (136) (supra)).

The potential escape route from the front door of the said basement flat at No. 6 Melrose Street which led to the bottom of the said stairway and then up to the ground floor of the close at No. 6 Melrose Street (see Crown Production No. 9, photographs M, L, H and G) was unsatisfactory and inadequate as a means of escape. The surface of the stair itself was a potential trip hazard in an escape situation. More importantly, the presence of the said oxygen cylinder with a valve container on the landing at the foot of the said stairway and outside the said front door (see Crown Production No. 9, photograph I) was potentially dangerous in a fire situation in that when subjected to heat the cylinder was liable to rupture and explode (see Finding-in-Fact No. (42) (supra)). In addition, the

presence of the said building materials and a timber saw bench at the same location was also potentially dangerous in a fire situation.

The potential escape route from the front door of the said basement flat at No. 6 Melrose Street which led along the said back passageway to a push doorway opening out onto the said back courtyard was also unsatisfactory and inadequate as a means of escape (see Crown Production No. 9, photographs L, I, J, K and E). Said back passageway was very heavily congested with general building materials including a set of ladders which extended the full length of the passageway, old pieces of carpet lying on top of said ladders and several long metal poles lying on top of that carpet. In addition there was a partially full bag of cement lying to the right of the said set of ladders. Further, spilling out onto the said back passageway from the doorway to the said storage area on its left-hand side were a number of plastic rubbish bags, another cement bag, some valves and cabling and a large amount of combustible materials including carpet rolls, bedding and cardboard boxes (see Crown Production No. 9, photograph J and Findings-in-Fact Nos. (44) and (79) (supra)). In these circumstances the said back passageway was substantially obstructed by said set of ladders and general building and other materials rendering it entirely unsuitable as a means of escape in a fire situation.

The potential escape route along the said storage area immediately to the left of the front door on entering the said basement flat at No. 6 Melrose Street was also unsatisfactory and inadequate as a means of escape (see Crown Production No. 9, photograph M and Crown Production No. 10, photograph M). As narrated in Finding-in-Fact No. (80) (supra) said storage area was full of scaffolding poles and other general equipment and debris including a metal cabinet, cardboard boxes and a vacuum cleaner. The scaffolding poles were propped up against both sides of the storage area and also along the floor. In addition other materials lay in front of the door at the end of the said storage area which would have made it difficult to open. Moreover, said door which opened inwards did not have a handle or other adequate opening mechanism (see Finding-in-Fact No. (81) (supra)). In these circumstances, the said storage area was substantially obstructed by said objects and materials rendering it entirely unsuitable as a means of escape in a fire situation.

Accordingly, all of the potential escape routes from the said basement flat at No. 6 Melrose Street were unsatisfactory and inadequate as means of escape in the event of a fire (see Findings-in-Fact Nos. (143), (144) and (145) (supra)).

So far as the said metal bars outside all of the windows to the said basement flat at No. 6 Melrose Street were concerned (see Finding-in-Fact No. 61 (supra)) the Scottish Home and Health Department issued guidance in 1988 to the effect that where there was only one means of escape from a property any such bars should be removed. Said guidance was accepted by the Fire Brigade which accordingly recommends that in such circumstances any such bars should be removed.

Even if the said potential escape routes from the said basement flat at No. 6 Melrose Street referred to in Findings-in-Fact Nos. (143), (144) and (145) (supra)) had in themselves been satisfactory and adequate as means of escape, the only exit and means of escape from the basement flat itself was also unsatisfactory and inadequate. In this connection a hard-wired smoke detector/alarm system should have been installed in the premises. Further, the rooms leading onto the hallway and thence to the only feasible means of escape from the flat ie. the front door (see Crown Production No. 9, photograph M) should have been protected and separated by fire resistant doors. No such fire alarm system or fire resistant doors had been installed.

The basic principle in relation to fire resistant doors is that they are designed to protect the route along which the occupants of premises would require to walk to enable them to leave the premises. The element of fire resistance in the doors is designed to help contain fire within its room of origin. That, in conjunction with the earliest possible warning system of fire in the premises is designed to enable people to escape past any room which may be on fire.

Mr MacIntyre had specific experience in relation to questions of fire safety. He was initially an Inspecting Officer and latterly a supervising officer with Strathclyde Fire Brigade. As an Inspecting Officer he was involved in inspecting premises primarily under the Fire Precautions Act 1971 (see Finding-in-Fact No.138 (supra)) to ensure that premises were safe in terms of the legislation and, if appropriate, to serve improvement notices on occupiers to bring the premises up to a satisfactory standard. In addition, the Fire Brigade was also responsible for carrying out additional inspections on behalf of local authorities under various pieces of legislation, such as the Housing (Scotland) Acts.

Over the years, the approach adopted by local authorities and Fire Brigades with regard to the provision of smoke detectors/alarms has changed. In the past, there has been advertising/publicity campaigns with regard to the provision of smoke detectors/alarms. Smoke detectors/alarms do save lives. That is the position adopted by Strathclyde Fire Brigade and indeed by all Fire Brigades throughout the country. The installation of smoke detectors/alarms is particularly necessary in houses in multiple occupation. People living in houses of multiple occupation are at greater risk of being injured or killed in a fire than residents elsewhere.

So far as the fire authorities are concerned the preference now is for hard-wired smoke detectors/alarms to be installed within the premises. Said preference has been coming to the fore over a number of years as a result of the development of domestic and industrial types of smoke detectors/alarms throughout the country. There are two main reasons for said preference for hard-wire smoke detectors/alarms, viz:-

Power supply is readily available and is generally unlikely to be interfered with and

They have a warning capability when a fault develops as opposed to the stand-alone battery operated smoke detector/alarm which requires to be tested, normally by pushing a test button.

As at March, 1999, had two properly working battery operated smoke detectors/alarms been installed in the said basement flat at No. 6 Melrose Street, some warning of the fire at a much earlier stage could reasonably have been expected. Had two such battery operated smoke detectors/alarms been installed the fatal consequences of the said fire might have been avoided. In particular had such a battery operated smoke detector/alarm been installed in bedroom No. 1 (see Crown Production No. 9, photograph V and Crown Production No. 17) and on the assumption that the said fire had been smouldering in said bedroom for some 20 to 30 seconds prior to ignition (see Finding-in-Fact No. (65) (supra) the said alarm would very probably have been activated during said period.

In a basement flat such as No. 6 Melrose Street being premises in multiple occupation, each room can in effect be an individual's own residence or living space. Accordingly the actions of one individual can affect the position of the other individuals in the flat. In these circumstances the Fire Brigade strongly recommends as a minimum standard that a hard-wired smoke detector/alarm system be installed throughout such premises and in particular every bedroom, circulation area and escape route with the result that all said areas are interlinked and connected. One of the consequences of the installation of such a system is that a fire in one room automatically alerts the occupiers of the other rooms.

In terms of the said new Licensing Scheme (see Findings-in-Fact Nos. (131), (132), (133) and (134) (supra)) both the licensing authority and the fire authority recommend as a minimum standard the installation of hard-wired smoke detector/alarm systems in houses in multiple occupation. However, in situations where the only form of smoke detector/alarm which a private resident may be able to afford is battery operated, Strathclyde Fire Brigade still promote the use of such battery operated smoke detectors/alarms.

A battery operated smoke detector/alarm costs on average about £5. A hard-wired smoke detector/alarm system costs on average about £100 including the cost of installation by a qualified electrician.

Under the Civic Government (Scotland) Act 1982, the reporting authority in relation to matters concerned with means of escape from premises in multiple occupation is the local authority and not the Fire Brigade.

NOTE:

On 18, 19 and 20 September, 2000 I heard evidence in the Fatal Accident Inquiry into the death of Mr James Fraser and Mr Daniel Heron, both 20 years of age both of whom were pronounced dead at 05.15 hours on Thursday, 4 March, 1999 within the basement flat left at No. 6 Melrose Street, Glasgow. I also heard submissions in relation to the evidence on 4 October, 2000. Evidence for the Crown was led by Mr J Service, Principal Procurator Fiscal Depute, Glasgow. Strathclyde Fire Brigade was represented by Mrs K M Maxwell, solicitor, Hamilton. There was no separate legal representation on behalf of either of the deceased's families or on behalf of Mr Harpal Singh, the owner and landlord of the said basement flat.

The Crown led evidence from the following persons:-

Mr Michael Moffat, Scenes of Crime Officer with Strathclyde Police (see Notes of Evidence, Volume I, pages 4 to 30);

Mr Christopher Lewis, fellow flat-mate of both Mr Fraser and Mr Heron (see Notes of Evidence, Volume I, pages 30 to 54);

Miss Victoria Winchester, medical student and friend of both Mr Heron and Mr Fraser (see Notes of Evidence, Volume I, pages 54 to 61);

Miss Joanne Childs, student, occupant of ground floor flat at No. 4 Melrose Street (see Notes of Evidence, Volume I, pages 61 to 65);

PC Thomas Hill, an officer with Strathclyde Police (see Notes of Evidence, Volume I, pages 65 to 69);

Inspector Gregor McKenzie, an officer with Strathclyde Police (see Notes of Evidence, Volume I, pages 70 to 73);

Mr Mark Stockton, sub-officer with Strathclyde Fire Brigade (see Notes of Evidence, Volume I, pages 73 to 120 and Volume II, pages 122 to 145);

Mr Alex Muir, firefighter with Strathclyde Fire Brigade (see Notes of Evidence, Volume II, pages 145 - 162);

Dr Louay al-Alousi, Consultant Forensic Pathologist, Department of Forensic Medicine at Glasgow University (see Notes of Evidence, Volume II, pages 162 to 170);

Dr Marjorie Black, Consultant Forensic Pathologist, Department of Forensic Medicine at Glasgow University (see Notes of Evidence, Volume II, pages 170 to 175);

Dr John Oliver, Reader in Forensic Medicine (Toxicology) at Glasgow University (see Notes of Evidence, Volume II, pages 175 to 182);

Mr John Gow, sub-officer with the Fire Investigation Unit of Strathclyde Fire Brigade (see Notes of Evidence, Volume II, pages 182 to 243);

Mr Harpal Singh, owner and landlord of the basement flat left at No. 6 Melrose Street, Glasgow (see Notes of Evidence, Volume III, pages 245 to 342);

Mrs Lucy Fraser, mother of Mr James Fraser, (see Notes of Evidence, Volume III, pages 342 to 348);

Mr John Doherty, team leader with Glasgow City Council Environmental Health Department (Houses in Multiple Occupation Unit) (see Notes of Evidence, Volume III, pages 348 to 376) and

Mr Alistair MacIntyre, Senior Divisional Officer (Central Command) with Strathclyde Fire Brigade) (see Notes of Evidence, Volume III, pages 376 to 395).

No evidence was led by or on behalf of Strathclyde Fire Brigade although the evidence of Mr Alistair MacIntyre was led by the Crown with the agreement of Mrs Maxwell. I considered that on important matters all the witnesses led by the Crown with the notable exception of Mr Singh were both credible and reliable. So far as the evidence of Mr Singh was concerned I considered that it was in several respects both incredible and unreliable. Moreover, I considered that his answers to questions were frequently evasive. Where his evidence conflicted with the evidence of other witnesses, especially with that of Mr Lewis, Mrs Fraser and Mr Gow I preferred their evidence to his. In particular I considered that Mr Singh was fully aware that the basement flat at No. 6 Melrose Street was to be let out not only to Mr Fraser and Mr Heron but also to Mr Lewis. In these circumstances I was quite satisfied that Mr Singh arranged for a single bed to be delivered to the flat. Further, he accepted a monthly rental cheque of £150 from each of the young men together with a total deposit of £450 in exchange for the keys. I considered it quite deplorable that Mr Singh had made no attempt whatsoever to return the deposit or to contact either of the families of the deceased since the date of the fire.

The only battery operated smoke detector/alarm which was in the flat (lying on top of the refrigerator in the kitchen) did not have a battery and had not yet been assembled. It was accordingly not in operation. Further, I was quite satisfied that there were no other smoke detectors/alarms of any description within the flat. In this connection, I did not believe Mr Singh when he stated that there had been a battery operated smoke detector/alarm attached to the hall ceiling above the entry phone. In spite of detailed examinations of the premises by both Mr Stockton and Mr Gow immediately after the fire no evidence was found of any such smoke detector/alarm. Accordingly, I have come to the conclusion that there was no operating smoke detector/alarm within the flat. I consider that a properly operating smoke detector/alarm system should have been

installed throughout the flat and that had such a system been installed the deaths of both Mr Fraser and Mr Heron might have been avoided.

Whilst the cause of the fire was not connected with any electrical fault I considered that the electrical supply system within the flat was substandard and potentially dangerous. In this connection, Mr Singh stated that he was unaware of the condition of the fusebox prior to renting out the flat. He confirmed that he had never inspected it. So far as the condition of the six fuses was concerned, one fuse holder was missing and nothing was connected. In three out of the remaining five fuses flex had been used as fuse wire and two of the fuses had blown. In spite of claiming to be a qualified electrician Mr Singh stated that he was unaware of the likely consequences of using flex as fuse wire. However, I considered that his evidence in relation to his alleged electrical qualifications was both unreliable and contradictory.

As narrated in my Findings-in-Fact I considered that all the potential means of escape from the flat were entirely unsatisfactory and inadequate in the event of a fire. Said potential means of escape were either substantially obstructed by large quantities of building and other materials or were in close proximity to highly combustible materials including an oxygen cylinder outside the front door which was liable to rupture and explode when subjected to heat. In any event the rooms leading onto the hallway and thence to the front door should have been protected and separated by fire resistant doors which are designed to contain a fire within its room of origin.

In view of the fact:-

- (1) that there were no adequate means of escape from the flat in the event of fire;
- (2) that there were no operating smoke detectors/alarms of any description within the flat;
- (3) that there were no fire resistant doors within the flat;
- (4) that the electrical system within the flat was substandard and potentially dangerous and
- (5) that metal bars had been firmly secured, both top and bottom, outside all of the windows of the flat,

I considered that the flat was a potential death trap in the event of a fire. In my opinion the flat should never have been let out by Mr Singh to the three young men in the condition it was in.

So far as the registration of houses in multiple occupation under the 1988 scheme was concerned, Mr Singh stated that he had received an application form to register in respect of both Nos. 4 and 6 Melrose Street in about 1988/89 but that he was unable to recollect whether or not the basement flat at No. 6 had been included in the form. There was however no evidence led at the Inquiry that Mr Singh had ever registered the said basement flat under the 1988 scheme. In this connection Mr Gow stated that he had established, as a result of information received by him from both the Fire Safety Authority and Glasgow City Council that at the time of the fire the said basement flat was an unregistered house in multiple occupation.

In my Findings-in-Fact I have referred to all evidence which I consider relevant to the causes of the deaths of both Mr Fraser and Mr Heron and also to the whole circumstances leading up to and pursuant to these deaths. I have also made reference to the circumstances which prevailed as at March 1999 with regard to the registration of houses in multiple occupation under the 1988 Scheme and to the new Licensing Scheme which was introduced in 2000. In addition my Findings-in-Fact include all evidence which I consider relevant to the determination which I have made in terms of section 6(1) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 ("the 1976 Act"). I have accordingly not rehearsed the whole evidence led at the Inquiry which evidence has in any event been transcribed (see Notes of Evidence Volumes I to III).

At the conclusion of all the evidence I heard submissions by Mr Service on behalf of the Crown and by Mrs Maxwell on behalf of Strathclyde Fire Brigade. So far as the determination under section 6(1)(a) of the 1976 Act was concerned, which relates to where and when the deaths and any accident resulting in the deaths took place, Mr Service submitted that I should find that this double tragedy took place in the basement flat left at No. 6 Melrose Street, Glasgow on Thursday, 4 March 1999 and that the lives of both Mr Fraser and Mr Heron were pronounced extinct at 05.15 am on said date.

So far as the determination under section 6(1)(b) of the 1976 Act was concerned, which relates to the cause or causes of death and any accident resulting in the deaths Mr Service submitted that I should accept the evidence of the pathologists Dr Black and Dr al-Alousi in this regard as shown in their respective post-mortem reports. In this connection he submitted that I should find that Mr Fraser died as a result of the inhalation of smoke and fire gases and that Mr Heron died as a result of burns and inhalation of toxic fumes which were carbon monoxide. He also submitted that I should find that both deaths were due to a house or domestic fire.

Mr Service next invited me to consider making a determination under section 6(1)(c) of the 1976 Act which relates to the reasonable precautions, if any, whereby the deaths and any accident resulting in the deaths might have been avoided. In this connection he asked me to accept in light of the evidence that there were no smoke detectors/alarms in the basement flat. In particular, he asked me to accept the evidence of Mr Gow, Mr Lewis and Mr Fraser in this regard. Mr Service also drew my attention to the evidence of Mr MacIntyre (see Notes of Evidence, Volume III at pages 388, line 21 onwards) where he outlines the policy of Strathclyde Fire Brigade and indeed all fire brigades in the country to the effect that smoke alarms do save lives. Mr Service also pointed out that Mr

MacIntyre stated that people who lived in houses in multiple occupation were at a greater risk of being killed in a fire than those who did not.

Mr Service accordingly invited me to consider making a determination under section 6(1)(c) that a properly operating smoke detector/alarm system might have saved the lives of both Mr Fraser and Mr Heron. In this connection he referred me to the evidence dealing with the various types of smoke detectors/alarms which are available (viz battery operated and hard-wired) and the respective costs of providing such equipment.

In response to a question from me, Mr Service stated that he had no specific submissions to make in terms of section 6(1)(c) with regard to the installation of fire resistant doors.

So far as a determination under section 6(1)(e) of the 1976 Act was concerned, which relates to any other facts which are relevant to the circumstances of the deaths Mr Service drew my attention to the evidence concerning houses in multiple occupation. In this connection he pointed out that Mr Docherty from Glasgow City Council has spoken to the fact that the Scottish Executive had changed the law in relation to such houses and that the Inquiry had heard that the recent legislation which introduced the new Licensing Scheme had been given a degree of priority by the Scottish Executive as a result of this tragedy.

In conclusion, Mr Service drew my attention to the courage of the families of the deceased in helping to bring about this change in legislation. In this connection, he also referred to the good investigative journalism, especially from the Evening Times and The Herald newspapers which had also helped to bring this about. Mr Service pointed out that the new legislation was administered and implemented in a robust manner by Glasgow City Council with particular reference being made to the need to have adequate smoke detector/alarm systems in place in houses which are subject to the multiple occupation legislation.

So far as Strathclyde Fire Brigade was concerned, Mr Service stated that the Inquiry had heard of the very prompt reaction/response time between being notified of the fire and their attendance at the flat. He also commended the action which they took in saving the life of Mr Lewis.

Mrs Maxwell, on behalf of Strathclyde Fire Brigade concurred with Mr Service's submissions so far as the date, place and time of death were concerned in relation to section 6(1)(a) and (b) of the 1976 Act. In this connection she spoke to the evidence of both Mr Muir and Mr Stockton as describing the precise locations within the flat in which the bodies of both Mr Fraser and Mr Heron were found, viz the kitchen and one of the back bedrooms (bedroom No. 1) respectively (see Crown Production No. 17).

So far as the determination under section 6(1)(c) was concerned which relates to the reasonable precautions, if any, whereby the deaths and any accident resulting in the deaths might have been avoided, Mrs Maxwell drew my attention to the following passage at the bottom of page 5 of Mr Gow's Fire Investigation Report (see Crown Production No.2) which was in the following terms:-

"A radiator was fixed to the south east wall, close to the door.

An ashtray was located on the floor below the radiator to its east side. Several used cigarette ends were found around this area.

Used cigarette ends were found on the floor. They were below the bed nearest the door.

Further used cigarette ends were found on the carpet between both beds."

Mrs Maxwell pointed out that Mr Lewis had stated that both Mr Fraser and Mr Heron smoked and that there had been a "get together" in the living room and back bedroom (bedroom No. 1) on the night of the fire. Moreover, Mr Gow at the bottom of page 8 of his said Fire Investigation Report had concluded that the fire had been accidental in origin - the cause being established "as the careless use or disposal of smoking materials". In these circumstances Mrs Maxwell submitted that a reasonable precaution which might have avoided the deaths would have been the careful disposal of such smoking materials.

Again, in relation to a further determination under section 6(1)(c) Mrs Maxwell submitted that the provision of a properly operating smoke detector/alarm system would have been a reasonable precaution which might have avoided the deaths. In this connection she referred me to the passage at the bottom of page 6 of Mr Gow's said Fire Investigation Report which refers to the only smoke detector/alarm which was found in the flat:-

"A domestic smoke detector was on top of the fridge [in the kitchen]. The smoke detector had not yet been assembled; no battery was evident."

So far as the determination under section 6(1)(e) of the 1976 Act was concerned which relates to any other facts which are relevant to the circumstances of the deaths, Mrs Maxwell submitted that consideration had to be given to the level of alcohol consumption of each of Mr Fraser and Mr Heron on the night in question. In this connection she stated that both young men had been drinking. So far as Mr Fraser was concerned she pointed out that his blood/alcohol level was about 21/4 times the legal limit for driving. Dr Black stated that such a blood/alcohol level would have had an effect on Mr Fraser, but accepted that everyone's reaction to alcohol was different. She considered that such a blood/alcohol level would have some effect on the average person "at least

to slow down their responses". Dr Oliver stated that the degree of impairment on an individual with such a blood/alcohol reading was again a matter of that individual's personal tolerance to alcohol "but at this level I would expect a severe impairment".

So far as Mr Heron was concerned Mrs Maxwell pointed out that his blood/alcohol level was about 11/2 times the legal limit for driving. Dr al-Alousi stated that he did not consider that that was a very high amount and that Mr Heron's ability would not have been impaired to a great extent. Dr Oliver stated that whilst there would have been a degree of impairment on an individual with such a blood/alcohol reading, again it was a matter of that individual's personal tolerance to alcohol. He could not accordingly predict the actual degree of impairment so far as Mr Heron was concerned.

Mrs Maxwell stated that it was clear that Mr Fraser, Mr Heron and Mr Lewis had been having a party on the night in question, celebrating their tenancy of the flat. She submitted that people drink alcohol to excess and that it was material to note that the consumption of alcohol played a large part in domestic house fire deaths. In this connection she submitted that the consumption of alcohol was a contributory factor in that it led to varying levels of impairment with the result that people often became disorientated. In relation to the circumstances leading up to the fire on the night in question, Mrs Maxwell submitted that if Mr Fraser and Mr Heron had not been impaired in their actions as a result of their consumption of alcohol then there might have been the possibility that they would have been alerted to the fire earlier and that they might have managed to escape. She accepted however - "we just don't know".

So far as a further determination under section 6(1)(e) of the 1976 Act was concerned, Mrs Maxwell pointed out that there had been no door in the kitchen. In this connection she stated that the Inquiry had heard evidence that Mr Fraser had been asleep in the back bedroom (bedroom No. 1). It was also Mr Gow's evidence that at some point in the course of the fire the bedroom door had been opened allowing oxygen into the bedroom which fuelled the fire. Mrs Maxwell stated however that Mr Fraser had been found in the kitchen so that at some stage he must have been alerted by the fire and left the bedroom. In this connection Mrs Maxwell submitted that it was unknown whether Mr Fraser intended to go into the kitchen or whether he just landed there by default. However, she submitted that if there had been a door to the kitchen and if it had been closed Mr Fraser might not have gone into the kitchen and he might have reached the front door of the flat. She pointed out that it was the Fire Brigade's position that all rooms should have doors to them from the point of view of protecting the means of escape. In this connection she drew my attention to the evidence of Mr MacIntyre at pages 384 (lines 4 to 11) and 387 (lines 5 to 11) of Volume III of the Notes of Evidence and submitted that this tied in with her criticism of the fact that the kitchen did not have a door. Mrs Maxwell pointed out that apart from exiting through the front door, all other possible means of escape were blocked (viz the back passageway and the storage area immediately to the left of the front door).

So far as a further possible determination under section 6(1)(e) was concerned Mrs Maxwell submitted that consideration could be given to the haphazard storage of materials in the flat and the effect that that had on any possible means of escape. She also submitted that I should make a

determination that hard-wired smoke detectors/alarms should be installed in all properties subject to the houses in multiple occupation legislation. In this connection she submitted that battery operated smoke detectors/alarms were inadequate in that the batteries could easily be removed either on account of their nuisance value or to be used for other purposes. Moreover, a hard-wired smoke detector/alarm, if activated automatically triggered the other smoke detectors/alarms in the premises.

I accepted the submissions of both Mr Service and Mrs Maxwell in relation to the determinations under section 6(1)(a) and (b) of the 1976 Act with regard to the date, place and time of death of both Mr Fraser and Mr Heron. I also accepted their submissions in relation to a determination under section 6(1)(c) of the 1976 Act insofar as I considered that the installation of a properly operated smoke detector/alarm system throughout the flat was a reasonable precaution which could have been taken whereby the deaths of both Mr Fraser and Mr Heron might have been avoided. I also accepted Mrs Maxwell's submission in relation to a determination under section 6(1)(c) that the installation of fire resistant doors in every room leading onto the hallway and thence to the front door (being the only feasible escape route) was a reasonable precaution which could have been taken which might have avoided the death of Mr Fraser.

Whilst I accepted Mr Gow's evidence that the fire was accidental in origin, the cause being established "as the careless use or disposal of smoking materials" and whilst I also accepted Mrs Maxwell's submission that a reasonable precaution which could have been taken and which might have avoided the deaths was the careful disposal of such smoking materials, I considered that such a determination would in effect apply generally to all situations where smoking takes place. I accordingly did not consider it appropriate to make a determination to that effect.

Whilst it may also be the case, as submitted by Mrs Maxwell, that the consumption of alcohol plays a large part in domestic house fire deaths in that it leads to varying levels of impairment with the result that people often become disorientated in a fire situation, I did not feel able to come to that conclusion with regard to either Mr Fraser or Mr Heron in light of the evidence which was led at the Inquiry. In this connection, Mr Lewis stated that Mr Fraser (who was about 2 1/4 times over the drink driving limit) "had a wee bit [to drink]" but did not consider him to be "really that drunk". He stated that Mr Fraser had been drinking cider. On the other hand, Mr Lewis stated that Mr Heron (who was only about 1 1/2 times over the drink driving limit) was "quite drunk". He stated that Mr Heron had been drinking cider and vodka. The medical evidence was to the effect that the degree of impairment of an individual after consuming alcohol was a matter of that individual's personal tolerance to alcohol. Dr Oliver considered that an individual with Mr Fraser's blood/alcohol reading was likely to have been "severely impaired" whilst Dr Black considered that such a reading was likely "to have some effect on the average person, at least to slow their responses". So far as Mr Heron's blood/alcohol reading was concerned Dr al-Alousi did not consider that it was a very high amount and was of the opinion that Mr Heron's ability would not have been impaired to a great extent. Dr Oliver considered that Mr Heron would have had a degree of impairment but to what extent he was unable to say.

Accordingly, in the whole circumstances whilst I accept that the likelihood is that both Mr Fraser and Mr Heron were at least to some degree impaired in their actions as a result of the alcohol they had consumed, the extent to which they may have been impaired depended in my opinion on their respective personal tolerance to alcohol. In any event there was no evidence whatsoever that either of them was disorientated. Accordingly, I did not consider it appropriate to make any determination, as suggested by Mrs Maxwell, to the effect that if Mr Fraser or Mr Heron had not been impaired in their actions as a result of their consumption of alcohol that there might have been the possibility that they would have been alerted to the fire earlier and that they might have managed to escape. In my opinion, to make such a determination would be pure speculation. In any event Mrs Maxwell accepted - "we just don't know".

In terms of section 6(1)(e) of the 1976 Act I accepted Mrs Maxwell's submission that consideration should be given to requiring houses in multiple occupation, as legally defined, to be fitted with hard-wired smoke detector/alarm systems. Whilst it may cost £100 to have such a system installed and whilst battery operated smoke detectors/alarms may be better than nothing in my opinion it is appropriate that consideration be given to requiring landlords, such as Mr Singh to install hard-wired smoke detector/alarm systems in the properties let out by them. I consider that had such a system been installed in the basement flat at No. 6 Melrose Street, the tragic consequences of the fire might have been avoided.

I also accepted Mrs Maxwell's submissions in relation to making a determination in terms of section 6(1)(e) regarding the installation of fire resistant doors in houses in multiple occupation, as legally defined.

In conclusion I would like to commend the actions of the police and the ambulance services for the professional manner in which they dealt with the emergency situation which presented itself to them. I would also like to commend in particular the very prompt reaction/response time of Strathclyde Fire Brigade between their being notified of the fire and their subsequent attendance at the flat. In my opinion the entirely professional and expeditious manner in which they dealt with the emergency situation in large measure contributed to saving the life of Mr Lewis.

I would also like to echo the words of Mr Service in praising the courage of both families of the deceased in helping to bring about the recent change in law resulting in the introduction of the new Licensing Scheme in relation to houses in multiple occupation. In this connection, credit should also be given to the contribution made by good investigative journalism, especially from the Evening Times and The Herald newspapers in helping to bring about this situation. As was pointed out at the Inquiry the introduction of the new Licensing Scheme was given a degree of priority by the Scottish Executive following upon these tragic events.