

1

Thursday, 22nd October 2009

2 (Morning session)

3 (10.00 am)

4

PETER MALCOLM SWANN

5

Examined by MR MOYNIHAN (continued)

6

THE CHAIRMAN: Good morning, Mr Swann. Thank you for the

7

document which you completed. It was very helpful.

8

MR MOYNIHAN: Good morning, Mr Swann.

9

A. Good morning, Mr Moynihan.

10

Q. What I will do is, as advertised, just complete the

11

assessment of QI2. If I could bring up again, please,

12

TS0004, page 17.

13

I indicated to you yesterday that I would like to

14

look at the area of your points 12, 13 and 14 but,

15

before doing so, what I would like to show you is the

16

SCRO charting because you make some comment on not being

17

comfortable about using a certain area of the print. If

18

I show you the SCRO charting first, the SCRO charting is

19

FI0166A. Perhaps if we could also keep up TS0004,

20

page 17, as a second image. **(Pause)**

21

What I have actually done is brought up two

22

chartings, one by the Scottish Criminal Record Office of

23

QI2 and one by yourself. If I can highlight and enlarge

24

the QI2 chartings, again there is just an inability on

25

the screen to bring up the first digits of the numbers

1 on the left-hand margin but we know those to have a 1
2 added to them.

3 I have noted in your comparative exercise
4 contribution that in relation to SCRO points 11 to 13 --
5 those are on the right -- while you do not positively
6 disagree you have a comment that you find the area in
7 which the SCRO points 11 to 13 are located an area that
8 is difficult to work with; is that correct?

9 A. I found it an area which to me there's a degree of
10 movement there and I sort of steered clear of that area
11 and went to other areas elsewhere which to me were
12 clearer.

13 Q. Fair enough, I take your point that there are other
14 areas that are clearer to work with but specifically
15 what is the difficulty with the area 11 to 13 that SCRO
16 has used? Sorry, perhaps more to the point, what are
17 the signs of movement in that area that you observe?

18 A. Well, it's difficult to pinpoint but it isn't an area to
19 me that lends itself to be particularly clear to --
20 well, for marking up. I didn't like the area so I went
21 elsewhere, simple as that. It was just simply my view
22 as someone examining this particular mark. We all have
23 different views on the mark and, you know, particular
24 areas of it and I went elsewhere. Simple as that
25 really.

1 Q. The reason I have brought the two up together is to
2 enable a discussion of this particular point.

3 You have charted on the left-hand side three points,
4 12, 13 and 14.

5 A. Yes.

6 Q. My question was simply that 12, 13 and 14, while not in
7 exactly the same area as 11 to 13 are not too distant
8 from it, therefore my thinking was to ask you why you
9 regarded your area 12, 13 and 14 as clearer than the
10 area that SCRO has, not too far away, as 11, 12 and 13?

11 A. Well, it's not too far away but it's certainly removed
12 from the area that I'm talking about and to me it was an
13 area where characteristic details were more, shall we
14 say, easier to mark, to ridge count and so on, than the
15 area which is lower down and then towards the centre
16 core.

17 Q. Perhaps it again just passes over to the Chairman in due
18 course to study it and look at. It probably would not
19 be capable of more explanation than that, is it?

20 A. Well, I don't really have any more explanation. I mean,
21 it's simply I was marking the chart up the way I would
22 mark it up and the areas I selected tended to, sort of,
23 steer clear of that particular area.

24 Q. The final one I should ask I see in my notes is point
25 number 11 for you is a point that is lower on the

1 charting than anything comparable on the SCRO. Again,
2 it is on the same side of the core. Is it the same
3 point that you would make that you simply found on the
4 image that you were studying, this was an area that had
5 clearer detail?

6 A. The area that I was avoiding, if that's the right word,
7 is more between my characteristic 11 and the centre core
8 where points 5, 6 and 7 of mine are marked. That was
9 the area I was not -- I won't say particularly
10 interested in but it was the area I was steering clear
11 of. 11 is on the periphery at the bottom here.

12 Q. One thing even just as I look at the screen there does
13 seem to be a difference perhaps in contrast between the
14 two images that there one on the right that the Scottish
15 Criminal Record Office has used is more predominantly
16 black and grey; whereas the one on the left that you
17 have used one might say is more shades of grey.

18 Is that fair?

19 A. It is yes. Well, that's a result of the printing
20 process which ...

21 Q. So that we then compare like with like, are you still
22 finding with the benefit of the SCRO image that we have
23 on the right, even with their image, that the area
24 around 11 to 13 lacks the clarity that you yourself were
25 seeking? It's obviously different from that

1 corresponding area in your image.

2 A. All I'm saying about that area is, whilst I can see the
3 characteristic details that have been marked by SCRO and
4 I certainly don't dispute it, it's just simply an area
5 that I didn't want to mark my characteristics there. I
6 wanted to go elsewhere. It's just simply a choice a
7 fingerprint expert makes when he's marking a chart.
8 Really, I think you can see the area doesn't look
9 exactly smooth and clear and what have you. It's a bit
10 difficult so I went away from it.

11 Q. Thank you. I will not take up any more of your time on
12 that.

13 What I then want to look at is the second cluster of
14 points that I have mentioned to you that I wanted to
15 look at. That is a cluster of points at the top of the
16 mark on the left-hand side.

17 If I can take down the right-hand side of the screen
18 and give us a second copy, please, of TS0004.17.

19 What I will do as usual, Mr Swann, is to highlight
20 or enlarge a copy of the known mark and a copy of Q12.
21 Again, the numbers on the left-hand side have been
22 clipped but it does not matter because what I wanted to
23 ask you about is points 1, 2, 3, 4 and 10. That is a
24 cluster you have marked immediately above the core that
25 we have not otherwise discussed.

1 A. That's right, yes.

2 Q. Before I look at anybody else's view about that
3 particular area, would you simply like to talk through
4 the factors which have led you to identify points 1, 2,
5 3, 4 and 10 and, indeed, as part of that, give us your
6 description of what each of these points is.

7 A. Point number 1 is a ridge ending coming in and upwards
8 from the left. Points 2 and 3 on the ridge above going
9 more or less centrally at 12 o'clock are a ridge ending
10 from the left. There's a gap and then there's a ridge
11 ending, number 3, is coming in from the right. Number 4
12 is immediately below number 3 and that's a ridge ending
13 coming in from the right. Number 10 is an island ridge.
14 They form, to me, a very unique cluster of
15 characteristics.

16 Q. When you say a very unique cluster would that mean this
17 cluster has a proportionately greater importance because
18 of that combination?

19 A. No more important than any other cluster, no more
20 important, just that they are there, all together, quite
21 close together and, in themselves, they are in my
22 opinion unique but no more unique than any other.

23 Q. What I would like to do is to show you an alternative
24 interpretation, two alternative interpretations of those
25 areas and they are alternative interpretations you are

1 aware of from the comparative exercise material. One is
2 by Mr Wertheim and the other is by Mr Grigg. I will
3 bring them up in turn and enable you to comment on them.

4 First of all, if I begin with Mr Wertheim, what I am
5 going to do is to bring up a charting that Mr Wertheim
6 did for the Inquiry, if you just allow me a second.

7 **(Pause)**

8 If I begin with FI2409.06 just on the right-hand
9 side of the screen if I keep what is there on the left.

10 I am going to start by giving you this in the form
11 that you are perhaps more familiar with.

12 A. I have seen it, yes.

13 Q. Then I will look at a specific charting Mr Wertheim did
14 for us. What he has done is circled, I believe in
15 yellow, the same area approximately above the core in
16 QI2 -- approximately. Is that correct?

17 A. Yes.

18 Q. Then he has in manuscript drawn his interpretation of
19 that area. I think ultimately his preferred
20 interpretation of QI2 itself is the left-most drawing so
21 that while he would see on Marion Ross an area of
22 continuous ridges with some signs of, as you've said it,
23 islands or incipient ridges. He finds on QI2 continuous
24 ridges with one interposed ridge ending.

25 Do you see that, as he has drawn?

1 A. I can see what you're referring to, yes. But the
2 most --

3 Q. Before we look at the charting he did would you like to
4 comment, please, on in a sense the support for your
5 interpretation as opposed to his in relation to this
6 detail?

7 A. Well, when you first started then you said "his
8 interpretation". All right, we all perhaps have
9 different interpretations but in my many years -- I
10 won't say how many but many years -- as a fingerprint
11 expert I've never had to resort to drawing them because
12 there's no need to draw them. You examine the detail
13 that's apparent on the mark which you can see, with the
14 aid of magnification if necessary, which of course you
15 do need in the initial stages, and you work out the
16 characteristic detail, its sequence, mark it, but I
17 never would start drawing fingerprints because possibly
18 you are drawing what you want to see and not what is
19 actually there. So whilst I can see what he is marking,
20 I don't agree with his interpretation of what I've
21 marked is incorrect, if that's what he's suggesting.

22 Q. If I could bring up also on the right-hand side
23 something that you will not have seen before, if I look
24 at a drawing that he did for us in the hearing,
25 FI2409.07.

1 We can enlarge this if you wish. This is a drawing
2 that Mr Wertheim did on the images that we have
3 available, the comparative exercise material. Perhaps
4 the more relevant one is if I highlight the left image.
5 What he did was, whilst sitting where you are just now
6 with one of the comparative exercise images, he then
7 drew on it -- I think by the reference code he has drawn
8 on an SCRO image -- he drew in the ridge detail that he
9 finds and you will see the red arrow that has been added
10 coming from the top left is pointing to what he has
11 drawn in in manuscript, the ridge ending that he says
12 enters that particular field.

13 I can bring up a clearer image so that you can see
14 that particular area if you wish or just ask you to
15 comment on what Mr Wertheim has drawn relative to what
16 you have observed on the left-hand side?

17 A. From what I can see on the right-hand image, all the
18 ridge structures simply flows from right to left
19 starting at the top within the purple ring until it
20 comes down to this green ridge he's indicated with a red
21 arrow saying it ends at that particular point.

22 Well, I can't see a ridge on the picture I'm looking
23 at, on the image I'm looking at, which ends there. Why
24 didn't he indicate it on the fingerprint form as well
25 then? Then we could see which one he's talking about.

1 Q. I can bring up again -- if I just stop so I can actually
2 have a look myself.

3 A. He's marked the fourth ridge up above the centre core.
4 If you start at the centre core, 1, 2, 3, it's the
5 fourth and it isn't a ridge ending.

6 Q. You are able to help me, please, because you are much
7 better at doing the ridge counts than I am. What I was
8 wondering -- and I do not know -- but what I was
9 wondering is whether the ridge ending that he has
10 indicated by the arrow corresponds to the detail you
11 have marked as 10 and 4 or is it on a different ridge?

12 A. Well, if anything it's going to be number 4. It's going
13 to be number 4 if it's any of them. If he's marking it
14 there as a ridge ending, then I've marked it there as a
15 ridge ending.

16 Q. If you will forgive me, please, just for clarity, if
17 this is looking at the same area, the red arrow ridge
18 ending for Mr Wertheim would correspond to which detail
19 on your charting?

20 A. What he's done, he's carried on from my characteristic
21 number 4, his green line has gone over the end of it and
22 he's brought into play the small island ridge which I
23 marked at 10 and is calling it all one.

24 Q. That's what I had wondered.

25 A. He's calling it all one for whatever reason.

1 Q. If I can understand it -- again, this is what I would
2 understand from his evidence -- what you have yourself
3 observed as 10 he referred to as a spot or dot and his
4 interpretation, a term he would have himself used, his
5 interpretation of this area is the ridge detail you have
6 as point 4 he would interpret as carrying on and
7 bringing into the same ridge the point number 10 that
8 you have at which point it ends?

9 A. Correct.

10 Q. That's his interpretation.

11 A. That's what he's -- yes. Clearly it isn't.

12 Q. Your view is it clearly does not.

13 A. It doesn't. You can see it doesn't.

14 Q. Just to be clear, just to make sure it doesn't alter in
15 any way the point we have just talked about, you had
16 asked how Mr Wertheim marked the known print. That is
17 the Marion Ross print. So what I will do is again bring
18 up the whole image. If you wish it enlarged, please
19 just indicate.

20 Now side-by-side are Mr Wertheim's markings of Q12
21 on the left and Marion Ross on the right. If I
22 understand it, on the fourth ridge out he has marked on
23 Marion Ross a continuous ridge which he says is out of
24 sequence with or does not match the ridge ending which
25 he has drawn on Q12.

1 What we should do, Mr Swann, is in fairness to you
2 bring up FI2409.07 alone so that you can study that.
3 There it is now, a better scale for you. So that is his
4 charting of this detail in QI2 relative to Marion Ross.

5 A. So what he is indicating there then is that all this
6 ridge structure above the centre core runs without any
7 breaks.

8 Q. That is what he is indicating, yes.

9 A. Well, with respect, I mean, he's got the purple circle
10 marked on the left as well. I mean, you can see quite
11 clearly that they stop and start, there's breaks,
12 et cetera. So how can they all run in true, straight
13 continuous ridges? They can't. This is it, when you
14 start drawing lines over ridge structure it's a
15 dangerous exercise, in my opinion.

16 Q. One of the points that if not Mr Wertheim but certainly
17 someone has made to us is the fact that if we look, just
18 as we see on the Marion Ross print, the pattern tends to
19 be one of dots, namely sort of breaks rather than
20 continuous ridges, the suggestion might be either due to
21 the lady's age or the fact that these particular prints
22 were taken after death so that her ridge structure tends
23 to be more broken rather than a normal fingerprint.

24 Is there anything in that?

25 A. No, not in my opinion. Certainly not. The ridge

1 structure on the fingers and the feet are the last
2 things to decompose after a body dies -- after a person
3 dies, rather.

4 THE CHAIRMAN: Could we may be have the clear prints of
5 Marion Ross, in other words without Mr Wertheim's
6 drawing over it just so I can see the clear print and
7 perhaps ask Mr Swann just to point out to us exactly the
8 comparative point.

9 MR MOYNIHAN: Sir, there are a variety of sources. What we
10 can try is FI2109.04. This is an image of the print.

11 THE CHAIRMAN: Yes. Sometimes I find it easier if it's
12 enlarged.

13 A. Do you want one unmarked, Mr Chairman?

14 THE CHAIRMAN: No thank you, we have one on the screen. I
15 just wanted it without the interference of drawing over
16 it. I just wanted to see your point about how there is
17 a break.

18 MR MOYNIHAN: Do you want simply the image of Q12 on the
19 screen alone?

20 THE CHAIRMAN: No, just the image of Marion Ross's print.

21 MR MOYNIHAN: In that case what we will do is put that up
22 alone so it's even larger.

23 THE CHAIRMAN: What I was wondering is the points where you
24 say Mr Wertheim has drawn over, as it were, if you could
25 just point out to me the break where you say one should

1 not draw over it because there is a break given the two
2 points you have referred to.

3 MR MOYNIHAN: Sir, I have an alternative thought because I
4 am a little concerned myself that the image we have on
5 the screen looks, to my eye, blurred.

6 THE CHAIRMAN: It's not very good.

7 A. It is a bit hazy.

8 THE CHAIRMAN: We will get a better one.

9 MR MOYNIHAN: The alternative would be to take the same
10 image that Mr Wertheim used as his base and that is the
11 SCRO charting of Q12, FI0166A. The reason for using
12 this, sir, is that the area that we are interested in
13 has no markings by SCRO to obscure the detail.

14 If we could highlight the Marion Ross print, that I
15 think is a little better clarity if you are content to
16 use that.

17 Mr Swann, the alternative is, if you give me just a
18 second, I am just checking if we have a spare photograph
19 because this is the comparative exercise material so we
20 may actually have a photographic original that we could
21 use for this purpose.

22 THE CHAIRMAN: You might find it easier than trying to do it
23 from the screen. **(Handed)**

24 What I am keen to do is just in the one you were
25 shown before Mr Wertheim had drawn over it and I wanted

1 to see a clear copy and the point where you say one
2 doesn't draw over it, that it is the break. That is
3 really what I was keen to see.

4 A. I will mark points 2 and 3 first, which are there and
5 there **(indicated)**. Point 2 on the left and 3 on the
6 right.

7 THE CHAIRMAN: So can you put in 2 on the left and 3 on the
8 right.

9 A. Number 1, this one here **(indicated)**. Can you mark that?

10 THE CHAIRMAN: If we could just mark -- 2 was on the left;
11 isn't that right?

12 A. Yes.

13 THE CHAIRMAN: And 3 is the one on the right?

14 A. Correct.

15 THE CHAIRMAN: It is just for future use.

16 MR MOYNIHAN: Sir, what I suggest is we finish the chart
17 because the problem is putting the boxes in is obscuring
18 the detail itself. So if we finish the chart we will
19 find some way of numbering them.

20 THE CHAIRMAN: The numbering can be put in later. It is
21 just so we have a record of it.

22 MR MOYNIHAN: We will put the numbers in at the end.

23 A. Number 1 is there **(indicated)**, this one coming up here
24 and ending there. Characteristic number 1 is the one
25 we've just indicated coming down in the space between 2

1 and 3, starting at about 11 o'clock and coming
2 downwards.

3 THE CHAIRMAN: Do you want them enlarged, again? They are a
4 bit difficult to see.

5 MR MOYNIHAN: Yes, we can enlarge them, sir, so we can then
6 put in some numbering. That is enlarged.

7 Mr Swann, we will proceed through them and just
8 number them appropriately. The one that is -- if you
9 can just tell me which you described as number 1 --
10 sorry, if you just tell me as I go past them, first of
11 all, the one my pen is pointing at, how did you number
12 that one?

13 A. The one I've just marked now is number 1, the same as
14 I've marked on my chart.

15 Number 1 ends at about 11 o'clock. If you go to the
16 ridge above --

17 Q. That's 1.

18 A. -- the ridge above and go to about nearly 12 o'clock
19 that one is ending at number 2.

20 Q. The one that the pen is against is number 2?

21 A. Yes. Then there's the gap.

22 Q. Yes.

23 A. Then to number 3, which is the one ending from the right
24 at 12 o'clock.

25 THE CHAIRMAN: Of the gap, ending on the right of the right

1 of the gap?

2 A. Sorry, it's coming in from the right, Mr Chairman, and
3 ending close to number 2 but there's a gap, quite a
4 distinct gap.

5 MR MOYNIHAN: It is actually quite difficult to write.

6 THE CHAIRMAN: Well, one can go back to Mr Swann's chart.
7 It will show on your chart in any event but it is just
8 so that I can see drawn by you. That is helpful. Thank
9 you.

10 MR MOYNIHAN: What I will do also, Mr Swann, is let you
11 comment on a similar drawing in fact by Mr Grigg. So
12 far as Mr Grigg is concerned -- sorry, save this.

13 MISS BAHRAMI: That's saved as FI2210.01.

14 MR MOYNIHAN: If we could bring up, please, FI2909.22.
15 If I recollect correctly this is a drawing that
16 Mr Grigg did of the same area. First of all, the area
17 that he has -- if I begin immediately above the core,
18 there's the tail of a red arrow.

19 A. Yes.

20 Q. Either side of the tail of the red arrow there are two
21 blue arrows.

22 A. Yes.

23 Q. Mr Grigg's interpretation of the feature between the
24 points of the two blue arrows, he described that as a
25 small lake or enclosure.

1 Do you have any comment on that?

2 A. I don't think it is a lake or enclosure. I think it's
3 simply a sweat pore. You can see the same phenomena on
4 ridge structure all over the print. Whilst it might
5 give the appearance of a lake, which I wouldn't
6 dispute -- it is elongated, left to right -- but there
7 are many other areas where you can see quite large sweat
8 pores and if you wish I suppose you could call them all
9 lakes, lake enclosures, but in my opinion they're not.
10 They are sweat pores.

11 Q. If I continue on to the tip of the red arrow he has
12 drawn in and, again, it becomes difficult to actually
13 just make out, he has drawn in a yellow line which I
14 understand to be his representation of a ridge ending at
15 the same spot.

16 Perhaps what I can do is bring up the basic chart
17 that he was using for that before he marked on it, which
18 is FI0169A.

19 I will just simply highlight, first of all, in
20 Marion Ross so we can now see the ridge detail, the
21 underlying ridge detail, and you will see that what he
22 has marked would seem to be the features that my cursor
23 are on now, two features immediately to the right of
24 where his green line 5 ends on the print. Do you see
25 that?

1 A. On the Marion Ross print?

2 Q. On the Marion Ross print.

3 A. Yes, I can.

4 Q. If I understand it correctly, what he is indicating

5 there is that his interpretation would be that that is a

6 ridge which continues and ends. It starts to the right

7 and continues and ends at the point 5 on the left.

8 Do you see that?

9 A. Well, I think it's more of a very, very small island

10 ridge. I can't see a ridge coming up and ending there.

11 The one below it seems to carry on and go round.

12 Q. What I would like to do is just go back to your own

13 charting, TS0004.17 and bring that up on the right-hand

14 side.

15 I suppose it is a little easier to work with the

16 Marion Ross print rather than Q12. Looking at the

17 Marion Ross print, I had asked you to comment on

18 Mr Wertheim's charting relative to your own charting of

19 1, 2, 3, 4 and 10.

20 Now that you have the benefit of Mr Grigg's drawing

21 on the left-hand side, the area that he referred to as a

22 lake and that you have referred to as a sweat pore is

23 not a feature in your charting. The area that would

24 correspond to the red arrow, the ridge ending, if I am

25 correct it is the yellow line.

1 Does that correspond to any of your details or not?

2 A. No, it doesn't, no. The yellow indication on the middle
3 of the three charts I'm looking at, the yellow, when it
4 raises upwards towards 12 o'clock it should carry on
5 round above the red arrow and then come down on the
6 left-hand side of the centre core, one continuous ridge
7 circling the centre core, two or three out of the centre
8 core but nevertheless circling it.

9 Q. What I should do just for completeness then is put the
10 third expert who commented on this, Mr Zeelenberg,
11 AZ0061. If we take down the left-hand side of the
12 screen -- AZ0061, it is slide 152.

13 If we could bring it up on PowerPoint so we can
14 actually see the point that is being made. **(Pause)**

15 I think if we can proceed through these slides. If
16 we can just step back ... if we proceed back, please, in
17 the slides on the screen, it's still on slide 152 and
18 stop there. I don't know which particular one it is
19 within the series.

20 What Mr Zeelenberg has done is that he has also done
21 a charting of Marion Ross's print. I am looking at the
22 prints on the lower right. These are a charting of
23 Marion Ross which he also construes as uninterrupted
24 ridges primarily.

25 On the bottom left he does a charting of Q12 and you

1 will see that what he has on Q12, similar to
2 Mr Wertheim, is a ridge that comes in from the right
3 going to the left and ending in a red dot, with then
4 immediately above it a yellow ridge of a rather peculiar
5 shape, to the left of which is another ridge that ends
6 in a red dot. Do you see that?

7 What he, Mr Zeelenberg, has done is given us above a
8 clearer view of Q12 marking only the red dots so that
9 the ridge that comes in from the right and ends, he has
10 as his point number 11. Do you see that?

11 If I understand it correctly, what he is doing, as
12 Mr Wertheim had done, was to take point number 11 and to
13 say it is not an isolated point but rather he is
14 connecting it with the ridge immediately to its right,
15 where my arrow is just now, **(indicated)** and making it
16 one continuous ridge coming in from the right that ends
17 at the point of the red dot.

18 Do you have any comment on that?

19 A. Well, was he asked when he made that statement why it
20 was a continuous ridge. I mean, why is he saying that
21 it doesn't end with a gap and then there's this dot as
22 we call it or on this island ridge? Why? Was he asked
23 to explain that?

24 Q. No, he wasn't. This is simply the charting we have.

25 A. He's making, well, an assumption I suppose. When you

1 examine a fingerprint, whether it's a donor's print or a
2 crime scene print, you've got to accept what you see
3 there, not try and interpret, well, this might have gone
4 there, this might have gone, this might be all one ridge
5 or it might not be. You can't do that or you shouldn't
6 do that because you don't know whether you're right or
7 wrong and there's no point in doing it anyway. You mark
8 the characteristic detail you can see and if there's a
9 gap there, there's a gap there; if there isn't, there
10 isn't. If there's no gap there, then yes it would be a
11 continuous ridge but there is a gap there so it stops
12 and the other one starts. It's as simple as that.

13 Q. If I can then just so that we can come back and
14 reconsider your own charting, just for the avoidance of
15 any doubt, if we look then at TS0004 .17 and just have
16 that up, the one image.

17 Is that really in a nutshell, if we look at the
18 points 10 and 4 that we have in fact been discussing, is
19 that really just in a nutshell how you are interpreting
20 QI2, that where there is a gap on QI2 you read it as you
21 see it with the gap and that gives you the points 10 and
22 4?

23 A. Yes. Well, there's no other way you can interpret it.

24 Q. Thank you very much. That was a brief look at the top
25 that has enabled me to look at your opinion relative to

1 three of the other experts in this particular case and
2 that concludes Q12 for me.

3 I then have, in fact, two other matters only to take
4 up with you, the first of which is a general point. You
5 have told me that I can concentrate on Y7 to illustrate
6 this point. What I want to talk to you about is a
7 proposition, a psychological proposition, which is not
8 just confined to fingerprint experts but to indeed most
9 disciplines, that where someone finds himself or herself
10 arguing a particular point to the point of conviction
11 that when they look at the point again what they may
12 tend to do -- it's human nature -- is tend to see more
13 factors consistent with their existing opinion rather
14 than fewer. I have come to use a term called
15 confirmation bias. It is a subconscious personal trait
16 that as soon as anyone forms a conviction on either side
17 of an argument they just tend to see more points in
18 their favour, so that is the general thesis, if you
19 will.

20 I have looked at it with people on each side of the
21 debate about Y7 so it is nothing peculiar to you. What
22 I have observed is that when you first saw the mark in
23 February/March 1997 you of course were addressing the
24 national standard, you required only to consider if
25 there were 16 points present and you did consider there

1 to be 16 points present. You did not need to consider
2 the maximum number of points that you could find but you
3 saw 16.

4 The charting that you did for Mr Kent a few months
5 later in July 1999 you had charted 18 points, some
6 strong, some weak.

7 The next point in the agenda, June 2001 when you
8 speak to Mr Gilchrist -- I will bring up the document,
9 CO0003.18 and for the benefit of those in the hall if I
10 could make stand out the paragraph I have just marked.

11 What Mr Gilchrist wrote is:

12 "Mr Swann's position remains unchanged. He
13 maintains that he can identify 21 individual
14 characteristics in the lower portion of the mark. When
15 he compared those to the left thumbprint of Shirley
16 McKie he found all 21 characteristics in agreement and
17 none in disagreement. His approach was to attempt to
18 identify every possible characteristic. Accordingly, he
19 accepts that many of the 21 points which he identified
20 are questionable, with only 11 being clear
21 characteristics, however all 11 match similar
22 characteristics on Shirley McKie's print: and the other
23 10, which are difficult to see, would also match
24 characteristics on the McKie print."

25 Before I ask you anything about confirmation bias,

1 just as a record of your position in June 2001, would
2 that be an accurate impression of your position in
3 June 2001 or not?

4 A. I don't know and Mr Gilchrist doesn't know because he
5 said he can't remember the meeting even. So, I mean,
6 where he's got these words from to say it I don't know.
7 If he can't remember the meeting he had with me how
8 could he put all this on paper?

9 The point is, yes, I did do a chart on some occasion
10 with 21 characteristics marked. Unfortunately, I don't
11 have it now. I don't know where it is. The words used
12 here regarding some are weak and some are unclear,
13 et cetera, et cetera, on any fingerprint identification
14 you will get strong points and some which are not as
15 strong for a variety of reasons and that's what I mean
16 there. I mean, all the characteristics I marked, if I
17 did mark 21, then they were all positive
18 characteristics, whether you could see them clearly or
19 not.

20 But I recall vividly the meeting with Mr Gilchrist.
21 I know what he showed me, I know what I showed him but
22 if he can't remember meeting with me then I don't know
23 how he can write this down, quite honestly.

24 Q. When I am now about to take the next step I have to be
25 conscious of the fact that what is said here is

1 21 points were marked in the lower part of the mark and,
2 indeed, the 18 from the Kent image are in the lower part
3 of the mark.

4 The next numerical point I have is your chart D (for
5 delta) which you produced for the Scottish Parliament.
6 Now there's a mismatch because it refers to a total of
7 32 points but of course by the stage of chart D you are
8 looking not just at the lower part, you are looking at
9 the totality of the mark. Is that correct?

10 A. Yes.

11 Q. Indeed, if I have now a clear recollection, when you are
12 looking at the Rosetta area you are bringing in at least
13 8 points in that area. We now have 32 looking at the
14 totality of the mark and when you have given evidence
15 yesterday and we looked at some of the features that had
16 not been present in your charts (that was around 10, 11,
17 12 and 13, the SCRO points, the lake and the incipient),
18 you could see an extra three points being arguable,
19 that's one of the two bifurcations in the lake and the
20 incipient, so the 32 could now be a minimum of
21 35 points.

22 Would that be fair?

23 A. Yes, yes, yes.

24 Q. Do you have any observation on my underlying thesis
25 here, intending no impropriety and not casting any

1 aspersions on your integrity at all, that what can
2 happen over time is that someone who is convinced, as
3 you are convinced, of the identity of Y7 will over time
4 see more and more features of significance that are
5 regarded as being in common?

6 A. Well, I don't think at this stage now, as far as my
7 working with this mark is concerned, I shall see
8 anything else in it, quite honestly. Yes, there's
9 somewhere in my opinion round about the 20 mark
10 characteristics at the bottom part of the mark, you've
11 got the 8 in the middle regarding the Rosetta
12 characteristic which are unique in themselves and you've
13 got the 8 at the top, the tip of the thumb, which are
14 only present on the rolled impression of Shirley McKie
15 and all those: the 8 at the top stand alone as an
16 identification, those in the Rosetta do and indeed those
17 at the bottom do.

18 So I take your point what you're getting at but the
19 more you look at the fingerprint then, yes, sometimes it
20 is a fact the more you can see into it. I think, you
21 know, that's the nature of the work but as far as I'm
22 concerned these charts I prepared are from work I did
23 years ago and I certainly don't intend to alter them and
24 I certainly don't intend to add anything to them. What
25 is there can be seen and is marked.

1 I'm sorry to go back to what we have been looking at
2 on the screen regarding all this tracing of ridges
3 et cetera, et cetera, and covering them with felt tip
4 pen or what have you. I think that is -- well, not
5 something which is advisable to do in fingerprint work.
6 Indicate things by all means with lines and arrows and
7 what have you but not to start drawing fingerprints. I
8 think it's a dangerous game.

9 Q. Thank you, that finished that particular point.

10 The final point I wanted to ask you myself about was
11 the IAI (International Association of Identification),
12 in a particular part of your own witness statement. If
13 I can bring up, please, FI0149.04 and go to pages 24 and
14 25.

15 Mr Swann, what I have done is brought up, in fact, I
16 am choosing to highlight paragraph 42 of your statement
17 which starts on page 24 and continues on page 25. You
18 are dealing with a complaint that was made against you
19 and, indeed, Mr Leadbetter to the IAI. I don't wish
20 myself to go too far into this but you may be aware that
21 the allegation that you make in paragraph 42 has been
22 put to Mr Wertheim and to Mr McKie already in evidence.
23 So, anticipating your own evidence based on
24 paragraph 42, they have already been asked to comment on
25 it.

1 If I can highlight, without wishing to detract from
2 anything else that is said in the paragraph, I will
3 highlight the particular part. I am not very good at
4 the highlighting but what I intended by the highlighted
5 yellow passage is, the allegation is that:

6 "The case against me was conceived, encouraged and
7 pursued between Iain McKie, Shirley McKie and Pat
8 Wertheim and the International Association for
9 Identification (IAI)."

10 So the accusation is the case against you was
11 conceived, encouraged and pursued among three
12 individuals and the Association.

13 The question that I wanted to ask you -- and it is a
14 deliberately limited one in this first instance -- is
15 what evidence do you have that the charge that was
16 brought against you at the IAI was one that was
17 conceived, encouraged and pursued, first of all, by Iain
18 McKie or involving Iain McKie?

19 A. Well, it follows a pattern. First of all, he reported
20 me to the Fingerprint Society. The letter I got from
21 them criticised me for giving evidence in the perjury
22 trial in Glasgow and for making a false statement
23 regarding the identification of Shirley McKie's left
24 thumbprint. I never even went there. I was never even
25 called to give evidence. So that was that one.

1 The second one was he reported me to do CRFP
2 regarding breach of confidentiality and all sorts of
3 associated matters. That was, for want of a better
4 phrase, kicked out because it was all false statements.

5 Following that at an appropriate time the next thing
6 we get, Mr Leadbetter and myself, is a petition from the
7 IAI, a petition by a gentleman called Mr Les Bush from
8 Australia in association with the IAI, Mr Wertheim.
9 It's all documented on the CLPEX website. If it hadn't
10 come from Mr McKie and his associates then who has done
11 it? I don't know. There is a series, a pattern here
12 Fingerprint Society, CRFP, last resort the IAI, where
13 they form this committee, this IAI Y7 Committee. They
14 have already decided the mark is not identical,
15 according to their literature. They haven't proved us
16 how they've done it but, I mean, this is what they're
17 saying.

18 THE CHAIRMAN: I think I should tell you that I am not
19 interested in the views of the IAI. I am merely
20 interested in the limited issue as to who was
21 responsible or not responsible for them embarking on an
22 inquiry at the time they did. So I am only interested
23 in that. Their views are not otherwise -- don't have
24 any bearing on this Inquiry.

25 A. Fair enough, sir. Well, all I can say is if it didn't

1 come from Mr McKie and his daughter and Mr Wertheim in
2 conjunction then I don't know who did it. I've no idea.

3 MR MOYNIHAN: In that case then, would the same answer to
4 the question of what evidence you have of the
5 "conceived, encouragement and pursuit" of this, as far
6 as Ms McKie was concerned, would the same answer apply
7 to her as you have given to Mr McKie?

8 A. Then yes, it has to, yes.

9 Q. Do you have anything that would specifically show that
10 her hand was in any way involved in this specific
11 complaint to the IAI?

12 A. Well, not having it in front of me, certainly there's
13 documentation which has been submitted by my legal
14 representative, as you well know. All the details are
15 in there and I can't bring it up verbatim because I
16 can't remember it all but I mean the point is it's
17 documented on the website, the build-up to it. How far
18 I can go I don't know, the formation of what has
19 happened and the results and all this that and the
20 other. So, no, I can't prove anything really except
21 what I've seen and what I've heard. I've no
22 documentation saying, you know, "This is from me to
23 you", et cetera, et cetera. No, I haven't.

24 Q. The final one is Mr Wertheim. Mr Wertheim, so far as
25 his hand being specifically on this complaint, his

1 involvement, do your answers that you have given before
2 just apply to him as well; namely, you look at the
3 website and the pattern?

4 A. His involvement is quite clearly stated on the website
5 and that's been -- extracts have been taken from that
6 and submitted with the report that went to the Chairman
7 I believe and to yourselves no doubt from Mr Russell.
8 It's there in black and white.

9 Q. You see what Mr Wertheim said under oath -- this is the
10 reason I'm asking you what the evidence was -- what
11 Mr Wertheim said under oath was that he had tried in
12 years past to get the IAI to take an interest in
13 complaints and they had failed to do so. He had
14 specifically raised the possibility that someone might
15 complain against him to instigate an investigation by
16 the IAI but that did not happen and that he was not, in
17 fact, responsible for instigating the complaint against
18 you but he did, at the request of the IAI, provide
19 material to them, provide information to them, after the
20 complaint was made. That is what he has said under
21 oath.

22 Are you actually in a position to contradict what he
23 has said under oath in relation to that matter?

24 A. Well, I wouldn't wish to comment without having the
25 proof in front of me. I mean, I know there's

1 documentation which exists but I'm not going to sit here
2 and say this, that and the other without being able to
3 read it and bring it off the website.

4 Q. That's fair enough, Mr Swann, because I don't want to
5 inveigle you into anything in particular when you are on
6 oath to this hearing.

7 Sir, that would finish that particular point.

8 What I had said to you this morning, Mr Swann -- I
9 have completely finish now, so this is the point I had
10 indicated to you this morning that when you arrived in
11 Glasgow the expectation is that you would give a
12 presentation to the hearing. You have felt unable to do
13 so because you've got a throat infection so you have, in
14 fact, spent yesterday and this morning answering my
15 questions. I had indicated to you this morning I would
16 give you the opportunity at the end of my questions just
17 to cover anything else that you wished to say either,
18 first of all, about Y7 or Q12 or anything else that you
19 would wish to contribute to the hearing.

20 Is there anything you wish to add to your evidence?

21 A. Yes, Mr Chairman, I would like to emphasise certain
22 points, the main one being experts in this case, from
23 the word go, as far as I'm aware, have not been using
24 the right material. I was not using the right material
25 when I first saw what I had to look at, but when I got

1 the rolled impression of Shirley McKie's left thumb, the
2 blue thumbprint as we call them, fingerprints as we call
3 them, it became apparent the full extent of the detail
4 on mark Y7 in association with her fingerprints -- her
5 thumbprint rather.

6 Since then, my first meeting with Mr Gilchrist,
7 Mr Wertheim's exhibit, apparently -- I wasn't there --
8 but apparently one of his reasons given in court that
9 the mark was not identical was the fact that there were
10 these characteristics at the tip of the mark Y7 which
11 were not on Shirley's thumbprint and they probably
12 weren't on the one he was looking at but there were on a
13 proper rolled impression, had he had the right material.
14 Why he didn't have the right material I don't know
15 because apparently he took, I'm told, hundreds if -- I
16 don't know how many, but fingerprints of her.

17 Secondly, I noticed that in the comparative exercise
18 Mr Zeelenberg makes reference to it -- bear with me.

19 **(Pause)**

20 Mr Zeelenberg's comment -- my comments regarding
21 Mr Zeelenberg's comparative exercise, he says, well, he
22 does find numerous characteristics in agreement which
23 I've indicated but he does say:

24 "The tip is not charted because the counterpart on
25 the comparison print fails."

1 So he hasn't had the chance in the comparative
2 exercise to refer to the characteristics at the tip and
3 associate them with the relevant points on Ms McKie's
4 left thumbprint. So if he'd seen those -- I don't know
5 whether he's seen them to this day, I've no idea -- but
6 had he seen those he would possibly come to a different
7 conclusion. They are there. They are very, very clear
8 indeed and they are very important characteristics.

9 It's the same with the -- I don't think either he,
10 Mr Zeelenberg or Mr Wertheim, had grasped the
11 significance of the Rosetta characteristic. I mean,
12 we've got a unique cluster of sweat pores to the left of
13 the mark with associated characteristics, a large
14 bifurcation forming within those sweat pores travelling
15 to the right towards 3 o'clock, the lower missing a
16 ridge and going down, you come to the ridge that slopes
17 down a little bit like the trains in our rail system,
18 the GNER system, where the nose goes down like that
19 **(indicated)** at 128 degrees, you've got the little island
20 ridge to the side of it. You've got all these
21 characteristics and others in association with each
22 other.

23 Additionally, the 20 points or whatever how many you
24 want to call on the bottom part of the mark -- I have
25 marked 16 on the charting here obviously -- the 16

1 there, the 8 in the middle and the 8 at the top, a
2 combination of characteristics --

3 Q. If you give me just a second. I apologise for
4 interrupting your thought process. This is important so
5 perhaps if we can locate the microphone in a position
6 that is comfortable for you.

7 A. The point I want to make regarding those three areas of
8 mark Y7 is you're not going to get repeated in any other
9 person those at the top, those in the middle, and those
10 at the bottom, a total of 32 characteristics. The ones
11 at the top, in my opinion, stand alone because I can't
12 associate them with those lower down because of the
13 movement, the slight distortion and what have you --
14 well, the large distortion, if you like, with
15 66(?) degrees anticlockwise movement -- but the Rosetta
16 characteristic in the middle can be associated with
17 those in the bottom part of the mark. So you have a
18 total there of 24 characteristics in agreement.

19 Now, studies have been carried out over the years,
20 obviously. The latest one that I can find on the web is
21 the one conducted by Lockheed Martin FBI in 1991 when
22 their studies only looked at, I must admit, 50,000 sets
23 of fingerprints but their conclusions were -- or
24 statistical conclusion was -- that if you get four ridge
25 characteristics in agreement (and they've got to be in

1 agreement), which I thought was a bit low, they worked
2 out that the odds of anybody else having those four
3 characteristics in that same position was 10 to the
4 power 27. I'm not a mathematician but where they got
5 that figure from I don't know, but that's a very, very
6 high figure indeed. You're talking about four
7 characteristics. Here we're talking about 8 times that
8 number. What the odds of those being found in somebody
9 else are beggars belief.

10 So the thing about it is the positivity of this. I
11 mean, I can appreciate the comments passed by other
12 experts and their views of, you know, whether this is a
13 characteristic or not and so on and so forth. So be it.
14 But as far as I'm concerned what are marked on those
15 charts that I presented is positive and there's no doubt
16 about that at all.

17 Not so many years ago we had the -- I mean, I saw
18 some passage somewhere recently in the material I've had
19 here "my flawed Aberdeen findings". It wasn't "my
20 flawed Aberdeen findings", it was the flawed findings of
21 the Aberdeen people who did the report that they
22 prepared. The report in itself was, to my mind, very,
23 very elementary. They didn't state anything categorical
24 like ridge characteristic this and so on and so forth.
25 It was just simply a general report and their conclusion

1 was that, because there was a number of characteristics
2 outstanding which they couldn't resolve, it was not
3 Shirley McKie's left thumbprint. But the material they
4 used they got from Mr Wertheim. It's there. It's
5 produced, it's all produced and all they've used are
6 eight or nine, I think it is, left thumb plain
7 impressions.

8 Of course, the detail they are talking about at the
9 tip is not on those. So, therefore, the same as
10 Mr Wertheim in his court appearance is saying it's not
11 identical because those characteristics are missing.
12 They are not missing. If they look at the right
13 material, which you'd think that experts carrying out
14 some very important report on a very, very important
15 topic would have got the correct material to work but
16 they don't. They just simply go willy-nilly and produce
17 a report and that's it.

18 The whole thing to me is ... I don't know. It's as
19 if a group of experts can see the correct detail in the
20 mark -- and I'm saying that I'm seeing the correct
21 detail in the mark, obviously -- and others just simply
22 cannot see it. Why they can't see it I don't know but
23 it's there plain enough. I don't think -- there's
24 certain people, the majority of the ones who we've
25 called the contradicters, have not worked out the

1 movement of the mark and they don't appreciate what's
2 happened to it.

3 I can't say any more than that really but, I mean,
4 this is the impression -- well, it's not the impression
5 I get, it's factually. I mean, I've seen their reports,
6 I've read them. I don't go along with this drawing
7 fingerprints. I think it's -- well, I've never had to
8 resort to it. I never saw anybody in the bureau I
9 headed for many, many years having to resort to some
10 kind of action like that, drawing over ridges to sort of
11 highlight things and what have you. You simply prepare
12 an enlargement of the mark and you compare it and you
13 mark the characteristic detail and when you've got
14 sufficient in agreement, then that's the end of the
15 matter.

16 Q12 I didn't find as difficult a mark to compare as
17 Y7. There's no movement as such on it. It's a very --
18 I won't say "poor" mark. It's a mark which is in the
19 middle of a whole host of other fragmentary detail, as
20 you know, on this M&S tin as I understand it. It was
21 developed by the superglue process, as I've been
22 informed, and the detail there which I have marked on
23 this chart here, irrespective of the comments regarding
24 gaps in ridges and so on and so forth, to my mind it is
25 positive.

1 You're not going to get that extent of detail in
2 agreement in somebody else. It's not on. I mean, I
3 can't prove to you you can't get that detail from
4 somebody else but it is a well-known fact. Fingerprints
5 are produced on the ridge detail on our fingers, palms and
6 feet of course are produced between, early on in the
7 foetal growth of an unborn child, 12 to 20th weeks I
8 believe it is. The detail that we eventually get on our
9 hands and fingers is formed by the internal and external
10 pressures and movement on what they call the volar pad
11 within the body tissue and that determines the ridge
12 characteristic detail and because you cannot reproduce
13 those internal/external pressures and movement within an
14 unborn child you'll never get two people with the same
15 ridge detail. It's called the theory of relative
16 growth. I've not read it but that's what it's called.

17 So the detail that you get is yours, it's positive
18 and if you see that same detail in somebody else then
19 you have an identification. There's nothing more I can
20 say really.

21 Those are the two most important marks. I don't
22 think there's a great deal of point referring to the
23 bank note or the gift tag. I don't think there's any
24 great -- any comment about that. I know the bank note
25 mark, which is a very, very simple straightforward

1 mark --

2 Q. It's okay. For reasons that are lost in time we need
3 not go into the bank note which is QD2 and, equally, XF
4 that we have discovered through the comparative exercise
5 that there is a consensus, a unanimity of view, as to
6 its identity so we need not take up your time in
7 relation to either of those two.

8 I am sorry, I have again interrupted you. Is there
9 a --

10 A. No, no. You can talk all day about fingerprints but I
11 think I'd better stop.

12 MR MOYNIHAN: I think that as that coincides with the coffee
13 break, perhaps it is --

14 THE CHAIRMAN: Yes, it might be convenient.

15 I was going to ask you first, Mr Smith, if there
16 were issues you wanted to raise with the witness.

17 MR SMITH: Thank you, sir. Yes, there are matters that I
18 would like to raise with the witness. They are as
19 follows: the first relates to the basis of the original
20 instruction to Mr Swann on behalf of Shirley McKie, in
21 particular the issue of forgery and transplantation
22 because that is something that majors in the report, as
23 I understand it.

24 THE CHAIRMAN: I think that was touched upon but you want to
25 ask some further questions about that?

1 MR SMITH: Indeed so, sir, I do.

2 The second area is the progress of the analysis of
3 the various productions at various times. There are a
4 few matters that are unclear to me as to what was
5 available at what stage to Mr Swann and, indeed, the
6 point at which he formed various opinions about the
7 matters. In particular, under that umbrella, the extent
8 of the second examination on 2nd March in Glasgow.

9 The next matter relates to some further questions
10 about his contact with Mr Terry Kent. Then moving on to
11 the point in time, and this theme goes through, when
12 differences were observed by Mr Swann and what he did
13 when he became aware of these.

14 I would like to ask him some questions about --

15 THE CHAIRMAN: Sorry, when you say differences were
16 observed ...?

17 MR SMITH: Yes, the differences between Y7 and Shirley
18 McKie's inked mark and what he did in the light of that.

19 I would like to ask him some questions about a point
20 of detail arising from his statement. It is his
21 position regarding his evidence in the **McNamee** case. I
22 can deal with that fairly shortly. I would like to ask
23 him some questions about what his expertise is and where
24 that's derived from.

25 There are a few points of detail, sir, that I would

1 like to ask about relating to the images but they are
2 very, very short points, matters that I find quite
3 difficult to understand what the position is.

4 THE CHAIRMAN: If it is clarifying some points then ...

5 MR SMITH: It is. I will not take much time with it.

6 THE CHAIRMAN: Insofar as I have been able to note them I
7 will give you leave. I am sure the question about the
8 **MacNamee** case I hope will be very limited what you want
9 to ask about that.

10 MR SMITH: It is. I should say, sir, there's one other
11 matter that I meant to mention. I realise that
12 Mr Moynihan covered the question of the IAI. I am
13 conscious you, sir, have no interest in the IAI's
14 findings --

15 THE CHAIRMAN: No, there is only one matter that was raised
16 with me was the coincidence of the IAI beginning their
17 inquiry at just about the time of this inquiry was about
18 to begin and, indeed, of publishing their views before
19 this witness had given evidence. It's only in relation
20 to that that I'm interested in but not in their
21 conclusions or observations.

22 MR SMITH: Sir, I have no intention of going into that point
23 but perhaps if I just make it clear, the statement
24 Mr Swann has lodged -- and bearing in mind of course I
25 do represent Mr Wertheim as well -- goes a little

1 further in one part than my learned friend

2 Mr Moynihan --

3 THE CHAIRMAN: If there is something further he said then

4 certainly I will let you touch on that but I would ask

5 you to bear in mind that I am --

6 MR SMITH: I can give you an assurance --

7 THE CHAIRMAN: -- not interesting myself in the IAI beyond

8 the limits I've expressed.

9 MR SMITH: Do you wish me to commence just now, sir, or --

10 THE CHAIRMAN: No, it is 11.30 so we will sit again at

11 11.50.

12 **(11.30 am)**

13 **(A short break)**

14 **(11.50 am)**

15 **Cross-examined by MR SMITH**

16 Q. Mr Swann, are you an expert in the forgery of
17 fingerprints?

18 A. In the what of fingerprints, sorry?

19 Q. Forgery of fingerprints?

20 A. No, there's no such person.

21 Q. I will come back to that in due course, if I may.

22 The first thing I would like to ask you is a point
23 of clarification from something that came up yesterday.

24 I think in the course of your evidence yesterday, in

25 response to a question from the Chairman, you were asked

1 about whether you could have a situation where a number
2 of points was, in fact, in sequence and agreement
3 between a known and an unknown mark, but there were
4 certain points that were in disagreement. I think the
5 Chairman asked you how one handles that.

6 Yesterday I think what you did was you referred to
7 an article which you said you had which indicated that
8 you could have that situation and nonetheless there
9 would be an identification.

10 Did I pick that up correctly?

11 A. That's correct, yes.

12 Q. I think you are aware at the close of business yesterday
13 a request was made for you to provide a copy of that
14 copy of that article to ourselves.

15 You did provide that Article, did you?

16 A. Well, I gave one to the young lady over there.

17 Q. Yes. I can tell you, Mr Swann, that she provided us
18 with a copy of it. I would just like to be clear about
19 this. I think the paper you produced was a copy of a
20 chapter from a book called "The study of latent
21 fingerprints", by someone by the name of Wendell W
22 Clements.

23 Is that the paper you were referring to?

24 A. That's correct, yes.

25 Q. Mr Swann, I do not wish to take up too much time with

1 this but would you agree with me that what that is is
2 simply a mock cross-examination of a fingerprint expert
3 and the author is giving guidance as to how the expert
4 might handle the questions from a defence attorney?

5 A. Yes, I take it to be that, yes.

6 Q. It is not a real case, is it?

7 A. I don't think so, no.

8 Q. It is not, as it were, an article that has been peer
9 reviewed that suggests that you can have a situation
10 where there are 12 points, I think is the example you
11 gave from this paper, in agreement but three points in
12 disagreement. It's not a finding, is it?

13 A. I think he's making the point that if you get X number
14 of characteristics in agreement sufficient to satisfy
15 the expert that it is an identification then there's an
16 explanation for those that you cannot agree.

17 Q. I think what the gentleman is doing is suggesting how an
18 expert witness for the prosecution might respond to a
19 challenge by a defence attorney if pressed on that
20 point. That's all it comes to.

21 A. Yes. It's a training exercise.

22 Q. Forgive me, it's not an article, is it, that says that
23 there is a real case here where a real judge decided
24 that you could have points in disagreement and points in
25 agreement but still a valid identification?

1 A. That would seem to be correct.

2 Q. I think I am right in saying that you were initially
3 involved with Shirley McKie and Iain McKie when they
4 visited your premises down in Wakefield?

5 A. They did, yes.

6 Q. Was that a relatively informal discussion you had with
7 them?

8 A. It was, as far as I can recall, yes, yes.

9 Q. There was no solicitor present, was there?

10 A. No.

11 Q. At that time did you consider yourself instructed on
12 their behalf?

13 A. No, I didn't.

14 Q. What was the nature of the discussion, as far as you
15 recall it?

16 A. Well, I was given to understand the discussion would
17 revolve round three particular areas of fingerprints.

18 One was can fingerprints get mixed up. The forgery and
19 transplanting of fingerprints and can fingerprints be
20 mistakenly identified. I think I'm correct. I didn't
21 write notes about all this but that's as I recall.

22 Q. That forgery, transplant, were considered as being an
23 issue that may arise?

24 A. Yes.

25 Q. Did you tell them at that time that you were not an

1 expert in forgery and transplant?

2 A. I've no idea. I don't know who on earth is an expert on
3 the forging and transplant of fingerprints.

4 Q. I'm sorry, can you ...?

5 A. I don't know who is an expert on the forging and
6 transplanting of fingerprints. I mean, if you ask an
7 expert has he ever seen a forged fingerprint --

8 THE CHAIRMAN: Mr Smith, before we go on on this point, it
9 is not an issue in this Inquiry, forgery, as I
10 understand it. This witness is giving evidence here on
11 the interpretation of fingerprints and I do not think
12 there is any question mark over his expertise over many
13 years in that subject. So what exactly is the relevance
14 of whether he is an expert on forgery?

15 MR SMITH: Sir, the reason I ask the question is this: it
16 goes fundamentally to the issue of credit of the witness
17 and what he was disclosing at various times in the
18 context of his report. I am sure, sir, you are aware of
19 the obligations of experts disclosing such things --

20 THE CHAIRMAN: Of course.

21 MR SMITH: -- for example, any matter which goes against the
22 opinion that is being expressed and it is my submission,
23 sir -- I don't wish to take it much further if you, sir,
24 are not wanting to go there.

25 THE CHAIRMAN: I don't think it really needs to go because

1 my view has been that each expert on fingerprint
2 interpretation comes here and gives his evidence in the
3 form of his opinion and it stands or falls by that and
4 we really haven't gone into people's expertise and
5 qualifications and so on.

6 MR SMITH: I understand that, sir. Perhaps I can say this:
7 that as you will recall I haven't either with any other
8 witness and quite deliberately not done so but of course
9 my understanding is, regards to Mr Swann, I understand
10 that it was broadly at that stage being accepted the
11 mark was, in fact, Shirley McKie's. So the question of
12 what he was doing examining it is, it seems to me, with
13 respect, relevant because what was he trying to achieve
14 by looking at it if it wasn't looking to see if it was
15 forged or transplanted?

16 THE CHAIRMAN: Is your point that he was only looking at it
17 from the point of view of transplant and it was not a
18 question for him whether it was a true mark or not?

19 MR SMITH: Correct. That is really it, sir.

20 THE CHAIRMAN: If that is the issue, then I will certainly
21 let you ask that.

22 MR SMITH: Thank you.

23 I will try not to go into a great deal of detail
24 about that particular matter, but you understood, did
25 you, when you first met Shirley and Iain McKie that they

1 were proceeding on the assumption that the fingerprint

2 Y7 was a fingerprint of Shirley McKie.

3 A. Yes.

4 Q. Therefore, you would have a purpose in looking at it,

5 looking at the evidence in due course when instructed by

6 Levy & McRae?

7 A. I didn't know at that time whether I would be instructed

8 but I subsequently was, yes.

9 Q. But when you received instructions, written

10 instructions, from the solicitors to be an expert

11 involved in the case, what did you understand the

12 purpose of your engagement actually was?

13 A. First of all, to examine a document they sent down to

14 me, which was a comparison chart of an SCRO production

15 in the forthcoming trial. Following that, I was

16 instructed to attend at the Justiciary Building in

17 Glasgow to examine the door standard on which the mark

18 Y7 had been found and was still there and also to check

19 the positivity of the identification that had been made.

20 That was the purpose of going to Glasgow and that was

21 evident by the materials that were laid out for me to

22 examine.

23 Q. I would like to be clear about what information was sent

24 to you, first of all, by Levy & McRae, the solicitors,

25 before you visited Glasgow.

1 Can I ask you to look at some documents. These are
2 what featured as productions number 152, 180 and 189 in
3 the criminal trial and the references, for the purposes
4 of this Inquiry, are ST0006. If we could have that one
5 up, first of all, please. Can we flick on I think until
6 we get some images ... pause there, please.

7 Can you recall if these two photographs were part of
8 the documentation sent by Levy & McRae solicitors?

9 A. Well, if it was, I don't recall seeing it.

10 Q. Can I have the next page on that image, please.

11 Is that something you recall having been sent down?

12 A. That is the comparison chart that I examined, yes.

13 Q. Just for completeness I don't think there are any other
14 pages but can you just check there is nothing after that
15 is material. Just one more page. I think I am being
16 given an indication that that is the limit of that
17 document.

18 Can we keep that image on the screen, please, and go
19 to SG0126 which was production 189 in the criminal
20 trial. Can we flick through pages.

21 Again, we see two images. I think they one above
22 the other rather than one beside the other.

23 Then the next page, please, which again there are,
24 even to the relatively untrained eye, differences
25 between the two.

1 Can you identify, Mr Swann, what is the difference
2 between the right-hand image on the left-hand side of
3 the page and the right-hand image on the right-hand side
4 of the page?

5 A. I'm sorry, could you repeat that?

6 Q. Yes, I'm sorry, it was a very poor question.

7 You see the inked mark on the left-hand image?

8 A. Yes.

9 Q. And the inked mark on the right-hand image?

10 A. Yes.

11 Q. And we can see that they are different?

12 A. Indeed.

13 Q. Are you able to help me with what is the difference,
14 what do these appear to be in comparison to one another?

15 A. Well, they're both impressions of -- well, they are both
16 the same fingerprint, except that the one on the right
17 is more or less a fully rolled impression. We see most
18 of it except from the top part that seems to have been
19 cut off and perhaps, indeed, the bottom half.

20 On the left-hand side indeed more has been cut off,
21 well, to facilitate the chart that they were preparing.

22 Q. Did you know that was why the image was partly cut off,
23 to facilitate the charting? Did you know that?

24 A. Did I know that?

25 Q. Yes.

1 A. Well, I could tell when I saw the chart it had been cut
2 off.

3 Q. I am interested in your understanding of the reason why
4 it had been cut off.

5 A. Well, in any preparation of comparison charts we
6 always -- well, I did as well and no doubt the whole of
7 my department did -- you balance one mark against the
8 other by putting it on top and working out where the
9 characteristic detail fell and then when you got the
10 area you wished to portray in the chart you couldn't get
11 it all on the chart because the chart wasn't big enough
12 so, therefore, you had to cut off certain areas. It's
13 not --

14 Q. I would like to ask you this. You may not know the
15 answer from this remove, but the images that you were
16 provided with by Levy & McRae, first of all, were they
17 original images or were they photocopies of this type of
18 presentation?

19 A. It was a photocopy.

20 Q. A photocopy. I take it you would agree that a photocopy
21 of something is poorer quality than the original. We
22 are agreed about that much, are we?

23 A. Yes, it has to be, yes.

24 Q. Can you remember whether the image you were provided
25 with contained the rolled inked impression or the plain

1 inked impression?

2 A. Part of the plain. Oh, sorry, this one here. The one
3 on the left-hand side.

4 Q. Very well. I wonder if for completeness we could also
5 have up --

6 MR MOYNIHAN: Sir, before we remove anything, because the
7 questions are relating to what is on the right and left
8 of the screen it might help if the screen is saved.

9 THE CHAIRMAN: We will save the screen then.

10 MR MOYNIHAN: Can I also just say to my learned friend that
11 we actually have the originals here if the need arises.

12 MR SMITH: Thank you. I am not sure I necessarily wish to
13 undertake that exercise.

14 MISS BAHRAMI: That's saved as FI2310.02.

15 MR SMITH: Could I ask for the right-hand image to be
16 removed, that is SG0126.003. I would like another image
17 brought up, please, SG0125 and again flicking through to
18 find ... if you can hold it there, please. Can we have
19 the left-hand image expanded to show both halves of it,
20 as it were, to show both photographs on the left-hand
21 side of the page ... I am not describing that very well.

22 Mr Swann, I think again even to the untrained eye we
23 can see that in the mark Y7 on each of these images the
24 photograph shows a different area. Do you see that? If
25 you wish it expanded, it might make it easier. Just

1 help me with this. We can see there is a lot more
2 space, as it were, below the print on the left-hand
3 image than there is on the right-hand image.

4 Do you see that?

5 A. Yes, that appears to be so, yes.

6 Q. Are you able to help me, you have a copy of a document
7 in front of you which I assume is your original
8 instruction in the case; is that right? The document
9 you are wrong in your hand, I think.

10 A. This is the one that I received, which would appear to
11 be the one on the left-hand side.

12 Q. On the left-hand side. You are quite clear that you
13 only received one document, as it were, from
14 Levy & McRae. You didn't receive a spread of images?

15 A. No, this is all I recall receiving.

16 Q. What you are holding just to be clear about it, is a
17 photocopy, a single A4 sheet, which shows on one side of
18 it Y7 and on the other side of it a plain impression of
19 Shirley McKie. That's right, isn't it?

20 A. It is the left thumbprint of Shirley McKie. Whether
21 it's a plain impression or a rolled impression I'm not
22 sure from this photograph.

23 Q. Very well, what I'm interested in is you were not
24 obviously not sent the copies of the photographs of the
25 entire mark?

1 A. I don't recall seeing them, no, I don't, no.

2 Q. You explained that the next thing you did was, after
3 having received that, it's in your statement, you were
4 provided with an air ticket and you had to come up to
5 Glasgow to facilitate your examination?

6 A. Yes.

7 Q. Had you, before you got in the plane, as it were, had
8 you formed any view at all as to whether or not there
9 was a match between Y7 and Shirley McKie's inked mark as
10 provided to you?

11 A. Yes.

12 Q. The view was?

13 A. It was identical.

14 Q. To be clear, you were going from a photocopy of an image
15 and you were able to form a preliminary view from the
16 document in front of you just now?

17 A. Yes, indeed.

18 Q. Was it a preliminary view or a concluded view?

19 A. A preliminary or what?

20 Q. Concluded view.

21 A. What I did -- I think I explained earlier on in the
22 course of giving evidence -- when I'd received this, I
23 said it was a dull, matt-type finish photograph, not
24 sort of glaring clear or anything like that and I spent
25 one day examining it and formed a view. I then missed a

1 day and had another go, just to be sure, and to be
2 absolutely sure I missed a day and had a final go, ie
3 Monday, Wednesday, Friday, something like that --
4 whether it was those days, I don't know -- until I was
5 quite satisfied in my own mind.

6 Well, I was satisfied in my own mind the first time
7 I examined it but not that I have the chance to pass
8 something to another person and say, "Have a look at
9 that and confirm me", I tend to do a triple check and,
10 at the end of the day, I was satisfied as to identity.

11 Q. Mr Swann, since you have that document I wonder if it
12 would be possible, first of all, if you would be
13 prepared to allow it to be produced to the Inquiry and,
14 secondly, if we could have it put on the overhead
15 projector so we can see what it is you have.

16 Do you have any difficulty with that?

17 A. Well, it's one that I have worked on and marked certain
18 characteristics.

19 Q. I am sure that would be even more assistance than I
20 thought it was at the outset. I take it you are quite
21 happy for it to be produced?

22 A. Yes, I've no problems. **(Handed)**

23 Q. I wonder if we could have the left-hand image, as it
24 were, taking up most of the screen, please, and zooming
25 in and allowing it to focus.

1 Can I just understand the dots on it. Obviously,
2 I'm not looking at the original but how are the dots
3 applied? Is it some kind of ink?

4 A. It's a silver -- not felt tip pen but a silver pen. It
5 just highlights characteristics.

6 Q. I haven't obviously had the opportunity of looking at
7 this but how is it that you identified the points there?
8 We don't see, for example, in the left-hand image or I
9 can't see, as it were, the SCRO marking-up of it.

10 Are these your lines, so number 16, for example --

11 A. No, no, the marking-up and the preparation of the chart
12 originally was by SCRO and I've just --

13 Q. So what you are doing is really confirming there -- if
14 we take point 16, for example, what you are doing is you
15 are, what, simply following the line from 16 down to the
16 end and putting a dot there. Is that the idea?

17 A. Well, I went through every characteristic on the chart
18 to ensure they were accurate and they had been properly
19 marked.

20 Q. I am interested in the way the exercise was carried out.
21 Let us take one that's a little more legible, if that's
22 the right word, point 6 at the bottom of the page. I'm
23 imagining the exercise you carried out, Mr Swann. When
24 you are looking at it, you obviously begin with the
25 proposition that point 6, according to SCRO, ends up at

1 some point of relevance.

2 A. Yes.

3 Q. I am right. So you follow the line from 6 and it goes
4 along to the end of the line. Now, what do you do then?

5 Do you just put a dot there or do you --

6 A. If I was originally marking-up the identification? Then
7 I would put a black dot, as I have done on the
8 photographs you have seen on my exhibits.

9 Q. But, mr Swann, you weren't doing the original marking-up
10 here, of course. You were looking at someone else's
11 work.

12 A. I was, yes.

13 Q. What you were doing was your eye was being drawn to the
14 end of a line to see if a point of relevance was there,
15 wasn't it?

16 A. Correct.

17 Q. Then you were saying, do I see that point?

18 A. Correct.

19 Q. And at that point if you said, "Yes, I do" were you then
20 putting a dot on it?

21 A. No. Someone else has already done that. This marking
22 with this silver pen I did about three or four weeks
23 ago. You are going back to 1990-something, aren't you,
24 with the original, when I first got it. I simply was
25 sent this down by Levy & McRae to -- they asked me

1 specifically to look at this particular chart, which I
2 did and I conveyed the information, as I recall anyway,
3 by telephone back to a lady called Angela McCracken at
4 Levy & McRae.

5 Q. I follow. It's my mistake. I should have asked you
6 when you applied the dots and that's been done recently
7 with the silver pen.

8 A. Just to be prepared for this Inquiry I had a further
9 look at it and perused it, et cetera, et cetera, and
10 marked it accordingly. So it will stand out and you can
11 see them.

12 Q. Just one point on this: point number 1, can you tell me
13 what is that? Is that a ridge ending, a bifurcation?
14 What is it?

15 A. I'm sorry, I can't really see it on here. It's lost
16 its --

17 THE CHAIRMAN: Do you need your own copy?

18 A. Yes, I could do with the original to answer that
19 question, please.

20 THE CHAIRMAN: It just means we cannot have it in two places
21 at once.

22 A. The more you enlarge it the more vague it will become,
23 unfortunately. **(Handed)**

24 Point number 1 is a ridge ending.

25 MR SMITH: It's a ridge ending. Is the ridge coming from

1 the bottom right going up or coming from the top left

2 coming down or is it --

3 A. It's coming from the bottom right and going up.

4 Q. Just while we have the images on the screen, the ones we

5 do from the database, can we take it that point 1 on the

6 database is pointing to point 1 in the document we have

7 in front of us. It should be, shouldn't it?

8 A. Sorry, point number 1 is a ridge ending up.

9 Q. It's a ridge ending up?

10 A. Yes.

11 Q. Are you able to see that on the screen in front of you?

12 Are you able to identify on that image, either of these

13 two images on the screen, point 1, a ridge ending coming

14 up?

15 A. It's where the end of the pencil, where the pencil point

16 is **(indicated)**.

17 Q. So the answer is, yes, you can see it on the screen?

18 A. It's not as clear on the screen as it is on this in

19 front of me because we've enlarged it on the screen and

20 the more you enlarge it the vaguer it will become.

21 Q. The reason I am asking, Mr Swann, is this: it may just

22 be me, but I am having difficulty seeing anything other

23 than a black mass where point 1 ends but you are telling

24 me that you can see on the screen, albeit a little bit

25 fainter, you can see a ridge ending, ending upwards, on

1 the screen?

2 A. I know where the point number 1 ends on the screen

3 because I'm looking at it here on the actual -- well,

4 not an actual size one but on this one here which is

5 clearer.

6 Q. Forgive me, Mr Swann --

7 A. It is not as easy to see on there.

8 Q. Mr Swann, the question is this: are you telling me that

9 on the screen just now you can see a ridge ending,

10 ending up, at point 1?

11 A. Yes.

12 THE CHAIRMAN: But only because you have a clear copy in

13 front of you.

14 A. Yes, Mr Chairman, but I know where it is ends because I

15 can see where the line goes to and it's the same as it

16 is on here. It's just that it's clearer on here than it

17 is on there.

18 MR SMITH: So what happens to the ridges at either side of

19 that ridge ending? Can you see that on your copy?

20 A. They both carry on in an upwards direction.

21 Q. I take it, Mr Swann, you are happy for that document to

22 be left with the Inquiry, the one you have in front of

23 you?

24 A. Yes, certainly.

25 Q. Let us go back to the sequence of events. You then came

1 up to Glasgow, I think to the High Court, the Justiciary
2 Building in Glasgow?

3 A. Correct.

4 Q. The purpose of the examination at that stage, you having
5 concluded that this was a match between Shirley McKie's
6 print Y7, the purpose of visiting the High Court was
7 what?

8 A. My purpose of the visit was, first of all, to see the
9 actual mark on the exhibit, exhibit 102 I think it was,
10 the door standard, which I did. I checked that. I
11 sketched it, et cetera, measured it, the position of the
12 mark and so on, which can be seen on the charts I
13 prepared. I assessed it as to my opinion as to whether
14 it was genuine or otherwise and then, secondly, I
15 compared the mark on the door standard with the
16 photograph that was supplied for me to look at, which
17 was an actual size copy of Y7. I checked that with the
18 mark on the door standard to make sure it was a
19 photograph of the same mark and then I compared the mark
20 in the photograph with the fingerprint form that was
21 there for me to use which had been provided and compared
22 the two and was satisfied again that the mark in the
23 photograph -- I'd never seen an actual sized photograph
24 before -- that that photograph was identical with the
25 left thumb of Shirley McKie.

1 Q. I may be misunderstanding this. You had reached a
2 concluded view before you went to Glasgow that this was
3 Shirley McKie's mark?

4 A. Well, that was -- yes, indeed, yes.

5 Q. Did you tell Levy & McRae or indeed anyone at that
6 stage, "I'm telling you now, it's her fingerprint"? Did
7 you communicate that?

8 A. I certainly didn't communicate it in writing. Whether
9 it phoned Angela McCracken and told her I can't recall.

10 Q. Surely it would be a matter of importance when you are
11 coming up to Glasgow to confirm your three days'
12 investigation which concluded that SCRO were right.

13 Is that not something that you ought to have made
14 clear?

15 A. Well, I say I probably spoke with her and told her. I
16 didn't make a note of it. I mean ...

17 Q. So the two possible purposes of examining the original
18 mark, full size photographs and inked prints, would be
19 either to confirm your concluded view that it was her
20 print or to explain how her print got on to the
21 doorframe when she says it can't be hers. These are two
22 possibilities.

23 Do you understand what I'm putting to you? Which of
24 these was the purpose of your visit?

25 A. As far as I was aware, it was both --

1 Q. Sorry --

2 A. Both reasons.

3 Q. I'm sorry, I didn't mean to interrupt.

4 A. The purpose of my visit was, first of all, to see the
5 mark, to assess it as to its genuineness and, secondly,
6 again, to do a comparison to make sure, yes, it was her
7 mark.

8 Q. I am not sure I understand what you mean by its
9 genuineness. What do you mean by that?

10 A. Whether I could detect anything by looking at the door
11 standard and looking at the mark, was there anything
12 there to suggest to me that it was anything other than
13 genuine, had it been tampered with or whatever? I mean,
14 you've got to look to see and when I looked at the mark,
15 I couldn't see anything in it, around it, close to it or
16 what have you, to suggest it was anything other than
17 genuine.

18 I've seen hundreds of thousands of marks, not on
19 door standards but certainly on door standards
20 sometimes, windows frames, you name it, and what have
21 you, and as soon as you see a mark you form an
22 impression.

23 Q. The fact that you were wanting to verify your view that
24 mark Y7 was Shirley McKie's, does that not suggest that
25 there might have been some doubt in your mind?

1 A. Not at all.

2 Q. Why did you check it then?

3 A. Because the equipment was laid out there for me to use
4 and I'd never seen an actual sized impression before so
5 I got down with the magnifying glass, the things we use
6 in the fingerprint departments, and compared the two.

7 Q. Mr Swann, were you happy with the quality of the image
8 that you have been provided with by Levy & McRae
9 initially?

10 A. What the one you've --

11 Q. Yes.

12 A. Well, it wasn't a question of being -- that's what I got
13 so that's what I had to use.

14 Q. With respect, I am not sure that is an answer to the
15 question. Were you happy with the quality of the image
16 you were provided with by Levy & McRae?

17 A. It was sufficient for my purpose but it was a bit dull
18 and a bit grey, what have you, and probably I've no
19 doubt at all that the original would have been probably
20 a little bit clearer.

21 Q. Did you not think before you started your three-day
22 analysis that you should have asked Levy & McRae for
23 better quality images to work from?

24 A. No, I worked from that and I was quite satisfied.

25 Q. Did you tell Levy & McRae you were unhappy with the

1 quality of the images?

2 A. No.

3 Q. Why not?

4 A. I didn't see the need.

5 Q. Did you tell Levy & McRae it might be helpful to have a
6 full sized copy of the photograph?

7 A. No, I just simply did what I was asked to do and that
8 was to compare that chart and to report back as to
9 whether it was identical or not. I can't remember the
10 exact words spoken, it's so long ago but that was the
11 task that I was given.

12 Q. Mr Swann, we heard some evidence in this Inquiry that
13 these images were created by a charting enlargement
14 machine.

15 Are you familiar with such equipment?

16 A. No, I'm not. I've heard it mentioned here but I've
17 never used it in my career. I don't even know what it
18 looks like.

19 Q. We have also heard some evidence to the effect that SCRO
20 were unhappy with the quality of the images being
21 produced from the charting enlargement machine. I take
22 it you wouldn't contradict that if they were unhappy
23 with it?

24 A. Well, I don't know whether they were happy with it or
25 not. I've never used one. I wouldn't particularly want

1 to use one.

2 Q. Why not?

3 A. Because I'm quite capable of drawing exhibits, as you've
4 seen in the albums I've provided, without the assistance
5 of machinery.

6 Q. We've also heard some evidence that one of the
7 complaints about the charting enlargement machine was
8 that when lines were drawn the end point of the line
9 didn't actually meet up with the point that was sought
10 to be identified.

11 Do you understand what I'm putting to you?

12 A. Yes, I do know what you mean, yes.

13 Q. Did you see any evidence of that when you examined the
14 SCRO's workings?

15 A. Not to any extent to prevent me from doing a comparison.
16 I mean, we all mark up -- every fingerprint expert marks
17 up comparison charts in their own way. If I'd have been
18 marking this up then probably I might have marked it up
19 differently.

20 Q. I just want to be clear about this. The lines that were
21 drawn by SCRO, were the end points of the lines exactly
22 on top of the relevant ridge detail that you saw?

23 A. No, I think they are pretty straightforward and they go
24 to the characteristic detail they are supposed to
25 indicate. I'm looking at it now and I can't see

1 anything which suggests to me that it's out of alignment
2 or whatever you want to call it.

3 Q. Your position is that they do end up at the ridge detail
4 that's relevant, is it?

5 A. Well, they might not end up exactly on the spot but, I
6 mean, they aren't more than, what, a fraction of a
7 millimetre away or whatever measurement you want to talk
8 about. No-one gets them there exactly.

9 Q. Are you saying if there is any shift it's only a
10 fraction of a millimetre? Is that your position?

11 A. I'm just using that measurement for the sake of using
12 it. I mean, as far as I'm concerned, the lines that are
13 marked here are indicating the characteristic detail
14 that they are supposed to indicate.

15 Q. Do any of the end points of the lines just end up
16 nowhere, miss the point on the fingerprint completely,
17 any of them at all?

18 A. Well, I can't see any offhand. To do an exercise like
19 that it would probably take some time but I can't see
20 any on here that do not arrive at the point they are
21 intended to arrive at.

22 Q. Going back to the sequence of events, if I may, I think
23 in fact it was in the Procurator Fiscal's Office that
24 you undertook an examination of the various new bits of
25 information, the doorframe, et cetera, in the Procurator

1 Fiscal's office; is that correct?

2 A. No, I never went to any Procurator Fiscal's Office.

3 Q. It may be the Fiscals' Office within the High Court
4 building. I don't wish to be unnecessarily detailed
5 about it but it was in the office of a prosecutor within
6 the High Court building --

7 A. The room I went to in the High Court building, I think
8 it was a storeroom, to be quite honest. As I recall,
9 there were shelves in there with stuff on it, and what
10 have you, and I don't think it was the Procurator
11 Fiscal's Office to be quite honest. In fact, I'm sure
12 it wasn't.

13 Q. I am sure it is not important. But I think in your
14 Inquiry statement, for those who are interested it's in
15 paragraph number 10, what you say is that at that stage
16 you undertook exhaustive examination of the material
17 provided to you by Ms McKie's solicitors.

18 That is a phrase I take it you are sticking with, it
19 was an "exhaustive examination"?

20 A. In the Justiciary Building?

21 Q. Yes.

22 A. Well, it was an examination that I carried out as long
23 as I needed to carry it out and satisfy me as to what I
24 needed to do.

25 Q. Mr Swann, it is the word "exhaustive". Are you sticking

1 with it being exhaustive?

2 A. Well, I carried out everything I had to do, yes.

3 Q. How long did it take you?

4 A. I've no idea. I can't remember. I don't know.

5 Q. Mr Swann, was it 5 minutes, 5 hours, a whole day?

6 A. Oh good lord, no, no. It certainly wasn't 5 hours, but
7 certainly wasn't 5 minutes either. It was somewhere in
8 between.

9 Q. There's a lot in between 5 minutes and 5 hours.

10 A. There is indeed.

11 Q. At this remove, you are saying you have no recollection
12 of roughly how long it took?

13 A. I spent quite some time looking at the door standard,
14 examining it with a magnifying glass, the mark on it. I
15 took a certain amount of time to draw a sketch of it,
16 measure it, et cetera, et cetera. I'm not quite sure
17 how long this is all taking but that's what I did first.

18 Secondly, I sat down at the desk that was provided.
19 I examined the mark in the photograph with the left
20 thumbprint of Shirley McKie. Whether that took a good
21 half hour or so, I don't know. It doesn't take all that
22 long to do a comparison between one mark and a donor's
23 print. So, all in all, I might have been there an
24 hour/two hours.

25 Q. You didn't take photographs?

1 A. No, I'm not a photographer.

2 Q. Did you ask for photographs to be taken?

3 A. I asked numerous times to Angela McCracken to get
4 photographs from the authorities, for want of a better
5 word, and I got nothing. They wouldn't supply me with
6 anything.

7 Q. Did you ask for defence photographs to be taken?

8 A. Yes, I asked for everything.

9 Q. You asked Angela McCracken to obtain defence
10 photographs; is that your evidence?

11 A. Not in so many words. I asked to get photographic
12 copies of the exhibits, as I always do.

13 Q. Did you take handwritten notes when you were there?

14 A. No.

15 Q. Why not?

16 A. Well, you could hardly take handwritten notes when
17 you're examining a door standard and examining
18 fingerprints bent over a desk. I know what I was doing.
19 I don't need to take handwritten notes.

20 Q. Well, you could note, for example, the amount of time
21 you spent examining the exhibits, couldn't you?

22 A. Well, I wasn't concerned about the time I spent. I
23 spent a sufficient time to do what I had to do.

24 Q. Mr Swann, let us suppose that you had decided that the
25 fingerprint was forged or lifted. You could have

1 anticipated you might have been giving evidence in the
2 High Court.

3 A. If I'd have thought that the mark was forged or had been
4 planted, et cetera, then I would have mentioned this to
5 Angela McCracken, she was the lady who was instructing
6 me from the firm, and I would have said that I would
7 like it photographed and I would like a photograph of
8 it.

9 Q. Mr Swann, you might have been in the High Court of
10 Justiciary giving evidence for the defence. If you had
11 come to that conclusion and been asked by prosecuting
12 counsel, "How long did you examine the mark; what other
13 exhibits did you" --

14 A. None.

15 Q. -- "What conclusions did you draw" and without notes you
16 would not have been able to answer these questions with
17 any degree of accuracy, would you?

18 A. I did what I was asked to do at the Justiciary Building,
19 took the notes I took regarding the door standard and
20 then later on we went to report to somebody else, who
21 you probably no doubt know about.

22 Q. Mr Swann, did you at that time ask for a series of
23 rolled fingerprints to be taken from Shirley McKie?

24 A. No, I did not.

25 Q. Why not?

1 A. Because I'd examined the form there and also examined
2 the mark. I'd asked Angela McCracken to get me copies
3 of all the exhibits so I assumed that they would come,
4 but I was wrong. They didn't. I thought all
5 independent experts when they went into a job were
6 supplied with the appropriate material but, as far as
7 Scotland was concerned, it was not on.

8 Q. When you left the High Court building to return back
9 down south, you were dissatisfied with the quality of
10 information you had been provided with by Miss
11 McCracken?

12 A. No. No, I wasn't dissatisfied. She was trying her best
13 to get what I'd asked for but she was unsuccessful.

14 Q. Mr Swann, you had asked for further information for a
15 reason. What was the reason you had asked for the
16 further information?

17 A. Because when I -- well, never mind usually -- when I
18 always prepare an independent report for whoever
19 instructs me, then I always mount the photograph of the
20 mark I'm examining, I always indicate on the copy of the
21 fingerprint form that I've been supplied with which
22 digit it is, et cetera, et cetera, and these go in my
23 report and any other information. On this occasion, I
24 didn't get it.

25 Q. Did you tell Angela McCracken at that stage what your

1 opinion was?

2 A. I'm sure I must have, yes.

3 Q. So you're going away having formed a concluded view but

4 you are still asking for further information to be

5 obtained?

6 A. Well, yes, I was but it wouldn't make any difference to

7 the outcome of my examination.

8 Q. Why did you ask for the further information?

9 A. As I've just told you: to include with report so it was

10 a complete report.

11 Q. What would have happened, Mr Swann, if you had received

12 some further information that had indicated a contrary

13 view to the opinion you had expressed?

14 A. Then I would have changed my mind. But I didn't leave

15 the Justiciary building there and travel down south

16 straightaway. I went to see the barrister in the case,

17 counsel in the case.

18 Q. Mr Findlay I think you met.

19 A. That's right, yes.

20 Q. You expressed a view to Mr Findlay that there was no

21 doubt whatsoever that it was Shirley McKie's mark,

22 didn't you?

23 A. He asked me and I told him.

24 Q. Do you recall ever having met Mr Pat Wertheim and

25 discussing at a very early stage in 1998 or 19'99 -- it

1 must be 1999 -- do you recall meeting Pat Wertheim and
2 discussing the instruction you had received in respect
3 of Shirley McKie?

4 A. I report having seen Pat Wertheim -- I didn't know what
5 his name was, never even heard him -- at a
6 fingerprint --

7 Q. Sorry, can you keep your voice up a little, please.

8 A. I became aware of Mr Pat Wertheim at a fingerprint
9 conference in Liverpool, I believe, in the late 1990s
10 but I didn't know him and I didn't speak to him.

11 Whether I was introduced to him with other people, I
12 don't know. I don't recall.

13 Q. You see, Mr Wertheim gave evidence -- and I am going to
14 paraphrase it slightly -- that you approached him or it
15 may have been he approached you, I'm not sure which way
16 round it was at the conference you are referring to --

17 A. Well, I wouldn't approach him because I wouldn't know
18 him.

19 Q. Well, somehow you ended up in conversation with him. I
20 don't think it matters much how the conversation
21 happened. He says that you indicated to him that you
22 knew he had been instructed in the McKie case?

23 A. How would I know that?

24 Q. Well, I am telling you his evidence. Mr Wertheim may be
25 able to confirm what his understanding is in due course

1 but he says to this Inquiry, on oath, that you indicated
2 to him that you had examined Y7 against Shirley McKie's
3 mark and they were identical and he says you indicated
4 of that there is no doubt.

5 If Mr Wertheim said that on oath before this Inquiry
6 do you concede that may have happened?

7 A. I doubt it very much. I don't recall it and I don't
8 think I would start talking about a case which -- mind
9 you, I had no idea he was going to Scotland. Why would
10 I know?

11 Q. I would like to be clear about it. Are you saying it
12 didn't happen or it's possible it could have happened
13 but you can't recall it?

14 A. As I recall, it didn't happen. I don't recall it
15 either.

16 Q. Very well. Would you agree with me it would be wholly
17 inappropriate, had that happened, for an expert witness
18 to approach another expert witness and express a view in
19 advance of the second expert looking at the material?

20 It would be wholly inappropriate, wouldn't it?

21 A. Yes, I would agree with you.

22 Q. Why would that be so, Mr Swann? Why would it be
23 inappropriate?

24 A. Well, I don't usually go round talking about cases I
25 have been involved with, with anybody. I tend to --

1 well, keep it to myself.

2 Q. You spoke to Mr Kent, didn't you?

3 A. That was of necessity, yes.

4 Q. What was the necessity to speak to Mr Kent?

5 A. To get an image of Y7, a copy of the photograph of Y7.

6 Q. This was after Shirley McKie's acquittal?

7 A. I don't know. I haven't got the date. It probably

8 would be but I don't even know when the court case was

9 heard but it would probably be so, yes.

10 Q. So you then approached Mr Kent and you asked for a copy

11 of Y7, the photograph he had taken?

12 A. Well, it came to my knowledge that Terry Kent had

13 photographed the mark. I used to work with him so I

14 knew him very, very well and I said, "Can you send me a

15 copy off", because by that time, whether it is something

16 you are going to come on to next, I don't know, I don't

17 want to sort of move forward, but by that time I had

18 received some fingerprints from Levy & McRae of Shirley

19 McKie and I had nothing to compare them with.

20 Q. Mr Swann, why were you continuing to work on the case

21 after Shirley McKie's acquittal?

22 A. Because after the court case it came to my knowledge

23 that two American gentlemen had been over here and said

24 the mark was not identical and, as any fingerprint

25 person would in those circumstances, they would recheck

1 their work. So I asked for a photograph from Terry Kent
2 in view of the fact that none were forthcoming from the
3 authorities in Scotland. I had the fingerprint of her
4 because they had been sent to me but nothing to compare
5 them with.

6 Q. In what capacity was Mr Kent providing you with a copy
7 of Y7?

8 A. He was a colleague.

9 Q. Not in any official capacity?

10 A. No, no.

11 Q. Did you think it appropriate to make an approach to
12 someone and ask on an unofficial basis to produce a
13 document belonging no doubt to his employers? Did you
14 think that was appropriate, Mr Swann?

15 A. At the time, yes.

16 Q. Why?

17 A. Because I needed one.

18 Q. For what purpose?

19 A. I mean, the case had been heard and the case was
20 finished. I simply asked for a copy of the mark.

21 Q. Mr Swann, you felt, didn't you, that your reputation had
22 been effectively impugned by the American gentlemen,
23 didn't you?

24 A. I was curious. I was certainly curious as to what had
25 happened.

1 Q. Your opinion that there was a match between Y7 and
2 Shirley McKie's inked mark was something that had been
3 seriously attacked in court, hadn't it?

4 A. Sorry, I didn't catch all that.

5 Q. When you expressed the opinion that there was no doubt
6 between Y7 and Shirley McKie's inked fingerprint it was
7 clear to you that two Americans had said something
8 different to that and your reputation was effectively,
9 to some extent, at stake, wasn't it?

10 A. I wanted to see a copy of the mark so I could have a
11 further look because, yes, I was curious as to how on
12 earth they could have come to that decision.

13 Q. At that stage, Mr Swann, did you think there was any
14 possibility you might have been wrong?

15 A. No.

16 Q. Why did you ask for it to be checked?

17 A. Why did I ask for a copy to be sent?

18 Q. Yes, why did you want to check it if you were, at that
19 stage, sure you were right?

20 A. Because I had been sent down these fingerprints by
21 Levy & McRae of Shirley McKie but had nothing to compare
22 them with and I wanted a copy, my own copy, to be able
23 to do that.

24 Q. You already had the charts you have told us that were
25 sufficient for your purposes that Levy & McRae had sent

1 down originally?

2 A. You mean this **(indicated)**?

3 Q. Yes.

4 A. Well, I can't do a reproduction from that, I'm sorry.

5 Q. I'm sorry, you can't do a what from it?

6 A. I couldn't make a reproduction from that.

7 Q. What do you mean do a reproduction from that?

8 A. To compare with the fingerprint that had been sent down
9 to me.

10 Q. Mr Swann, you had already done that and expressed a view
11 it was her fingerprint.

12 A. I know.

13 Q. You had, hadn't you?

14 A. I compared that to start with and formed an opinion that
15 it was identical, which I conveyed verbally to Angela
16 McCracken. I went to the Justiciary Building, compared
17 an actual size photograph with the fingerprint form of
18 Shirley McKie and confirmed my original findings.

19 Then I understood the American people had come over
20 and said the mark was not identical so, therefore, for
21 my own satisfaction, I wanted a copy of Y7, a
22 photographic copy of Y7 to compare with the fingerprints
23 that had been sent down to me by Levy & McRae. Simple
24 as that.

25 Q. It may be simple, Mr Swann, the --

1 A. It's straightforward.

2 Q. The straightforward position is either you had doubts
3 about your examination originally --

4 A. None at all, none at all.

5 Q. -- or you wanted to try and present something to the
6 effect that you could justify your position. It is one
7 of the two, isn't it?

8 A. I've no doubt at all.

9 Q. Can we take it from what have you said, at least by the
10 stage you got in touch with Mr Kent, the quality of
11 information you had originally had from Levy & McRae you
12 were at least by that stage dissatisfied with? Can we
13 take that to be correct?

14 A. I wouldn't use that word, no. I wouldn't use that word.
15 I mean, they sent me down what they had. They had no
16 alternative. That's all they had. It's not a question
17 of them being choosy and sending me down probably, you
18 know, something which is not very good.

19 Q. Can we move on to the way matters developed with regards
20 to the identification. You have explained meeting with
21 Mr Findlay. You gave your opinion and then effectively
22 you were, as it were, no longer instructed in the
23 matter. You did not feature again in the criminal case.

24 A. When I left Mr Findlay on that date, 2nd March, I
25 prepared a report dated 16th March but also, dated the

1 same day, I prepared a further report answering
2 questions that had come down via a letter from Shirley
3 McKie.

4 Q. In the reports -- I think you prepared an original
5 report and a supplementary report before doing that?

6 A. That's right.

7 Q. We can bring these up if we need to but I take it you
8 would agree with the suggestion that there is no
9 detailed analysis of how you reached the conclusion that
10 it was Shirley McKie's mark; Y7 was belonged to Shirley
11 McKie. You haven't done that in your report?

12 A. What do you mean by "detailed analysis"?

13 Q. Let us, if we can just have these brought up. Your
14 first report is SG0283. Have the right-hand image taken
15 away, please. I have finished with that, thank you.

16 We see the front page of the report which gives your
17 details. Can we move on to the next page, please. You
18 indicate the brief circumstances of the case, as you
19 understood them. You explain in the last paragraph
20 that:

21 "The forging and transplanting of fingerprints is
22 discussed, problems in this respect, addressed and a
23 final summary assesses the evidence as I see it."

24 Move on to the next page, please. What we see is an
25 identification of the various defences that you see are

1 possible in connection with fingerprint identification?

2 A. That's right.

3 Q. A denial of the identification and then we have an
4 admission of the identification, a satisfactory account
5 of existence. The next (c) is transplantation or
6 forgery and the bulk of that page, I take it you will
7 agree with me, deals with the issue of transplantation
8 and forgery?

9 A. It does, yes.

10 Q. So far these are just the possible defences that being
11 considered. Can you go on to the next page, please.

12 Again, would you agree with me -- if you wish to
13 scan through it -- that what this page is dealing with
14 is the issue of transplantation and forgery. That's
15 right, isn't it?

16 A. It does yes.

17 Q. Next page. Again, a lot of that deals with
18 transplantation and forgery?

19 A. Yes.

20 Q. Next page, please. Again, transplantation and forgery?

21 A. Yes.

22 Q. Next page. We see a reference to the exhibit itself,
23 the piece of wood, and then you give a number of bullet
24 points, a number of paragraphs, within section 4.

25 A. Yes.

1 Q. Just while we have it here, I think what we see is on
2 number 4 you say:

3 "Whilst the ownership of the mark is not in dispute,
4 I can confirm that it is her left thumb with at least 16
5 ridge characteristics in agreement in both detail and
6 position."

7 A. Yes.

8 Q. I will come back to this but I take it that you will
9 agree with me that that is the only reference to, as it
10 were, any examination being carried out between Y7 and
11 Shirley McKie's fingerprint?

12 A. Well, that's the only reference that's needed.

13 Q. Just while we have this, we can see point 6 says:

14 "There was no sign of any disturbance to either the
15 mark or the area around it which may have followed had
16 any adhesive medium made contact or some form of replica
17 used."

18 So you looked at it close enough to see if there was
19 any disturbance to the mark?

20 A. Yes, indeed, yes.

21 Q. I take it from that observation when you looked at Y7
22 itself you saw no evidence of any disturbance of any
23 kind to it, did you?

24 A. I did not.

25 Q. So we can take it that that disturbance would include

1 the absence of any evidence from the mark itself, from
2 the mark itself, of any twisting or movement or
3 cross-over of ridges or anything of that sort?

4 A. At that time I saw none of that, no.

5 Q. Then, to finish this off, we see in numbered paragraph 5
6 after the reference to the meeting with Donald Findlay
7 QC and Victoria Young, Advocate, that you confirmed
8 various things. We can see on the next page, if we can
9 flick on to that, largely a repetition of what went
10 before which was dealing again with the issue of
11 forgery.

12 Am I correct in summarising it that way?

13 A. Sorry, could you repeat that? I was following the next
14 page coming up.

15 Q. Sorry. Down to the point where it says "examination of
16 exhibit", everything above that on the page deals
17 substantially with the question of forgery or
18 transplantation?

19 A. Yes.

20 Q. Then we get to the examination of the exhibit. You
21 explain having visited the High Court building and, on
22 the next page at the very top, we see in numbered
23 paragraph 2 you say:

24 "There was confirmation [this is your confirmation]
25 that the mark on the door was the left thumbprint of

1 Shirley Jane McKie."

2 Then you go on to say:

3 "Confirmation that in my opinion based on all the
4 points I have made and referred to in this report the
5 mark on the door is a result of it being deposited by a
6 natural thumb."

7 We can read the rest of it for ourselves but you say
8 in the 6:

9 "Having examined exhibit 102, the door standard,
10 being satisfied as to the genuineness of the developed
11 mark thereon and the positivity of its identification as
12 the left thumb of Shirley Jane McKie, there is only one
13 conclusion that I can arrive at ..." and you explain
14 what it is.

15 Would you agree with me, Mr Swann, that the vast
16 majority of this report was taken up with a detailed
17 analysis of why this fingerprint was not forged or
18 transplanted?

19 A. I've put down all the reasons -- sorry, all the areas
20 that one should look at if a suggestion of transplanting
21 or forgery is made.

22 Q. We can at least be agreed that what you have done is,
23 despite what the background may have been, you have not
24 gone into any great detail as to how you affirmed the
25 analysis of SCRO that Y7 was in fact Shirley McKie's.

1 You more or less just said it is and there's no doubt
2 about it?

3 A. No, no, no. Not at all, no. I spent -- I don't know
4 how long -- apart from examining this chart whenever,
5 whatever date it was. I then examined the plain
6 impression of the mark Y7 with her fingerprint form and
7 I found sufficient characteristic detail in agreement to
8 satisfy me and that's all a fingerprint person does.

9 Q. Are you familiar with the technique ACE-V?

10 A. ACE-V?

11 Q. Yes?

12 A. Well, I've heard of it. It's an Americanism.

13 Q. An Americanism?

14 A. Well, it's used in America, isn't it. I think they
15 burst(?) it into the Durham Training School now as well.

16 Q. I take it from the answer that you are not overly
17 familiar with how it operates?

18 A. Well, ACE-V: assessment, comparison, verification --
19 sorry, examination and verification I presume it stands
20 for.

21 Q. Well, that is certainly what I think it is stands for.
22 Do you know how it works?

23 A. It's what we do naturally without thinking but it's been
24 put down into writing.

25 Q. I am reminded that the first A I think is "analysis" --

1 A. Well, analysis, assessment, same thing.

2 Q. -- comparison, evaluation, verification, I think is the
3 way it works.

4 Is that something you have ever practised, that
5 methodology?

6 A. We practice it all the time, automatically.

7 Q. Can you tell me how you went about the analysis
8 originally in this case when you first saw the
9 paperwork? How did you do the analysis to comply with
10 the ACE-V methodology?

11 A. That I should conform to it? Why? At that time in 1997
12 I don't think anybody in this country had ever heard of
13 it.

14 Q. I think the answer you gave a few moments ago was:
15 "We practice it all the time, automatically"?

16 A. Yes.

17 Q. Did you do it in 1999, practice it automatically?

18 A. Yes.

19 Q. What is your understanding of how the methodology works?
20 Just tell us, if you can, what is the automatic practice
21 that you adopted that conforms with the ACE-V protocol?

22 A. You examine a mark -- you're given a mark to examine,
23 you look at it; you examine it under magnification. You
24 assess what it is as to its pattern, ridge flow,
25 clarity, detail, whatever, then you compare it. You

1 select a suitable area of the crime scene mark for
2 scrutiny then you compare that with the appropriate area
3 on the fingerprint form of the suspect, donor or what
4 have you. When you find sufficient characteristic
5 detail in agreement to satisfy you it is or has been
6 made by the same person, both made by the same person,
7 then you've got an identification.

8 Q. How do you work when you do this? Do you go from the
9 inked version to the crime scene mark or vice versa when
10 you are trying to identify the appropriate points to be
11 looked for?

12 A. Generally speaking, you put a magnifying glass over the
13 mark from the crime scene, a magnifying glass over the
14 digit on the fingerprint form, using a pair of metal
15 scribes or pointers, as we call them, you mark
16 characteristics. I know now they do it on a screen but
17 I'm talking about 1997.

18 Q. But that is something you did have the capability of
19 doing when you first saw the material sent by
20 Levy & McRae, did you?

21 A. Sorry, I beg your pardon?

22 Q. You didn't have the capability of doing it that way when
23 you were first receiving information from Levy & McRae?

24 A. Well, no, because it was already in enlarged format.

25 Q. Yes. I am still struggling to know why you didn't say

1 to Levy & McRae, "Listen, I'm not interested in what
2 SCRO say. I want to see the original myself. I want
3 inked prints from Shirley McKie and I want to make my
4 own mind up". That would have been easy to do, wouldn't
5 it?

6 A. They had already got that in hand. I went to see it and
7 I saw the fingerprint form of Shirley McKie and they
8 sent me down some that had been taken by whoever of her
9 left thumb.

10 Q. Do you understand or can you appreciate, Mr Swann, that
11 there can be a danger, I think Mr Moynihan called it
12 confirmation bias, that if you look at something and you
13 know someone else has come to a conclusion on it that
14 you may be drawn in to support that conclusion? Do you
15 understand what is being suggested?

16 A. I know what you're saying, yes.

17 Q. Do you not think there's even the remotest possibility
18 that when you were looking at the points on the material
19 sent by Levy & McRae your eye was being drawn down the
20 line and you were looking for something that may not, in
21 fact, have been there? Any possibility whatsoever?

22 A. No.

23 Q. I am not sure if you have been aware of the evidence we
24 have heard about the systems of ACE-V but just so
25 that -- I will put to you what I understand the first

1 exercise to be. What you do is, as you mentioned, you
2 look at the crime scene mark, you identify the points,
3 maybe in a cluster, maybe in a group, but points that
4 look as though they are capable of analysis. Then and
5 only then do you look at the inked mark to see if you
6 can find these points coinciding.

7 Do you understand that is good practice, do you?

8 A. It might be good practice for some but it depends on the
9 way you were taught when you took your initial course.

10 THE CHAIRMAN: You said, "It might be good practice for some
11 but it depends ..."?

12 A. It depends upon how you were taught on your initial
13 training course. As I say, all fingerprint bureaux
14 probably work differently. I don't know but, I mean,
15 the way I do it, I look at the crime scene mark, I look
16 at the fingerprint form and I work out, if I possibly
17 can, before I look which finger has probably made the
18 mark -- that's sometimes quite easy to determine, not
19 always but sometimes -- then I compare the mark with the
20 appropriate digit on the form.

21 MR SMITH: Do you always work from crime scene mark, first
22 of all?

23 A. Well, you've got to look at the crime scene mark first
24 to assess it to see if it's capable of being compared,
25 it's of sufficient quality.

1 Q. Once you have made the assessment it can be compared do
2 you then try to identify points that are capable of
3 analysis?

4 A. No, I put a fingerprint glass on one mark and a
5 fingerprint glass on the donor print, digit -- whether
6 it's right thumb, left thumb or whichever it might be --
7 and then look for characteristics in agreement. That's
8 the basis of an identification.

9 Q. The material you were sent by Levy & McRae, did it have
10 good Second Level Detail, good Second Level Detail?

11 A. This chart?

12 Q. Yes.

13 A. Is it good Second Level Detail?

14 Q. Yes.

15 A. It's sufficient for purpose.

16 Q. Do you understand what I mean by Second Level Detail?

17 A. Of course I do, yes.

18 Q. Did it have good Third Level Detail?

19 A. Well, it's got sufficient First Level Detail to tell me
20 that it's a loop pattern, it's the tip of a centre core
21 and above or to the right. The Second Level Detail, of
22 course there's the ridge characteristic detail. I don't
23 think Third Level Detail comes into this but ...

24 Q. It doesn't come into it, you are saying it is there but
25 you don't need to consider it?

1 A. It hadn't been used. It's there but it hasn't been
2 used.

3 Q. You can see Third Level Detail there, can you?

4 A. No, I didn't say that. I said there's no doubt Third
5 Level Detail there.

6 Q. Can you see Third Level Detail within that --

7 A. Third Level Detail, of course, is poroscopy and
8 edgeoscopy and, yes, I can see differences on the ridge
9 structure, the shape, size, formation, et cetera, at the
10 edges of the ridges and so on.

11 Q. You put this down to the actual shape of the ridges
12 rather than to any possibility that there might be
13 degrading in the quality of the images that were sent to
14 you, do you?

15 A. I'm sorry, I didn't catch all that.

16 Q. I'm sorry, a very long question. There are two
17 possibilities for the shape of the detail on a
18 fingerprint. One is it's actually on the digit that's
19 left it?

20 A. Yes.

21 Q. The other one is that when you are looking at a second
22 generation copy, maybe a third generation copy, it's the
23 copying process that's altered the shape of the ridge or
24 the pore. That's a possibility as well, isn't it?

25 A. I don't think it should do, really. If it's a straight

1 copy, it shouldn't alter it.

2 Q. Very well. You will appreciate, Mr Swann, we have heard
3 some evidence from other people about this, about the
4 issue of shapes being altered by the copying process but
5 your position is it shouldn't make any difference, is
6 it?

7 A. If you put something on a copying machine I presume it
8 produces an exact copy of it.

9 Q. Very well, Mr Swann, if your position is the copying
10 process wouldn't alter the shape of the pores I
11 understand what you are saying. That is your evidence,
12 is it?

13 A. Ah, you've suddenly introduced shape of the pores. I
14 don't know what the shape of the pores were in the first
15 place so I can't comment on what one might see on a
16 copy, unless I've seen both.

17 MR SMITH: Sir, I can see the time. I was going to move on
18 to something else.

19 THE CHAIRMAN: We will rise now until 1.50.

20 We will stop now until 1.50, Mr Swann.

21 **(1.00 pm)**

22 **(Luncheon Adjournment)**

23

24

25