

Friday, 23rd October 2009

1

2 (Afternoon session)

3 (1.48 pm)

4

MARTIN JOHN LEADBETTER

5

Examined by MR MOYNIHAN (continued)

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Q. Mr Leadbetter, I am simply going to conclude that

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point 13 and 14 and then move on to some other details.

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It would seem that there is here some issue that

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requires to be resolved but since you have been aware of

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this for a little while, do you have an explanation that

11

would explain the difference in ridge count that

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Mr Zeelenberg has shown and that I demonstrated relative

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to the location of point 3?

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A. I suppose the simple answer is no. I suppose every

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examiner approaches a thing differently and I have taken

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the route that I have taken, assuming that those ridges

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are not naturally flowing and that's the only reason I

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can proffer for that.

19

Q. If I can take one other point in relation to that, you

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demonstrated earlier on, as you went through your own

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features, that you have worked from a start point and

22

then counted ridges down to an end point and the end

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ends up at point 14?

24

A. Yes.

25

Q. I put forward as another suggestion that one of the

1 problems may simply be that such is the nature of Y7 if
2 it is difficult to count, reliably, ridges that may
3 explain why, when one goes through a combination of 14
4 moves of a chess board, one might end up with an end
5 result which is difficult?

6 A. Yes, I'd like to think I've correctly counted them as
7 I've gone through but you may have a point, yes.

8 Q. The other feature of this, this completely more general
9 actually now, not related to points 13 and 14, as you
10 yourself have been studying the mark Y7 -- and I will
11 ask you something about the print on the right-hand side
12 in a moment -- have you seen it as the product of a
13 single touch or have you seen it as the product of
14 multiple touches?

15 A. I'm pretty certain it's a single touch. It's not
16 occurred to me at any point it should be other than
17 that.

18 Q. The next point that I actually wanted to ask you about
19 was in connection with the Rosetta but, before I do -- I
20 am sorry, I will forget -- the fingerprint that you have
21 on the right-hand side, I haven't asked you about that
22 just yet.

23 I understand that this is a reproduction of a
24 photograph of Shirley McKie's left thumbprint?

25 A. I understand that to be the same, yes.

1 Q. What you have done is you have brought along with you
2 today the original photograph that you used.

3 A. As I said earlier, Mr Moynihan, I received this through
4 the post from Mr Pat Wertheim. That one (**indicated**) is,
5 I'm fairly certain, well, I am certain, that is the
6 Daily Mail impression and, in fact, I did read somewhere
7 amongst all this paperwork that Mr Wertheim admitted or
8 claimed that he took the one that appeared in the
9 Daily Mail. How it got into the Daily Mail I've no idea
10 but that is the one he sent me and that is the
11 Daily Mail impression.

12 Q. Again as we did with your colleague, Mr Swann, I will
13 ask if you will kindly leave these originals --

14 A. Certainly.

15 Q. -- because plainly the originals have a provenance for
16 us.

17 A. Yes.

18 Q. So the image you are using as the left thumbprint of
19 Ms McKie is the photograph that you received from
20 Mr Wertheim?

21 A. Well, yes. It is that image. I think I've had other
22 photographs done of it but it's the same image, yes.

23 Q. What I wanted to look at was the Rosetta which, on chart
24 11, which is on screen just now -- it is the Mr Wertheim
25 copy but it doesn't matter for the moment --

1 A. Are we looking at the print or Y7?

2 Q. For the moment we will just look at the print which is
3 unaltered. The Rosetta is point number 1 with, adjacent
4 to it, the dot which is point number 9?

5 A. Correct.

6 Q. What I would like to understand is, so far as the timing
7 is concerned, you told us that you took considerable
8 amount of time studying Y7.

9 A. Yes.

10 Q. You told us you received the letter from Mr Wertheim in
11 1999.

12 A. Yes.

13 Q. Can you tell me when it was that you actually started
14 work on Y7?

15 A. Not with absolute certainty, to be honest. I would
16 think I obviously looked at it out of curiosity -- well,
17 I remember looked at it out of curiosity when I first
18 received it and thought this is pretty tough going. I'm
19 going to leave this for a while. Then I looked at it on
20 and off over, perhaps, a period of two or three weeks
21 before I came to my conclusion.

22 Q. Did you come to your conclusion before you were aware of
23 Mr Berry and the 66 degrees of rotation?

24 A. I think the honest answer to that is I was almost
25 certain and when Mr Berry came up with that conclusion,

1 I could see that everything fitted much more happy for
2 me. But I had come to the conclusion that there was no
3 reason why I should see it was not her print.

4 Q. The charting -- perhaps I should bring so we are not
5 distracted by Mr Zeelenberg's markings, if I bring up,
6 again, TS0005 and it will be .28, your chart 11. There
7 is nothing that I have observed that enables me to date
8 these chartings.

9 Do you know roughly when you did these chartings?

10 A. Oh absolute, yes. I did these when I knew I had to come
11 to this Inquiry. So that's this year. I knew the
12 Inquiry would be looming and I started work on them
13 before I realised the actual date of the Inquiry but
14 certainly this year.

15 Q. One of the reasons I am interested just in that date is
16 that Mr Berry -- we have already seen it in SG0093.6 --
17 this is Mr Berry's own article which has a date of 2002.

18 A. Right.

19 Q. You will see that, in what I have highlighted just on
20 screen just now in the box, he draws attention to the
21 Rosetta characteristic and the adjacent dot.

22 A. Yes.

23 Q. Indeed, what you have marked is the Rosetta
24 characteristic and an adjacent dot.

25 A. Yes.

1 Q. Were you aware of Mr Berry's conclusions and, indeed,
2 the images we see here at the time when you were working
3 on this charting?

4 A. The charting that I did this year?

5 Q. Yes.

6 A. Oh, yes, of course.

7 Q. Because what I am interested in is the reproducibility
8 of various characteristics. Fingerprints we understand
9 to be a good means of identification because the pattern
10 of a fingerprint is constant through life, barring
11 injury, constant through life, yes?

12 A. Yes.

13 Q. However, you have used a very interesting alternative
14 because what you say is the impressions created, whether
15 under controlled circumstances or in a crime scene, in
16 fact are not stable, they are not static.

17 A. Well, it may happen that they are not static, yes.

18 Q. So the characteristics may vary?

19 A. Yes.

20 Q. Either side of the true fingerprint?

21 A. That's true, although the coincident sequence of the
22 events will remain the same.

23 Q. So if we can take down Mr Berry's and go back to your
24 chart, and if we can have it twice over so I can
25 highlight, what I have actually done is gone a little

1 bit wider for once so that I can bring in the legend
2 that you have helpfully provided.

3 Point number 1 and point number 9, the Rosetta and
4 the adjacent dot, we may in fact just have to highlight
5 it a little bit further so that you can see, the Rosetta
6 is point number 1?

7 A. Yes.

8 Q. We will have to highlight it further. The adjacent dot
9 have you marked as number 9?

10 A. I have, sir, yes.

11 Q. What is it that you -- if I can again highlight the area
12 of Y7, are you satisfied with the reproduction on that
13 image of the features number 1 and number 9 --

14 A. I am.

15 Q. -- the adjacent dot?

16 A. I am indeed, yes.

17 Q. The adjacent dot is indeed not simply a pinpoint dot but
18 has the appearance, it would seem by the spacing between
19 the two lines of point 9, as something in the nature of
20 a very short line?

21 A. Yes, I'd agree with that.

22 Q. Running in fact parallel to --

23 A. Yes, to the ridge.

24 Q. And the 128-degree descent --

25 A. Indeed. yes --

1 Q. Of the 125 train that Mr Swann is contemplating.
2 If I can show you now an alternative image, and that
3 is the one that I have been using regularly for this
4 Inquiry and it is Mr Zeelenberg's charting, FI0170.

5 Again, the only reason I use Mr Zeelenberg is that
6 it has a helpful pinpoint, a reference, number 14. We
7 can get an unmarked version. He has, it would seem by
8 common assent, marked as point number 14 the feature
9 that you would describe and I have come to describe as
10 the Rosetta characteristic; is that correct?

11 A. Yes.

12 Q. Do you see that adjacent dot or line running parallel to
13 the nose of the Rosetta in that image?

14 A. Not exactly. I mean, it could be construed that on the
15 ridge just above there is a little, sort of, almost a
16 sort of little nipple thing hanging down which could be
17 the end of it, but it's not there in the same style as
18 on this one, no.

19 Also, of course, as I said in my evidence earlier, I
20 have used the Rosetta as both a bifurcation and a ridge
21 ending and in the instance here on the right from
22 Mr Zeelenberg it does appear to be more as a ridge
23 ending.

24 Q. Again, do you still have the SCRO charting with you?

25 A. I think I do, yes.

1 Q. It is the same image because it is the comparative
2 exercise image so you can, therefore, look at point 14
3 without any markings on it.

4 A. Yes.

5 Q. Perhaps if I could bring up then, please, on the
6 other side, on the left, FI0167A. I will just highlight
7 that.

8 Here we have now an unmarked copy, a copy that does
9 not have feature number 14 marked so we can, therefore,
10 have a clearer view of it.

11 Would you accept, again, that the feature that is
12 marked as the dot or the line running parallel is in
13 fact difficult to see?

14 A. I would, yes.

15 Q. Indeed, the characteristic nose at the angle of
16 128 degrees, the nose of the 125 train that Mr Swann was
17 contemplating is in fact difficult to see?

18 A. Absolutely, yes.

19 Q. It appears on this image, if we use the one on the left
20 because simply the point is not otherwise broken or
21 distorted by any red dot, it appears just to have the
22 pattern of one of any number of ridge endings in this
23 fingerprint?

24 A. Yes.

25 Q. The final thing I want to show you in relation to these

1 prints -- and it matters not which one we use -- the
2 ridge immediately below the Rosetta characteristic
3 appears for much of its length to be an unbroken ridge?

4 A. Indeed, yes.

5 Q. Can we then look at your image and perhaps if I take
6 down the right-hand image which is disturbed by the
7 number 14 and bring up your TS0005 and we will start at
8 point 28.

9 What I am interested in is on the image which you
10 have, the Zeelenberg image on the right-hand side, if we
11 go to the ridge below the Rosetta --

12 A. Yes.

13 Q. -- does it appear that there is a gap in the ridge?

14 A. It does, yes.

15 Q. Which is not reproduced in the image on the left?

16 A. Yes, correct, yes.

17 Q. If I take then on to image number 30 on the right-hand
18 side, slide 30, what I want to do is highlight the
19 right-hand ... **(Pause)**

20 I want to highlight the right-hand side. On the
21 right-hand side, we have now the Rosetta which seems to
22 have been renumbered, has it?

23 A. Yes, it's a different version, yes.

24 Q. In this instance, please, could you tell me what the
25 number is of the Rosetta?

- 1 A. Of the Rosetta?
- 2 Q. Is it number 6?
- 3 A. Yes, number 6.
- 4 Q. With the dot as number 7?
- 5 A. Correct.
- 6 Q. In this instance when you look at Y7 on the left, you
- 7 have marked the dot number 7 as beneath the point of the
- 8 nose of the 125 train?
- 9 A. Okay, yes.
- 10 Q. Not adjacent to it in parallel?
- 11 A. That's because that's how it appears.
- 12 Q. Sorry?
- 13 A. That's because that's how it is.
- 14 Q. It's how it appears on that image?
- 15 A. Yes, yes.
- 16 Q. But you accept from me that it has a different
- 17 appearance in that image compared with the other because
- 18 in the other image the dot was adjacent to but parallel
- 19 to the nose. Here it's dropped down.
- 20 A. I'd agree with that but it's infinitesimal.
- 21 Q. What I am interested in is what you have described as
- 22 the large pore. I am having a little bit of difficulty
- 23 with your drawing. On your drawing --
- 24 A. That shouldn't be taken an exact.
- 25 Q. No, no. On your drawing the nose of the Rosetta is

1 still number 6?

2 A. Yes.

3 Q. The adjacent dot is number 7?

4 A. Yes.

5 Q. The large pore is apparently numbered 4?

6 A. On the drawing, yes.

7 Q. On the drawing, the large pore is on the ridge below the

8 Rosetta to the left of a gap?

9 A. Yes.

10 Q. On the line above the Rosetta there's a spot number 9?

11 A. There is, yes.

12 Q. What I would suggest to you is that there seems to be

13 some error in your marking of Y7 because, if I

14 understand your drawing correctly, the large pore is in

15 fact number 9, not number 4, because it's on the line

16 immediately below the Rosetta to the left of the gap?

17 A. Well, that's probably just an error in my drawing which

18 I'm not an expert at, of course.

19 Q. So the large pore is, therefore, number 9?

20 A. The large pore is ...

21 Q. Properly in Y7?

22 A. No, no. The large pore is number 4.

23 Q. The large pore is number 4?

24 A. Yes. In the Y7, yes. It's number 4, yes.

25 Q. Well, there must then be, is there not, an error in your

1 drawing?

2 A. No, no. You've got the large pore which is number 4 on
3 the drawing, on Ms McKie's print and indeed on Y7.

4 Q. If I explain to you why I am suggesting it is an error,
5 we have the ridge running around that ends at point 6,
6 which is the Rosetta.

7 A. Yes.

8 Q. We come down one line, one ridge down, we have a ridge
9 running right to left with a space and then the large
10 pore mark where the cursor is just now number 4?

11 A. Yes.

12 Q. Then carrying on round. Number 9 on this drawing is
13 marked above the line of the Rosetta.

14 A. Yes, I can see that.

15 Q. However, if I look to Y7, the cursor is on point 6
16 **(indicated)**, the nose of the Rosetta.

17 A. Yes.

18 Q. I follow that line up and what I find is you have now
19 marked point 9 below the ridge of the Rosetta, not
20 above.

21 A. Yes, I have to concede that. The point's been put in
22 the wrong place there. It should be a fraction higher.

23 Q. Either that, I suggest, or the point marked on Y7 as
24 number 9 is what you intend by the enlarged pore number
25 4?

1 A. No, no. I intend the large pore as where it is.

2 Q. Because if I look at where the large pore is marked
3 number 4, it's not on the ridge below the Rosetta but
4 one ridge lower down.

5 A. Yes.

6 Q. Do you see?

7 A. Yes, there is -- I think there's a problem with the
8 marking there. The characteristics exist but I'm afraid
9 there is an error in the marking there, yes.

10 Q. What I would like to concentrate on is that point number
11 9.

12 A. Mm-hm.

13 Q. If, as I suggest to you, we understand -- forget about
14 the drawing just now, just looking at Y7 itself, we are
15 looking at the ridge below the Rosetta for a gap to the
16 left of which there is an enlarged pore.

17 A. Yes.

18 Q. On the control print that we are using, I have already
19 taken from you, if I put my cursor where the Rosetta is
20 there is no obvious gap in the ridge below in a
21 corresponding position?

22 A. Yes, but there is on the ridge above, isn't there, yes.

23 Q. Well, not on the ridge below the Rosetta and there is no
24 corresponding enlarged pore in that ridge.

25 A. There's certainly an enlarged pore on the lower limb of

1 the Rosetta with a gap on both images.

2 Q. Is that further round where my cursor is now
3 **(indicated)**?

4 A. I would say so, yes.

5 Q. So let's just mark that. Is it where the pen tip is
6 just now? Just above that where the pen tip is?

7 **(Indicated)**

8 A. Yes, yes.

9 Q. Just above the green arrow?

10 A. Yes, that's about right, yes.

11 Q. Is that an enlarged pore or simply a gap in the tracing?

12 A. No, it's a pore, I would say, in my opinion a pore.

13 Q. Is it in the same corresponding position as number 9 in
14 Y7 or is it further round?

15 A. I actually think the enlarged pore we're looking at is
16 about an eighth of an inch to the right of that one.

17 Q. Sorry?

18 A. I think the actual enlarged pore we've concerned
19 ourselves is about an eighth of an inch to the right of
20 your green arrow.

21 Q. So it's not in the same position?

22 A. No, that isn't, no. You should move the arrow slightly
23 to the right to get the one we're looking at.

24 Q. Let us just then run with this just now. Could we save
25 this image now, please.

1 MISS BAHRAMI: That's saved as FI2310.08.

2 MR MOYNIHAN: What I am going to do is switch images of Y7

3 and use the control image that we tend to use, which is

4 Mr Kent's image that Mr Swann provided, that's TS0006.

5 Move to page 2.

6 What I am going to do is enlarge it. I will enlarge

7 it again.

8 The Rosetta is where my arrow is pointed

9 **(indicated)?**

10 A. Correct.

11 Q. You say so far as the line is concerned, the dot in this

12 image, it is clearly to be seen as a line that is at the

13 same level as the descending nose of the Rosetta?

14 A. Yes, indeed.

15 Q. Indeed, it's not a dot; it's a line?

16 A. Yes, you could say that.

17 Q. Looking at the other image where you marked the dot as

18 below the nose of the Rosetta -- do you remember? You

19 marked the dot as below the nose and you told me it was

20 only marginal.

21 A. The dot had a slightly different appearance, didn't it?

22 Q. Well, a different location.

23 A. Well, slightly, yes. With the flexibility of the skin

24 and the different surfaces, I mean, it's not so uncommon

25 that something like that should happen. It's such a

1 minute shift, it's quite normal to see that sort of
2 thing.

3 Q. Let's then look at the mark Y7. We come along the ridge
4 below the Rosetta?

5 A. Yes.

6 Q. So we are clearly on the ridge below the Rosetta?

7 A. Mm-hm.

8 Q. To the point -- is my cursor on the point you describe
9 as the enlarged pore? **(Indicated)**

10 A. Indeed it is, yes.

11 Q. So that is why I was asking you about the numbering of
12 these points earlier.

13 A. Yes.

14 Q. I am going to put a green arrow there to the enlarged
15 pore. **(Indicated)**

16 What do you say to the fact that on this wood in a
17 variety of places ...

18 A. Sorry, I didn't get that question.

19 Q. I'm just marking things just now.

20 One finds black marks similar to what you have
21 marked as the enlarged pore peppered right throughout as
22 artefacts of the wood?

23 A. Okay. I understand -- I never saw the original mark on
24 the wood but I understand it was a black powdered mark;
25 is that correct?

1 Q. Yes.

2 A. So obviously there's black powder going to be picked up
3 by all sorts of artefacts on the wood around the mark
4 which will attract the powder and I suspect -- I can
5 only suspect because I haven't seen it -- that these
6 black marks are speckles of black powder or some other
7 artefact and the pore there which you've got arrowed is
8 obviously filled in and it could easily be filled in by
9 black powder. But for one of these specks to
10 miraculously land on that ridge where that particular
11 enlarged pore is too much of a coincidence to accept, I
12 think.

13 Q. Well, one other possibility, if one looks at the control
14 print, that in fact what one sees in Y7 as a broken
15 ridge below the Rosetta is, in fact, to be compared with
16 an unbroken ridge, bar the one that's a feature that is,
17 as you say, fractionally to the left of my green arrow
18 just now, there is it would seem a pore. It does not
19 take much more than the width of the ridge itself?

20 A. Yes, I would agree with that, yes.

21 Q. Whereas what is marked in Y7 is a black circle much
22 greater in width than the ridge.

23 A. Well, that would not be so unusual if it was filled in
24 with black powder.

25 Q. If I leave that at that particular point and take you

1 then on to the next point I wanted to ask you about --
2 in fact, sorry, we had better save. Before I save it,
3 since I have got now a plethora of green arrows, the one
4 that is against the Rosetta I had better mark as red
5 rather than green to make the point (**indicated**).

6 MISS BAHRAMI: That's saved as FI2310.09.

7 MR MOYNIHAN: Mr Leadbetter, I think, because I am conscious
8 of the time, what I will do is ask you one more point of
9 detail and then I think I will give others the
10 opportunity to ask you questions rather than take up
11 much more of the afternoon myself.

12 A. Thank you.

13 Q. The one other point of detail I wanted to ask you about
14 is we have heard some evidence about Fingerprint
15 Officers in Aberdeen having access to an image of Y7
16 and, indeed, Shirley McKie's fingerprint ultimately of
17 Y7.

18 There has been a suggestion by a Mr Luckraft that
19 you were the source of the image that went initially to
20 Aberdeen and perhaps to a Mr Major.

21 Have you any recollection of supplying an image of
22 Y7 to Mr Major?

23 A. Not exactly. I can't be honest about that and say that
24 I didn't send it but I certainly remember speaking to
25 Mr Major about 2000/2001. We had had a conversation

1 about this as I was speaking to him about another issue
2 and I believe, from the way we were discussing it, I was
3 under the impression that he already had a copy. But
4 it's quite possible that, even if he did have a copy, I
5 might have sent him another one. I cannot honestly say
6 that I remember.

7 Q. I haven't looked at the images that you have of Y7 that
8 are also included in the package. From memory, and I
9 will be corrected if I am wrong, the Aberdeen image has
10 a characteristic ruler on it that Mr Wertheim explains
11 is something that he places when he is photographing a
12 photograph.

13 By chance do any of your images have that
14 characteristic sign?

15 A. We can check because that would certainly resolve it,
16 wouldn't it? That one does, yes. That one seems to be
17 the only one.

18 Q. So you have one that does?

19 A. I do have one that does, yes.

20 MR MOYNIHAN: Again, as I have said, we will make
21 arrangements through Mr Russell with these materials
22 that were provided this morning if you wouldn't mind
23 just leaving them with us and make them available to
24 others.

25 Sir, that I think would be a convenient point for me

1 to stop and pass over.

2 THE CHAIRMAN: Mr Smith, you would be first again.

3 MR SMITH: Thank you, sir. I do have an application that

4 broadly relates to two matters, one concerns the quality

5 of images and source material that the witness considers

6 is appropriate to give an examination opinion on and the

7 other relates to his Inquiry statement where he is

8 critical of, in particular, Mr Wertheim and

9 Mr Zeelenberg and on their behalf I wish to challenge

10 some of the things that have been said.

11 THE CHAIRMAN: Yes, you represent Mr Wertheim so certainly.

12 **Cross-examined by MR SMITH**

13 Q. Mr Leadbetter, I think you were in the Inquiry yesterday

14 when Mr Swann gave his evidence.

15 A. I was, yes.

16 Q. Yesterday did you see Mr Swann hand over a document to

17 the Inquiry which was the original material he had

18 received from Levy & McRae solicitors?

19 A. I don't honestly recall that instance, no.

20 MR SMITH: I wonder if the original of that document which

21 was handed in could be passed to Mr Leadbetter?

22 MR MOYNIHAN: Sorry, I was not listening.

23 MR SMITH: It is the document -- I think Miss Gilpin is

24 aware of the one I am looking for.

25 A. I think I remember the instance where you were talking

1 about quality come to think of it. **(Handed)**

2 Q. If you could just have that before you just now. As I
3 understand it this is the only material that Mr Swann
4 was sent by Levy & McRae solicitors, upon which he came
5 to a firm view that there was an identification between
6 Y7 and Shirley McKie's mark?

7 A. I've lost my glasses, actually. There they are.

8 You're saying this was the material that he came to
9 the conclusion on that the mark was identical with --

10 Q. Could I ask you to move a little closer to the
11 microphone?

12 A. Could you put the question again, please?

13 Q. Yes. As I understand Mr Swann's evidence yesterday, he
14 said something to the effect that the document you have
15 in your hand just now was the limit of the information
16 provided to him by solicitors acting for Shirley McKie
17 and after I think he said about three days' examination
18 of it, he came to the conclusion that there was indeed a
19 match, a correct match, between one and t'other.

20 A. I remember that, yes.

21 Q. You remember that?

22 A. Yes.

23 Q. Seeing it just now in front of you, are you able to give
24 any comment as to whether, had you been asked by
25 solicitors to express an opinion on the accuracy of that

1 examination, you would have been prepared to carry out
2 that examination and express a view?

3 A. At what point?

4 Q. At any point. Would you be prepared to give an opinion
5 as to the match on Y7, on the information provided, as
6 against Shirley McKie's inked mark on what you have in
7 your hand just now?

8 A. I don't ever recall specifically being asked to do that
9 by a solicitor.

10 Q. No, forgive me, I am not asking whether you were asked
11 to do it. Imagine that today that lands on your desk
12 and someone asks you for an expert opinion on whether
13 you agree that the left-hand image has a common donor to
14 the right-hand image.

15 What would your response be?

16 A. I would be prepared to look at it.

17 Q. You would be prepared to look at it?

18 A. Yes.

19 Q. Knowing what you know now about the image and in
20 particular your concern with what is in the core area,
21 which you have explained to us, are you able to confirm
22 to the Inquiry that the images you have before you,
23 especially in relation to Y7 mark, predominantly show
24 the core area?

25 A. They do, yes.

1 Q. So I am a little mystified, Mr Leadbetter. Are you
2 saying that you consider that that is sufficient to give
3 an opinion or it's not sufficient to give an opinion?

4 A. It is sufficient to give an opinion, yes.

5 Q. So you are now saying the core area is sufficient to
6 provide an opinion on?

7 A. Well, every examiner will see a fingerprint comparison
8 differently. There is an element of subjectivity in
9 this. Some officers may prove(sic) to choose that but
10 they haven't gone out further from that, you know, they
11 have restricted themselves to that particular area.
12 When you try and link up with my area that seems to be
13 where the problem comes, due to movement.

14 Q. I think you understand my difficulty, Mr Leadbetter.
15 Lest it is unclear let me put it again: your evidence to
16 this Inquiry earlier today when being asked questions by
17 Mr Moynihan, as I recall it, was to the effect that the
18 core area was an area you avoided because you were
19 concerned about the possibility of distortion or
20 movement or something you couldn't explain?

21 A. That's correct. I had that feeling, yes.

22 Q. What you have in your hand, as I think you confirmed to
23 me a few moments ago, was a document that shows in the
24 left-hand side image, ie the Y7 image, substantially the
25 core area that you told us earlier told you were less

1 than comfortable with?

2 A. Indeed, yes.

3 Q. So why is it you now say you would be prepared to

4 consider that image when you earlier said you were

5 uncomfortable with what was in the core area?

6 A. I didn't like the idea of going from where I'd started

7 my marking-up through into that area because I thought

8 there was a problem with the ridge flow between the two

9 separate areas.

10 Q. What is your position now as you look at that? Do you

11 still think there's a problem with the ridge flow?

12 A. Well, I mean, that is not very clear (**indicated**) but,

13 no, I suppose I don't. I mean, I don't. If that's just

14 the area that's been marked-up then, yes, that's okay.

15 Q. So it is okay?

16 A. Yes.

17 Q. If you want me to go back and ask you to do the ridge

18 count from the core area out to your point, I'm happy to

19 do it.

20 Do you understand the point that was being made by

21 Mr Moynihan?

22 A. I do understand it completely, yes.

23 Q. There appears to be, to those of us who have been

24 looking at this in quite a lot of detail, there appears

25 to be a difference in ridge count in Y7 as compared to

1 Shirley McKie's mark.

2 A. There does.

3 Q. You know what I'm talking about, don't you?

4 A. I do indeed, yes.

5 Q. I understand your explanation for the difference in
6 ridge count is the fact there is some kind of problem
7 with the core area which is the reason why you didn't
8 chart any significant points within that core area?

9 A. That is correct in as much as I did not go right from
10 out the top right through into it. The problem for me
11 was going from one area into the next area.

12 Q. The core area that you have in front of you is
13 sufficient, is it, to give an opinion on a match; is
14 that your evidence?

15 A. I believe so, yes.

16 Q. Using that document in front of you, please, and we will
17 get this no doubt under the scope somewhere, could you
18 please explain to us where you marked point 14?

19 A. Using this document ... yes, I can. It's --

20 MR MOYNIHAN: If you allow me just a minute we can of course
21 put it on the projector but there's no ability to mark
22 on screen when using the projector, I am afraid.

23 MR SMITH: I am using a very low technology, I don't know if
24 a little sticky label will do if a mark was put so as
25 the witness can indicate where the point in question is.

1 A. You're asking me where I marked ...?

2 Q. Point 14.

3 A. I'm not sure it's even on this picture. It would have
4 been somewhere down the bottom there (**indicated**).

5 Q. Just keep that in front of you then if it's not on the
6 picture. Can we have up the image, please, which is
7 your chart 11.

8 MR MOYNIHAN: TS0005.28.

9 MR SMITH: Using the image you have, if you wish, the one in
10 your hand that Mr Swann provided to the Inquiry, which I
11 understand you consider is sufficient for purposes, or
12 using the image in chart 11, can you please identify the
13 ridge count between point 14 and the centre of the core?

14 A. Before we go on to that, I have to say that because I
15 didn't have the full image I have not got that in the
16 right place.

17 Q. As I understand it, you are saying that, what we have
18 been led to believe -- and I think it's fairly
19 obvious -- is at least a second generation copy. You
20 would agree with that, that's what it looks like? It's
21 a photocopy?

22 A. It does look like that, yes.

23 Q. Are you saying that gives you better detail of the image
24 on chart 11, are you?

25 A. Oh no, it's nowhere near as good, is it?

1 Q. Let's use chart 11 then. Can we have both of them up,
2 in particular it is Y7 I am interested in for the
3 moment.

4 Point 14 to the core.

5 A. Yes.

6 Q. Can you tell us what the ridge count is, please, between
7 point 14 and the core?

8 A. Okay.

9 Q. Perhaps you can be given some assistance to draw little
10 lines where you think --

11 A. I would say somewhere between eight and nine.

12 Q. Eight and nine, very well.

13 A. Bearing in mind the core isn't that clear. **(Pause)**

14 Q. I think we heard some suggestion that when one is doing
15 a ridge count it's appropriate when looking, obviously,
16 at the intervening ridges to exclude the starting point?

17 A. That's correct, yes.

18 Q. Let us do it that way if you can. Can you confirm from
19 core to 14 what the intervening ridge count actually is.

20 A. Well, as I said before, eight or nine.

21 Q. Eight or nine. Very well. Can we have the inked mark
22 up, the other half of the page, please?

23 MR MOYNIHAN: We had better be careful. You may want to
24 just save this image.

25 MR SMITH: Thank you.

1 MR MOYNIHAN: Just in case. What I would suggest is you
2 bring up it up twice so you can enlarge one.

3 MISS BAHRAMI: That's saved as FI2310.10.

4 MR SMITH: Thank you. Can we have, just on its own, the
5 other half of that charting --

6 MR MOYNIHAN: Mr Smith, what I suggest, if we just bring up
7 an image again of. 28 and then we can enlarge.

8 MR SMITH: Thank you. Can we do the same exercise,
9 please -- if we just have the right-hand image up if we
10 can do that. Now we have the left one saved I suppose
11 no major disaster will happen.

12 Again, no doubt a bit clearer here, can we do a
13 ridge count from 14 across to the core. **(Pause)**

14 I wonder if we could have it expanded again so you
15 can count the ridges, please.

16 Just to save you doing the exercise are you able to
17 tell us how many intervening ridges there are on the
18 inked mark?

19 A. About 17, I think.

20 Q. Mr Leadbetter, what possible explanation could there be
21 for missing about nine or ten ridges? What possible
22 explanation could there be?

23 A. Well, I can't offer much more than I said this morning
24 on this issue which I went over with Mr Moynihan that I
25 still consider -- I considered at the time that there

1 was some issue with the natural flow of the ridges in
2 that area thus I avoided going there.

3 Q. Yes, I heard you saying that, Mr Leadbetter, but --

4 A. Well, I can't say any more, frankly.

5 Q. Can I make a suggestion to you? The other possibility
6 is that the inked mark is not Y7. It's not the same.

7 That's a possibility, isn't it? They are not the same
8 is the other possibility, Mr Leadbetter, isn't it?

9 A. I'm sorry, could you say that again?

10 Q. The possibility is, is it not, Mr Leadbetter, that Y7 --
11 you know what Y7 is -- is not the same as the inked mark
12 of Shirley McKie?

13 A. No, I repudiate that. I disagree.

14 Q. Provide me, please, with an explanation as to how we can
15 lose nine or ten ridges?

16 A. I can only give you the same explanation I've already
17 given you.

18 Q. Well, please tell me again what the explanation is, not
19 just that there's something gone wrong, something's
20 happened, tell me what possibly could have caused these
21 ridges to go missing?

22 A. Possibly movement as the finger's turned in rotation,
23 pressure, all the usual things that can happen to a
24 crime scene mark.

25 Q. What evidence is there on Y7, looking at Y7 on its own,

1 what evidence is there of pressure, movement, twisting,
2 anything of the kind?

3 A. We haven't got it on the screen now, have we?

4 Q. If we can bring Y7 up --

5 MR MOYNIHAN: If we save this one, please.

6 MISS BAHRAMI: That's saved as FI2310.11.

7 MR SMITH: You were going to tell us where the evidence is
8 in Y7. Can we get Y7 expanded and you can tell us where
9 the evidence is in the core area of movement of some
10 the kind that would justify the loss of nine or ten ridges?

11 A. Obviously, we have this dog-leg effect here and the flow
12 of the ridges is not natural. They are compressed up
13 there (**indicated**) and, obviously, it has moved at some
14 time and I believe that the ridge flow there has been
15 affected by that. I can't tell you any more. I'm
16 sorry.

17 Q. The question I asked was where the evidence on Y7 was
18 that there was movement of some kind or twisting or some
19 kind of distortion that would lose nine or ten ridges.
20 We can see on Y7 that's in front of us just now where
21 your point 14 is.

22 Could we have the area, please, down from -- yes,
23 that area expanded. Thank you.

24 We see where 14 is. Tell me, please, what we see
25 around about the point 14 heading up in the direction of

1 the digit 1, what the evidence is of movement or
2 twisting that would justify the loss of nine or ten
3 ridges?

4 A. Only that it goes off at a sharp angle, we have
5 compression there (**indicated**) and, to me, the flow does
6 not look natural.

7 Q. Just for the purposes of the notes I think you indicated
8 compression there. Were you indicating an area just at
9 the edge of the print below the digit 1?

10 A. Sorry?

11 THE CHAIRMAN: It is just to record where you say the sharp
12 angle there. We can't see --

13 A. I see. There's almost a white line going through there.
14 The angle starts like that, doesn't it?

15 MR SMITH: Hopefully, I --

16 THE CHAIRMAN: Perhaps we can just mark where you say this
17 sharp angle is.

18 A. Within that (**indicated**) area, to me, when I was doing my
19 initial comparison, I did not feel that those points
20 looked natural, the way they fell, so therefore I
21 concluded that there was a problem with the natural flow
22 of the ridges.

23 MR SMITH: That was evident, was it, from your looking at Y7
24 itself?

25 A. Yes.

1 Q. You heard Mr Swann's evidence yesterday, didn't you?

2 A. I did, yes.

3 Q. I recall what he said. He indicating that from Y7

4 itself he could see no evidence of any distortion or

5 twisting or something of that kind.

6 A. Yes.

7 Q. To that extent do you disagree with Mr Swann's evidence?

8 A. Well, I can't do anything but, can I, in that extent

9 but, as I said, there is always a subjectivity aspect in

10 fingerprint identification.

11 Q. I think that answer is a yes, you do disagree with him?

12 A. Yes.

13 Q. The extent of the distortion and movement such as to

14 obliterate some nine or ten ridges, intervening ridges,

15 I take it is a severe distortion of some kind?

16 A. I would say so, yes.

17 Q. Accordingly, if anyone was to use the bottom portion of

18 that print in an analysis it would be something that

19 would be highly questionable, wouldn't it?

20 A. Well, it depends if it's done in isolation. If it's

21 done in isolation without relation to the rest of the

22 print, I don't think so.

23 Q. Sorry, it would be acceptable if it was done in

24 isolation, just on its own; are you saying that, are

25 you?

1 A. If you're using those characteristics in the area
2 without proceeding to the other area, yes, I think it's
3 okay.

4 Q. Mr Leadbetter, you are telling us that you can see, on
5 what we are looking at on the screen just now, evidence
6 of distortion or twisting of some kind?

7 A. It's my impression, yes.

8 Q. What is your evidence about it? You say it's your
9 impression. Are you saying you can see that there is
10 evidence of some kind of distortion or twisting.

11 Are you saying you can see it?

12 A. I don't know what more I can say other than that the
13 appearance of the ridges to me and the way the
14 characteristics fell I did not like so I decided I would
15 avoid it.

16 Q. What I am asking you, Mr Leadbetter, is this, as I am
17 sure you are well aware: would any expert be able to see
18 what you are telling you can see, evidence of distortion
19 or twisting in the lower part of the print?

20 A. I don't know. You would have to ask them.

21 Q. If another expert fails to see it, do you have any
22 question mark over their competency?

23 A. Sorry?

24 Q. If any other expert, someone professing to be an expert
25 in fingerprints, fails to see that evidence of twisting

1 and distortion in the lower part of the print, do you
2 have any question marks relating to their competency?

3 A. Probably not, no.

4 Q. Why not?

5 A. Because it's a subjectivity exercise, isn't it?

6 Q. You won't agree with that proposition, Mr Leadbetter,
7 because you know that SCRO relied on the lower part of
8 the print. That's why you are having difficulty with
9 this, isn't it?

10 A. No.

11 Q. How can you explain the position that a number of
12 experts from SCRO relied upon an area of a print that
13 you say you can see evidence of distortion of some
14 kind sufficient to obliterate nine or ten lines? How do
15 you explain that?

16 A. Well, it's very difficult, isn't it?

17 Q. Well, either they are wrong or you are wrong, isn't it?

18 A. Well, I may be wrong about that area but I'm not wrong
19 about the rest of it.

20 Q. Are you accepted that there may be no evidence of
21 twisting or distortion in that area of the print?

22 A. There may be no evidence but I still had to go by my
23 impression of it when I examined it.

24 Q. If there is no evidence of it how do you justify the
25 ridge count difference?

1 A. I can't add anything to what I've said.

2 Q. I would like to ask you if I can, Mr Leadbetter, about
3 some of the comments you have made in your witness
4 statement.

5 Could we have your witness statement up, please.

6 MR MOYNIHAN: First of all, if we save the image just now
7 and then what you are ultimately looking for is
8 FI0148-02.

9 MISS BAHRAMI: That's saved as FI2310.12.

10 MR MOYNIHAN: No, it's -02.

11 MR SMITH: This statement you have I think recently
12 confirmed you are adopting it as your evidence in this
13 Inquiry.

14 Do you remember being asked that?

15 A. Yes.

16 Q. I would like to go on -- unfortunately I don't have page
17 numbers marked on my copy but hopefully it will be page
18 number 4. Can you go on to the fourth page, please.

19 A. Page 4.

20 Q. It is the section that has Pat Wertheim's name on it.
21 It is on the screen as well, Mr Leadbetter, if that
22 would be easier to use.

23 A. Okay.

24 Q. I think we can see under your comments relating to
25 Mr Pat Wertheim, I will just read out what you say there

1 from the commencement:

2 "From almost the very beginning of this case one of
3 the American fingerprint experts hired by the McKie's,
4 Mr Pat Wertheim, made a public statement that he could
5 see in less than 90 seconds that the mark Y7 could not
6 have been made by Shirley McKie's left thumb."

7 You do acknowledge that's perhaps not verbatim.

8 "He then goes on to make an even more boastful
9 statement on BBC Television's Panorama programme and I
10 quote verbatim, 'I knew within a minute of looking at
11 this mark that it could not have been made by Shirley
12 McKie'.

13 "Frankly, for such a ridiculous and unprofessional
14 statement to be made so publicly by a practising
15 fingerprint expert is not only ludicrous but verging on
16 the totally idiotic."

17 Can I just be clear about it: are you sticking with
18 the position after all you may have seen or heard in
19 this Inquiry that Mr Wertheim's an idiot?

20 A. I've never said he's an idiot.

21 Q. What does the word "idiotic" mean?

22 A. You can make an idiotic statement without being an
23 idiot.

24 Q. What do you mean by idiotic?

25 A. Because it's just a ludicrous statement to make. The

1 mark is so complex that to have made it in such a short
2 time is just ridiculous.

3 Q. Your statement, as we will see, is full of somewhat some
4 people may consider intemperate language. I want to
5 give you the opportunity to -- was this drafted in a
6 hurry?

7 A. No.

8 Q. It was considered, was it?

9 A. Of course.

10 Q. Reading on:

11 "I stated earlier the mark Y7 is extremely complex
12 and poses various issues that require the most careful
13 and studious analysis before any conclusion should be
14 reached: any competent Fingerprint Examiner would
15 appreciate this."

16 I would like just to understand, Mr Leadbetter, if
17 you appreciate the sequence of events that Mr Wertheim
18 was involved in.

19 As I understand his position and of course he has
20 not yet finished his evidence but he has made this clear
21 before in other areas, he looked at it, he came to a
22 very swift conclusion but kept his mouth shut about it,
23 he then examined the mark on the doorframe, which I
24 don't think you had the opportunity of doing?

25 A. I haven't, no.

1 Q. He then took a large number of inked fingerprints from
2 Shirley McKie, he considered matters carefully, then and
3 only then did he commit himself to writing.

4 What is wrong with that approach?

5 A. Nothing if you know about it but the impression that
6 comes across is this very boastful statement, "I could
7 see in less than a minute or could see in less than 90
8 seconds".

9 Q. So if what I told you about Mr Wertheim's position is
10 correct, are you prepared to withdraw the allegation
11 that it was an idiotic statement to make?

12 A. Well, I still think it's an idiotic statement to make
13 but if what you're saying is the way he did it, then he
14 did it correctly.

15 Q. Because what this statement goes on to say is:

16 "For my part, I had spent countless hours of
17 examination, re-examination and meticulous scrutiny
18 before I reached my final conclusion."

19 I take it that you say you reached your final
20 conclusion, you must at some stage in these hundreds of
21 hours or countless hours have reached a preliminary
22 view, did you?

23 A. Yes, yes.

24 Q. How quickly did you reach a preliminary view that it was
25 correctly matched?

1 A. Perhaps after about two or three weeks of looking at it,
2 on and off.

3 Q. Of course you would accept, would you, from me that if
4 someone looks at something that is patently different
5 one can easily, depending on the differences there are,
6 can easily conclude very swiftly that there is no match
7 between two items?

8 A. You can when the things are simple to look at and clear
9 but this is not the case with this mark.

10 Q. So the statement that a mark can be differentiated very
11 quickly of itself is a statement you cannot necessarily
12 take any issue with, just in isolation?

13 A. No, not in isolation, no. It's possible, depending upon
14 what you're looking at.

15 Q. In your statement, just skipping the reference to the
16 Fingerprint Whorld magazine, you see the quotation is:

17 "As most experienced latent print examiners will
18 recognise the comparison process does not cease at the
19 first instant the expert reaches a conclusion."

20 Now you go on to suggest that clearly Mr Wertheim
21 does not seem to abide by his own maxim in respect of an
22 expert reaching a hasty and erroneous decision but it is
23 quite clear, isn't it, that he is saying you don't just
24 go with your first view, you've got to be careful about
25 it. Do you agree that is what is being said?

1 A. He's saying that there, yes, and I have the article
2 where he says that but he still said he could see in
3 less than a minute that it was not Shirley McKie's
4 fingerprint. What do we interpret from that other than
5 to believe what he said. It took him less than a
6 minute.

7 Q. The real point is, Mr Leadbetter, as you well know, that
8 he did not go public and express a view on that until he
9 had double checked, triple checked, had the primary
10 materials and only then did he give his opinion, you
11 know that, don't you?

12 A. I didn't know that when I wrote this.

13 Q. Are you going to retract what you say about Mr Wertheim?

14 A. I think I already had if you listen because earlier you
15 asked me if I would retract that now that I knew what
16 you said and I said I agreed I would.

17 Q. Are you retracting the word "idiotic" as well?

18 A. Yes, in that case, yes.

19 Q. You see, Mr Leadbetter, you are a gentleman whose
20 profession, reputation depends on accuracy of
21 information received and communicated. That's right?

22 A. Yes, and that was the information that I received. I
23 saw it on Panorama.

24 Q. Did you not think of being a bit more careful about what
25 the circumstances were before you called someone an

1 idiot, effectively? Did you not consider it was
2 appropriate to try and find the facts?

3 A. I had not calling the man an idiot per se, just it was
4 an idiotic statement. You don't need to be an idiot to
5 make an idiotic statement.

6 Q. I would like to go on to the next page of the statement,
7 please. There is a quotation just about a third of the
8 way down the page, again, bearing to come from
9 Mr Wertheim in Fingerprint Whorld:

10 "Regardless of the number of points found in
11 agreement, a single dissimilarity point is accepted to
12 prove exclusion. If both the mark and the inked print
13 were made from the same finger there cannot even be a
14 single point present in one print but absent from the
15 other."

16 Now, do you not understand that what is being
17 suggested is the question of if there's an inexplicable
18 difference then there has to be a non-match between the
19 known and the unknown?

20 A. Well, I don't agree with that and I don't see the word
21 "inexplicable" there.

22 Q. Well, I think you haven't quoted the whole article but
23 you are saying that that's somehow the entire context.
24 He's saying even if there's an explicable difference,
25 then they can't match; is that what you are saying the

1 thrust of that article is?

2 A. Even if there's ...?

3 Q. An explicable difference.

4 A. You mean one that can be explained?

5 Q. Yes. Are you suggesting Mr Wertheim's is communicating

6 in that article that if there's a difference between the

7 known and unknown that can be explained, he is saying

8 there's no match? Is that what you are saying that

9 article suggests?

10 A. That phrase there suggests that.

11 Q. Yes, but the phrase has to be read in the context of the

12 article, Mr Leadbetter. I'm suggesting to you that what

13 Mr Wertheim is making clear is it's only where there is

14 a difference that cannot be explained that you have to

15 come to the conclusion that the two fingerprints are not

16 of common authorship?

17 A. Well, I don't agree with that because there are

18 inexplicable situations as we went through this morning.

19 Q. Mr Leadbetter, I am not asking about the truth or

20 falsity of the statement at the moment. I am asking

21 about the context of the article that was written by

22 Mr Wertheim.

23 Do you agree that all he was saying in that article

24 was where there is an inexplicable difference? You may

25 not agree with his opinion. I'm just asking about the

1 article for the moment. There is an inexplicable
2 difference that then you have to conclude that there is
3 no match between the known and the unknown?

4 A. Okay, yes.

5 Q. Of course we can see a reference to an article further
6 down the page, I don't think from Mr Wertheim. It is
7 one you quote from and you quote further. You see the
8 last two sentences in the quotation, what is said by the
9 authors is this:

10 "But differences that we cannot explain certainly
11 cause a problem! We must be able to give a reasonable
12 explanation for any significant difference we observe."

13 Do you agree with these two sentences?

14 A. Yes, yes.

15 Q. Just to be clear about it, the reasonable explanation
16 you provide in this case is there is the 66-degree
17 twist, correct?

18 A. Somewhere between 60 and 70 anyway, yes.

19 Q. How long did it take you to come up with this reasonable
20 explanation?

21 A. That was not my explanation. That was -- Mr Berry first
22 did that and once I saw that I could see that there was
23 significance in easing the identification and making it
24 more, you know, making it much more simple to see.

25 Q. So you didn't come up with the reasonable explanation?

1 A. No, I never have said that I did.

2 Q. Well, the curiosity about this, Mr Leadbetter, is if
3 it's such a reasonable explanation why you didn't come
4 up with it. Can you help us with that?

5 A. No.

6 Q. One explanation is it's a wholly unreasonable
7 explanation.

8 A. No, I disagree.

9 Q. So despite the fact it wasn't you that came up with it,
10 Mr Berry came up with it and you go along with it, you
11 consider it's a reasonable explanation, is it?

12 A. No, I had already come to the conclusion that the marks
13 were identical but that did solve a lot of the issues.

14 Q. What were the issues?

15 A. That there seems to be differences in the pressure and
16 the orientation and the pressure and the flow of the
17 ridges didn't look right and the way the top of the
18 ridges looked like they could have been flowing in the
19 wrong direction.

20 Q. So, in short, the issues were there were differences?

21 A. Not within the ridge structure. There are adequate
22 matching ridge features but there are differences in the
23 appearance between the two images.

24 Q. Mr Leadbetter, you looked at it, there were differences
25 you couldn't explain until Mr Berry came up with an

1 explanation?

2 A. At first, possibly, yes.

3 Q. Instead of concluding that these were not of common
4 authorship because you didn't have the explanation, you
5 waited around and tried to force an explanation in
6 conjunction with Mr Berry, didn't you?

7 A. Not at all, no, not at all. It's quite common practice
8 for examiners to share their views and analyse things
9 together. There's nothing sinister or sordid about that
10 at all.

11 Q. Just looking at the statement below the quotation I have
12 just read, you say you:

13 "... also have to call into question Mr Wertheim's
14 ability to correctly take inked impressions which are
15 deemed suitable for comparison purposes."

16 Have you seen the inked prints Mr Wertheim took?

17 A. I have.

18 Q. All of them?

19 A. Not all of them, no, because apparently he took 100 and
20 we've never seen those anywhere. Why you would take 100
21 I don't know.

22 Q. I will come on to the explanation for that in a moment,
23 but you question his ability to correctly take inked
24 impressions which are deemed suitable for comparison
25 purposes?

1 A. Not -- sorry.

2 Q. Not what?

3 A. Not his ability to take them but to take suitable prints
4 for this comparison.

5 Q. I am just reading your statement, Mr Leadbetter.

6 "I have to call into question Mr Wertheim's ability
7 to correctly take inked impressions which are deemed
8 suitable for comparison purposes."

9 It is your statement.

10 A. Yes.

11 Q. Is there any of that you wish to withdraw or clarify?

12 A. For comparison purposes in this particular case.

13 Q. You realise of course that Mr Swann, having heard his
14 evidence, didn't take inked impressions personally from
15 Shirley McKie. You are aware of that?

16 A. He did take prints.

17 Q. He didn't. As I understand it, he did not take inked
18 impressions?

19 A. I don't know.

20 Q. It was left to someone within a solicitor's office to
21 provide inked impressions.

22 A. Well, I didn't know that.

23 Q. Do you have any comment on whether that's a good
24 practice, to allow someone perhaps untrained who's never
25 seen a fingerprint in their life to take an inked

1 impressions for the purposes of a perjury trial? Do you
2 have any comment on that?

3 A. I would say it's a bad practice for any untrained person
4 to take fingerprints if they are required for any legal
5 reason.

6 Q. I take it, following through from that, it would be bad
7 practice to rely on fingerprints taken possibly by an
8 untrained person?

9 A. Well, it does depend, doesn't it, really. It depends
10 what you get in the end. You wouldn't rely on letting
11 someone do it for you, not knowing what you might get.

12 Q. So you just see what comes out and see if it's good
13 enough?

14 A. I've seen fingerprints taken by police officers that are
15 terrible and appalling and can't be used and they are
16 supposed to be trained. We're faced with this problem
17 all the time in fingerprint bureaux.

18 Q. Let us go on with the statement about Mr Wertheim, the
19 last two lines on that page and on to the next page:

20 "In March 1999 Mr Wertheim took nine inked
21 impressions of Shirley McKie's left thumb, presumably
22 for comparison with the mark Y7. It is my professional
23 opinion that none of these inked impressions reaches the
24 required quality and quantity of friction ridge detail
25 for comparison with the mark Y7. In such circumstances,

1 the person taking the thumbprint should have ensured
2 that all areas of the friction ridge detail on the left
3 thumb should have been carefully recorded."

4 The fact is, Mr Leadbetter, you have no idea if
5 Mr Wertheim took rolled impressions, do you?

6 A. I think I've got a copy of the ones he took somewhere.

7 Q. I don't wish to spend too much time on this,
8 Mr Leadbetter, but the ones that you have seen, you have
9 not seen all of the prints that Mr Wertheim took?

10 A. No, I'm sure that true.

11 Q. So if he was to say that he is pretty certain he took
12 rolled impressions, again, do you have any comment or
13 criticism of him?

14 A. Well, as I say, the only ones I've seen were plain
15 impressions taken by him, which didn't adequately
16 provide the area that you needed to compare up on the
17 top right-hand side. If he took rolled impressions,
18 correctly, they would have disclosed these
19 characteristics at the top and that may be one good
20 reason why we've never seen them.

21 Q. What are you suggesting?

22 A. Well, that if you get a rolled impression, as Mr Swann
23 was doing in his evidence yesterday, there's a clear
24 cluster of six characteristics at the top which are
25 clearly identifiable with the rolled impression which

1 was taken in the blue ink. Why have we never seen any
2 rolled impressions taken by Mr Wertheim?

3 Q. Please be very careful, Mr Leadbetter. Are you
4 suggesting that Mr Wertheim has concealed something from
5 this Inquiry and from the criminal trial? Are you
6 suggesting that?

7 A. No, I'm not saying that but there is a good reason --
8 there is a good reason for him to show us the rolled
9 impressions, isn't there, surely?

10 Q. Please don't do anything by implication, Mr Leadbetter.
11 What are you suggesting about the fact that the rolled
12 impression has not been produced? What are you
13 suggesting?

14 A. Because the normal thing, when you take fingerprints for
15 comparison purposes you take a rolled impression. You
16 do not take plain impressions. It's the normal
17 practice. You may take plain impressions as well as
18 rolled impressions but you would certainly want to see
19 rolled impressions as well.

20 Q. Mr Leadbetter, be very careful, please. Are you
21 suggesting that Mr Wertheim concealed something from a
22 criminal trial and concealed it from this Inquiry?

23 A. No.

24 Q. Now Mr Wertheim, his position, as I understand it, is he
25 looked at Y7; he saw where the core was; he saw the area

1 of Y7 and he took numerous impressions, up to maybe 100
2 or 150, repeatedly checking the position, the side, the
3 tip, the flat surface, near the core, towards the top,
4 so that he was getting every conceivable area he
5 possibly could.

6 Do you have any criticism of him doing that to try
7 and replicate?

8 A. None at all. That's how it should be done.

9 Q. Because he has the advantage, doesn't he, that he knows
10 approximately the area of the thumb that was being
11 suggested belongs to Shirley McKie and the obvious thing
12 is to repeat and repeat and repeat to see if you can see
13 the same detail?

14 A. Indeed, yes.

15 Q. I think it is suggested in your precognition -- in your
16 statement rather, in the second paragraph on that page,
17 if we can have the second paragraph brought up, you say:

18 "Mr Wertheim also reported he had taken more than
19 100 inked impressions from the left thumb of Shirley
20 McKie. Again, no self-respecting Fingerprint Examiner
21 would ever need to resort to such a ridiculous procedure
22 as it must be quite obvious, even to a complete layman,
23 that after taking several impressions, for example ten,
24 no more detail could be achieved by taking another 90."

25 Having regard to what I've told you, are you

1 prepared to withdraw that as a criticism of Mr Wertheim?

2 A. Well, I withdraw it now that you've told me what you've
3 told me, yes.

4 Q. The point is, Mr Leadbetter, you were prepared to use
5 language like "ridiculous procedure" and "no
6 self-respecting Fingerprint Examiner" when you didn't
7 know why he took over 100 fingerprints?

8 A. Well, it did seem rather strange, I have to say.

9 Q. Mr Leadbetter, you're making a very serious allegation
10 and attacking the character of someone without knowing
11 the facts.

12 You understand that that is an extremely dangerous
13 thing to do?

14 A. I do, yes.

15 Q. Because we've now had the withdrawal of at least two
16 things in your statement which were serious attacks on
17 Mr Wertheim's character.

18 A. I should add I have been under constant attack for
19 several years on the web, various vile and slanderous
20 remarks.

21 Q. Is that why you did this?

22 A. No, of course not. I've never responded to any of them.
23 I only wrote this when I knew I was required to be
24 giving evidence here.

25 Q. Another serious allegation about Mr Wertheim relates to

1 the quotation, a report from CLPEX, and I will tell you
2 now on Mr Wertheim's behalf it is accepted this was said
3 by him on CLPEX, he says:

4 "I was in NO WAY qualified to testify to fingerprint
5 identifications when I was first accepted in court as
6 'an expert' in the late 1970s."

7 He explains he attended a two week class in unique
8 classification which also touched on latent print
9 development and latent print identification.

10 "Our comparison exercises were inked to inked.
11 After that there was no OJT in my department and I had
12 to teach myself. Within two years I was testifying to
13 identifications. I never had a senior examiner check my
14 work and never had a single proficiency test."

15 You go on to say this:

16 "From this it is quite clear that Mr Wertheim,
17 although himself realising that he was in no way
18 qualified to testify, was still willing to take the
19 stand and deceive the US courts and justice system."

20 Do you wish to withdraw that, Mr Leadbetter?

21 A. Yes, I will withdraw that, yes.

22 Q. Why?

23 A. Because there's no proof that he intended to deceive.

24 Q. There's no proof that he deceived anybody.

25 A. No, but his training wasn't exactly that professional,

1 was it?

2 Q. That's not the point I am seeking to make. Mr Wertheim

3 tells the world on the Internet that way back in the

4 1970s he didn't feel he was properly trained.

5 A. Yes.

6 Q. Mr Wertheim's position, on whose behalf I act, has

7 indicated to me that not only were the prosecution told

8 about what his training was or lack of it, the defence

9 was told, the judge was told and the jury was told. If

10 that's correct, where is the deceit?

11 A. There's none.

12 Q. Why did you make an allegation that he appeared to

13 deceive the US courts and justice system without finding

14 out what the facts were, Mr Leadbetter?

15 A. Well, I have to say I made a mistake, didn't I.

16 Q. You go on to use words like you're, "disgusted that

17 Mr Wertheim and others have attempted to throw doubt on

18 the fingerprint system". Is that the feeling you have

19 towards Mr Wertheim? You are disgusted with him?

20 A. I'm not at all, no. I have no personal aspect in this

21 at all.

22 Q. You say in your statement that you take no pleasure in

23 criticising other experts. Would you agree with me that

24 you are certainly pretty enthusiastic in your statement

25 with criticism?

1 A. I suppose I'm enthusiastic but I take no pleasure in it.

2 Q. I do not intend to deal with all the people you
3 criticise but Mr Arie Zeelenberg is the next, you have a
4 go at his character. You have:

5 "... serious concerns regarding this expert's
6 experience and competency. I base this mainly on his
7 involvement with the Evett Williams fingerprint survey
8 of 1987 but also his unconventional, weird, examination
9 of the latent mark Y7."

10 What was weird?

11 A. Well, I understand from reading the report from
12 Justice 1 that he applied a grid system on one mark and
13 superimposed it on another, which is something I've
14 never heard take place within fingerprint identification
15 in my life.

16 Q. Where did you get that understanding from,
17 Mr Leadbetter?

18 A. Well, I seem to remember reading that from the Justice 1
19 report. I'm not sure exactly where.

20 Q. You see we have obviously heard from Mr Zeelenberg. Did
21 you read his testimony before this Inquiry?

22 A. No.

23 Q. Let me put to you what he says the purpose of the grids
24 was. As I recall it, he indicated that a grid was put
25 up over Y7 and a grid was put up over the inked mark and

1 it was used as a reference point so that when everyone
2 is sitting round a table someone can say, "Let's talk
3 about the bifurcation at point A3. Do we see a
4 bifurcation at all in that area on, let's say, Y7", and
5 everybody knows what they are talking about.

6 It's not used as some kind of map it's used just to
7 save everyone going up and having to point and say, "I'm
8 talking about this bit here". It's not an analysis
9 tool.

10 Do you understand what I'm saying?

11 A. I understand exactly, yes.

12 Q. Nothing weird about that, is there?

13 A. Wouldn't seem to be, no.

14 Q. So we remove the "weird examination" bit, we get to the
15 Evetts Williams information.

16 You gave evidence to the effect that Evett Williams
17 was not a competency test. Is that your understanding
18 of Evett Williams?

19 A. I never saw it as a competency test, no.

20 Q. I don't wish to go to it but it is in Mr Zeelenberg's
21 statement if we have to where he gives the quote -- I
22 think, in fairness, we should just go to it.

23 Mr Zeelenberg's statement FI0115, page 28, please.

24 We can see he quotes from the conclusion of Evett
25 within this and I will just read it out. This is Evett

1 as I understand it:

2 "There is a widespread view among UK Fingerprint
3 Experts that because they work to a higher number of
4 points than most of the rest of the world their
5 'standards' are in some sense higher. The collaborative
6 study showed this to be a mistaken view. If standards
7 are measured by the avoidance of mistaken
8 identifications then experts in Holland and Germany are
9 more cautious than their UK colleagues -- even though
10 they declare a lower number of points for identity."

11 Just pausing there, if I may, is that something you
12 recall within the opinion of Evett?

13 A. I don't recall it. I did take the Evett Williams test
14 but it was back in 1988.

15 Q. Is that different to what was going on in the Evett
16 Williams report? Are you saying you were part of the
17 cohort that had to examine the images?

18 A. Yes, I was, yes.

19 Q. We can see that what Mr Zeelenberg says at 121 is that
20 before the quotation that I read out:

21 "In consultation, we found out that our conclusions
22 were in line with those of the experts of the LKA in
23 Germany who have a roughly equivalent position to our
24 own organisation."

25 Were you aware of that?

1 A. Only when I came here. I wasn't aware that Germany took
2 part until I came here.

3 Q. You see, the difficulty is you were using Evett Williams
4 as a suggestion that Mr Zeelenberg personally is in some
5 way incompetent?

6 A. Well, it seems just highly incredible to me that anybody
7 could not make those identifications.

8 Q. As Mr Zeelenberg explained to us they were given two
9 images and all that was being asked is whether they
10 would be prepared to draw an identification, not to go
11 through an exercise of identification, whether they
12 would be prepared, as a matter of standards, to go to
13 court with that identification.

14 A. Having read what I have, I still find it incredible the
15 conclusions he came to were so far off our mark.

16 Q. You see the quotation very clearly implied if not
17 expressed that the difficulty is or one conclusion is
18 that experts in the LKA in Germany and the Dutch
19 National Police Force are more cautious than what might
20 be viewed as being a somewhat gung ho attitude by UK
21 experts?

22 A. Not at all. I've been taught to be cautious as well and
23 we are not gung ho at all. We have a very, very high
24 reputation in our fingerprint work.

25 Q. Did anywhere in the Evett Williams report the authors

1 suggest that the Dutch police or, indeed, Mr Zeelenberg
2 were to any extent lacking in competence?

3 A. I can't recall but I'm sure they didn't.

4 Q. They didn't?

5 A. Well, I'm sure they would not have said that.

6 Q. Mr Evett is a statistician, isn't he?

7 A. He is indeed, yes.

8 Q. He was looking at it from a statistical point of view
9 and an overall methodology rather than any sense
10 incompetence?

11 A. I would imagine that's definitely the case, yes.

12 Q. I think in the course of this Inquiry, in your evidence
13 earlier today, you suggested with regard to one point of
14 detail that Mr Zeelenberg was either incompetent or
15 seeking to deliberately mislead this Inquiry. Do you
16 remember saying that?

17 A. I do, yes.

18 Q. Is that something that you are prepared to say in front
19 of this Inquiry, draw a conclusion like that? Are you?

20 A. Well, I suppose I should withdraw that, yes.

21 Q. I just have a few more questions. I will not be much
22 longer, sir.

23 I would like to ask you to look at a comment of
24 Mr Kent in his Fingerprint Inquiry statement. I think
25 it is FI0052, please. I would like, if we can, to go to

1 paragraph number 47.

2 I will just read this out:

3 "In document [and he gives the reference] letter
4 from Terry Kent to Owen Taylor, I made reference to
5 trials carried out with 60 experts in relation to their
6 ability to locate characteristics on digitised images.
7 The experiment I designed in collaboration with Juliet
8 Rason, who did much of the hard work, is probably the
9 most objective evaluation of the interpretation of
10 fingerprint images by UK fingerprint experts. The Evett
11 & Williams study which preceded it was an interesting
12 experiment, although somewhat flawed. It sought to
13 review the 16-point standard in England and Wales and,
14 as a part of that review, sent out a number of print
15 pairs for comparison to fingerprint experts as a postal
16 exercise. One of the flaws was that due to the postal
17 nature it was essentially uncontrolled and there were
18 anecdotal tales of exercises being passed around whole
19 fingerprint teams as opposed to being simply one
20 expert's work."

21 You recognise that even Mr Kent has some concerns
22 over the methodology of the Evett Williams study?

23 A. Apparently so, yes.

24 Q. That is something you are not in a position to dispute,
25 that there is some concern over the methodology, are

1 you?

2 A. No.

3 Q. You are fairly free with your criticism in your
4 statement of a number of expert witnesses as we have
5 seen, Mr Leadbetter. I would like to ask you this: what
6 of the experts that you have not named in this who have
7 come to the contrary conclusion -- I will put their
8 names to you in a moment -- what is your comment to
9 this? Mr David Ashbaugh: is he someone you consider is
10 experienced and qualified to express a view?

11 A. I would say so, yes.

12 Q. As far as Mr Ashbaugh is concerned, I need not trouble
13 you with it but there is available to this Inquiry an
14 e-mail written by him in 2000 to the Crown Office in
15 which he indicates, very much like Mr Wertheim, it took
16 him a matter of minutes to conclude there was no match
17 between Y7 and Shirley McKie's print but, again, he kept
18 his mouth shut and went away and considered it.

19 If Mr Ashbaugh has come to the view there was no
20 match, do you not have respect for that view at least?

21 A. Well, that's his opinion, isn't it?

22 Q. I think in the e-mail Mr Ashbaugh says that once the
23 images became public, he had passed it out in his
24 training programme. Have you ever trained with
25 Mr Ashbaugh?

1 A. I have actually, yes.

2 Q. Do you have confidence in his training programmes?

3 A. I say "training". I attended one one-week course at the
4 Metropolitan Police where he gave a week's instruction
5 on ridgeology.

6 Q. As far as his training course is concerned, as I
7 understand the e-mail, he says out of some 500 experts
8 who had come along to the training course, not one
9 identified these two as a match. Does that surprise
10 you?

11 A. Somewhat, yes. It depends how long they had to look at
12 it and what sort of material they were supplied with, of
13 course. When I was on the course at the Yard, it was
14 just flashed up on the board for a matter of minutes and
15 we were told it was not identical.

16 Q. Mr Grigg gave evidence to this Inquiry as I understand
17 it. He was of the firm view that Y7 wasn't correctly
18 identified. Do you have any criticism of his
19 competence, capability, his independence?

20 A. I've never worked with him. I couldn't comment.

21 Q. What about Mr Sheppard? Do you know Mr Sheppard?

22 A. Yes, I know Mr Sheppard, yes. I know Mr Grigg.

23 Q. Any question of their capability of competence?

24 A. Well, I can't say because I haven't work with them. I
25 know they've been in training for years and haven't done

1 actual fingerprint work for some time.

2 Q. What about David Grieve then, who gave evidence in
3 Shirley McKie's case?

4 A. Yes, I know David Grieve.

5 Q. Any comment about his capability and experience?

6 A. I can't comment on him because I haven't worked with
7 him. I know he's done a lot of writing and he's a
8 manager.

9 Q. Devon & Cornwall Police: we saw a letter from them
10 saying that their Identification Department concluded
11 that there was no match between Y7 and Shirley McKie's
12 print. Have you any comment about that?

13 A. That was a reply to a letter from Mr Harry Bell who sent
14 out the marks to all the bureaux round the country.
15 Keith Townsend responded and I think he was the only one
16 who did respond as far as I'm aware.

17 Q. I think the evidence on that was somewhat vague. Who is
18 Steve Haylock?

19 A. Steve Haylock. He's just retired as the Head of the
20 City of London Fingerprint Bureau.

21 Q. Yes. He's an experienced and qualified expert, is he?

22 A. Indeed, yes.

23 Q. If there was to be evidence before this Inquiry that he
24 also concluded that there was no match between Y7 and
25 Shirley McKie's --

1 A. Well, I work for the City of London from time to time
2 and he told me that he still hadn't come to his
3 conclusions. That's what he's told me. I can't add
4 anything more than that.

5 Q. Well, I'm going to put to you specifically -- and we
6 will produce this to the Inquiry -- that he expressed a
7 view that there was no match between Y7 and Shirley
8 McKie's mark. He said that he found the unfolding of
9 events, and he is addressing Iain McKie in regards this
10 case:

11 "... almost beyond belief and that fingerprints
12 experts I had spoken to find it inconceivable that an
13 'incorrect identification' could get as far as it with
14 the results that it did. I fully support the findings
15 of the experts employed by HMIC for Scotland having been
16 shown copies of both the marks to which you refer."

17 Now, are you saying that he has at some stage
18 indicated he has no view on it?

19 A. No, I haven't said that. What I said was that he had
20 not come to a conclusion. That's what he told me. If
21 that's different from what he's put in that letter, I
22 can't add anything more than that.

23 Q. Mr Leadbetter, finally, I am suggesting to you against
24 the large number of experts throughout the world who
25 have come to the conclusion that Y7 has not come from

1 Shirley McKie, do you accept any possibility that you
2 might be wrong in your analysis?

3 A. I do not, no.

4 Q. Absolutely none?

5 A. Absolutely not.

6 Q. So by implication David Ashbaugh, Mr Grigg, Mr Sheppard,
7 Mr Grieve, Devon & Cornwall, Steve Haylock are wrong?

8 A. Well, I have to say yes.

9 MR SMITH: Thank you.

10 THE CHAIRMAN: Miss Grahame, have you any application?

11 MISS GRAHAME: No thank you, sir.

12 THE CHAIRMAN: Mr Holmes?

13 MR HOLMES: No thank you, sir.

14 THE CHAIRMAN: Mr Russell?

15 MR RUSSELL: Sir, I would just perhaps wish to put one
16 matter to Mr Leadbetter which follows on from Mr Smith's
17 examination, which is the issue of why Mr Leadbetter
18 might have responded in such terms as to the conduct of
19 Mr Wertheim. It's a single question which will take no
20 time.

21 There's the issue of allegations having been made by
22 experts and the impression given by Mr Smith is that
23 Mr Wertheim and Mr Zeelenberg are lily-white and would
24 never have resorted to such language; whereas it is a
25 matter of record that Mr Wertheim has, for many years,

1 years Mr Wertheim and Mr Zeelenberg have made a number
2 of very serious allegations as to the honesty/conduct of
3 UK fingerprint experts, particularly those of SCRO, and
4 that there have been very specific allegations against
5 named officers of dishonesty and criminality?

6 A. Yes, I have heard that, yes. I'm aware of that, yes.

7 Q. Is it reasonable to say that your response, as recorded
8 in your statement, has perhaps been precipitated by that
9 atmosphere?

10 A. To a degree, I believe that's the case. I've never
11 actually responded to any of the allegations that have
12 been made. In fact, there was one published last week
13 on the net stating that they doubted -- whoever it was
14 who stated it and anonymously, I believe, although the
15 name of Colin might have been used -- they stated that
16 they were curious to know why I should be here, what was
17 my competency basically and they looked forward to a
18 day's entertainment when I appeared on the stand. That
19 was what was said and I thought that was a very, very
20 inappropriate statement to make when we are considering
21 such grave and serious issues.

22 Q. The fact is that over many years Mr Wertheim in
23 particular has made the most serious, grave allegations
24 against named SCRO fingerprint experts?

25 A. Indeed, yes.

1 MR RUSSELL: Thank you.

2 THE CHAIRMAN: Do you have any questions remaining?

3 MR MOYNIHAN: No thank you, sir.

4 THE CHAIRMAN: I want to ask one question, which perhaps at

5 this stage of the Inquiry is somewhat naive, but one

6 repeatedly hears how you can see features if you look at

7 one copy of the print, one copy of the mark, but it's

8 not to be seen on another and so on and sometimes when

9 it's reproduced it isn't as good as it was the first

10 time and so on.

11 Do fingerprint experts ever go -- and I fully

12 understand that Mr Swann did go and examine the original

13 mark and indeed Mr Wertheim and others have done so --

14 but do they ever go and conduct their examination on the

15 actual mark which, in a sense, is the best evidence?

16 A. Most certainly but primarily this is done by Scenes of

17 Crime Officers who are not generally fingerprint

18 experts. In Cambridgeshire and certainly when I was at

19 Hertfordshire, if we had a serious offence we had a team

20 of experts who would be specifically ordained to go to

21 that particular crime. But we do also get lots of

22 exhibits come into the Fingerprint Bureau which still

23 have the marks on them.

24 THE CHAIRMAN: But what I am really wondering is do you go

25 and look through your glass or whatever you use and

1 actually look at the mark? You see, sometimes I am
2 being told, as indeed you did and I can understand, that
3 that could be black powder or it could be filling in the
4 mark where a pore was, but it seemed to me that all
5 these issues could have been or could be resolved if you
6 actually look at the mark itself rather than relying on
7 what is portrayed in the representation of the mark.

8 A. Certainly, sir -- most valid, yes.

9 THE CHAIRMAN: That is why I am asking you in a difficult
10 mark do examiners actually go and conduct their
11 examination of the mark itself?

12 A. It has been known, yes, but it's not sort of a normal
13 routine.

14 THE CHAIRMAN: I can see it is not always possible --

15 A. Of course --

16 THE CHAIRMAN: -- but where possible I can see that there's
17 some sense in doing it, especially if you get in a
18 situation which we have been in in which various
19 reproductions of the mark reveals something and others
20 don't.

21 A. Most certainly. When I was at Cambridgeshire, we had
22 the case of the two girls that were murdered at Soham
23 and I made the identification on that which was on the
24 original exhibit on a black polythene bag. I examined
25 that and made that identification myself. So there is

1 an instance where we do actually look at the mark.

2 THE CHAIRMAN: So it is possible to conduct the

3 examination --

4 A. Most certainly, sir. In many cases if the article bears

5 fingerprints where they cannot be lifted at the scene,

6 the articles will be sent up to the fingerprint

7 laboratory and taken into the photographic studio. So

8 the item is always there available for the officers to

9 look at. Likewise, with any documents which need to be

10 chemically treated you can always look at the actual

11 item.

12 THE CHAIRMAN: The only other matter I want to ask you is

13 the same question as I asked Mr Swann. In your very

14 considerable experience, is what we have called the

15 Rosetta mark something that is unusual or common or you

16 have seen in other places?

17 A. Of course, each feature is quite unique but it is an

18 unusual one in that it chips so sort of at a 45 degrees

19 angle. The normal flow of fingerprints is for things to

20 flow gently and not be angled. It is rather an unusual

21 feature in some respects, yes.

22 THE CHAIRMAN: Thank you very much and thank you for coming.

23 We are now going to be able to let you catch the train

24 as hoped. Thank you very much indeed.

25 Do you want to start Mr Macpherson today?

1 MR MOYNIHAN: No, sir. There is one other matter just to
2 raise. I wasn't proposing to start Mr Macpherson at
3 this time of the day but we could if necessary. The
4 other piece of business that is unresolved that is
5 carried also perhaps for Tuesday morning is the
6 unresolved question about Mr Wertheim, the issues is to
7 be raised with him and the consequences of that.

8 I don't know whether, sir, you are prepared to do
9 that on Tuesday morning or deal with that now. It is
10 entirely a matter for you.

11 THE CHAIRMAN: I am quite content to deal with it.

12 Mr Leadbetter, you are absolutely free to pack up and
13 go.

14 **(The witness withdrew)**

15 THE CHAIRMAN: I am anxious not to lose time on Monday --

16 MR MOYNIHAN: On Tuesday.

17 THE CHAIRMAN: -- or to keep Mr Macpherson waiting while we
18 deal with it. Are you both in a position to deal with
19 it today?

20 MR SMITH: I may say, sir, I was not anticipating having to
21 discuss it today but there's actually a couple of cases
22 that I might wish to present to you, sir, which I didn't
23 bring copies of which relate to the issue of experts
24 witnesses and --

25 THE CHAIRMAN: Well, it looks as if -- I think the sooner we

1 deal with it the better because arrangements have to be
2 made. I think I should indicate that one aspect I have
3 been exploring is I have to be very careful about public
4 expenditure and the cost of bringing Mr Wertheim back.
5 If we can do it by video link that recommends itself for
6 two reasons: (1) not just the public expenditure but
7 also the inconvenience to somebody having to fly from
8 the United States here and back when he has already been
9 here on one occasion. If we can to it that way, I would
10 at the moment be very much minded to adopt that
11 approach.

12 MR SMITH: I may say, sir, that I have obviously been in
13 discussion with Mr Wertheim and the position that he is
14 adopting is that really on my advice it depends very
15 much on your decision, sir, as to what questions can be
16 put as to his preference would be either to coming over.
17 Clearly if an allegation of criminal conduct was to be
18 put to him, then he would be prefer to be here. If that
19 was something ruled upon and was going to feature, then
20 I think he would be more than happy to accommodate by a
21 video-link, as I understand. He is keen to assist as
22 much as he can.

23 THE CHAIRMAN: Obviously I can't answer that question before
24 we deal with the main issue.

25 We will just have to reserve that. Would you like

1 that dealt with on Tuesday before we begin the evidence?

2 MR SMITH: Yes.

3 MR HOLMES: I am quite happy to deal with it then, sir.

4 THE CHAIRMAN: We will sit again at Tuesday morning at

5 10.00.

6 **(3.36 pm)**

7 **(Adjourned until 10.00 am on Tuesday, 27th October)**

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