

Wednesday, 28th October 2009

1

2 (Afternoon session)

3 (1.50 pm)

4

HUGH MACPHERSON

5

Examined by MR MOYNIHAN (continued)

6

Q. Mr MacPherson, what I want to do just while we have the

7

images up just now, this pair which is FI2810.09, is to

8

ask you now about the movement. We're now looking at

9

the upper part of the mark. If it is convenient to

10

discuss that later then, please, just indicate.

11

First of all, what I was wanting to understand was

12

when I am looking at Y7, you have obviously drawn an

13

L-shape, if I can call it that, line in red that

14

covers -- it's fairly clear.

15

Do I understand that you are indicating that beneath

16

the red line the area of the mark is to be regarded as a

17

single touch?

18

A. Yes.

19

Q. Indeed, a relatively static single touch?

20

A. Well, if it was placed first and then there's an

21

anticlockwise movement to the tip, to the top, sorry, or

22

it may have been the other way round, the tip was placed

23

first, clockwise movement, and then placed again.

24

Q. If I could just put that image to the side just now and

25

bring up Mr Mackenzie. That is CO0059. What I am

1 interested in bringing up, I think, is digital page 12.

2 Mr Mackenzie's CO0059 is the booklet.

3 First of all, have you had an opportunity to study

4 Mr Mackenzie's --

5 A. I've never seen Mr Mackenzie's presentation until -- I

6 think I saw some of it earlier on.

7 Q. What I am interested in is he has put in a series of

8 points, 1 to 22, in the lower section of the mark.

9 Do you see those?

10 A. Yes.

11 Q. First of all, would you understand those to fall within

12 the area you would have beneath the red line on Y7?

13 A. Yes.

14 Q. Therefore, consistent with having been deposited in the

15 same single touch?

16 A. Yes.

17 Q. The other number of points which I am interested in is

18 on the right-hand side where the line takes, in Y7, the

19 right-angle turn, there was an area of ridge feature

20 which is below the red line.

21 A. Yes.

22 Q. That, if I understand it correctly -- and if you want to

23 see a paper version or an original version, no doubt you

24 can, of what is on the screen from Mr Mackenzie -- I

25 understand that to correspond to his area of charting,

1 33 to 37.

2 Do you see that?

3 A. I see it, yes.

4 Q. The way that you have drawn it, if I understand it
5 correctly, are you indicating you would regard the
6 points 33 to 37 as having been deposited in the same
7 single touch as the points 1 to 22?

8 A. Yes.

9 Q. So we, therefore, have 22 plus 1, 2, 3, 4, 5. So we
10 have a total of 27 points deposited in a single touch in
11 the lower part of the mark?

12 A. Can I just say the area -- I can't actually see where 33
13 goes but that's maybe not an area I personally would
14 have gone into.

15 Q. As you say, it may be a little difficult just on this
16 copy. That why is I was wondering about giving you an
17 original version. I will show you my copy. Even mine
18 is only a photocopy. **(Handed)**

19 Mine has all the limitations of being a photocopy, I
20 must say.

21 A. It could be the single, as you said earlier, yes.

22 Q. I don't wish to press this beyond it doesn't really
23 matter too much to me whether it's 33 to 37 or 34 to 37.
24 It doesn't really matter but some of those points -- if
25 I could take the booklet back just now -- some of those

1 points, four or five of those points would fall into
2 the sequence.

3 A. Yes.

4 Q. We will come back to those points just in a moment.

5 What Mr Mackenzie has charted is a combined total of
6 45 points in sequence and agreement in Y7.

7 Are you in a position to comment on that charting?

8 A. It's Mr Mackenzie's interpretation of the mark.

9 Q. Are you able to comment?

10 A. In what way, Mr Moynihan?

11 Q. Let us come back --

12 A. Could I just ask, you said before this exercise started
13 that we would only be referred to the charting that we'd
14 done but you seem to be asking me about other people's
15 interpretation of the mark which I don't quite
16 understand. This was not involved in phase 2 of the
17 comparative exercise that I agreed to do for the
18 Inquiry.

19 Q. Okay. I will tell you why I am doing this so that you
20 understand. We have taken a bit of a diversion on our
21 journey round the clock because you wanted to look at
22 the pattern of movement.

23 A. I was wishing to illustrate how I saw the pattern of
24 movement, yes.

25 Q. So what I was wanting to do was therefore just to follow

1 detour to see if we can understand the pattern of
2 movement and then we will come back to the journey round
3 the clock.

4 If you want me to leave this to the end, I am quite
5 happy to --

6 A. No, carry on.

7 Q. Do I take it then you are unable to comment on
8 Mr Mackenzie's charting?

9 A. It's very difficult just to look at a screen just to
10 give some sort of comment. As I said yesterday, I've
11 always felt that the area that I've marked off in red
12 was fragmentary and insufficient for me. That was back
13 in 1997 of course.

14 Q. This is the reason why I am asking you to look at this.
15 If we take Mr Mackenzie has a total of 45, points 1 to
16 22 which are marked in the lower half take us down to
17 23, left, a net 23. We would then subtract a total of
18 five may be, 33, 34, 35 and 36, which would take us to
19 18 or subtract four because 33 is in doubt, would give
20 us 19 points that he has marked in the upper part.

21 A. Yes.

22 Q. What is being put, therefore, for your consideration and
23 for your comment is the same theme I'm running with all
24 of this, whether you admit of the possibility that the
25 conclusion about a mark is capable of legitimate

1 difference of personal opinion because you regard this
2 upper section as fragmentary and insufficient and
3 Mr Mackenzie, on this view of it, can find 18 or 19 not
4 only discernible points but so far discernible that he
5 can satisfy himself that they are in sequence and
6 agreement with --

7 A. Are they second level detail points or are they Third
8 Level Detail --

9 Q. If not in sequence and agreement that he can find that
10 these clusters correspond to features in Y7. Are you
11 unable to comment on that?

12 A. Not really, no. Unless, as I gave the example earlier,
13 where I had made an identification with what I thought
14 were 24 characteristics and someone decided that it was
15 insufficient. So ... that's all I can say.

16 Q. If we then go back to the source and if we take down on
17 the right -- let us leave on the left, if we take down
18 on the right Mr Mackenzie and return ourselves, please,
19 to TS0004, chart M (for Michael), the source of the
20 particular chart that you are relying on on the
21 left-hand side of the screen is Mr Swann's chart?

22 A. That's correct.

23 Q. We have on the left-hand image, between the red line and
24 the edge of the mark, do you see four lines coming in?

25 A. Yes.

1 Q. In fact, if we looked at Mr Swann's original, he has
2 points 5, 6, 7 and 8. Do you see that?

3 A. Yes.

4 Q. If I understand Mr Swann's position correctly, where you
5 would suggest that that area of the mark has been made
6 in a single touch with the lower part of the mark,
7 Mr Swann is saying, in fact, that the features 1 to 8,
8 which includes 5 to 8, have shifted --

9 A. Yes.

10 Q. -- as a result of movement?

11 A. Yes.

12 Q. So your interpretation of this mark differs from
13 Mr Swann?

14 A. Possibly on the right-hand side of where I've marked the
15 L shape, it should possibly go out a bit further to the
16 right but ...

17 Q. It would need to go right to the coast because otherwise
18 you are going to encounter some of points that Mr Swann
19 says it is essential to understand as being affected by
20 the movement.

21 A. Yes.

22 Q. So you are in disagreement with Mr Swann?

23 A. I would have to say that I've always said that the top
24 of the mark for me was fragmentary and insufficient.
25 That's as much as I can say about it.

1 Q. What you told me a bit earlier on is that part of it has
2 moved, depending on whether it is the bottom part or the
3 top part is first, if it is the bottom part first it's
4 moved anticlockwise; if its the top part that's
5 deposited first it's that the lower part has moved
6 clockwise?

7 A. I would suggest it's not just moved once. It's been two
8 touches at the top.

9 Q. In relation to the particular detail in the top of the
10 mark that's moved, are you able, even today, to discuss
11 that in detail?

12 A. I would have to basically put it under two glasses but
13 my feeling still is there's only two or three
14 characteristics up the top and it would still be
15 insufficient.

16 Q. If I take you to a charting that you produced
17 yesterday --

18 A. I think I'd said earlier there was one point in
19 isolation. When you showed me Mr Wertheim's overlay
20 there was one, possibly two, characteristics in
21 isolation. You then couldn't count through what has
22 come to be known as the blob and then you will come to
23 Mr Swann's characteristics. So if it's been put on two
24 times that would bring in Mr Swann's characteristics at
25 the top.

1 Q. With this inconvenience, I suggest, that in fact you
2 have drawn that four of those eight points in an area
3 that as far as you're concerned has not moved relative
4 to the bottom?

5 A. Well, I did say that was just a guide. I didn't say it
6 was ... you'll have to forgive my shaky hand. That
7 was ...

8 THE CHAIRMAN: You would move that what I might call the
9 upright side of the red further over, would you?

10 A. Maybe as it goes up, just before it goes out the
11 picture, sir, I would turn it to the right again.

12 THE CHAIRMAN: Yes.

13 MR MOYNIHAN: Mr MacPherson, if you can, what we will do is
14 enlarge -- which one do you want to use? The known or
15 the unknown to replot this line?

16 A. Chart M.

17 Q. Sorry?

18 A. Chart M.

19 Q. So, therefore, if I enlarge what you drew for us before
20 lunch on chart M, can you redraw for me, please, where
21 the fault line you say runs. **(Pause)**

22 You may need something more contrasting than the
23 magenta or maybe not.

24 A. Something like that **(indicated)**.

25 Q. But still we encounter the difficulty that point 7 and 8

1 as Mr Swann draws are below your line.

2 A. Yes.

3 Q. So we can't avoid the difficulty that there is something

4 inconsistent between your interpretation and that of

5 Mr Swann?

6 A. Yes, absolutely, yes.

7 MR MOYNIHAN: If we can just save that image, please.

8 MISS BAHRAMI: That's saved as FI2810.10.

9 A. If the mark has been placed on, as I said with two

10 touches above my line, maybe Mr Swann's characteristics

11 may come into alignment. But that was my difficulty I

12 had at the time with the mark Y7. I wasn't sure about

13 the top of the mark so I didn't use it.

14 MR MOYNIHAN: This is where I want to just follow this

15 through because even as of yesterday when you produced

16 the chartings, if you look again, please, at -- if we

17 take this pair down and bring up side-by-side TC2310.03

18 and TC2310.04.

19 A. Could I draw on this for you?

20 Q. First of all, you haven't heard the question yet.

21 A. Sorry.

22 Q. First of all, the question is this for your comment:

23 that what you have, in fact, produced is a limited area

24 of chart M that corresponds broadly to the lower area,

25 albeit in oblong shape?

1 A. Correct.

2 Q. So the charting that your charting you produced
3 yesterday does not attempt to explain the upper part?

4 A. That's correct.

5 Q. Therefore, if I return you to Mr Grigg's original image,
6 which is FI2909.13, and just have that as a single
7 image, now I can explain to you we're about to spend the
8 rest of this afternoon, I suspect, looking at the lower
9 part of the mark where the circles are that Mr Grigg is
10 discussing. But Mr Grigg has highlighted in the upper
11 part of the mark, by the long red arrow, the Rosetta?

12 A. Correct.

13 Q. Within the roughly yellow colour oval on Y7, the grander
14 blob, the area that's unclear?

15 A. Correct, yes.

16 Q. To the right he marks three features with red arrows,
17 yes?

18 A. Yes.

19 Q. If we bring up as another one just beside that, if we
20 bring up Mr Wertheim's original defence production
21 number 2, DB0172H and proceed through to the one with
22 the green circles.

23 I think it is quite faint but what I will do is
24 highlight it just now. We can see the arrows, one arrow
25 is in the vicinity -- in fact, we know the first green

1 circle to be in the area of the Rosetta?

2 A. That's correct.

3 Q. He draws three other arrows in the outer right, just
4 beyond the blob?

5 A. Correct.

6 Q. Taking it no further than this, there seems to be a
7 superficial similarity between Mr Wertheim's green
8 circles and Mr Grigg's arrows?

9 A. Yes.

10 Q. Mr Wertheim produced the lower document in the course of
11 the trial in May 1999. Mr Grigg has obviously drawn
12 this in September this year.

13 But I take it that ten years on from Mr Wertheim
14 having drawn what is in the lower part you still do not
15 have to your own satisfaction an explanation for the
16 upper part beyond dismissing it as fragmentary and
17 insufficient?

18 A. And there's movement, yes.

19 Q. But what movement?

20 A. Well, I was going to demonstrate that earlier today but
21 I don't seem to have been able to do it so ...

22 Q. So beyond what you indicated earlier today you have no
23 other explanation?

24 A. I could illustrate it for you.

25 Q. Please do illustrate.

1 A. As I said, the Rosetta characteristic as it's now become
2 known to me, that was a point in isolation and then, as
3 I think I said yesterday, you can go through the black
4 blob but I couldn't count through the black blob and
5 then there may be two -- another -- as I say, you can't
6 count through it so there's no way of telling they are
7 in sequence and agreement. The very top of the print
8 could have been a third touch but what I'm going to try
9 and illustrate to you is the movement that I see above
10 the points 15 and 16 that we were talking about earlier.

11 Q. Okay. Which image, therefore, do you want to use? Do
12 you want to use the SCRO numbers?

13 A. I could have used the images that I'd already started to
14 mark.

15 Q. Okay. Let us go back to the last saved image. Is that
16 the image you want to go back to?

17 A. I would need, obviously, TS0006 as well. I don't now
18 what the saved image was of the --

19 Q. If you give me just a second. TS0006 is Mr Kent's
20 image.

21 A. Yes.

22 Q. That is one image that you require. Do you also want an
23 image of chart M? Is that what you want?

24 A. Yes, I could take that one that's there.

25 Q. If you give me just a second.

1 A. Yes, but --

2 Q. Take down what is there and start again. TS0006 on one
3 side of the page. That is the image. We will enlarge
4 the particular mark of Y7. Then also enlarge -- I can
5 do that -- the mark. You don't need the numbers, do
6 you?

7 A. No.

8 Q. Is that sufficient for your purposes?

9 A. I hope so.

10 Q. Could we just do one thing, just in case we have to do
11 this from time to time. If we save this as a pair and
12 then we can come to this.

13 A. Is there any way I can enlarge the right-hand image a
14 bit more?

15 Q. Yes, you can. What is it you want? You can enlarge it
16 as you, please, before we save it.

17 A. That's fine.

18 Q. Can we save that, please?

19 A. I've not captured the image -- sorry, the right hand
20 impression. I've not captured the right area.

21 Q. Can we just stop the exercise.

22 Let us go back then -- I will take you back to the
23 start. I will give you, to begin with, the whole of
24 chart M, the rolled impression. You take whichever part
25 you wish. **(Pause)**

1 So are you happy with that? In that case if we
2 could save that, please.

3 A. That's saved as FI2810.11.

4 MR MOYNIHAN: Yes, Mr MacPherson.

5 A. I think that was an area (**indicated**) that I'd marked
6 before. The starting point for the chartings yesterday
7 was a ridge ending which is like a sharpened spear. So
8 that would be the point I would wish to start and mark
9 Y7.

10 If we come up, 1, 2, 3, 4 intervening ridges to what
11 has now become known as the Rosetta characteristic. The
12 corresponding ridge ending like a sharpened spear is
13 there (**indicated**). If you count up from that four
14 intervening ridges 1, 2, 3, 4; 1, 2, 3, 4, that should
15 be the Rosetta characteristic with the dot.

16 In actual fact, what you have to do, same starting
17 point, you go 1, 2, 3, 4, 5, 6, 7, we therefore have now
18 what's called the Rosetta characteristic and the dot.

19 So I would imagine -- I said yesterday that I didn't
20 remember looking at the Rosetta characteristic but, as I
21 said to you, before I start my examination I've taken in
22 as much information as possible but for me that is
23 indicative of the movement in the mark. Four
24 characteristics -- sorry, four intervening ridges here
25 and there's actually six or seven on the other side.

1 As I said yesterday, I think you can see the outline
2 of the movement which I've marked in the magenta colour.
3 Also, as I said, yesterday, the ridges come up and then
4 it's like a chopped down tree. I can see actually the
5 damage to the ridge there.

6 So my interpretation is there's been movement. You
7 can tell by the pressure -- there was deposition
8 pressure, the area I've marked in with the magenta line.
9 There's obviously been movement. If you take that
10 Rosetta as being what it is, a ridge ending and a dot,
11 it's moved and I also mentioned for me there's basically
12 what I would term as a sort of no-go area or a red flag
13 indicated by the red arrow.

14 So there are the four reasons for me surmising that
15 there has been movement in mark Y7. There's destruction
16 of the ridges; there's what I would call the no-go area,
17 you go into it and you cannot tell how the ridges come
18 out of that area and there also is a discrepancy in the
19 ridge count between the mark and the known impression.
20 So that's my explanation of certainly the movement in
21 the bottom -- sorry, the movement in the top.

22 What I was trying to say yesterday is I felt and I
23 still feel that counting between the Rosetta
24 characteristics and the characteristics at the top of
25 the mark is problematic.

1 Now, Mr Swann has identified these at the top.
2 That's fine. There could be -- because you can't count
3 through this black blob, there could be movement once
4 and then another subtle movement at the top. But
5 certainly for me that is where the main area of movement
6 is **(indicated)**, as I've indicated by the magenta line.

7 You've had the thickening of these ridges and the
8 pushing out of the ridges, there's been strong pressure
9 there. You go up and just to the top of the arrow,
10 there's a lightening of the ridges, a lighter touch
11 which would indicate that the thumb has been lifted,
12 there's not so much pressure and then the thumb has been
13 put back down again and you've got the compression of
14 the ridges and it's very, very obvious that there's
15 compression of these ridges and there's a thickness
16 there.

17 Now, it might have been put on once or it could have
18 been put on twice but, as I said, I've always found this
19 area of the mark to be problematic and that's why I've
20 kept away from it.

21 Q. Before we come back to that, you have said there's an
22 area in the bottom section where there is evidence of
23 pressure. It seems to be an area you were pointing to
24 somewhere below the large magenta arrow where you
25 observed thickening of the ridges.

1 Can you indicate for me, please, the area where you
2 observed the thickening of ridges?

3 A. This appears to me to be thickening of the ridges just
4 there **(indicated)** and there's obviously a pushing out of
5 the ridges, a sort of bowing of the ridges.

6 Q. So when you say a pushing out from the point of the
7 yellow arrow, which in fact is the right ridge of the
8 banana, number 9, are you indicating that there is
9 pressure --

10 A. No, it's not the right ridge of the banana, no.

11 Q. Sorry, okay. So --

12 A. It's two out from the banana. I'm sorry, can we just
13 call it a bifurcation, please.

14 Q. Okay. Two out from the bifurcation number 9, two ridges
15 out there's an indication of pressure?

16 A. A pressure, yes.

17 Q. Does that pressure prevail over the remainder of the
18 mark as it goes right?

19 A. No, I would say that that's the main sort of main area,
20 if you like.

21 Q. Localised to that particular point?

22 A. Yes.

23 MR MOYNIHAN: If we could stop and freeze this just now,
24 please.

25 MISS BAHRAMI: That's saved as FI2810.12.

1 MR MOYNIHAN: Let us look then at two slides that

2 Mr Zeelenberg prepared. We will bring them up in
3 PowerPoint first just to make sure we can see what is
4 happening. AZ0061 in PowerPoint. Begin at slide 104.

5 Mr Zeelenberg has taken chart M which does not
6 include the Rosetta. He has positioned the Rosetta by
7 my eye at the same point you position it, yes.

8 A. Yes.

9 Q. Then we will see he has also positioned the Rosetta on
10 Y7, yes?

11 A. Yes.

12 Q. What he has done is done a ridge count from the
13 bifurcation number 9 and we will see he agrees with you
14 that the ridge count is out relative to the position of
15 number 9?

16 A. Yes.

17 Q. So that is, on any stretch, a difference between the two
18 that requires explanation.

19 A. Because he has taken no cognisance of the movement in
20 the mark.

21 Q. It's a difference.

22 A. It's a difference yes.

23 Q. And the explanation you advance is movement?

24 A. Correct.

25 Q. What he is simply saying, as I understand it, is he does

1 not see evidence of movement?

2 A. That's correct, yes.

3 Q. Then the point that you are making about the inability
4 to count beyond the Rosetta to the cluster of points on
5 the right that Mr Swann has charted, some of which you
6 associate with the lower section, yes?

7 A. None of Mr Swann's associate with the lower section, no.

8 Q. You have had a bit of difficulty drawing the fault line
9 to avoid these points, haven't you?

10 A. I've had a bit of difficulty ... oh, as I say, as I
11 tried to say, the Rosetta could have been placed and
12 there could have been further movement at the tip.

13 Q. Let us just look then at slide 111. We will go from the
14 Rosetta to the points charted by Mr Swann.

15 Do you see that?

16 A. I know what you're presenting me here with is a sort of
17 **fait accompli** of what Mr Wertheim's conclusions are
18 but ... I mean, most of it, it's obliterated. It's a
19 drawing. How can I make any comment on that?

20 Q. Okay, if you can't comment on it then you can't comment.
21 Basically, what I understand Mr Zeelenberg to be saying
22 is that there is a problem counting from the Rosetta out
23 to Mr Swann's cluster on the right-hand corner.

24 A. I think I've admitted that myself, yes.

25 Q. If Mr Swann's evidence is correct, there's a difficulty

1 in actually reconciling what he has drawn and Y7 and
2 what he has drawn on Ms McKie's thumbprint?

3 A. Well, that's Mr Zeelenberg's interpretation and
4 Mr Swann's interpretation.

5 Q. What I would suggest to you is this: that, first of all,
6 it would seem from this that Mr Zeelenberg has made
7 every effort to consider the alternative explanations
8 advanced, yes?

9 A. Mm-hm.

10 Q. He has also come up with reasons why he would differ
11 from these alternative interpretations, yes?

12 A. Yes.

13 Q. What reason then do you have to say that Mr Zeelenberg
14 is wrong and you are right?

15 A. Because, again, he takes no cognisance of any movement.
16 That's what I took from his phase 2 exercise.

17 Q. What I would be asking you then is can you explain to me
18 how movement produces the mark Y7 as we find it on the
19 doorframe?

20 A. Well, I think I've tried to illustrate the movement to
21 you with my own drawing, if you like.

22 Q. We will leave it at that. If that finishes the
23 digression through movement, if I can then return to the
24 comparative exercise materials and, as I've said to you,
25 it's not my intention when going round the clock with Y7

1 to use anything other than the comparative exercise
2 materials so if we bring up FI0167A twice, please.

3 What I am, in fact, going to do: we have covered, at
4 least for my purposes, unless you have anything to, add
5 points 15, 16, 1 and 2.

6 Is there anything you wish to add about 15, 16, 1
7 and 2?

8 A. No.

9 Q. Point number 3 there would have been a minor point I
10 won't take up your time with. Mr Zeelenberg questions
11 the precise design and shape of number 3. Mr Wertheim
12 is prepared to accept point number 3 so, therefore, I'd
13 rather concentrate on the other points of difference.
14 They bring in the points 4, 5 and 6, the points that
15 immediately caught your eye.

16 I don't want, in fact, to concentrate just on that,
17 though. What I am going to do is concentrate really on
18 the run along the bottom of the mark, so 1, 2, 3, 4, 5,
19 6, 7, 8 and 9.

20 A. Yes.

21 Q. As I understand it, your interpretation of that run is
22 that, bar number 8, this is a row of bifurcations?

23 A. Yes.

24 Q. So we have a row of bifurcations. Any room for doubt
25 that that is the correct view of these features?

1 A. No. Well, I don't believe so. I did say that there has
2 been pressure just round about that area and point 6 may
3 have the appearance of a ridge ending but from -- my
4 belief is it's a bifurcation down.

5 I think if you look at the charts that I produced
6 yesterday, I tried to explain that. In fact, when you
7 look at the charts it's quite obvious it's a bifurcation
8 down.

9 Q. This is what I want to ask you about. Number 1 we've
10 covered, number 2 we've covered, number 3 I am just
11 choosing at the moment to take Mr Wertheim over
12 Mr Zeelenberg and say let's not debate the precise shape
13 of number 3.

14 Number 4 we come to. What is your interpretation of
15 number 4?

16 A. That's a bifurcation down.

17 Q. In particular can you draw, please, the shape that you
18 see as that bifurcation down.

19 A. **(Indicated)**

20 Q. So that's number 4. If we take it up to number 5, what
21 is number 5?

22 A. A bifurcation down.

23 Q. Again, can you draw that in for us, please.

24 A. **(Indicated)**

25 MR MOYNIHAN: Let us save that particular image, please.

1 MISS BAHRAMI: That's saved as FI2810.13.

2 MR MOYNIHAN: If I could go back. For the moment what I am

3 primarily interested in is the upper of the two

4 bifurcations to begin with, which is point number 5.

5 That is the one in yellow.

6 A. Yes.

7 Q. Let's go back to a clear image so, therefore, on the

8 left-hand side bring me up, please, FI0167A. I have

9 highlighted an area and blown it up. The area where my

10 cursor is just now I've put an arrow in, it happens to

11 be a yellow arrow, is the area where one is debating

12 what is happening to point number 4. Correct?

13 A. That's correct, yes.

14 Q. I will try and avoid the area but beneath my top yellow

15 arrow is the area one is trying to debate what is

16 happening at point number 5?

17 A. Yes.

18 Q. Beginning at point number 5, as it is just now, it is

19 simply a black ridge ending with a gap into which the

20 red dot is inserted?

21 A. I think you can see just above the red dot is very faint

22 but the ridge kinks in and joins on to the ridge to the

23 left. Can I draw it in?

24 Q. Yes, please.

25 A. It comes down like so (**indicated**) and like so

1 **(indicated).**

2 Q. What I have been talking about there is when one comes
3 to a feature such as 5, what you are doing is filling in
4 an area that was otherwise not as clear. There is, as
5 you say, something faint. There is a gap there?

6 A. A very, very faint gap. It could be a pore or whatever,
7 yes.

8 Q. But it's nonetheless a gap?

9 A. A slight gap but you can see the ridge is bending in
10 towards -- and as I've already said there's pressure
11 down at the bottom half of the mark.

12 Q. Let us come to point number 6. What I am going to do is
13 just put an arrow at point number 6, well below it
14 because I don't want to obscure any of the detail. So
15 point number 6 is a yellow arrow on the ridge

16 **(indicated).**

17 That ridge actually comes to a point, an ending?

18 A. Well, again it's very, very faint but I can see -- if I
19 could draw it in -- this ridge comes down like so
20 **(indicated)** and it is very, very faint but it comes down
21 like so **(indicated)**.

22 The point I admit could be possibly further up but
23 we were asked to replicate what we did with the charting
24 PC and that's what I did. The point could be, possibly,
25 further up.

1 Q. What that interpretation is preferring is that point
2 number 6 which, at the moment, is simply a black line
3 that comes to an end. You accept it's at present a
4 black line --

5 A. No, I don't agree with that, no.

6 Q. Just on the picture, it's a black line that comes to an
7 end.

8 A. I don't believe it comes to an end.

9 Q. On the picture?

10 A. Yes.

11 Q. Okay. Let us save what we have just now.

12 MISS BAHRAMI: That's saved as FI2810.14.

13 MR MOYNIHAN: Just if we complete this before the break, if
14 we bring up, again, FI0167A, please. I have brought it
15 up again.

16 Is there simply no possibility that where my cursor
17 is at the moment, at the head of the ridge which is
18 number -- it has beside it point number 6 -- that you
19 would concede that that could be looked on by a layman
20 as simply a point that comes to an end?

21 A. It could be by a layman but, in my opinion, the ridge
22 carries on and I think where the cursor is now you can
23 see that it joins on to the ridge.

24 I admit the point should possibly be further up to
25 illustrate that fact.

- 1 Q. That is an interpretation, is it not, which is not
2 attaching significance to the fact that between that
3 black point and to the right there is an area of black
4 that would appear to connect it to the ridge immediately
5 to the right?
- 6 A. Well, I don't believe it does, no.
- 7 Q. Why don't you believe that it does?
- 8 A. Because I've just said, I believe it goes to the left.
- 9 Q. Why do you ignore then the black that actually does
10 exist and, in fact, fills in the space between the two
11 ridges?
- 12 A. To me that's an intervening ridge between this
13 bifurcation down (**indicated**), intervening ridge and the
14 bifurcation down here (**indicated**). I said earlier that
15 there was a thickening of the ridge and I believe that's
16 what there is there. There is a thickening of the ridge
17 in that area.
- 18 Q. So A thickening of the ridge between where the cursor is
19 just now, which for the sake of posterity I'll put in as
20 an arrow, a yellow arrow?
- 21 A. Yes, that's correct, yes.
- 22 Q. Has in fact produced an apparent connection between the
23 two ridges?
- 24 A. Yes, an apparent connection between the right-hand ridge
25 but actually it is joined to the left-hand ridge.

1 Q. Do you know the position of Mr Wertheim, Mr Zeelenberg
2 and Mr Grigg in relation to this point?

3 A. I can't remember.

4 Q. They say that point number 6 is either a ridge ending
5 or, if a bifurcation, a bifurcation tending to the right
6 not, as you say, the left.

7 A. Well, I think I said yesterday if you look at the charts
8 that were prepared yesterday that would show that that
9 is inaccurate and incorrect.

10 Would it be possible to bring up the charting from
11 yesterday?

12 Q. It's possible to bring it up but, first of all, on the
13 comparative exercise material which is what you asked me
14 a few minutes ago if I was going to look at --

15 A. Yes.

16 Q. -- can you at least accept that there is an area of
17 legitimate difference as to point number 6?

18 A. It's not an area of difference. I would say it's an
19 area of interpretation.

20 Q. Sorry, that was my wrong choice of language. An area of
21 interpretation and judgment that might in fact produce
22 an alternative view by other experts?

23 A. Yes.

24 MR MOYNIHAN: What we can do, sir, perhaps it is an
25 appropriate point to adjourn and we will come back.

1 THE CHAIRMAN: Do you want this saved?

2 MR MOYNIHAN: Yes, sir we can save it.

3 MISS BAHRAMI: That's saved as FI2810.15.

4 THE CHAIRMAN: 3.00.

5 **(2.52 pm)**

6 **(A short break)**

7 **(3.04 pm)**

8 MR MOYNIHAN: Mr MacPherson, I was discussing this row that
9 is 4, 5 and 6 and you asked to look at your own
10 chartings from yesterday.

11 If I can bring up, I think what you would want is
12 the Kent image; is that correct? You won't need the
13 McKie print?

14 A. It would be TC2310.01.

15 Q. Or the one with green markings is .03.

16 A. Yes, either.

17 Q. The one we used today has been the one with green
18 markings, TC2310.03.

19 Please, if the green markings don't assist then we
20 can go back. I am just trying to orientate myself.

21 A. No, that would be fine.

22 Q. The green markings maybe don't help.

23 If we take your choice TC2310.01, here we have it
24 with the markings.

25 Can you then just assist us?

- 1 A. What we were talking about earlier was point number 6.
- 2 Q. Can I take you back? First of all, am I pointing the
3 pen at point number 4?
- 4 A. Yes.
- 5 Q. So let us mark that with an arrow. I will try and steer
6 clear of it (**indicated**). So the yellow arrow is 4?
- 7 A. That's 4, yes.
- 8 Q. In order to follow, if I put in a red arrow and again
9 steer clear of the detail (**indicated**), the red arrow is
10 at 5?
- 11 A. 5, yes.
- 12 Q. Now, have you drawn, put a green arrow, have you drawn 6
13 in the position you said you'd have preferred with the
14 dot a little higher up; is it where my pen is just now?
- 15 A. Just slightly to the right.
- 16 Q. Slightly to the --
- 17 A. Oh yes, sorry.
- 18 Q. I want to just steer clear, as usual, of the ridge
19 detail.
- 20 So point 4 is opposite the point on the yellow
21 arrow, point 5 is down from the red arrow, I have
22 steered well clear of it for a reason that will become
23 apparent in a moment, and then the green arrow is
24 opposite number 6?
- 25 A. Yes.

1 Q. You were wanting to explain by reference to this image.

2 A. It could be misconstrued that the ridge comes up to
3 where the cursor is at the moment (**indicated**) but you
4 can actually see, very faint I admit, that the ridge
5 bends in and joins just where the red dot is.

6 Would you wish me to draw on that?

7 Q. If we leave it just now, we will come back. If you can
8 give the full explanation then we will see what requires
9 to be drawn.

10 I was also looking at this image myself and I think
11 I picked you up yesterday as having said something also
12 that was of significance about point number 5.

13 Was I incorrect in picking up you saying something
14 about point number 5?

15 A. I don't remember but I think you can see that point
16 number 5, again where the cursor is, it comes up and it
17 bends to join to the top. I think what I said yesterday
18 was about there had been artificial yellow lines drawn
19 in as if he had to force the outer ridge on to the inner
20 ridge on both these points but I think, as you can see,
21 that's not the case.

22 Q. First of all, so far as point number -- I am sorry I
23 have taken over the mouse again -- so far as point
24 number 5 is concerned, on this image there is between
25 the black section of the ridge and the red dot there are

1 some grey or black little lines. Is that correct?

2 A. Yes.

3 Q. Tending in a left direction?

4 A. A leftward direction, yes.

5 Q. Which would be consistent with the bifurcation joining
6 the ridge to the left?

7 A. Correct.

8 Q. In relation to point number 6 if I find it again, point
9 number 6, again so far as black colour is concerned, as
10 far as black is concerned, it comes to an end, yes?

11 A. I wouldn't say it comes to an end. I would describe it
12 the way you described point number 5. It goes light
13 grey and then joins on to the left-hand ridge. It may
14 be something to do with the way it has been developed
15 with black powder or whatever, I don't know.

16 Q. What do you make, at least to my eye on the screen and
17 it is no more than my eye on the screen, to the fact
18 that there seemed to be almost as if this is a sort of
19 caterpillar antennae coming up from its head and
20 actually two grey lines, like the antennae of a
21 caterpillar, if a caterpillar has antennae -- I don't
22 know if they do -- a snail, yes, a snail perhaps is
23 better, with grey horns going left to right; in other
24 words, suggesting that, in fact, this bifurcation is
25 heading in the direction that it's naturally pointing

1 left to right?

2 A. It's going left to right. I would agree with that, yes.

3 It's basically a thickening of the ridge there. It's

4 black, it's gone lighter maybe not, the appearance --

5 Q. Mr MacPherson, you are drawing it right to left. Right

6 from where -- where the head of the snail is, is to the

7 right and you are drawing it going up to the left?

8 A. Sorry, it's to the left.

9 Q. Whereas what I am suggesting is the horns would suggest

10 that it's looking in the opposite direction?

11 A. I think you can see there is a gap in between this ridge

12 down and -- I don't know how you refer to it, as a

13 caterpillar or snail -- going to the left and joining

14 this ridge (**indicated**), going down a way.

15 Q. First of all, do you accept from me that in order to

16 match Ms McKie's fingerprint, we must in fact make each

17 of the three assumptions that you have, in fact, made by

18 the yellow, the red and the green arrows; namely, you

19 must have point 4 as a right ridge turning slightly left

20 at the yellow arrow, joining the ridge to the left at

21 that point, turning up to the point where the red arrow

22 is and deviating left. That's how it must be to match

23 Ms McKie?

24 A. That's my interpretation of it, yes.

25 Q. But it has to be in order to match Ms McKie?

1 A. Correct, yes.

2 Q. So far as point number 6 is concerned, first of all, it
3 would not match Ms McKie if it were simply a ridge
4 ending?

5 A. No, I think we discussed that earlier on.

6 Q. So it has to be a bifurcation, number 6?

7 A. I believe it's a bifurcation, yes.

8 Q. It has to be to match Ms McKie?

9 A. I think we discussed earlier about how a bifurcation and
10 a ridge ending can be sort of interchanged.

11 Q. If a bifurcation, it has to, number 6, deviate to the
12 left?

13 A. That's how I see it. I think anybody looking at it can
14 see that it's joined to the left.

15 Q. But it has to in order to match Ms McKie?

16 A. Yes.

17 Q. If it's a ridge ending it would be inconsistent with
18 Ms McKie?

19 A. We've already had two inked impressions that one was a
20 bifurcation, one was a ridge ending.

21 Q. But ridge counts might be out if it's a ridge ending?

22 A. If you mark it as a ridge ending on both the ridge
23 counts wouldn't be out, no.

24 Q. If you marked it in both. So you'd need to mark them to
25 agree?

1 A. Yes.

2 Q. We will come back to that just in a second.

3 Even if we mark it as a bifurcation going to the
4 right, again it would not match because the ridge counts
5 would be out?

6 A. Yes, but I think as I've already said you can see a gap
7 between this ridge (**indicated**) and the ridge as it goes
8 up and joins to the left, so there is a natural gap in
9 between the two.

10 Q. Again, if we take just the opposite view -- and on this
11 occasion I will begin again with Mr Wertheim, if we
12 begin with Mr Wertheim FI -- sorry, save the picture
13 that is on the screen just now.

14 MISS BAHRAMI: That's save as FI2810.16.

15 MR MOYNIHAN: If we begin with Mr Wertheim and I will try to
16 cover all three in the one image go to FI2209.18. As
17 you say this is where we enter the world of yellow
18 lines.

19 Mr Wertheim has drawn, first of all, on Ms McKie the
20 ridge structure, counting the ridge counts and so far as
21 what he sees on Ms McKie's print, do you have any
22 particular difficulty with what he has drawn there?

23 A. No.

24 Q. However, when he's drawing on Y7, I would understand
25 this to be a somewhat complicated picture because

1 Mr Wertheim is admitting of a range of possibilities.
2 So, first of all, we begin at the right-hand side of
3 number 4 and, if I understand it correctly, though he
4 could see a bifurcation being formed with the right most
5 lower yellow line, his concern is the appearance of the
6 ridge is that it is the right hand ridge that continues
7 on up undeviated; whereas in Ms McKie, assuming it to be
8 a bifurcation at all, it's the left leg that continues
9 undeviated, not the right.

10 Do you see that?

11 A. I do see it and I think he's wrong. I think I've shown
12 you that the right-hand leg of the bifurcation moves in
13 towards the left and I would hope you would be able to
14 see that.

15 Q. As we ascend to the bifurcation at the top -- that's
16 number 5 -- I think again the yellow is indicating where
17 he is hesitant?

18 A. That was the yellow line, I was talking about that, yes.

19 Q. He is hesitant, among other things, because if we look
20 at this image and if that is this image, we can in fact
21 see an area of black that is to the right of the green
22 line and, of course, the area that you have pointed to
23 on the other image has a grey area tending to the left?

24 A. To the left, yes, that's correct.

25 Q. So, again, there is perhaps just an area of ambiguity in

1 this.

2 A. Yes.

3 Q. Then we come down to point number 6. Mr Wertheim does
4 not seem to hold against you the fact, as you say, the
5 red point is in the middle.

6 A. That's good of him, yes.

7 Q. He's looking at the ridge ending that is truly point 6
8 and he is indicating two alternative interpretations:
9 either a green line to form a bifurcation to the right
10 or a red line to form a bifurcation to the left. He
11 admits that there is that ambiguity.

12 A. Mmm.

13 Q. In fact, if I understand his evidence, his preferred
14 interpretation if it is going to be a bifurcation at all
15 would be the green to the right?

16 A. Yes.

17 Q. Do you see that?

18 A. I see that, yes.

19 Q. What is your comment on what Mr Wertheim has drawn?

20 A. I think his interpretation is wrong. As I say, I think
21 I've shown that the right-hand leg of the bifurcation
22 moves in towards the left.

23 Q. So you would prefer, maybe not as unnatural as the red
24 line, but nonetheless a bifurcation going in that
25 direction?

1 A. Yes, the way he has marked that is, as you say,
2 unnatural, yes.

3 Q. Then let us look at Mr Zeelenberg on the same point. If
4 we begin with Mr Zeelenberg at this will be AZ0061,
5 slide 41 -- PowerPoint, just in case. I will begin,
6 Mr MacPherson, with PowerPoint because I can navigate my
7 way through that. If you wish to draw just indicate and
8 I will just change. Slide 41 to begin with.

9 First of all, if I understand it, Mr Zeelenberg
10 begins with point number 3 on slide number 1. Do you
11 see that? That's SCRO point 3 in the bottom part where
12 the yellow dots are.

13 A. Yes, that's right.

14 Q. As I said, we are not going to take up time worrying
15 about the precise shape. He would argue there is
16 something specific in the precise shape but I just want
17 to move on to 4 and 5 and see what he says about
18 point 4.

19 First of all, if I understand this correctly, what
20 Mr Zeelenberg is going to observe is that in some other
21 images of Ms McKie's print there is, in fact, not a
22 bifurcation at 4. There is, in fact, a ridge ending.
23 So he's brought up two other images of Ms McKie's print
24 to show that at point 4 there is a ridge ending rather
25 than a bifurcation.

1 Do you have any view about that?

2 A. I think we've already discussed that. Sometimes it can
3 be interchangeable, depending on the way it's been
4 taken, the amount of ink or black powder of whatever
5 it's been taken by, whether it's been LiveScan, you're
6 going to get these appearances that appears different.

7 Q. So the nature of the event at 4 is a question.

8 Then you will see how he has drawn 5. He has drawn
9 5 as simply a ridge ending. Do you see that?

10 A. He seems to have stopped short on the way up.

11 Q. He has stopped short?

12 A. Yes.

13 Q. Maybe this is just because he is dealing with four just
14 now but we will carry on through the slides. Now what
15 he is turning on slide 42 is point number 5. On this
16 occasion you are quite correct now, Mr MacPherson, he
17 has filled in that missing spot when he is turning to
18 point number 5. Correct?

19 A. Are we looking at the top left-hand image?

20 Q. No, looking at the bottom left-hand image where the
21 yellow dots are.

22 A. Yes.

23 Q. He has now put in what had previously been the missing
24 top yellow dot?

25 A. Yes.

- 1 Q. If I would understand correctly, this is his
2 interpretation of that feature of the mark, on the
3 bottom right there is what he sees in Ms McKie, point 4,
4 whether a ridge ending or a bifurcation one could
5 debate. Point number 5 he seems to have drawn as a
6 bifurcation. You agree with that?
- 7 A. So there's two in agreement, yes.
- 8 Q. As I say, you might debate whether the lower one truly
9 is a bifurcation and we've moved beyond that. Point
10 number 5, you agree he has drawn as a bifurcation. You
11 agree with that?
- 12 A. That's correct, yes.
- 13 Q. Whereas what he draws for point number 5 is simply a
14 ridge ending?
- 15 A. Well, I think even beyond the yellow dot. The ridge
16 extends again, as I've already said, it's turning in
17 towards the left to join the left-hand ridge.
- 18 Q. Then let us move beyond that. Now we come to the area
19 where he is looking at number 6?
- 20 A. He's interpreted that even more of an extreme than
21 Mr Wertheim. He's saying that there's only one
22 intervening ridge to what he has marked as a ridge
23 ending up but for me that's the continuous ridge down
24 and on the left-hand side is the bifurcation which is 6.
25 So, again, it's his interpretation but I think he's

1 wrong.

2 Q. We will look at this a little bit. What he has drawn
3 for us is, as we move from point 5, there is to its
4 left -- and we're looking at the top -- a ridge that
5 descends top to bottom which he is prepared, it would
6 seem, to accept as possibly an intervening ridge?

7 A. Yes.

8 Q. With immediately to its left a ridge ending, perhaps, or
9 a bifurcation?

10 A. Yes.

11 Q. Then, if I understand it correctly and I have some other
12 images that will help with this, the point that you
13 construe as or you mark as number 6 is, in fact,
14 immediately to the left --

15 A. To the left, yes.

16 Q. -- of where the red line ends. On this interpretation
17 he would agree with you that that ridge continues up
18 tending in the left but he sees it as forming a
19 continuous ridge and not a bifurcation. If you want to
20 mark, I need to move through --

21 A. No, can I just indicate with the arrow?

22 Q. Yes, please?

23 A. The ridge comes up and he's taken it that it merges on
24 the right-hand side, where my contention is and as I
25 think I've shown you the ridge comes up and you can see

1 it there, above this yellow dot, the ridge moves in and
2 joins to make a bifurcation down the way. He's come
3 down those, the ridge, like so. He should actually have
4 come down like so (**indicated**). That would be your
5 intervening ridge.

6 This is the ridge going up and, as I think you can
7 even see on this image of mark Y7, it tends into the
8 left and that's the bifurcation there.

9 Q. When you say it tends into the left?

10 A. The ridge, sorry, moves in to the left.

11 Q. So far as this is concerned, to what extent in the
12 process, because now we're going backwards and forwards
13 between Ms McKie and Y7, is there any risk here at this
14 point that what is now occurring is an interpretation of
15 this now series of issues to reconcile Y7 with Ms McKie
16 rather than simply an interpretation of what is to be
17 seen in Y7 alone?

18 A. No, I don't think so.

19 Q. If I take your point in relation to point number 6, I
20 have another presentation, a PowerPoint presentation
21 relating to 3, 4, 5 and 6, if we can just look at that,
22 please. I will proceed through this. I have used one
23 of Mr Zeelenberg's slides as my base. You will
24 recognise, it may be slide 42, 3, 4, 5 and I have just
25 left 3, 4 and 5 as he has drawn.

1 We then have, and he has drawn, one intermediate
2 ridge coming straight down adjacent to 4 and 5 and on
3 any view there is one ridge coming down. The question
4 is whether 5 joins that ridge or not?

5 A. Yes.

6 Q. So thus far, other than the debate about 5, no
7 difficulty with what he's drawn?

8 A. No.

9 Q. This is what we want to debate, his particular drawing
10 of number 6, yes?

11 A. Yes.

12 Q. What I have done is cleared away his dots. By my big
13 purple arrow I am intending to point to what you truly
14 intend as point number 6?

15 A. Yes.

16 Q. Then proceeding through an alternative view. So that is
17 Mr Zeelenberg, my slide 3 just now. An alternative view
18 coming up is point number 4 is an alternative view that
19 now has the ridge counts working correctly, is that
20 right, two intervening ridges from point number 4?

21 A. Yes.

22 Q. So that one could make the ridges to point number 4
23 coincide but then just the question is where is number 6
24 going?

25 A. Well, this looks like a different interpretation from

1 what he had previously. Previously he had --

2 Q. No, no, this is me; this is me. If I can explain, I
3 have looked at Mr Mackenzie's charting, I've looked at
4 Mr Zeelenberg's charting, Mr Wertheim's charting and
5 Mr Grigg and I thought that a way of reconciling
6 Mr Mackenzie and Mr Zeelenberg would be to redraw
7 Mr Zeelenberg's as it's drawn here just now so that I
8 can get the ridge counts to work to point number 4 -- so
9 it's me. Do you see that? But it still leaves us to
10 wonder what is happening to point 4 --

11 A. Point 6.

12 Q. Point 5, first of all, and also point 6.

13 A. Well, I think I've explained point 5. If you go one,
14 two intervening ridges and then you follow up right
15 where I'm pointing the arrow is where point 6 would be
16 **(indicated)**. Just slightly up from point 4, one, two
17 intervening ridges, bifurcation down.

18 Point 4, one, two intervening ridges and a
19 bifurcation down. I can't say anyone more about it. I
20 think I've shown you and if you don't accept my
21 interpretation, fair enough.

22 Q. As I said to you I am not here to challenge you. I am
23 just here to give you an opportunity to comment on what
24 others have done.

25 With Mr Grigg, if I show you Mr Grigg -- give me

1 just a second, I will check I've got the right one.

2 A. You said yesterday, Mr Moynihan, that I had to prove or
3 was this to prove my identification. I don't have to
4 prove anything to anyone anymore. I lost my job in
5 March 2007 so, as far as I'm concerned, I don't have to
6 prove anything to anyone.

7 Q. I am sorry, Mr MacPherson, what I think I said was -- I
8 was about to call you Mr Mackenzie, I apologise for
9 that -- what I said yesterday was in relation to the
10 chartings you produced yesterday afternoon, were these
11 the chartings you were going to defend your judgment by.
12 That's what I said. I am not suggesting that you have
13 got anything to prove. Plainly you haven't. You are
14 assisting the Inquiry.

15 A. I'm assisting the Inquiry and I think when I made these
16 charts up I asked you at the time could I mark in any of
17 the other points or characteristics that I saw but you
18 said, no, we had to replicate what we had done for the
19 court productions. Now you say the court productions
20 are no longer in the mix, if you like, but that's
21 exactly what this is. These are a reproduction of the
22 court productions.

23 Q. I think, Mr MacPherson, let us just clear up a number of
24 things lest there be any misunderstanding.

25 First of all, so far as the court productions are

1 concerned, questions have been raised about the accuracy
2 of the charting done by the charting PC; correct?

3 A. Yes, questions that have been raised by people who have
4 never used the charting PC, I may say.

5 Q. I thought questions had been raised by your colleagues
6 in SCRO?

7 A. Absolutely, yes, yes, but outwith SCRO I was talking
8 about.

9 Q. But within SCRO was a question not raised about the
10 inaccuracy of the charting machine?

11 A. What I charted for the court productions were as
12 accurate as I could make them. I believe they were
13 accurate.

14 Q. Mr MacPherson, do you know that colleagues at SCRO in
15 part blamed the outcome of the McKie case on the
16 charting PC's inaccuracy?

17 A. Yes.

18 Q. So, therefore, the decision --

19 A. I wouldn't say inaccuracy, it's pure quality overall as
20 compared to photographic enlargements and that's why it
21 was scrapped in 2000.

22 Q. That is why it was understood that if we were going to
23 debate whether Ms McKie's fingerprint was correctly
24 identified relative to Y7 it was thought that to use the
25 criminal productions would not assist because there was

1 some uncertainty at the very least of the clarity if not
2 the accuracy of the charting; correct?

3 A. Okay.

4 Q. Then the next stage was to take alternative images and
5 we went back to the originals, having found what had
6 been lost at the time of the civil case, the negatives
7 of Y7?

8 A. Yes.

9 Q. And the original inked prints to start again, yes?

10 A. Yes.

11 Q. For reasons of continuity, because you and your
12 colleagues had given evidence under oath that 16 points
13 in sequence and agreement could be found in Y7 and
14 Ms McKie's print, you were asked to reconstitute those
15 16 points with clarity and accuracy to overcome any
16 deficiency there might have been in the criminal
17 productions, yes?

18 A. Okay, yes.

19 Q. Because those were the 16 points that, under oath, you
20 were happy to tell the jury proved to 100 per cent
21 certainty that there was a common authorship between Y7
22 and Ms McKie?

23 A. Well, they were an illustration of how I came about,
24 basically how I came about my ident but the proof, as I
25 said yesterday, is my evidence, my joint report and the

1 finger and palm-print form and the actual photograph.

2 Q. I take your point entirely about --

3 A. They are illustrations for the court. They're not the
4 evidence, if you like.

5 Q. Mr MacPherson, if we take aside how practice is today
6 and we will ask questions later why enlargements were
7 not produced, if we take aside the enlargements, leave
8 them aside, it simply becomes a bald assertion by a
9 witness that two things are identical if there are no
10 demonstrative chartings?

11 A. Absolutely and that's why I said yesterday I still think
12 they should produce case-specific enlargements.

13 Q. If we take Mr Leadbetter as an example, if we did not
14 have Mr Leadbetter's chartings for this Inquiry, we
15 would not perhaps even know that he differed from you in
16 respect of his route?

17 A. Yes.

18 Q. And we would not have been in a position to question
19 whether he had a secure foundation for his opinion?

20 A. All I was saying, I think it's a rather academic
21 question that for three years they have been producing
22 joint reports, fingerprint and palm-print forms,
23 photographs and the evidence of the expert themselves.
24 That's why I say the enlargements are only for
25 illustration purposes. Some people use generic

1 enlargements which just show the ridge endings,
2 characteristics.

3 As I said, I think I said yesterday as well, we were
4 the only bureau in Britain, the Glasgow Bureau was the
5 only bureau in Britain that produced case-specific
6 enlargements but we were still criticised for it,
7 cropping, all the rest of it. But the criticism that
8 came about the cropping, et cetera, that was how -- the
9 people who made these criticisms had never used the
10 charting enlargements. One of them, Mr Gary Dempster,
11 didn't even produce enlargements in the Aberdeen Bureau.
12 As I say, the Glasgow Bureau were the only ones because
13 of the Fiscal Service in Glasgow wished us to produce
14 them, that's what we did.

15 I was also accused of being underhand by Mr Wertheim
16 by producing three enlargements for the one case. I
17 didn't produce three enlargements for one case. I don't
18 just produce enlargements off the top of my head. I
19 produce enlargements when I'm requested to do so by the
20 Procurator Fiscal.

21 So there's been a lot of criticism basically coming
22 from outwith and people don't know the procedures that
23 we went through. I think Mr Sheppard criticised four
24 people looking at the one enlargement but that's how we
25 did things.

1 If people had maybe looked into our processes and
2 procedures, maybe a lot of the criticism would not have
3 been levelled at myself and my colleagues in the Glasgow
4 Bureau.

5 Q. Can I explain to you then just the process that the
6 Inquiry team has undertaken. Conscious of all we have
7 said so far, first of all, the Inquiry team has been
8 seeking to consider whether the identification of
9 Ms McKie's left thumbprint is one that was supportable
10 by reference to the material available to SCRO at the
11 times when the official reports were prepared.

12 You would accept that as a legitimate question?

13 A. Yes.

14 Q. Hence, if one is asking that question, what one requires
15 to do is to get back to the material that was available
16 to you and your colleagues at the times when the
17 official reports were being undertaken?

18 A. Yes.

19 Q. That is the images that are the comparative exercise,
20 yes?

21 A. Yes.

22 Q. Above and beyond that, the Inquiry team has recognised
23 that some individuals, perhaps Mr Swann, Mr Leadbetter,
24 maybe even yourself, might say even if it was not a
25 supportive identification by reference to the original

1 material available to SCRO, it was nonetheless a correct
2 identification by reference to a number of other
3 sources, hence we have in the course of the last month
4 been prepared to look at a variety of other sources.

5 Do you understand?

6 A. Yes.

7 Q. So, do you have a difficulty in the Inquiry
8 investigating, with your assistance, what the basis was
9 for the original conclusion that Y7 was indeed the
10 fingerprint of Ms McKie?

11 A. No.

12 Q. That just explains fully why I am looking at it in the
13 stages I am. I am looking at it primarily by reference
14 to the comparative material for reasons of continuity.
15 I'm not looking at the criminal productions because
16 there is some question over their clarity, accuracy, it
17 doesn't matter.

18 You have with your colleagues, at our request, at
19 considerable trouble to yourselves, recreated that so we
20 can have a proper debate about these details uncluttered
21 by that complication.

22 A. Yes.

23 Q. As you have said, I have told you that other material
24 can be used, in particular I had anticipated other
25 material being used to set up your view relative to that

1 of Mr Wertheim, Mr Zeelenberg, Mr Grigg and others and
2 that is what we are proceeding through this afternoon.

3 Okay?

4 A. Yes.

5 Q. Coming back then to what I have done on screen as slide
6 5 of this particular presentation, you will see in
7 effect that what this comes to is that I myself, in
8 trying to understand the difference of opinion among the
9 experts, have been able to reconcile the ridge counts by
10 redrawing, in particular, point number 6, yes?

11 A. Yes.

12 Q. What I want to then show you is, moving away from what I
13 have redrawn, coming to another occasion where the
14 yellow line entered the Inquiry, if I take you to
15 Mr Grigg at FI2909.19, what I am primarily interested in
16 is the left-hand drawing. The right-hand drawing is
17 somewhat complicated. If I explain to you what's
18 happened is that Mr Grigg has tried to count out from
19 the core and we had the initial difficulty we had
20 noticed that the bifurcation number 1 he did not
21 recognise initially as a bifurcation so he's trying to
22 count out points and, as you will see, he has had a
23 difficulty with the point number 8 which, on one view,
24 is your number 4 and he has seen it simply as occurring
25 on a straight ridge as opposed to being the point of a

1 bifurcation.

2 Do you see that?

3 A. I don't see what he's marked as 8.

4 Q. He's marked nothing, in a sense, as 8 because by the
5 ridge counts he is doing he comes up against a
6 nondescript ridge. So he is finding it difficult to
7 actually see a feature.

8 A. No, I'm afraid, I'm finding it difficult to decipher
9 exactly what he's talking about.

10 Q. I will tell you what happened with Mr Grigg. Mr Grigg
11 spoke to a difference in ridge counts out from the core
12 and, in particular, a difference in ridge counts to the
13 point which is, let us use the red numbers in the
14 left-hand side, which is your point number 5?

15 A. He seems to have -- is that as far out to the left as
16 you can go? The core seems to be obliterated.

17 Q. I can't remember, I think maybe the blue arrow in the
18 top left-hand corner --

19 A. I mean, if his interpretation of the core is incorrect,
20 I can't see it because it's off the edge of the page.

21 Q. I think what he was doing from that point, you see in
22 each of the two, right and left, he's got a blue arrow.

23 Do you see that?

24 A. His blue arrow on the right-hand side is a continuous
25 ridge up and over the core. For me the core is down one

1 more, just down to the left.

2 Q. I don't think it matters really, Mr MacPherson, because
3 what he is doing is by reference to the ridges that are
4 indicated by the blue arrows right and left, he's
5 carrying out a ridge count.

6 A. Okay.

7 Q. No difficulty about seeing those as a common point from
8 which correctly to count ridges?

9 A. So he goes to the right and there's one, two intervening
10 ridges to the bifurcation down, which he has indicated
11 as number 2. He also has done what was shown
12 previously. He's taken the leg of the bifurcation down,
13 which is point 6, and has put it on to the leg coming
14 down. I've already explained I believe that the leg
15 going up here (**indicated**) goes up to where I'm
16 indicating. He has come up and has placed it here
17 (**indicated**) so, therefore, his ridge count would be out.
18 His ridge count would be three and, obviously, the ridge
19 count -- sorry, I don't know what his ridge count would
20 be but it's one, two, three to the bifurcation down.
21 I'm afraid, I can't see exactly what he's pointing at
22 there.

23 But to me this ridge comes up and goes in to the
24 left, as I already explained, and there's one, two
25 intervening ridges to where he has marked point 4 which

1 is one, two intervening ridges to point 7. Follow 7 up
2 and you get up to, it looks like number 3, he's marked
3 it as.

4 Q. If I tell you what happened, if I remember it correctly,
5 Mr Grigg was telling us about his differences in ridge
6 count and, as you say, he went through 6 and then
7 carried on to 5 and spoke of a difference in ridge
8 count. I then put in the yellow line you see beneath 5
9 and removed his difference in ridge count to the
10 point 5.

11 A. Yes.

12 Q. Because if you join it to the left the ridge count will
13 become correct, that bifurcation to the point that he's
14 mentioned near the core. Yes?

15 A. Where you've put the yellow marker in there's one
16 intervening ridge and then in there is a bifurcation.

17 Q. Mr MacPherson, it's perhaps me and it's the time of the
18 afternoon. As it is shown on the left-hand side, if one
19 assumes that point 5 joins the ridge adjacent on the
20 left by something like the yellow line, not intending
21 that to be a natural feature but just joins that ridge,
22 is there any problem with the ridge counts left?

23 A. If he is indicating that point 2 is a ridge ending, no,
24 there wouldn't be a problem with the ridge count because
25 there's one intervening ridge, if you interpret that as

1 a ridge ending, and point 2 could be interpreted, again,
2 there's a pore just where I'm -- there's a pore just
3 where I'm placing the cursor and you could interpret
4 that as coming up and stopping. So if that's a ridge
5 ending up, you would go one intervening ridge to the
6 bifurcation down, which is number 3.

7 Q. Or 5 for you.

8 A. Or 5, yes.

9 Q. I understand Mr Grigg to accept that if the ridges are
10 joined then the pattern would follow from the insertion
11 of the yellow line that the ridge counts would be
12 consistent as between Y7 and Ms McKie?

13 A. Okay.

14 Q. Would you accept that?

15 A. Okay.

16 Q. However, Mr Grigg was momentarily thrown and then when
17 we moved on he said, "Stop, I understand what you've
18 done. You've made the ridge counts the same by putting
19 that yellow line in to the left"?

20 A. Mm-hm.

21 Q. "My interpretation had been that the ridge counts were
22 out because I'd understood point number 5 to connect to
23 the right".

24 A. Okay.

25 Q. That is just, again, demonstrating the area of

1 interpretation. Mr Grigg is a man who's prepared to see
2 that there are issues here but he's saying his preferred
3 interpretation, consistent with Mr Wertheim and
4 Mr Zeelenberg, is that point 5 goes right and, indeed, I
5 would understand that you yourself have observed he
6 would say point 6 similarly goes right and the ridge
7 counts would be out?

8 A. Mm-hm.

9 Q. If either of those two ridges goes right, the ridge
10 count is out?

11 A. Yes.

12 Q. Again, I can stop at this particular point. We will
13 take some of these other points very quickly and maybe
14 conclude them this afternoon. If I understand it
15 correctly now, we have gone along much of the length of
16 what I call the south coast of Y7 and we've found that
17 in order to have Y7 match Ms McKie there is a necessity,
18 a requirement, that each of these points, that they be
19 interpreted in a particular manner, each of which is, I
20 suggest, open to debate?

21 A. You are making it sound as if I've -- using the word
22 "assumptions" but that's how I see it.

23 Q. Assumptions can be a wrong word in this context.
24 Perhaps a more neutral phrase is each of these points
25 calls for judgment and interpretation?

1 A. Yes, definitely.

2 Q. In order for there to be a match, the judgments have to
3 fall, first of all, in the manner in which you yourself
4 have made them?

5 A. They have to be in sequence and agreement, yes.

6 Q. If any one of these judgments is different, then the
7 match collapses at that point?

8 A. Yes.

9 Q. All that I've done, in fact, in going along the south
10 coast, as I have described it, from 1 bringing in 15 to
11 16, now all the way, I've reached number 6, all I'm
12 showing you is that the experts who take the opposite
13 view from you have advanced reasons, bar perhaps number
14 3, they have advanced reasons why on each of these
15 points they differ from you.

16 A. Okay, yes.

17 Q. That was the thesis I started out with this morning,
18 that you and Mr Leadbetter are agreed even though there
19 is a radical difference in your chartings but you are
20 nonetheless agreed about the conclusion?

21 A. Yes.

22 Q. Whereas Mr Zeelenberg, Mr Wertheim and Mr Grigg disagree
23 in the conclusion and an understanding of this is they
24 disagree in the conclusion simply because their judgment
25 on each of these points cumulatively is different from

1 yours?

2 A. Is incorrect, yes.

3 Q. Each of their judgment is different from yours?

4 A. That's correct, yes.

5 Q. If I understand Mr Grigg -- and this may be a point that
6 maybe not worth stopping at -- but if I understand what
7 Mr Grigg said in relation to point number 5, the yellow
8 line, was at this point he wasn't prepared to make the
9 assumption of the ridge going to the left because there
10 was too much else, in particular in the upper part, that
11 was discordant?

12 A. The upper part meaning?

13 Q. The upper part of the mark, that's the Rosetta and the
14 points above?

15 A. Hmm.

16 Q. Too much else that was discordant that he wasn't
17 prepared by this point to make the assumption that was
18 necessary to match, in other words, in a sense, the
19 yellow line is the straw that breaks the camel's back?

20 A. I think we spoke earlier that Mr Grigg saw a clear image
21 of Mr Terry Kent's image and he sat here and said that
22 there was no banana, no bifurcation there, but when he
23 saw a clearer image he was able to change his mind
24 regarding that. Perhaps if he was to look at the
25 chartings that I have now prepared maybe he may be

1 willing to change his mind regarding point 5 and
2 direction of the ridge to the left.

3 Q. By sheer coincidence someone else in the hall asked me
4 yesterday if we might send your chartings to Mr Grigg so
5 no doubt we can give some consideration to that.

6 A. I asked for that yesterday and I thank the Inquiry for
7 having the chance to prepare further things because,
8 obviously, I've had no chance to do anything since.

9 Q. In fact, it wasn't you, it was somebody else who shall
10 remain anonymous but had asked that that particular
11 matter be considered. No doubt we can give
12 consideration to that.

13 Maybe with the five minutes that are left I can move
14 on because what I want to do is to just complete the
15 southern section and then the run, tomorrow, through the
16 rest of Y7 should be relatively quick and we will get
17 down to Q12. What I want to look at are SCRO points 7
18 and 8.

19 If I bring up again the charting FI0167A twice,
20 please. So far as 7 and 8 are concerned -- please don't
21 feel constrained by time. If you prefer to deal with
22 these tomorrow morning, then please just indicate. I
23 don't think I need take you to other drawings
24 immediately in connection with 7 and 8. There is a
25 point about number 8 where some drawings would

1 intervene, but if I understand one of the main themes in
2 particular about 7 is this: it is towards the edge of
3 the impression and therefore at a point where one is
4 wondering whether what is to be seen is a ridge ending
5 or simply the end of the fingerprint impression.

6 So, therefore, the question is at point number 7 and
7 to some extent also point number 8 whether the clarity
8 of the image at this peripheral location is sufficiently
9 clear to admit of the recognition of features. If you
10 want to explain, again you can use this image to begin
11 with and then other images if you prefer, but if you
12 begin with this one for reasons I explained earlier.

13 A. I would say that the edge or the periphery of the mark
14 is roughly along that area **(indicated)**. The ridge comes
15 down and bifurcates like so **(indicated)**.

16 Q. Again, Mr MacPherson, if you are content with that as
17 your charting on number 7, what about number 8? What
18 sort of feature is it that you see at point number 8?

19 A. Number 8 is a ridge ending exactly where the dot is.
20 It's very, very faint.

21 My interpretation of the core is this ridge comes up
22 and round. That's roughly how I see it. So this is a
23 ridge ending there. That's basically how I see
24 characteristic number 8, as a ridge ending.

25 I know maybe you don't want me to refer to the

1 charts that I did yesterday but just --

2 Q. Please, as I said to you, I am more than happy to do it
3 in two. My reason for doing it in two stages is no more
4 than this: for chronological reasons, I'm interested in
5 the judgment that you formed relative to the material
6 available to you prior to May 1999, prior to the chart,
7 particularly in February 1997. That's this material.
8 If you want to look at other material to show me your
9 opinion today and to illustrate it better because you,
10 Mr Wertheim, Mr Zeelenberg and Mr Grigg have a
11 difference of view, then please use whatever material
12 you wish.

13 THE CHAIRMAN: I think it is important to Mr MacPherson to
14 appreciate that although we are saying the material that
15 was before you at the time that you were giving your
16 original opinion, where you have made an assumption --
17 and I appreciate you don't like the word "assumption" --
18 but where you have used judgments, made a judgment or an
19 interpretation, then if later samples of the print show
20 that or rather confirm the interpretation that you
21 made --

22 A. Absolutely --

23 THE CHAIRMAN: -- at the original time, then that would be
24 of interest to me also.

25 A. Okay.

1 THE CHAIRMAN: In other words, as I say, where you said, "I
2 think it went left" if some later print shows it did go
3 left, then that's fine.

4 A. Well, I wonder, sir, if I could --

5 MR MOYNIHAN: Can I just interrupt? Sorry, sir, if we save
6 what is on the screen just now and then, Mr MacPherson,
7 we will bring up your images in a second. We will save
8 this one first.

9 MISS BAHRAMI: That's saved as FI2810.17.

10 THE WITNESS: I was wondering if it would be in order -- I
11 know yesterday, sir, you didn't have a photocopy of the
12 chartings that I've done that you're referring to since.

13 THE CHAIRMAN: Yes, you mean these ones?

14 A. Would it be in order -- can I give you the originals of
15 them, please?

16 THE CHAIRMAN: I think we can be able to make sharper copies
17 of them.

18 MR MOYNIHAN: I think, sir --

19 A. These are much better than what you have in front of
20 you.

21 THE CHAIRMAN: If you have the originals yes, please. I
22 think they would be very helpful. But you may want to
23 work from them.

24 MR MOYNIHAN: Allow me just a moment.

25 THE CHAIRMAN: I think if I take them. **(Handed)** Yes, the

1 dots are clearer. I had some trouble trying to find all
2 the dots last time.

3 MR MOYNIHAN: Sir, what I was going to suggest it is just
4 after 4.00. What I would suggest is that we adjourn at
5 this point. It is plainly not beneficial to rush this
6 particular point. I think Mr MacPherson is inviting you
7 to consider his originals overnight. What we will do --

8 THE WITNESS: He can have them for as long as he wants.

9 MR MOYNIHAN: It's okay. We will come back in the morning.
10 What I will do is explore with the Inquiry team whether
11 it is possible to get better images than you have
12 available on the system, otherwise tomorrow morning I
13 will return your originals to you and we can --

14 THE WITNESS: No, I don't need them back.

15 MR MOYNIHAN: At that point it is probably just as well we
16 invite you to adjourn.

17 THE CHAIRMAN: Good. Well, you have had a long day so we
18 will stop now and start at 10.00 in the morning, please.

19 **(4.07 pm)**

20 **(Adjourned until 10.00 am the following morning)**

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