

Thursday, 29th October 2009

1

2 (Morning session)

3 (10.00 am)

4

HUGH MACPHERSON

5

Examined by MR MOYNIHAN (continued)

6 Q. Good morning, Mr MacPherson?

7 A. Good morning.

8 Q. I was just going to carry on in the order in which we

9 were proceeding yesterday, unless there's anything that

10 arose out of yesterday you wanted to raise?

11 A. I was wondering, with the indulgence of the Chairman, if

12 I could possibly refer to something that I referred to

13 earlier in my evidence regarding the 10 and 10 rule?

14 Q. Yes, please.

15 A. I came across a fingerprint handbook from when I started

16 on 2nd November 1970 and I was wondering if I could

17 possibly read just a couple of paragraphs from the last

18 page?

19 THE CHAIRMAN: Yes, certainly.

20 A. Just to make sure that my evidence I give to the Inquiry

21 is accurate.

22 THE CHAIRMAN: That is very helpful.

23 A. Thank you. As I say, it is from 2/11/70 under the

24 heading of:

25 "Identity of fingerprints.

1 "The identical nature of fingerprints is not
2 established by pattern alone but by agreement in the
3 relationship of identical ridge characteristics one to
4 the other. When two prints are found to agree in the
5 sequence of their ridge characteristics then these
6 prints are said to be identical, that is, both have been
7 made by the same area of the palmar or plantar skin
8 surfaces. Mathematical precision in the position of
9 characteristics is not necessary in establishing
10 identity as varying degrees of pressure or lateral
11 movement of the skin can alter the distance between
12 them.

13 "Varying opinions are held as to the number of
14 characteristics in agreement and sequence necessary to
15 prove identity but in this country proof of identity is
16 offered only when 16 or more such points are present in
17 two prints or when at least 10 such points in two prints
18 in sequence are present in another two prints also
19 recorded in sequence."

20 I think I mentioned that earlier in my evidence.
21 What it doesn't mention is dire and crucial or the
22 strong suspicion which I also mentioned, but I was
23 wondering if this could be submitted, if you like?

24 I also have, as I say, this obviously refers to the
25 1953 guidelines but as the 1953 guidelines were

1 constantly being reviewed, so the processes and
2 procedures in SCRO were constantly being reviewed and I
3 have a copy of -- I don't know if the Inquiry has a copy
4 of the 1953 guidelines as laid down.

5 MR MOYNIHAN: We do have a copy of the Home Office minutes,
6 in a particular section of file but if you your own copy
7 or an extra copy then we will take it just for the
8 avoidance of any difficulty.

9 A. I don't want to take up a lot of time but it refers to
10 something I said in my statement so I would like to ...

11 Q. Yes, we will take it because if I end up with duplicates
12 it's not a problem. If we have a gap in our knowledge
13 then it is, so if you want to hand it in then that is
14 fine.

15 Do you want to clarify the point?

16 A. Yes. In 1953 there was a Home Office meeting and:

17 "It was desirable that a common standard should be
18 observed by all forces whose officers give evidence in
19 court about fingerprint identification in order there
20 should be little risk of such evidence being challenged.

21 "In the case of a single print, this standard should
22 be a minimum of 16 points of resemblance ...

23 "After discussion at subsequent National Conferences
24 of Fingerprint Experts the following was added to the
25 new standard:

1 "Where evidence is being given, and, in addition to
2 any mark(s) with at 16 points in resemblance, there are
3 also other marks from the same scene made by the same
4 person, but with less than 16 points, these can also be
5 mentioned provided each mark has at least 10
6 characteristics in agreement with the finger/palm
7 impression(s)."

8 That would be the 16 and 10 rule. I think I said in
9 evidence before about in the late '80s if you had a
10 series of checks you were entitled to put that forward
11 for prosecution if you had 10 characteristics from one
12 person on one check and 10 characteristics on a second
13 check in a series of checks.

14 That eventually evolved to be taken on by volume
15 crime and serious crime. I believe in 1997 we were
16 still in the position that it was each mark was
17 16 points. It wasn't down to the person, the same
18 person, having 16. If you had one with 16 ridge
19 characteristics in sequence and agreement, if you had
20 other marks with 10 and above you could include those in
21 your joint report.

22 It mentions about checks:

23 "As a result of debate [in] 1985 ... there were
24 three systems of multiple identifications on cheques
25 from the same chequebook. Each was believed, by its

1 users, to be compatible with the standards laid down in
2 1953. In February 1997, the following decision was
3 made:

4 "It must be acknowledged as a matter of fact, that
5 evidence of identification based on 10 characteristics
6 on one cheque and 10 characteristics on any other
7 cheque(s) from the same book had been accepted as
8 sufficient by courts in certain parts of the country for
9 eight years ...

10 "However, acceptance of the above norm did not
11 prevent any bureau from adhering to the original
12 standard."

13 That is what I'm trying to explain, that our
14 processes and procedures were in a continuous state of
15 flux, particularly in 1997 with the introduction of
16 LiveScan. We also had every few years a change of Chief
17 Inspector, we would have a change of Superintendent, a
18 change of Chief Superintendent and they would bring
19 their own ideas to the mix, if you like.

20 What I said in my statement as regarding Q12,
21 there's a part of Q12 identified as Mr Asbury's but it
22 is in black with a line through it and that would be, if
23 an independent expert came along and looked that, I
24 could be asked in court why is that in black with a line
25 through it. All it would mean was that it didn't reach

1 the national standard. I could speak to it in court but
2 I would be able to say it didn't reach the national
3 standard.

4 So it was just to try and clear up -- I think I said
5 in my statement something like probably 10, I might have
6 meant probably below 16. I just want to be accurate in
7 what I have said.

8 THE CHAIRMAN: Yes, perhaps when you have finished your
9 evidence you would leave the copies and then we can be
10 quite sure that we've got exactly what you were speaking
11 to.

12 If you could hand them over now it might help with
13 the transcript if we could put them there first and then
14 you can pass them. **(Handed)**

15 Thank you very much.

16 MR MOYNIHAN: Thank you, Mr MacPherson. There are two other
17 points in relation to what you said. First of all, just
18 as a precaution, if I could ask -- and we will do it at
19 the break -- if Miss Carmichael could see the original
20 handbook because there is this -- we will deal with it
21 at the break -- because she will look at it to see if
22 there's anything else that may be relevant in the
23 handbook that will relate to chapters she is dealing
24 with. I am very grateful to you.

25 The second point I know we have taken the sheets

1 from you but you may be able to find it in the handbook
2 that you still have with you. What I was interested in
3 was the formulation in the handbook of the 16-point
4 rule, if I call it that. I had started my questions
5 with you the day before yesterday by asking you about
6 differences and unexplained differences, et cetera.

7 This first arose when Mr Graham gave evidence when I
8 put to him a formulation of the 16-point rule, 16 points
9 in sequence and agreement and no unexplained
10 differences. He, if I recollect correctly, replied to
11 me, "What's an unexplained difference got to do with
12 it".

13 I heard you read out the 16-point rule. It was
14 simply a straightforward proposition: if there are
15 16 points in sequence and agreement, it didn't mention
16 unexplained differences. Is that correct?

17 A. That's correct. I don't know -- I can't remember where
18 that possibly come in. I'm sorry, I don't remember.

19 Q. If you just re-check the formulation. I think you said
20 at the end of the book about --

21 A. This is just purely the back page of the book. The
22 other two pages that I've given you, I don't know the
23 provenance of them. I've just basically found them --

24 Q. Don't worry, Mr MacPherson. It's more if you just
25 repeat for my benefit with the clarity that there is in

1 the formulation of the 16-point rule in the handbook

2 that is really just what I am interested in?

3 A. Do you wish me to --

4 Q. If you would just for my benefit, please.

5 A. "Varying opinions are held as to the number of
6 characteristics in agreement and sequence necessary to
7 prove identity but in this country proof of identity is
8 offered only when 16 or more such points are present in
9 two prints or when at least 10 such points in two prints
10 in sequence are present in another two prints also
11 recorded in sequence."

12 I think I said in my evidence it would basically be
13 like the 7 and 8, you would have ten in one and ten in
14 the other. That was the original ruling and then it
15 moved from that that it could be the same person from
16 the same scene. You could have 10 in his number 7 and
17 10 in the number 8 but if they were from the same scene
18 that was suitable to be progressed for evaluation value.

19 Q. I am grateful to you. In that case, I will leave the
20 collection and reading of the handbook to Miss
21 Carmichael. If there is nothing else in it beyond what
22 you have read --

23 A. No.

24 Q. -- that's okay -- that is of assistance to us we will
25 hand it straight back to you. Otherwise we will speak

1 to you about taking additional copies?

2 A. It was purely on the pattern recognition and
3 classification.

4 Q. We will deal with that later. I am grateful to you.

5 Therefore, unless there is anything else that you
6 wanted to talk about, what I was going to do then was to
7 resume at the point that we were yesterday, which was on
8 Y7, point number 8. We had yesterday the SCRO charting
9 up and you were about to go to your own recharting.

10 First of all, just so that I can take us back to
11 roughly where we were yesterday, if I bring up FI0167A
12 and perhaps just bring it up twice. I have brought it
13 up again twice.

14 What we are looking at is the feature most clearly
15 seen in Ms McKie's left thumbprint, a feature in about
16 the core beneath and perhaps a shade to the left of the
17 bifurcation number 9.

18 A. Yes.

19 Q. Now, we have had some conversation and you did a drawing
20 for us yesterday relative to these particular images and
21 you were asking me then to move to the charting that you
22 showed us on Tuesday.

23 Is that what you wish to do, to further explain your
24 position in relation to point number 8?

25 A. I think the drawing I did possibly explained it.

1 Q. If you give me just a second. It will about the last
2 drawing from yesterday and it is FI2810.17.

3 A. Yes.

4 Q. I dare say what we should actually do is highlight the
5 Y7 part of that rather than the -- I happen to have
6 brought up now the drawing from yesterday on the
7 left-hand side, then the original numbered Y7 on the
8 right.

9 So far as point number 8 is concerned, you have
10 drawn in light blue an area. Do you want to give a
11 further description of what you drew?

12 A. That's a -- sorry, it's a ridge ending up.

13 Q. Do you intend by what you have drawn that that
14 bifurcation up ends at the point which is marked number
15 8 but does proceed down and join the curving ridge?

16 A. Yes.

17 Q. Forming what, at least to my eye, looks to be something
18 in the nature of a lake?

19 A. It's a bifurcation up, yes. So point 8 would be a ridge
20 ending. You would follow that down. It would join the
21 right-hand leg and it would be a bifurcation up.

22 Q. It is just the precise way it is drawn just now would
23 have the top edge of the line joining --

24 A. There should be a slight gap there.

25 Q. There should be a gap?

1 A. Yes.

2 Q. Okay. So there should be a slight gap so there's a
3 ridge ending at the top --

4 A. A ridge ending up, yes.

5 Q. -- going into a bifurcation at the bottom?

6 A. At the bottom, yes.

7 Q. You were yesterday asking to look at the other images
8 from Tuesday. Do you wish to do so or ...?

9 A. Yes, okay, yes.

10 Q. The Y7 image is TC2310.03.

11 I don't know if having access to that particular
12 image assists in relation to this particular point or
13 not but if it doesn't assist we don't need to take any
14 time on it.

15 A. Would I be able to ...?

16 Q. You can have it so it's the only image on the screen, if
17 you wish.

18 A. Okay.

19 Q. If you are going to draw, perhaps that would be of
20 assistance to you.

21 A. I've marked the bifurcation up with the red dot just
22 where the cursor is **(indicated)** and you would follow
23 that up and, again, where the red dot is there's a ridge
24 ending, like so **(indicated)**.

25 Again, I'm sorry, I've joined that. There should be

1 a gap.

2 THE CHAIRMAN: Is it a very small gap or --

3 A. It's a very small gap, sir, yes.

4 MR MOYNIHAN: First of all, we had better just save this

5 image. If we save that and we will have some words

6 about it.

7 MISS BAHRAMI: That's saved as FI2910.01.

8 MR MOYNIHAN: Just while we are in that area, what you have

9 drawn is a blue arrow at the bottom to draw our

10 attention to the lowest most red dot that's relevant to

11 this. You have then drawn in a mustard colour the lines

12 that, in fact, join up some of those dots in that

13 vicinity. Again, we should understand that the drawing

14 is inaccurate in that we should understand a slight gap.

15 A. Should I draw it again?

16 Q. No, no, it's okay. Well, we may in fact just do so for

17 a reason. Yes, let's do that because I also want to ask

18 you to explain for me, if I can find the mouse, the red

19 dots that are adjacent. Probably it would be better if

20 you did redraw so that we can actually see it as you

21 interpret it.

22 So if I bring up again TC2310.03. **(Pause)**

23 Don't worry about the arrow at the bottom -- we've

24 lost that. I wouldn't worry about the arrow at the

25 bottom because you have joined up the dots and they are,

1 in a sense, self-explanatory in any event. So that is a
2 more accurate representation.

3 A. Yes.

4 MR MOYNIHAN: Let us save that before we lose it.

5 MISS BAHRAMI: That's saved as FI2910.02.

6 MR MOYNIHAN: Mr MacPherson, again I don't wish to tie us
7 all in knots but by this drawing there's another little
8 point that I have to ask you about.

9 Previously, the way the recurving ridge had been
10 drawn had, in fact, connected three of the red dots.
11 Now only one of the three, that's the one to the
12 right-hand side, forms part of the recurving ridge.
13 Point number 8 is the third one in a row and is to the
14 left and is not connected to the ridge above.

15 A. Yes.

16 Q. On this redrawing there is then the middle red dot which
17 is not, in fact, in contact now with the recurved ridge.

18 Is that as you intended, that even that middle red
19 dot is not part of the recurving ridge?

20 A. Are we talking about where the cursor is at the moment?

21 Q. No sorry, I'm together about -- I will put an arrow in.

22 I am talking about the red dot that's opposite the large
23 blue arrow.

24 A. I think that's the ridge recurving and coming down and
25 there's a small lake in that vicinity (**indicated**).

1 Q. Could you assist me, please, by drawing now, perhaps use
2 a different colour for the ridge structure associated
3 with that red dot. **(Pause)**

4 A. I'm afraid that's very rough but ... do you want me to
5 try again?

6 Q. No, no. Well, first of all, when you say "that's very
7 rough", if it's not accurate then please feel free to
8 start again. **(Pause)**

9 Are you satisfied with that?

10 A. Yes.

11 MR MOYNIHAN: If we save that image as well, please.

12 MISS BAHRAMI: That's saved as FI2910.03.

13 MR MOYNIHAN: Just while we were on this image -- and it may
14 be this one is getting a little cluttered for this
15 purpose, in particular not assisted by my large blue
16 arrow -- but what I was going to ask you about is what
17 the dot is that's just off the left-hand side would this
18 be of the bifurcation number 9; is that correct?

19 A. Yes.

20 Q. So the dot that -- perhaps I will put an arrow in and I
21 will make the arrow on this occasion yellow. I will try
22 and steer clear of the ridge detail **(indicated)**. I've
23 just drawn in in yellow to highlight the point.

24 A. Yes.

25 Q. What is the characteristic highlighted at that position?

1 A. For me the characteristic is a long island, like so
2 **(indicated)**.

3 Q. You say a "long island" and by that you mean an
4 incipient --

5 A. It could be an incipient ridge, yes.

6 Q. So what you have drawn in is that there will be an
7 incipient ridge between the two red dots, in effect,
8 coming down the right-hand side of my red arrow --
9 sorry, yellow arrow?

10 A. Yellow arrow, yes.

11 Q. There is an island roughly along the edge of the yellow
12 arrow. In which case, can you then finally for me draw
13 what you would regard as the left leg, I take it, of the
14 bifurcation number 9?

15 A. The left leg. **(Pause)**

16 That's not very good. The bifurcation coming down
17 the way should be further down but that's the left leg
18 of --

19 Q. If you give me a second because I am interested in the
20 detail in this particular area. Thankfully I have taken
21 away only one of the legs that you have drawn for number
22 9. Take your time and show me where you see the
23 evidence of the bifurcation in the left leg of number 9.

24 It is just a straight arrow just now, is it, rather
25 than a drawing?

1 A. Like so (**indicated**).

2 Q. So you're satisfied with that?

3 A. Yes.

4 Q. So that the interpretation now of that region, if I
5 start in effect to the right of my yellow arrow, you
6 would have the left leg descending from point number 9
7 to a point where it bifurcates?

8 A. Yes.

9 Q. Immediately to its left, we would have an island?

10 A. Yes.

11 Q. Drawn in to the side of my yellow arrow?

12 A. Yes.

13 Q. Proceeding left you then enter the area which is coming
14 to the core where point 8 is, to the upper part, just
15 opposite the tip of the blue arrow there is a small
16 enclosure?

17 A. Correct, yes.

18 Q. To the left of that and above is point number 8, a ridge
19 ending disconnected from the recurving ridge above them?

20 A. Yes.

21 MR MOYNIHAN: So if we save that picture, thank you.

22 MISS BAHRAMI: That's saved as FI2910.04.

23 MR MOYNIHAN: What I would like to do, Mr MacPherson, again
24 is as of the order of proceedings yesterday, is to give
25 you an opportunity to view and then to comment on what

1 has been made available to the Inquiry by others. So if
2 I could put this image just to one side and also call up
3 an image that was drawn by Mr Wertheim, which is
4 FI2309.05.

5 What we will actually see here at the foot as
6 FI2309.05 is some notes that Mr Wertheim actually
7 prepared back in March 1997.

8 You yourself and your colleagues at SCRO did not
9 have the practice of preparing notes; is that correct?

10 A. That's correct -- detailed notes, no. There were diary
11 pages. I believe they've got diary pages now which they
12 may take notes on but not detailed notes, no.

13 Q. I think this will defeat me unless I bring up
14 Mr Wertheim's notes as the only image, in fact.

15 We have to make an allowance for the fact that
16 Mr Wertheim is, on this page, looking at production 189
17 so, therefore, we have to adapt the numbers somewhat
18 because the numbering in production 189 is not the
19 numbering we have been using.

20 He has here a page that deals with points 13 at the
21 top and 12. Those are the same for us, 13 and 12, which
22 is the incipient ridge just above point number 9 for us.

23 He then speaks of 11 and 9. 11 is the same for us.
24 9, in fact, for us is 10. So speaking of 11 and 10,
25 which is the lake above point 9. Number 10 in 189 is

1 now 17 for us and if I then come down in his notes, 8
2 is ... give me just a second while I double-check.

3 **(Pause)**

4 8 is 9; 7 is 8; 5 is 6; and 6 is 7. Not the most
5 delicate of drawing but we can see roughly what the
6 position is.

7 So what we have been looking at just now is what he
8 has been studying. We see the date in American notation
9 at the top of the page. It is 27th March 1997,
10 03.27.97, and this is his reading of the prints.

11 For point 8 which we have just been looking at he
12 has it at 7, he says:

13 "On very edge of print possible recurving ridge,
14 possibly with perhaps upstanding rod adjoining under
15 recurve."

16 Then he says:

17 "Not plotted above."

18 Then he sees on something else one assumes -- I
19 can't remember now which is which here -- he has in the
20 next line:

21 "With curving ridge with rod on inner recurve", and
22 then he writes, "in tolerance."

23 So it seems that he has envisaged or seen something
24 that is not dissimilar from you, a recurving ridge with
25 what he describes as a rod?

1 A. Yes.

2 Q. That would be not dissimilar from you?

3 A. That's correct, yes.

4 Q. What I am also interested in is what is written above in
5 relation to point number 9 because point number 9 is
6 immediately adjacent. He writes:

7 "Possibly bifurcation with ridge ending beneath.
8 Possibly two unbroken ridges, possibly two ridges and a
9 cross-over."

10 He has now helpfully drawn in for us the three
11 possibilities he was looking at for point number 9. So
12 it's a possible bifurcation with a ridge ending beneath,
13 that would be the green one; possibly two unbroken
14 ridges, that's the red one; then the blue is possibly
15 two ridges and a cross-over beneath.

16 Do you see that?

17 A. Yes.

18 Q. The one that for me for the moment, when we are looking
19 at point number 8, that interests me is the top one
20 where there's a possibility between points 8 and 9, as
21 drawn by you, that there is a ridge ending as an
22 alternative interpretation.

23 Do you see that?

24 A. Yes.

25 Q. If I go back to what you had drawn, the last saved

1 drawing from today, what interests me about this, again
2 on the question of perhaps the lack of clarity leading
3 to possibilities of alternative interpretations, you
4 have drawn in the left-most leg of number 9, the
5 bifurcation number 9?

6 A. Yes.

7 Q. You then come beneath that and there are the three dots.
8 Number 8 is the left-most one at the top?

9 A. Yes.

10 Q. There is then the middle one and then there is a dot
11 beneath it --

12 A. Yes.

13 Q. -- that you have drawn as part of a recurving ridge
14 coming down?

15 A. Correct.

16 Q. We will look at another drawing in particular by
17 Mr Zeelenberg and one of the questions that arises is
18 whether an alternative interpretation would be that what
19 you have drawn in blue as a ridge that comes beneath
20 your green area on the left-hand side, comes above point
21 number 8 but does not touch it. You then having it
22 coming immediately down to form an enclosure. One
23 alternative interpretation would be that that ridge
24 comes down and ends at the middle dot opposite the blue
25 arrow.

1 Do you see that?

2 A. Mm-hm.

3 Q. Is that a possible alternative interpretation?

4 A. It's not the way I see it. I can only mark it as I

5 believe it to be so and that is how I see it.

6 Q. I appreciate, Mr MacPherson, that that is as you see it

7 and, therefore, that is as you have drawn it.

8 One of my recurring formulations of question is

9 simply this: is it possible in your view that there is

10 an alternative interpretation of those features? Is

11 that something you can see as a possibility?

12 A. No.

13 Q. It is just impossible?

14 A. I don't see it, no.

15 Q. I appreciate you don't see it but do you at least admit

16 of the possibility that there could be an alternative

17 interpretation there?

18 A. Well, somebody has taken that as an alternative

19 interpretation but that's not my interpretation and I

20 don't see that as a possibility.

21 Q. If I look and again just bring it up on PowerPoint,

22 please, Mr Zeelenberg's PowerPoint, AZ0061, and I am

23 looking to slide 44. I may have to just proceed

24 through.

25 Now he is drawing in the bifurcation which is point

1 number 9. If I understand correctly, the inserts that
2 arrived at the top, Wertheim and Kent, is that showing
3 that different images have different clarity in relation
4 to this particular point.

5 Would you accept that?

6 A. Yes.

7 Q. The bifurcation number 9 does not seem as clearly
8 defined in the Kent image, for example, as it is in the
9 comparative exercise image. Correct?

10 A. It's still there, yes.

11 Q. Good, I appreciate it's still there. What I find
12 interesting is your assistance yesterday, in particular
13 I think it may have been the day before with
14 Miss Carmichael, where you were telling us about the
15 impact that memory has, that you can memorise prints
16 that then later assist with the identification.

17 A. Yes.

18 Q. Reflecting on that, even I have come to think that point
19 number 9, I can actually see in various images,
20 irrespective of the clarity, perhaps for the reason you
21 have indicated, that I now have that embedded in my
22 memory. If I see anything that remotely looks like
23 point number 9 I can immediately see it and I can
24 immediately see it as seen in the clearest of the
25 images.

1 Is that the type of issue that you are raising?

2 A. Okay, yes.

3 Q. So far as point number 9 is concerned, if we then
4 proceed to see what he is explaining, he has now brought
5 up on this presentation using Wertheim and Kent images a
6 plotting, in fact two plottings on each with, on the
7 right-hand side in yellow dots in each, the bifurcation
8 number 9, beneath that is drawn in yellow lines a ridge
9 ending.

10 Do you see that?

11 A. Yes.

12 Q. With beneath that again, a recurving ridge?

13 A. Yes.

14 Q. Do you see?

15 A. Yes.

16 Q. Do you have any comment on what he has drawn, again, as
17 his interpretation of the features?

18 A. Not really, other than to say I wouldn't agree with it.

19 Can I draw on -- no, I can't draw on this.

20 Q. If I finish this sequence then I will give you the
21 opportunity to draw so we will come back so we can draw.
22 I will just explain again when it comes up, I am not
23 sure, when it comes up on Trial Director which version
24 of slide 49 will come up but we will attempt it at any
25 rate.

1 If I proceed through this just to a
2 conclusion ... we have in fact just reached the end.

3 If we bring it up on Trial Director as AZ0061, slide
4 44 ... I am afraid this is the problem. This is why we
5 use the PowerPoint. It has come up as one particular
6 sort of version on Trial Director with the words right
7 across part of the image.

8 Is that of any assistance to you in drawing or ... I
9 don't know.

10 A. Again, coming up from the bottom would be the
11 bifurcation like so **(indicated)** and to the right of that
12 is the small enclosure that I was talking about. That's
13 how I see it.

14 Q. That's okay. So now we have Ms McKie's print on the
15 screen --

16 A. Yes.

17 Q. -- can you point to me on Ms McKie's print where the
18 bifurcation is, if I can put an arrow. I will insert a
19 red arrow. Can you show me on Ms McKie's print where
20 the bifurcation is you have drawn opposite the red
21 arrow? **(Pause)**

22 A. You have the ridge ending -- sorry, the ridge coming up
23 like so and just as you come up here there's a
24 divergence of the ridge and the ridge ending is there
25 **(indicated)**.

1 MR MOYNIHAN: If we could save that, please.

2 MISS BAHRAMI: That's saved as FI2910.05.

3 MR MOYNIHAN: This final point I think we can take moving to

4 point number 9 itself, if we can do with the same image

5 that's on the screen at present.

6 First of all, I have already taken and we have seen

7 Mr Wertheim's notes that he admits of a number of

8 possibilities in relation to the shape of number 9, one

9 of which is a bifurcation, one is simply two parallel

10 ridges and the other was a cross-over.

11 As we have seen with Mr Grigg, he initially drew

12 number 9 as two recurving ridges and then, as you say,

13 shown Mr Kent's image, he accepted it was more likely to

14 be a bifurcation.

15 A. Yes.

16 Q. So we are looking at that range of opinion.

17 So far as Mr Zeelenberg's point is concerned, if I

18 understand him correctly, what he is looking at is the

19 difference in the comparative shapes of the right-hand

20 leg of the bifurcation number 9 and, in particular, I

21 think he would accede to the suggestion or the

22 terminology you use, that in Ms McKie's print there is

23 to be seen what you have described as a hump backed

24 bridge?

25 A. Yes.

1 Q. Whereas as drawn on Y7 there is simply a smooth
2 descending curve so that the hump backed bridge is
3 missing.

4 First of all, just taking it in stages, do you agree
5 with him that there is that difference in the precise
6 shape?

7 A. Would it be in order to draw again?

8 MR MOYNIHAN: Yes, you can.

9 First of all, have we saved this image? Let's save
10 this image relating to point 8.

11 MISS BAHRAMI: That's saved as FI2910.06.

12 MR MOYNIHAN: Yes, you wish to draw?

13 A. The left leg in relation to point number 9 come up like
14 so **(indicated)**, a small enclosure and then the right
15 leg, a small enclosure, then I follow the right leg
16 down. So that would be the hump backed bridge I was
17 referring to. I think I can also put it on here
18 **(indicated)**.

19 Q. I think we can see the hump backed bridge, the shape is
20 drawn.

21 A. A small enclosure then you follow the left leg down.

22 Q. In fact, my next question was going to have been if
23 there was a difference in shape whether that would have
24 made any difference to the overall interpretation, given
25 what you have read out from the handbook about the

1 flexibility of the skin?

2 A. Of the skin, yes.

3 Q. Would a difference in shape of this precise nature make
4 a difference?

5 A. As I say, skin's flexible. You're not going to get an
6 exact replication between the two.

7 MR MOYNIHAN: So if we finish just this particular point
8 then I want to step back just to look at one of
9 Mr Zeelenberg's slides at point 8, just in a minute, to
10 complete this, but if we save this slide.

11 MISS BAHRAMI: That's saved as FI2910.07.

12 MR MOYNIHAN: What I would like to do and let us try it just
13 on Trial Director, if we could go, please, to slide 58.

14 In relation to point number 8, just to complete
15 this, what Mr Zeelenberg ultimately says in relation to
16 point number 8, he has a red arrow in the bottom left,
17 to point to what he understands to be point number 8 and
18 he says in relation to the image Y7 the blob is regarded
19 as an ending ridge in the mark. In the print it's a
20 dot.

21 I think if, I understand his evidence, what he is
22 actually seeing here is the absence of the recurving
23 ridge above the dot so it's, again, an alternative view
24 of this.

25 Have you covered this sufficiently?

1 A. I think I've shown that between point 8 and point 9
2 there's a recurving ridge, one intervening ridge between
3 point 8, the ridge ending up, and point 9 which has been
4 referred to as the hump backed bridge.

5 Q. I am grateful to you.

6 If we then move then, please, to points 10, 11, 12
7 and 13, I think we can cover these together. If I
8 return to FI0167A, and bring it up twice, 10 and 11 are
9 the lake above point number 9, 12 and 13 the incipient
10 ridge; correct?

11 A. 10 and 11 are the lake. I don't believe it's an
12 incipient ridge. I think there's a pore contained
13 within that ridge so I would say it's a normal ridge.

14 Q. So far as the detail is concerned, because it may
15 matter, can you indicate to us where the pore is?

16 A. Just there, just where the cursor is **(indicated)**.

17 Q. So if I put an arrow in you are indicating that there
18 is -- is there just one pore?

19 A. Just one pore by the looks of it, yes.

20 Q. So there's one pore just above where I have inserted --

21 A. Just above. There's two pores next to each other, if
22 you like, but right in the middle I would say there's a
23 pore between 12 and 13.

24 Q. Sorry, as I look just now, just my eyesight, there are
25 three sort of whiter almost circles in that area. One

1 just immediately above and to the left of the tip of my
2 red arrow, one above it, and then to the left-hand side
3 just beneath what would be the line for point number 12
4 there is again another area, perhaps, of lighter colour.

5 Is that what you're referring to?

6 A. The arrow's -- where the cursor is at the moment I would
7 say that is a pore. Can I put it in?

8 Q. Yes, just draw it in please, as you would wish.

9 A. Yes, just arrow it, there **(indicated)**.

10 THE CHAIRMAN: So it is the upper one of the two that are
11 one under the other.

12 A. Yes.

13 MR MOYNIHAN: So are you indicating though that there are
14 two pores in that area, one on top of the other?

15 A. Yes.

16 Q. So as a consequence of the presence of those two pores,
17 what you are indicating is that the feature 12 and 13
18 that I have up until now been calling an incipient you
19 would regard as an island; is that the correct term?

20 A. An island, sometimes in incipient pores appear or they
21 don't appear.

22 Q. But so far as an island is concerned ...?

23 A. It's basically two ridge endings but of varying length.
24 If there's only one pore usually it's referred to as a
25 dot. It's very, very small.

1 Q. What would your description then be of the feature

2 12/13?

3 A. I would say it's an island.

4 Q. And, accordingly, two points?

5 A. Yes.

6 MR MOYNIHAN: If we save that picture then, please.

7 MISS BAHRAMI: That's saved as FI2910.08.

8 MR MOYNIHAN: What I want to do is to look at Mr Wertheim's

9 notes in relation to 10, 11, 12 and 13. Insofar as

10 Mr Wertheim's notes are concerned, if I bring them up in

11 their original form FI0118.24. This just happens to be

12 page 1. We will see again the notation 03.24.99. So

13 these are notes that he wrote or began to write on 24th

14 March 1999.

15 If I then proceed through to page 31, we will see at

16 the top that on 27th March at 4.15 in the afternoon he

17 is turning to consider the charted enlargement of the

18 state's 189, so that is production 189 and that,

19 therefore, leads me on to the next page of his notes,

20 page 32, where I'd previously written on another version

21 of this but it doesn't matter some of the conversion

22 points, some of the numbers changed.

23 What interests me is what he wrote in relation to 13

24 and 12. The numbers are unchanged. 11 and 9 we should

25 now read 11 and 10 to make it coincide with our

1 numbering here. So he is talking about what you have
2 described as the island, 12 and 13, and the lake, 10 and
3 11.

4 So far as 12 and 13 is concerned, he says:

5 "It's a smudged area not noted above."

6 Then in relation to, presumably, yes, on the
7 latent -- sorry, I am seeing now immediately above on
8 the latent he sees, "a smudged area not noted above".

9 In the inked chart he sees an incipient short ridge. He
10 evaluates it, it is saying, "not dependable but within
11 tolerance". So it's perhaps a contradiction in terms
12 there about whether it is dependable or not?

13 A. Yes.

14 Q. But then so far as 10 and 11 is concerned, he sees in
15 the latent, "a smooth ridge not noted above", and in the
16 inked he sees an enclosure and it's out of tolerance.

17 So if I understand it correctly in 10 and 11 he is
18 simply seeing what he calls a smooth ridge, that is a
19 continuous ridge, compared to the enclosure in the inked
20 print and, as I say, there's this ambiguity about 12 and
21 13 as to whether it's smudged and, therefore, not
22 dependable or whether he has observed something that he
23 regards as being within tolerance.

24 Do you see that?

25 A. Yes.

1 Q. So we then see, in effect, Mr Wertheim's interpretation.
2 If I can take you to what he himself then was looking
3 at -- just allow me a second. If you go to FI2309.08,
4 you see I have brought up now FI2309.08, which would be
5 Mr Wertheim's interpretation of the area that would
6 coincide with the lake and the island, 12 and 13. You
7 will see that what he has drawn is a field of continuous
8 ridges above number 9.

9 A. Yes.

10 Q. Do you have any comment on that?

11 A. Well, again, if I could be allowed to show my
12 interpretation of it, I don't agree with it.

13 Q. We will come to that just in a second and give you a
14 chance because what we will need is a clear image to
15 enable you to do that.

16 Again, in the formulation that I am running with, do
17 you yourself see that as even a possible interpretation
18 of Y7?

19 A. He mentioned about the island. Has he marked that in
20 any way on his drawing? He's just got continuous ridges
21 but he's saying it's within tolerance, was it?

22 Q. If I understand it correctly, within the yellow circle
23 he has drawn two short red lines?

24 A. Yes.

25 Q. What he is saying is, if I recollect it correctly, the

1 lower of those red lines, which would be in greater
2 proximity to where the feature 12 and 13 would be if
3 they were an identity, he is saying, first of all, he
4 regards it as closer to the next ridge up rather than
5 being in contact with the ridge that is the top part of
6 the lake 10. That's the first point.

7 Secondly, he is saying if we are choosing to regard
8 that red line as an incipient, it was called an
9 incipient that time, then there are a number of other
10 characteristics in the area that would describe a
11 similar or would attach a similar description and he
12 drew in the remaining red short lines and is saying, in
13 effect, if I understand it correctly, well, if the lower
14 one, 12/13, is an incipient, there's a pattern of others
15 spread across inconsistent with Ms McKie.

16 A. Okay.

17 Q. Do you see that?

18 A. Yes.

19 Q. So that is the combination of this, dealing with 10, 11,
20 12 and 13. That is his view.

21 A. Okay.

22 Q. If I take you on, I will have a look at Mr Grigg very
23 briefly. So far as Mr Grigg is concerned -- if you
24 allow me just a moment -- if I could bring up again,
25 please, so far as Mr Grigg is concerned on this occasion

1 if I bring up FI2909.14. On the right-hand side, if I
2 remember correctly, his initial view was and you may
3 remember this was his initial analysis because it has
4 the circles that we discussed yesterday --

5 A. Yes.

6 Q. -- and it has number 9 drawn as the recurving red
7 ridges?

8 A. Yes.

9 Q. We have been through that.

10 A. Yes.

11 Q. He had indicated that between the red arrow on the left
12 and the Rosetta, he had simply seen a field of unbroken
13 ridges and, indeed, so far as what he has then drawn in
14 yellow, is he found evidence of disturbance in this area
15 making him somewhat suspicious. It was that left-most
16 yellow line that was making him think it was a possible
17 view as to how an appearance of a bifurcation could
18 appear at point number 9. So he was uncomfortable, it
19 would appear, with this particular area. So not
20 suggesting at that point anything quite clear but he did
21 himself later go on that he saw no lake because he saw
22 clear ridges in the area of 10 and 11, was his evidence.

23 A. Yes.

24 Q. Then if I take you to Mr Zeelenberg and if I bring it
25 up, maybe in just in PowerPoint just now, slide 59 -- so

1 it is AZ0061 of the PowerPoint, slide 59. If I proceed
2 through slide 59, first of all, he has started as you
3 will see on the left-hand side by marking in yellow dots
4 what he regards as the outer edge of the mark.

5 He has inserted now as red dots as his point of
6 reference the point of the bifurcation number 9, yes?
7 Do you see that in the lower images I am looking at?

8 A. Yes, yes.

9 Q. So as his reference point, the lower dots, the red dots
10 are point number 9?

11 A. I would say that in the right-hand image the dots should
12 be further back, more to the right.

13 Q. But it's only by a fraction --

14 A. Yes, just a fraction, yes.

15 Q. Since it is simply a point of reference that alteration
16 doesn't matter so much.

17 A. Okay.

18 Q. He has now drawn in a red dot above as the point of the
19 bifurcation 10 and 11.

20 Do you have any comment on where he's drawn the dot?

21 A. No, that's -- yes, that's possibly where I would have
22 put it as well, yes.

23 Q. That's on the right on the --

24 A. Slightly to the left of where he's -- slightly to the
25 left of where he's marked it.

1 Q. On the left-hand image?

2 A. On the left-hand image, yes.

3 Q. Slightly to the left may in fact not make any difference

4 here but we will just exaggerate the problem he is about

5 to describe because as we go further to the left the

6 question of crossing his yellow lines as the outer limit

7 of the mark becomes greater because what we will see is

8 he draws a line on the right-hand image between the

9 points 10 and 11. He transposes that to the left-hand

10 image and is seeing that the point would, in fact, be

11 beyond what he regards as the edge.

12 I think the small red dot, you may want to just

13 check the small red dot that he has added in now which

14 is above the red line is what he, I think, is suggesting

15 is where the SCRO charting puts point 10.

16 Do you want to check that?

17 A. I don't think that's correct, no. Just above that would

18 be point 17, I think, just above where he's indicated.

19 Q. As you will see point number 17 is, indeed, just above.

20 What he is trying to do is to replicate the SCRO because

21 the upper image is the SCRO charting, upper left is the

22 SCRO charting. He has replicated point 10 is what the

23 two lines joining the top and bottom parts of the screen

24 indicate; he has replicated point 10?

25 A. No, it should be lower than that.

1 Q. Lower?

2 A. Yes.

3 Q. Because we will then go on and see what he is indicating
4 is he is indicating -- I should go back.

5 A. That definitely should be lower. He's not replicated
6 where our characteristic is.

7 Q. I think the point he was making is he regards point
8 number 10 as outwith the contour of the mark.

9 Do you see that?

10 A. Yes.

11 Q. Plainly you would disagree with that?

12 A. That's correct, yes.

13 Q. Where do you draw the contour of the mark? This is a
14 PowerPoint so we maybe just have to play with this and
15 come back and ask you that.

16 If I proceed through this, slide 60 is another
17 approach at the same thing. He is now dealing with
18 points 11, 12 and 13. You will see what he has now
19 drawn in over Y7 is something that replicates -- first
20 of all, he has a red dot, again for orientation, as the
21 bifurcation number 9.

22 A. Yes.

23 Q. And we needn't worry whether it's precisely located
24 correctly or not, it simply gives us a point of
25 reference.

1 He suggests as the interpretation of what is
2 occurring above point 9 what Mr Wertheim and Mr Grigg
3 say, perhaps if I use this term, is a field of unbroken
4 ridges?

5 A. Yes.

6 Q. Ultimately ending up, as you will see, he says point 11,
7 that's the right-hand side of the lake, is not
8 present in the mark. Point 12 and 13, he says, require
9 high quality in the mark and are not seen. The points
10 are teased out. Absence of point 11 in the mark is a
11 discrepancy and it's his discrepancy number 17.

12 By a discrepancy what he is saying is not only is
13 there an absence of any evidence of point 11, he is
14 suggesting that the correct interpretation is a field of
15 unbroken ridges and, therefore, the absence of the lake
16 is a point of difference as between Y7 and Ms McKie?

17 A. Yes.

18 Q. I think that gives you an overall feel for what he is
19 saying and, indeed, ties in with Mr Wertheim and
20 Mr Grigg.

21 What I want to do is, in the light of that, to give
22 you a chance to demonstrate your own interpretation and
23 it is then a question of which image we use for this
24 purpose.

25 First of all, we need to come out of PowerPoint and

1 I think what I would myself start with is if I take down
2 on the right Mr Grigg's drawing and restore again a
3 second version of FI0167A -- it's one image. Sorry
4 about that. If we start again, then with two images of
5 FI0167A.

6 Mr MacPherson, as I explained to you yesterday
7 afternoon I think as his Lordship explained also, why I
8 start here is simply to get an impression, a feel, for
9 how you would have seen it at the time and I am not so
10 absurd as to ask you to remember 12 years ago. It just
11 gives us an ability to look at the images you looked at
12 12 years ago so you can give us an interpretation by
13 reference to that. As his Lordship says, if there are
14 judgment calls being made it can be cross-checked, if
15 you wish, against other material, then we can go to the
16 other material, if you wish.

17 A. Okay.

18 Q. Can you, on the images we have here -- are they
19 sufficient for your purpose to indicate how you
20 interpret 10, 11, 12 and 13?

21 A. I would hope so. **(Pause)**

22 Just basically start with the reference point of the
23 hump backed bridge. We go one intervening ridge to the
24 island, which is -- that's maybe not quite exact but
25 that's the island. Just below the island the ridge

1 comes along and bifurcates to the left.

2 It should be slightly further to the right but what
3 I'm trying to illustrate is this ridge comes along and
4 bifurcates there and there (**indicated**) and just above it
5 in the green is the small island.

6 Q. Even as it's drawn here just now, what I was
7 considering, among other things we were looking at
8 Mr Wertheim's charting, was that what he had been
9 drawing was that on Ms McKie's print the incipient, as
10 we called it with him, or island -- it matters not to
11 me -- had been in contact with the upper ridge that
12 forms the top of the lake 10 and 11, or certainly in
13 close proximity to it and some distance removed then
14 from the ridge immediately above; whereas as drawn by
15 you on the left and indeed as drawn by Mr Wertheim, the
16 appearance, to use that neutral term, was being
17 construed as that incipient or island is not in contact
18 with the bifurcation beneath point 11 and is in fact in
19 closer proximity to the ridge immediately above?

20 A. Yes.

21 Q. First of all, is that at least a view of how this
22 picture is presented that you would agree with?

23 A. Yes.

24 Q. Can you explain why it is then that the island is no
25 longer in contact with the lake and appears to be in

1 closer proximity to the ridge above?

2 A. I would say it's down to pressure, yes.

3 Q. Okay. So that is a drawing then of 12 and 13 --

4 A. Yes.

5 Q. -- and point 11?

6 A. Yes.

7 Q. Could you then take us across, please, and show us the
8 ridge path that forms the left side of the lake?

9 A. Is it possible to start again?

10 Q. By all means. We will save this image and then you can
11 start again.

12 MISS BAHRAMI: That's saved as FI2910.09.

13 MR MOYNIHAN: If you could bring up on the left-hand side a
14 copy of FI0167A, please. Again, I will leave to you,
15 Mr MacPherson, to highlight the section as you please
16 now.

17 A. **(Pause)** The bottom half of the ridge comes along like
18 so **(indicated)** and the top like so **(indicated)** and just
19 above it are points 12 and 13 we've referred.

20 Q. Are you happy with that?

21 A. Yes.

22 Q. If we could save that and complete the final part of
23 this. Just before we adjourn, what I will do is pick up
24 number 17 which is actually on the screen before us just
25 now and then after the break we will complete the circle

1 by looking at 14.

2 MISS BAHRAMI: That's saved as FI2910.10.

3 MR MOYNIHAN: Thank you. Just as we have it on the screen

4 on the left-hand side, if we can go to whatever scale

5 you, please, just while we are in this same area plainly

6 number 17 is a feature that is in the same locality.

7 A. Yes.

8 Q. On Ms McKie, would the correct description be a

9 bifurcation?

10 A. Yes, a bifurcation, yes.

11 Q. If I understand correctly it's the left-most red dot --

12 A. Yes.

13 Q. -- coming from the left-hand top edge in.

14 A. That's correct.

15 Q. Can you just while we are there draw us that particular

16 feature, please.

17 A. The bottom left of the bifurcation comes along like so

18 **(indicated)** and the top edge of the bifurcation comes

19 from the other direction. It basically comes down like

20 so **(indicated)** and joins there **(indicated)** and you would

21 have a further ridge above it just coming down like so.

22 Q. Are you reasonably comfortable with that?

23 A. Yes.

24 Q. We will save that.

25 MISS BAHRAMI: That's saved as FI2910.11.

1 MR MOYNIHAN: If I tell you the one witness I have here at
2 least in my notes dealing with point number 17 is
3 Mr Wertheim. There is evidence that the McKie trial --
4 look back at his notes if you wish -- was that he simply
5 saw no reliable evidence of the presence of a
6 characteristic in Y7 in that position.

7 A. Okay.

8 Q. In other words he is simply saying, in fact, what he
9 said to the Inquiry "if you can't see it, you can't make
10 use of it". So he was suggesting that point number
11 7(**sic**) just couldn't be seen and, in fact, he went on to
12 describe it as an exercise of, in effect, reverse
13 reasoning; in other words, it can be seen on Ms McKie,
14 her print, and therefore if you have memorised
15 Ms McKie's print, as we would by this stage, and we look
16 over, you might see some dot or some suggestion that you
17 would then interpret consistently with what's seen in
18 Ms McKie but there is in fact no reliable evidence to
19 begin with on Y7 for this.

20 What is your comment on that --

21 A. Well, I would disagree with that. I think I've just
22 demonstrated that there is there.

23 MR MOYNIHAN: This might be an appropriate point to adjourn.
24 There is only one more point on Y7 to be covered.
25 THE CHAIRMAN: We will sit again at 11.55.

1 (11.35 am)

2 (A short break)

3 (11.55 am)

4 MR MOYNIHAN: Mr MacPherson, point number 14 in Y7, again,

5 if I bring up two images, please, of FI0167A and, again,

6 if I just highlight it so that we know what we are

7 looking at, point number 14 is highlighted and is, in

8 effect, intermediate between points 13 -- to the right

9 of point 13 before one arrives at 15 and 16 we have

10 already discussed.

11 Now your own interpretation of point number 14 is

12 that it is what sort of feature?

13 A. A ridge ending.

14 Q. A ridge ending?

15 A. Yes.

16 Q. If I can highlight part of it ... I may not have taken

17 it into sufficient detail. Now I can see it clearly,

18 maybe I can to it better.

19 I have in the bottom centre now, do I, point number

20 9 just as a point so we can orientate ourselves as

21 normal?

22 A. Yes.

23 Q. You see point number 14 as a ridge ending?

24 A. Yes.

25 Q. The position of the three witnesses I have been

1 referring to and asking you to comment on is
2 Mr Wertheim, Mr Grigg and Mr Zeelenberg. All three say
3 that their interpretation of the feature in Y7 is that
4 they say it is part of a continuous ridge.

5 So far as drawings of that are concerned, if I bring
6 up perhaps on the right-hand side bring up Mr Wertheim
7 to begin with, FI2309.09.

8 What he has drawn, as you will see on the left-hand
9 side of his image, is his tracing of continuous ridges
10 running through or a continuous ridge running through
11 point 14 with continuous ridges either side. If I would
12 understand it correctly, what he's also indicating by
13 the blue lines is that the spacing between the ridges
14 either side of point 14 remains relatively constant in
15 Y7, but in Ms McKie there is a difference in spacing
16 left to right, that difference in spacing being to
17 accommodate the additional ridge that is point 14. He
18 is suggesting a field of continuous ridges confirmed by
19 the same order of magnitude of difference between the
20 ridges.

21 If I bring up then Mr Zeelenberg and we will try it
22 on Trial Director first -- AZ0061, slide 45. Again,
23 what he has done is that he has drawn, as you will
24 see -- and we can enlarge it if you wish -- he has also
25 drawn a field of continuous ridges and confirmed that by

1 reference to the number of ridges and indeed the
2 magnitude of the ridges. In relation to Ms McKie he
3 sees four ridges on the left, five on the right.
4 However, in the corresponding area in Y7 he sees five
5 ridges left and right and the fact the number of ridges
6 is the same is consistent with no ridge coming in and
7 ending at the point 14.

8 So those are the two drawings I have. Mr Grigg I
9 don't have a drawing for of ridges but his opinion was
10 the same, a field of continuous ridges.

11 Bearing that in mind, would you like to that
12 demonstrate your own preferred interpretation and it may
13 be you want just to simply take down -- maybe it is
14 simply better to take down Mr Zeelenberg and give you
15 the benefit of the SCRO chart alone so it gives you it
16 in better detail. **(Pause)**

17 A. If I draw in, first of all, the ridge ending itself ...

18 **(Pause)**

19 From point 13 up to 14 are one, two, three
20 intervening ridges. The ridge above comes along and
21 down and the ridge below comes along and down like so
22 **(indicated)**. You would have between point 14, which is
23 the ridge ending, you would then have one, two
24 intervening ridges to point 15, the ridge ending up on
25 the ascending ridge and point 16 the descending ridge.

1 Q. So drawn do we also see the difference in the gap and
2 the divergence in the light blue ridges either side of
3 the red ridge that we understand to be necessary to
4 accommodate the additional ridge in the flow?

5 A. Yes.

6 Q. So far as point number 14 is concerned, are you content
7 with that as a representation of your --

8 A. Yes.

9 MR MOYNIHAN: If we could save that image, thank you.

10 MISS BAHRAMI: That's saved as FI2910.12.

11 MR MOYNIHAN: That is me, in fact, having gone round the
12 clock so to speak in relation to Y7.

13 A. Yes.

14 Q. I am conscious what I have done is concentrate on the
15 specific charted points, albeit I did look to some
16 extent at your charting of Tuesday.

17 A. Yes.

18 Q. Before I leave Y7, are there any points that I have not
19 asked you about that you would wish to actually comment
20 on? Please, if that is an awful question you would like
21 to park until lunchtime and think about it then please
22 feel free to do so.

23 A. Possibly, yes.

24 Q. Park it and --

25 A. I don't believe so. I'm quite happy for my chartings to

1 speak for themselves.

2 Q. Fair enough. In that case what I will do -- please, if
3 anything occurs to you over lunch then just feel free to
4 indicate.

5 With that in mind then what I was going to do was to
6 turn to Q12.

7 THE CHAIRMAN: Do you want to save this?

8 MR MOYNIHAN: Sorry, save this one.

9 THE CHAIRMAN: Just before we leave it I wonder if I could
10 ask you on Ms McKie's print 14 -- that is on the plain
11 print.

12 A. Yes.

13 THE CHAIRMAN: -- I am having some difficulty in finding any
14 gap between what you say is point 14 and the ridge
15 immediately below it. That is on the plain print.

16 Do you see an actual gap where the ridge ending is
17 between that ridge which ends and the ridge below it on
18 the plain print?

19 A. I see what you mean. The tail of the ridge looks as if
20 it's bending in towards the lower half but I would say
21 that the actual ridge comes up and stops where I've
22 marked it.

23 THE CHAIRMAN: You think it stops before it reaches the
24 ridge below it, if that's right.

25 A. Yes.

1 THE CHAIRMAN: Yes, just on maybe on the copy I have you do
2 see a white dot which could be a pore or --

3 A. The ridges do descend in that.

4 THE CHAIRMAN: Yes. I see it curving round but I just don't
5 see at the moment the gap between the two but I take
6 your eye would be better than mine at judging that. But
7 you do see an actual space?

8 A. Yes.

9 THE CHAIRMAN: Thank you.

10 MR MOYNIHAN: So if we turn then to Q12, in relation to Q12
11 the SCRO chartings are FI0166A. Just bring it up twice.

12 As far as I know, there's only one feature on this
13 that I might be tempted to actually apply a name to but
14 handshake, bananas or whatever else are left behind, let
15 alone snails and caterpillars. The one and only one yet
16 that has yet been given a descriptive title is the
17 chilli pepper which is right in the core but we will
18 start with the numbers.

19 Before I start, can we just begin with the very
20 simple approach, again, of what it was about Q12 that
21 caught your eye.

22 Before I even start that question, can you give me
23 what your initial impression was or reaction to the
24 quality of Q12?

25 A. It was a whorl, a whorl pattern but I think, as I said

1 in the exercise, on the periphery of this pattern there
2 are quite a number of other impressions or marks. On
3 the right-hand side is Mr David Asbury's left thumb,
4 albeit, as I said earlier this morning, it didn't reach
5 the required standard for court.

6 Where I'm indicating is **(indicated)** as far as I can
7 remember -- I don't want to be held to this but as far
8 as I remember, that's the left thumb but it should
9 be ... you would have to rotate it.

10 THE CHAIRMAN: Yes. So the red arrow is roughly the area?

11 A. Roughly, but you would have to rotate the impression Q12
12 for it to be in alignment with the left thumbprint.

13 MR MOYNIHAN: What I had in mind, Mr MacPherson, is I
14 suppose a more elementary question ... oh sorry, you are
15 drawing. I interrupted you.

16 A. The impression indicated there **(indicated)** is the right
17 middle of Mr David Asbury and obviously at the top
18 left -- on the periphery of the mark, if that's what
19 you're asking, on the periphery of the mark there are
20 other marks superimposing themselves on the actual
21 central mark, the whorl pattern I was talking about.

22 If you're asking me specifically what caught my
23 eye --

24 Q. Just before I do, I will actually come to ask you what
25 caught your eye, what I was wondering perhaps was a more

1 general initial question: what view you formed about the
2 quality of the mark Q12. As you have said, you have
3 just explained why it would be regarded in some of the
4 paperwork as a cluster of marks?

5 A. Yes.

6 Q. You have just explained why with the red and the mustard
7 arrows. But your overall view about the quality of Q12
8 as a mark with which to work?

9 A. It wasn't a great quality mark but it was certainly
10 comparable.

11 Q. I've come to appreciate that what we distributed as the
12 comparative exercise material gives a narrow view of
13 this. In addition, what we can see coming through the
14 mark Q12, the central portion, some others have
15 suggested is a swipe or smear coming through the
16 left-hand side of the core.

17 Do you accept that?

18 A. Yes, it looks like slippage of the mark itself. That
19 would be my interpretation of it.

20 Q. Slippage of the mark itself?

21 A. Of the mark itself on placement, yes.

22 Q. What about out to the left, again roughly between the
23 areas of 14 and 16, the lines of 14 and 16? Do you see
24 any other indication of movement or smudging or
25 something of that sort?

1 A. There may be smudging, something along -- I have put in
2 an arrow, if I can just take that as a sort of line
3 rather than the tip of the arrow ...

4 Q. No, it's okay just leave it as it is. It is fine. We
5 can understand it. So roughly in the position where the
6 mustard arrow is is an area of smudging?

7 A. Possibly smudging, yes.

8 Q. So these are all, in effect, the presence of other
9 marks, movement in the vicinity of Q12, Marion Ross,
10 itself, and smudging in other parts create some areas of
11 challenge, perhaps, is the phrase?

12 A. Yes.

13 Q. But you are satisfied that it was a mark that was of
14 comparable quality?

15 A. Yes.

16 Q. That assists me then to -- I will be moving on to what
17 caught your eye but before I do, just for the record, as
18 far as what we are looking at on screen, like Y7 itself,
19 just for the record, you and certainly it was Ms
20 McBride, if I remember correctly, not your other two
21 colleagues, were asked to assist us in selecting images
22 that could be used for a comparative exercise in
23 relation to Q12?

24 A. Yes.

25 Q. The images which we have, actually more the photographic

1 images which were used, were images that you and
2 Ms McBride, primarily, of the SCRO witnesses selected as
3 images that were of sufficient quality that you would be
4 happy to seek to reproduce your chartings?

5 A. Yes.

6 Q. Again, as before, you were not asked to undertake an
7 entirely independent analysis of the mark QI2, you were
8 asked to undertake this artificial exercise to recreate
9 on images that were provided to you the chartings which
10 had been the basis for the court productions in the
11 original Asbury trial?

12 A. That's correct, yes.

13 Q. You were accordingly satisfied that, first of all, the
14 images that you were given, because we had gone back to
15 the original material available to SCRO in February 1997
16 that provided a basis for this exercise.

17 A. Yes.

18 Q. And that, as best you can, you have reproduced in the
19 images that we have the 16 points that were in the
20 original court production in Asbury?

21 A. Yes.

22 Q. As with Y7, Mr MacPherson, my own questions will be
23 primarily by reference to the comparative exercise, for
24 reasons of continuity, as I said earlier, to see the
25 reasoning that there was underlying the initial opinion.

1 As his Lordship had said yesterday afternoon, if it
2 would benefit you from looking at other images, either
3 of Q12 or Marion Ross, please, indicate because if other
4 images assist with greater clarity or whatever in
5 resolving a particular point, then please feel free to
6 say.

7 A. Okay.

8 Q. Before I proceed then through the particular points, if
9 I then give you a chance to indicate to us what on Q12
10 it was that attracted your attention or caught your eye.

11 A. I can't really remember, I have to say.

12 Q. Again, I appreciate, as I said to you on a number of
13 occasions, it's a particularly difficult question
14 12 years ago now.

15 Perhaps, with the benefit of what you have been
16 doing most recently, can you indicate to us if there are
17 features that, for example, today catch the eye or may
18 have been the features that caught the eye back then.

19 A. Yes. Okay. **(Pause)**

20 I am going to mark as this ridge descends, a strong
21 bifurcation there **(indicated)**.

22 Q. Sorry, just before you -- sorry, if you allow me just a
23 second. Before we lose the numbers, could you just
24 press return on the ... you will see in a second what I
25 am doing.

1 What you have done is drawn a ridge. I have just
2 brought the numbers back up. The area you were
3 referring to as having caught the eye is the bifurcation
4 that is point number 12?

5 A. Point number 12, yes.

6 Q. I am sorry, I can then let you take control.

7 A. As it descends down it comes to a ridge ending at point
8 number 11. **(Pause)**

9 Also just to the right-hand side of the bifurcation
10 there's a split in the ridge. So that's possibly what
11 caught my eye 12 years ago but I couldn't say for
12 definite. But certainly, as you say, it was one of the
13 stronger characteristics. Now, you may ask why didn't I
14 to the right of the bifurcation down use those
15 characteristics in my charting but, as you say, it was
16 just to replicate, basically, what we had used back in
17 1997.

18 Q. The first point that I would like just to ask you about
19 insofar as what you have drawn just now is the features
20 12 and 11, I'll put them in ordinary numerical order, 11
21 and 12, number 12 you have drawn as a bifurcation?

22 A. Yes.

23 Q. Number 11 you have drawn as a ridge ending?

24 A. Yes.

25 Q. So far as Q12 itself is concerned, one can see the

1 absence of any connection, in effect, that would run as
2 the anatomical equivalent of the red line to the right.

3 A. Yes.

4 Q. So nothing to close off that side?

5 A. Yes.

6 Q. Whereas in Q12 there is, indeed, a feature running that
7 on one view runs between the two blue lines and on one
8 view might be connected up to form the right-hand side
9 of a lake.

10 Do you see that?

11 A. Yes.

12 Q. What is your preferred interpretation there?

13 A. It's still -- my preferred interpretation would be a
14 ridge ending. It may be that that's just a slight
15 incipient ridge between the bottom ridge and the actual
16 ridge ending itself but I think it's quite strong, as
17 you can see.

18 Q. So you would say on Q12, do you, there's an absence of
19 ridge characteristic to bridge the gap between the two
20 lower ridges?

21 A. Yes.

22 Q. If you allow me just a second, please. **(Pause)**

23 Beyond these particular features -- and, again,
24 please, it may just assist if I not be so artificial as
25 to say what caught your eye 12 years ago, perhaps just

1 look at it today.

2 Are there any other features that you would say, if
3 you had been looking at this, starting an initial
4 analysis of an ACE-V type, would be characteristics you
5 would expect would catch the eye and form the basis of
6 analysis?

7 A. I think what I've indicated, 11 and 12. I don't know if
8 it would be worth drawing your attention to it but as
9 you see in the right hand leg, just above the ridge
10 ending, if you follow it up there's a small break,
11 somewhere on the -- if you follow up on Miss Ross's
12 right forefinger, there's a small break.

13 There's then what could be termed a small sort of
14 island almost, which is there (**indicated**), and then
15 there's another small gap and the ridge follows up and
16 it comes into the bifurcation again, again a small gap,
17 you follow the ridge ending up and it comes to the
18 bifurcation. So I admit, yes, it looks as if it's
19 joined there but for me the explanation for that is that
20 it's a tailing off of the ridge, it's a small possibly
21 incipient ridge which just hasn't shown.

22 MR MOYNIHAN: If I then save that image, please.

23 MISS BAHRAMI: That's saved as FI2910.13.

24 MR MOYNIHAN: What I want to do is come back to looking at
25 the overview, FI0166A twice. I am going to just pull it

1 up again twice over so that we can see.

2 Mr Zeelenberg gave an overview of Q12. He did so
3 not only in his evidence but it's present in two slides
4 but I won't bring the two slides. The two slides in his
5 presentation are 153 and 168, just for the record.

6 What he said of his overall assessment of the mark
7 Q12 was there was an absence of quality in the mark,
8 absence of quality characteristics. The detail around
9 the core might permit an exclusion of particular
10 individuals but, as I understood him, the quality was
11 not sufficiently clear to admit of an identification of
12 any individual.

13 Finally, he said this: the absence of quality and
14 the distortions that are present in the mark are such
15 that it opens avenues to what he called "guided
16 interpretation", by which I would understand him to mean
17 that the absence of clarity in the mark is such that one
18 could interpret appearances as one wishes, either to
19 confirm or refute an identification.

20 What is your comment on that as an overall
21 assessment of Q12?

22 A. Well, all I can say is I found 16 ridge characteristics
23 in sequence and agreement and I'm happy with the
24 identification.

25 Is he basically saying that the mark is insufficient

1 for comparison?

2 Q. If I would understand it, he takes an intermediate
3 position and I think there's something we have learned
4 from a number of witnesses. It would be insufficient
5 for the purposes of confirming an identity of someone as
6 the donor. However, there would be enough detail to
7 exclude someone so that, for example -- and he didn't
8 give specific examples -- but let's take the feature 11
9 and 12 that you have highlighted yourself in proximity
10 to the core.

11 A. Yes.

12 Q. If a Fingerprint Examiner were to look, for example, at
13 my fingerprint, with any luck he wouldn't find that
14 feature on my fingerprint, he could exclude me as the
15 donor. But if, for example, he did find that feature in
16 my fingerprint he would not be able to exclude me but he
17 would not be able to find enough detail here to
18 ultimately confirm that it is, indeed, my fingerprint?

19 A. Okay.

20 Q. That is if I understand it correctly what he was saying.

21 Do you have any overall -- I appreciate, in a sense,
22 it's an awkward question to ask you because you have
23 found 16 points?

24 A. Exactly, yes.

25 Q. But do you have any other sort of reasoning that you

1 would say that Mr Zeelenberg is just wrong in relation
2 to that assessment of Q12?

3 A. There are occasions when you have what is called a
4 fragmentary and insufficient mark but you can see from
5 the pattern type that it is a whorl and you may be
6 comparing it against someone who has arch patterns. So
7 you would be able to exclude and you wouldn't be able to
8 identify because you wouldn't have enough
9 characteristics in it.

10 The problem when you don't have enough
11 characteristics is that, if you have seen an occasion,
12 where you may have what has started off as a loop
13 pattern and it's been twisted in such a way that it
14 gives the appearance of being a whorl but because you
15 don't have enough characteristics, you can't actually
16 exclude. There's a great danger in not having enough
17 characteristics in a mark to either identify or exclude.

18 Q. The reason why I began with Mr Zeelenberg's overview of
19 this is exactly -- I am now going to go through Q12
20 looking at the points in their order starting with a
21 slightly different -- I will start at number 1 but bring
22 in numbers 16 and 10 for the obvious reason that they
23 are all in very close proximity to each other.

24 In effect, again what the thesis will be of the
25 questioning is to enable you to demonstrate to the

1 Chairman what you observe in Q12, in particular what you
2 observe in Q12.

3 A. Yes.

4 Q. I will bring in from time to time Mr Zeelenberg,
5 Mr Wertheim and Mr Grigg but, again, it would be from
6 the perspective of asking you to consider whether the
7 ridge detail is either sufficiently clear to be certain
8 of your interpretation or perhaps ambiguous and
9 therefore to be, to some extent, uncertain and we will
10 look at Mr Zeelenberg, Mr Grigg and Mr Wertheim as the
11 alternatives. There will come points where what has
12 been put to you for comment is features they say are
13 unambiguous and adverse to an identification. So we
14 will be looking at it from various different
15 perspectives but the common theme of this will be to
16 give you the opportunity to indicate the basis for,
17 first of all, your observation of a particular feature
18 and then, thereafter, the interpretation relative to
19 what they are saying.

20 Do you understand?

21 A. Okay.

22 Q. What I was going to do was to begin with the features
23 which are in the core and beginning at number 1 in your
24 charting but for obvious reasons, because they are
25 relatively closely together, I am going to begin by

1 talking about 1, 16 and 10, those three characteristics,
2 to some extent all characteristics on one ridge, albeit
3 one of them is shown as coming slightly off.

4 What, so far as number 1 is concerned, what would
5 your description of the number 1 as a characteristic be?

6 A. A bifurcation down.

7 Q. Number 16?

8 A. 16 would be a ridge ending.

9 Q. We have heard in other contexts a description given that
10 16 could be regarded as a spur.

11 Is that possible?

12 A. Yes, aye, yes.

13 Q. So 1 would, therefore, be the bifurcation, 16 would be a
14 very short ridge forming that bifurcation off to the
15 right coming to a very abrupt ridge ending and the
16 combination would describe it as a spur?

17 A. Yes.

18 Q. Number 10: do I take it you are construing number 10 as
19 the ridge ending?

20 A. A ridge ending, yes.

21 Q. So, in effect, the bifurcation number 1 splits into two
22 ridges?

23 A. Yes.

24 Q. The right-hand ridge ends abruptly at point 16?

25 A. Yes.

1 Q. The left ridge runs a little bit further down and ends
2 at number 10?

3 A. Correct.

4 Q. So far as the corresponding feature on Q12, can you talk
5 me through, please, how it is that you construe 1, 16
6 and 10?

7 A. Okay, you would have the descending ridge like so and a
8 small, as you indicated, a spur, like so (**indicated**).

9 Q. So what you have drawn is a green shape on Q12.

10 A. Yes.

11 Q. As the ridge structure of 1, 10 and 16?

12 A. Yes.

13 MR MOYNIHAN: Can we save that, please?

14 MISS BAHRAMI: That's saved as FI2910.14.

15 MR MOYNIHAN: There are two points I would like to ask you
16 about in this particular area.

17 What you have drawn is a green upside down Y with
18 the right leg shorter than the left.

19 A. Yes.

20 Q. What I am going to ask you about is an area that I will
21 fill in in red, an area where, to my eye, there is a
22 black line coming down in the underlying Q12.

23 Do you see what I've just drawn in in red?

24 A. Yes.

25 Q. What is your comment on that? Is there a ridge

1 structure underlying that red line?

2 A. There is a gap. Can I indicate it on the --

3 MR MOYNIHAN: If you would allow me just a second.

4 First of all, if I could save that image.

5 MISS BAHRAMI: That's save as FI2910.15.

6 MR MOYNIHAN: Just before you do, Mr MacPherson, what I will

7 do is take us back to the pair of images before I

8 inserted the red line. So I will take us back to

9 FI2910.14.

10 What we have now done is return to your own marking.

11 What I have done is simply followed what I, myself, had

12 seen as an underlying black mark. What I have done is

13 followed that underlying black mark from the red spot of

14 point number 16, which is the line coming in from the

15 left down to the point number 10 which is at the bottom

16 of the longer of your two green lines.

17 First of all, are you understanding that there is a

18 gap between the dot at 16 and the dot at 10, the gap in

19 the right-hand side?

20 A. Yes. Just there (**indicated**).

21 Q. What about beneath that red arrow? How far does the gap

22 extend?

23 A. It's just slightly above that. It's like a small tail,

24 if you like. If I could illustrate it on the right-hand

25 image ... (**indicated**)

1 There's a small tail on the way up. You follow that
2 up and on the way down there's what has been indicated
3 as a spur.

4 Q. Perhaps, I suppose, this is simply where, as the lay
5 person, one passes over to the question to what extent
6 this is something that the lay person just would not see
7 because I was suggesting by my red line that what my eye
8 saw was that to the right-hand side no gap between the
9 bottom of the green line at point 16, no gap between
10 that and point 10 but rather a continuous black line.

11 In other words, how is it that you can construe what
12 appears to be a black line on Q12 as having a gap?

13 A. Well, that's how it appears to myself, it's a gap.

14 Q. Because if I show you the alternative interpretations,
15 the alternative interpretations by Mr Zeelenberg and
16 Mr Wertheim, I think -- we will bring them up in a
17 second -- would have that area, in fact, as a continuous
18 joined-up section.

19 Before I do, the other point I want to ask you about
20 is what Mr Wertheim colourfully described as the chilli
21 pepper. By that is meant the feature which is right in
22 the centre of the core, perhaps most readily seen on
23 Marion Ross as perhaps a feature in the nature of the
24 shape of a chilli pepper and what as I understand
25 Mr Wertheim and indeed Mr Zeelenberg were saying was in

1 Marion Ross that central feature, to be called the
2 chilli pepper, extends to a point or finishes at a point
3 above point number 10. Whereas in Q12 the feature
4 extends as a black patch beneath point 10 so it runs a
5 length that is far greater in Q12 than it is in Marion
6 Ross.

7 Do you have any comment on that?

8 A. Yes. Was it Mr Wertheim referred to it as the chilli
9 pepper?

10 Q. Mr Wertheim did, yes.

11 A. Well, for me that would be **(indicated)** what is
12 determined as the chilli pepper, basically a ridge
13 ending down.

14 I think we did in the comparative exercise, if you
15 can just follow that --

16 Q. Sorry, just before we move it, anywhere -- sorry, I
17 thought you were going to move from the image because we
18 would require to save it.

19 A. No, no.

20 There is an area for me which causes disturbance
21 above the core and possibly at the core itself and this
22 is one of the reasons I steered clear of this area when
23 we did our chartings originally and even in the
24 comparative exercise, obviously, we were just
25 duplicating what we did for the court productions. But

1 for me the chilli pepper that Mr Wertheim is referring
2 to is not this **(indicated)**, it is in fact what I've
3 indicated there **(indicated)**.

4 Q. So what you have drawn is a red V-shape at the top of
5 QI2 which we understand is what you would represent as
6 an area of disturbance --

7 A. Yes.

8 Q. -- in QI2 coming into the core?

9 A. Yes.

10 Q. The black mark which is to the left of the yellow arrow,
11 which you have put in with yellow or mustard, is what
12 you would describe as the bottom end of the recurving
13 ridge that, in fact, defines the core of QI2?

14 A. Yes.

15 Q. And is not, therefore, the representation of the chilli
16 pepper?

17 A. No, that's right.

18 Q. Does that, therefore, mean that because of that area of
19 disturbance, the red V entering, that we have lost the
20 detail in QI2 of what Mr Wertheim described as the
21 chilli pepper, that's the appendage right in the heart
22 of the core?

23 A. Yes.

24 Q. Yet despite that loss of detail you are still content
25 that in relation to the critical point at 1, 10 and 16

1 that you can observe a gap that's, in fact, in this
2 particular instance, definitive because it's what helps
3 to define that characteristic in Marion Ross, 1, 10 and
4 16?

5 A. Yes.

6 MR MOYNIHAN: If we save that image just now, please.

7 MISS BAHRAMI: That's saved as FI2910.16.

8 MR MOYNIHAN: Perhaps if I start with Mr Wertheim -- this is
9 the order in which the witnesses came -- and I will
10 bring up image FI2309.15.

11 We will see that what Mr Wertheim has drawn. First
12 of all, in relation to Marion Ross, he has drawn
13 something in green. I appreciate the ridge structure
14 he's not taken down to the point beneath the chilli
15 pepper but one can perhaps see that that would in fact
16 continue on down.

17 He has otherwise so far as points 1, 10, and 16 are
18 concerned, has drawn 1, 10 and 16 on Marion Ross as you
19 would see it, a bifurcation at 1, a spur at 16 and a
20 ridge ending at 10.

21 A. Yes.

22 Q. You will see in red he has also drawn in what now very
23 definitely looks like a red chilli pepper?

24 A. Yes.

25 Q. You will see on the left-hand side his drawing, again

1 with the same recurving ridge, on this occasion he has
2 it ending in QI2 at the point where it ends on Marion
3 Ross so it doesn't extend down to the bottom.

4 You will see that his drawing of the chilli pepper
5 is elongated?

6 A. Yes.

7 Q. He has within the yellow circle drawn in a green line
8 suggesting that it would be possible to, in fact, fill
9 that gap and see something of the nature of a lake or I
10 think the term came to be used an island in that area.

11 That is the alternative interpretation or one
12 alternative interpretation of QI2/Marion Ross.

13 Now, obviously, you take a different view?

14 A. That's correct, yes.

15 Q. On the proposition that I mentioned earlier on that
16 Mr Zeelenberg had advanced that such are the challenges
17 with QI2 due to lack of quality and distortion, that
18 what is to be observed is open to a variety of
19 interpretations, first of all, just a variety of
20 interpretations.

21 Do you see it is possible that another expert of
22 competence would suggest an alternative interpretation
23 such as Mr Wertheim has suggested here?

24 A. Yes.

25 Q. So far as your own personal opinion, can you indicate to

1 the Chairman what reasons you have for preferring your
2 interpretation which envisages a gap when Mr Wertheim
3 has inserted the light green line and also your reasons
4 for the chilli pepper being, in effect, absent from the
5 QI2 image. What reasons would you have?

6 A. Certainly, I don't think his interpretation of the
7 chilli pepper is accurate.

8 Where I've drawn the chilli pepper can I ...?

9 Q. Yes, please.

10 A. **(Indicated)** That for me is what Mr Wertheim has
11 indicated as the chilli pepper to the left of point 10,
12 to the left of point 10.

13 Q. What, though, I would ask you to comment on is in Marion
14 Ross, between the bottom point of the chilli pepper and
15 the adjacent ridge that you have just coloured in or
16 outlined for us, there is a gap in Marion Ross, yes?

17 A. Yes.

18 Q. Is there such a gap to be observed in QI2?

19 A. Well, that's what I've tried to say. There's an area of
20 damage. You're going to get this with any crime scene
21 mark. It's not going to be copy book standard and you
22 can only go by what you can see and for me I couldn't
23 interpret where Mr Wertheim has marked as his small
24 chilli pepper here but I was able to interpret the spur,
25 the ridge ending down and the ridge ending next to it.

1 Q. I have asked you about the gap between the base of the
2 chilli pepper and the ridge structure to its left. The
3 other feature where Mr Wertheim's lines are just now,
4 his arching or recurving green line on the left-hand
5 side, there is, at least to my eye, in Marion Ross no
6 gap between where his green line ends and where your
7 outline tracing begins. So there is a continuous ridge
8 structure in that location. Whereas on Q12 there is a
9 gap, at least to my eye, the black, heavier black, comes
10 to an end right at the point where the red line
11 intersects, there is then an area of lighter grey or
12 white before the black resumes that's suggesting -- so,
13 in other words, there is the suggestion of a gap in Q12
14 where there is none in Marion Ross.

15 Can you comment on that?

16 A. Again, it's only down to the fact that it's a chance
17 impression. It's not an area that I would have, as I've
18 already said, would've gone into.

19 Q. What perhaps it comes to is this: looking at consistency
20 on the left on Q12 -- and, forgive me, I will just use
21 it as the red shape so that we don't confuse it with
22 Mr Wertheim's chilli pepper -- to the left of the red
23 shape there is a difference in colouring, perhaps
24 suggestive of a gap, and if your interpretation of Q12
25 and Marion Ross is correct, then in that location there

1 is no gap so that we have to, in effect, draw through
2 that gap and envisage a ridge feature; whereas on the
3 right-hand side of the red shape where Mr Wertheim has
4 drawn his light green line there is, underlying it, a
5 line of black coming down suggestive of a continuous
6 ridge and you in fact construe that continuous black
7 line coming down as, in fact, having a gap.

8 Do you see the point I am trying to get inelegantly,
9 that you are envisaging a gap where there is a
10 continuous line and you are construing on the other side
11 a continuous line where there is, in fact, the
12 appearance of a gap?

13 A. Again, I can only come back to the point that I wouldn't
14 go into that area to discern ... I don't know what else
15 I can say regarding that.

16 Q. So the inconsistency then may simply be this: you are
17 deriving points from one position but not from the
18 other?

19 A. Yes.

20 Q. Because of --

21 A. Because of clarity, basically, yes.

22 MR MOYNIHAN: Sir, that would perhaps be a suitable point to
23 stop.

24 THE CHAIRMAN: We will resume again at 1.50 .

25 MISS BAHRAMI: That's saved as FI2910.17.

1 (1.00 pm)

2 (Luncheon Adjournment)

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