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R v Vincent Tabak [2011] Case number T20117031 - Opening Chapter

Sally Ramage

1. The murder in Bristol

Vulnerability to violent crime victimization varies across the age spectrum. The victimization rate increases through the teenage years, crests at around age 20, and steadily decreases through the remaining years. This pattern, with some exceptions, exists across all race, sex, and ethnic groups.¹

1.1. Bristol is an area of England with much crime. As for sexual related crimes, the following illustrate the problem that Bristol has with sex crimes:

1.2. On Saturday 1 October 2011, Avon a serious sex assault took place in Bristol between 9.15pm and 10.30pm when a woman dressed in fancy dress became separated from a group of friends as they entered a nightclub in the Park Street; was befriended by a man who led into an alleyway and subjected to a serious sexual assault. Police described the suspect as a stocky, broad shouldered, clean-shaven, six foot, and fair-haired, white male, aged in his thirties, with short hair, who was wearing a black bomber jacket and black jeans and who spoke with a local accent. This sex assault occurred in a very busy part of Bristol.

1.3. On 18th September 2011, police released news of a sex assault which occurred in an underpass near the YMCA in Lawrence Hill on September 18. The suspect is male, black, bald, skinny, about 5ft 7in tall, has bad teeth and a strong African accent.

1.4. Joanna Yeates was a 25 year old woman who was murdered on 17 December 2010. Her body was discovered on 26 December 2010 and on 23 January, her next door neighbour Dr Vincent Tabak, a highly qualified Dutch architect/engineer, working in Bristol, was arrested and charged with her murder. The trial began at Bristol Crown Court, Small Street, Bristol, on Monday 10 October 2011.

1.5. Murder in English law

In English law, it is unlawful to kill a person unless in circumstances where reasonable force was used in self-defence or by misadventure. Murder is unlawful homicide 'with malice aforethought', ie, if the defendant intended to kill that person or intended to cause grievous bodily harm to that person. Murder carries a mandatory sentence of imprisonment for life and murder is triable only on indictment.

1.6.1. Miscarriages of justice

With the numerous miscarriages of justice in present day English courts, it is a very good thing that capital punishment has been abolished by the statute Murder (Abolition of Death Penalty) Act 1965, the same statute that imposed a life sentence for murder. This statute, and Article 1 of the Thirteenth Protocol to the European Convention on Human Rights, continues to prohibit any consideration of the re-introduction of the death penalty. A mandatory life sentence means that the sentence of imprisonment is not for a fixed period at the outset. However, the trial judge, after the defendant has been *convicted*, may decide to specify a minimum term to be served and the Home Secretary must release the offender on licence, once the stipulated period of sentence has been served.

1.6.2. Could Vincent Tabak plead provocation?

If Dr Tabak was not drugged in prison and led to say that he 'did it' and 'was sorry' to an unqualified and unlicensed 'chaplain'; if it is true, was he provoked as per the Homicide Act 1957, section 3?

Section 3 states:

'Where on a charge of murder there is evidence on which the jury can find that the person charged was provoked (whether by things done or by things said or by both together) to lose his self-control, the question whether the provocation was enough to make a reasonable man do as he did shall be left to be determined by the jury and in determining that question the jury shall take into action everything both done and said according to the effect which, in their opinion, it would have on a reasonable man.'

Section 3 of the 1957 Homicide Act assumes the defence of provocation which reduces murder to manslaughter and which contains a subjective test and an objective test. Provocation is only allowed as a plea if *'there is a temporary loss of self-control, rendering the accused so subject to passion as to make him or her for the moment not master of his mind.'*

1.6.3. How might a person lose his self-control?

A person can have a *sudden and temporary loss of self-control* through: words or conduct of another or self-induced; anger; despair or frustrations.

1.7. Heated debate about sentencing

It is argued that a mandatory life sentence is a fitting reflection of the seriousness of the offence; that it will deter others; and reflect the gravity of murder. Arguments as to sentencing gave rise to a study of the matter and in 1989, the Nathan Committee; a Select Committee of the House of Lords recommended that the mandatory sentence should be abolished and replaced with a maximum sentence of life imprisonment, thus giving the trial judge leeway to adjust the sentence to take account of the circumstances. Again, in 1993, another committee, the *Lane Committee on the Penalty for Homicide (Prison Reform Trust)* made similar recommendations. However, it was not until the year 2005 that the UK government asked the Law Commission to review the law of murder and in 2006 the Law Commission completed its review and published paper number 304, titled *Murder, Manslaughter and Infanticide*. In its recommendations, the Law Commission proposed an introduction of a three-tier ladder of general homicide offences to reflect different degrees of culpability and recommended that the mandatory life sentence should only apply to the most serious, first-degree murders. The Law Commission recommended two degrees of murder. 'First degree murder' would include intentional killings and killings with the intent to cause serious injury where the killer was aware that his or her conduct involved a serious risk of causing death. ⁹ As to definitions of murder, as Mr Lickley QC alleged that Dr Tabak had searched for on the internet, the definition is contained in the Law Quarterly Review, Volume 104 at page 30 in the year 1988 and the Law Quarterly Review, Volume 105 at 387 in the year 1989, something that Vincent Tabak could never have known because he is not a lawyer. Such a spurious link to Miss Yeates' murder is despicable.

1.8. The Law Commission's recommended third tier of murder is a redefined offence of manslaughter, consisting of two offences of manslaughter to replace involuntary manslaughter. These two offences, the Law Commission recommended as being:

'(1) killing another person through gross negligence ("gross negligence manslaughter") or

(2) killing another person:

(a) through the commission of a criminal act intended by the defendant to cause injury, or

(b) through the commission of a criminal act that the defendant was aware involved a serious risk of causing some injury ("criminal act manslaughter")'

2. The defendant charged with murder of Joanna Yeates

2.1. The accused, Vincent Tabak is a 33 year-old professional man- a doctor in software programming for architecture and engineering and a specialist in people flow engineering.

2.2. He denied the premeditated killing of Miss Yeates, whose body was found by dog walkers on a roadside verge on Christmas morning. Vincent Tabak is a recent neighbour of Miss Yeates and her boyfriend Greg Reardon, both employees in an architects' firm in Bristol.

2.3. In fact Dr Tabak and his girlfriend Miss Morston, a qualified analyst working for a multinational firm of chartered accountants, had been living for one year at Flat 2 of the detached property, 44 Canynge Road, Bristol, whilst Miss Yeates and Mr Reardon had only recently moved into the next door Flat 1 in November 2010 whilst Dr Tabak was working in Los Angeles. So Dr Tabak did not know them.

2.4. Both Flat 1 and Flat 2 were ground floor (semi-basement) flats, both belonging to landlord Chris Jefferies who himself resided upstairs (as one faces the building):

(i) Flat 1 where Joanna Yeates and Greg Reardon lived, having only moved into this flat in October 2010 (and paying rent of £725 per month) a few weeks before Vincent Tabak left for a work project in Los Angeles, United States of America; and

(ii) Flat 2 to go to Los Angeles until 11 December 2010 on a work project. Both Vincent Tabak and Tanja Morston reported to the police that they saw Chris Jefferies spying through windows and letting himself in with his own keys to Flat 1 (one reason why the police made an initial arrest of Chris Jeffries before they arrested Vincent Tabak).

2.5. The main entrance to the two upstairs flats is a short stairway up to an imposing front door and into a shared foyer. The upstairs flat on the right is owned by Chris Jefferies and he has lived here since 1990. In 2001 Chris Jefferies bought the 2 downstairs flats for £300,000 each. Jefferies has formed a limited company to handle the tenancy income. (See '44 Canynge Road Management Ltd, 44 Canynge Road, Bristol, Avon, BS8 3LQ. On the top floor of the house at 44 Canynge Road lived Geoffrey Hardyman, who is a 79 years old.

2.6. Richard Bland, former head of Clifton College, and Michael and Gillian Woodman-Smith also live at 44 Canynge Road.

2.7. At 42 Canynge Road lived Peter Stanley. Peter Stanley was the man who had supplied the jump leads for Greg Reardon on the Friday, 17 December, 2010 at around 6pm. Peter Stanley's vehicle was a 'Jeep'. Laurence Penney lived at Clifton Down, Trimore (Garden Flat) Bristol BS8 3HT. He is a font designer and a world expert in his field.

2.8. Dr Tabak returned from Los Angeles to the United Kingdom on 11 December 2010.

2.9. Miss Yeates had taken a few days off at the same time, having had a cold and had returned to work on 14 December 2010.

2.10. On Friday 17 December 2010, after Greg Reardon has left for Sheffield, Miss Yeates went to *The Bristol Ram*, a public house near her place of work, in order to socialise and have some drinks with people she knew.

2.11. Having imbibed in several drinks there, she decided at 20.00 hours to go home and proceeded to walk home, stopping *en route* to buy two bottles of cider and one uncooked, ready-made pizza. She is alleged to have been seen by a vicar on her way home in the snow. Father George Henwood said he saw Joanna Yeates and exchanged pleasantries. Below is the map of the route to Miss Yeates flat.

2.12. At 17.15 hours on Friday 17 December 2010, her boyfriend Greg Reardon had travelled to Sheffield (using her car) to visit his brother and is alleged to have arrived back at Flat 1 on Sunday, 19 December in the evening at 20.20 hours. *It is a mystery why he did not invite her to accompany him to meet his family: had he done so, she would have been alive today.*

2.13. As Miss Yeates was not at home when he returned, he said that he waited but when she did not arrive back after midnight, he telephoned the police to report her as a missing person. He did this at 1.00 am on Monday morning 20 December 2010.

2.14. The prosecuting counsel said that he also telephoned Miss Yeates' parents who live in Ampfield in the county of Hampshire, England, and they travelled to Bristol immediately. The police arrived at Flat 1 soon after his telephone call to them.

Buro Happold Ltd- Tabak's employers

2.15. Dr Vincent Tabak returned to the United Kingdom from Los Angeles on Tuesday 14 December 2010. He returned to his usual work routine immediately, riding on his bicycle from Flat 2 to the train station where he travelled as usual by train to his place of work at Buro Happold Ltd, Camden Mill, 230 Lower Bristol Road, Bath, BA2 3DQ, United Kingdom (telephone number +44 (0) 1225 320 600).

2.16. Dr Tabak is alleged to have strangled Joanna Yeates on Friday evening after she returned from the public house, the *Bristol Ram*, and whilst his girlfriend Miss Tanja Morston was attending her firm's annual Christmas party that evening. She was a financial analyst at Dyson Ltd, Head Office, Tetbury Hill, Malmesbury, SN16 0RP, England.

2.17. Dr Tabak's girlfriend had travelled to the Christmas party by coach, an arrangement made by her employers for all their staff.

2.18. Dr Tabak had planned to collect Miss Morston from the coach after midnight on its return at the end of the staff party.

A grey Renault Megane

2.19. Miss Morston owned a grey car, a Renault Megane, which they both used, in a similar way that Greg Reardon and Joanna Yeates used Miss Yeates' car.

2.20. Dr Tabak is alleged to have killed Miss Yeates whilst his girlfriend was at Dyson's staff Christmas party; to have gone shopping in an *Asda* supermarket at about 22.30 that evening, having driven around Bristol to look for a suitable place to deposit Miss Yeates' body and having found one, did the deed before collecting his girlfriend from the coach after midnight and returning home, stopping off briefly to buy them both beef-burgers which they ate on their way home in the car, the prosecuting counsel told the court on the first day of the murder trial, Monday 10 October, 2011.

3. The jury

3.1. Six men and six women were selected after a three-day process to pick jurors for the four-week trial at Bristol Crown Court. Six men and six women were chosen, none being black or elderly.

3.2. The jury was sworn on 7 October, 2011. The trial was postponed for a day because Tabak's defence team, led by William Clegg QC, pleaded for time to read an extra 1,300 pages of evidence thrust upon the defence by the prosecution at the last minute.

3.3. The court clerk told the jury that Vincent Tabak was charged with murdering Joanna Yeates between 16 and 19 December last year. He informed the jury that the defendant had pleaded '*not guilty*' and that it was the jury's job to say whether he was guilty or not.

3.4. The judge warned the jurors to avoid reading any background material and not to speak to anyone about the case.

3.5. When prosecution counsel opened the case, he produced copies of a A3 bound document which consisted of colour-coded pages of the timeline of the alleged murder: every incident from emails, mobile texts, landline telephone calls, travel, shopping, etc of the parties involved, ie. Joanna Yeates and her cohabitee; and Vincent Tabak and his cohabitee. Importantly, these schedules also included alleged internet searched by Dr Tabak. This A3 document looked dauntingly complex and it is believed that not all members of the jury followed this document; were on the right page and the right time as narrated by prosecuting counsel Mr Lickley. One juror at the end of the front row was almost asleep toward the end of Monday 10th speech by prosecuting counsel; Justice Field yawned several times during that day and it is arguable whether the document was used in part or at all by the jury, although it appeared to be a very impressive document of listings, as alleged by the prosecution counsel, Mr Lickley.

3.5. On Wednesday, 13 October 2011, His Honour Justice Field, the jury and a selection of journalists visited the crime scenes, accompanied by police officers.

4. Jury visiting protocol

4.1. After prosecuting counsel had summed up his case against Dr Tabak by mid-morning on Tuesday 12 October 2010, the rest of the day was taken up with agreeing a jury visiting protocol.

4.2. *There is no precedent jury visiting protocol in the United Kingdom but in cases such as this, a protocol must be agreed between the judge, the prosecuting counsel and the defence counsel.*

4.3. During the visiting protocol discussion, defence counsel William Clegg QC (of 2 Paper Buildings chambers, London) requested that the jury take note of how many minutes it takes to walk from the Hophouse pub in Clifton, the *Bristol Ram*, to 44 Canynge Road where Joanna Yeates, Greg Reardon, Tanja Morston and Vincent Tabak lived.

4.4. Defence counsel William Clegg, QC, also requested that the jury take a particularly close look at the view from Miss Yeates's kitchen window, which looks on to the path to the front door because Dr Tabak had made a statement that Miss Yeates and Dr Tabak first saw each other through this window.

4.5. Defence counsel William Clegg, QC, also asked the jury to walk from 44 Canynge Road, BS 8 3 LQ, Bristol, to the front door of number 53 Canynge Road in order to ascertain whether, in the jury's judgment, they thought it possible that a scream that was made inside Flat 1, 44 Canynge Road could possibly be heard if you are standing outside number 53 Canynge Street, BS8 3LY, Bristol.

5. The judge and jury visit

5.1. Whilst Justice Field travelled in an unmarked police car, the jury travelled in a secure coach with blacked-out windows, to hide the identification of the jury. The judge and the jury visited the flat, Flat 1, 44 Canynge Road, Bristol, where Joanna Yeates lived. The six-man, six-woman jury was taken from Bristol Crown Court to key locations in the case.

5.2. Press reporters chosen to accompany the party of judge, police and jury, reported that the flat where Miss Yeates lived has not been tampered with, everything remaining as it was on that night of 17 December 2010, apart from the belongings of Greg Reardon which have been removed.

5.3. The judge and the jury retraced the route that Joanna Yeates took that evening of 17 December 2010: up Park Street and past the *Bristol Ram* public house, where she had met work colleagues and had had a few drinks with them.

5.4. The judge and the jury also visited the *Waitrose* grocery shop Miss Yeates had visited, as well as the *Tesco Express* grocery shop where she had bought a tomato and mozzarella topping pizza (uncooked) on her way home on Friday evening 17 December 2010.

5.5. They also visited Flat 2, 44 Canynge Road, the place where Dr Tabak and his girlfriend lived and the property of 53 Canynge Road, where a party was held on the night of 17 December, 2010.

5.6. At the time of the murder, the house to the right had scaffolding on and the top two levels have bathrooms with windows that overlook the front door of Flat 1.

The jury, judge, journalists and police also visited Percival Court- a property overlooking Flat 1 and adjacent to the rear of Miss Yeates's flat because witnesses claimed to have heard screams that night- one witness standing at 53 Canynge Road and the other from Percival Court opposite the property of 44 Canynge Road.

5.7. The party also visited the place where Miss Yeates' body was found at Longwood Lane in Failand, North Somerset.

5.8. Following the site visits, the jurors were sent home for the day and trial continued in Court 1, Bristol Crown Court on the following day 14 October 2010, when forensic evidence was heard and Joanna Yeates colleagues at the *Bristol Ram* on 17 December gave witness. Other witnesses were called: prosecuting Counsel Mr Lickley, QC, had told jurors on Monday 10 October 2010 that witnesses would give evidence describing the defendant's demeanour after Yeates disappeared and before he was arrested. He said:

'Some will describe their meetings and conversations with him over the following days. Some talk of his normality, some the pressures and strains he was displaying. He was seen by the police on a number of occasions and his behaviour is important. When alone at work or at home his internet activity became ever more consumed, following news items as if almost following the police investigation as it unfolded.'

6. The judge

6.1. The trial judge was Mr Justice Field.

7. The Defendant, Dr Vincent Tabak

The accused, Vincent Tabak, aged 33 had denied the premeditated killing of Miss Yeates, whose body was found by dog walkers on a snowy verge on Christmas morning. The prosecuting counsel claimed that Dr Tabak, who lived in a ground-floor flat adjoining Miss Yeates's home in Clifton, Bristol, was alleged to have murdered the 25-year-old after she went for festive drinks with colleagues on Friday 15 December 2010, after work. Her partner had gone to Leicester for the weekend to visit his brother because Miss Yeates and Mr Reardon had planned to spend the Christmas holidays with Miss Yeates' parents. Vincent Tabak, 33, denies the premeditated killing of Miss Yeates, whose body was found on a snowy verge on Christmas morning.

8. The defence counsel Mr William Clegg, QC

William Clegg, QC- defending Tabak

William Clegg of 2 Bedford Row Chambers in London is one of the best criminal barristers in the United Kingdom. Under his belt are some of the most important criminal cases of this century, namely, *R v S* (acquitted of gang related murder); *R v N Ltd, O & O* (corporate and gross negligence manslaughter plus related health and safety offences, corporate and individual, following death of worker in machine); *R v Patel* (defence of Patel, a surgeon charged with manslaughter); *R v Wardell*; *R v Stagg* (acquitted of the murder of Rachel Nichol); *R v Stone* (charged with the Chillingdon murders (Russell family)); and *R v Duckenfield* (defending the police superintendent charged with regard to the deaths at Hillsborough Football Stadium).

2 Bedford Row is indubitably one of the best criminal sets in the country. These barristers work on some of the most high-profile cases around.

William Clegg's chambers enjoy an unrivalled reputation for providing advice and representation in criminal trials. Recognised for its depth of ability at all levels, 2 Bedford Row's service is highly specialised providing insightful advice to those accused of criminal offences together with outstanding advocacy at a criminal trial. Each member of the team strives to ensure that the client is provided with the best possible service. 2 Bedford Row chambers pay particular attention to identifying appropriate defences and preparing legal arguments; ensuring compliance with the prosecution's duty of disclosure; first-class court room advocacy; and taking all steps necessary to ensure that the client's best interests are maximised.

9. Prosecuting counsel

9.1. Just as William Clegg, QC is said to be the best criminal defence barrister in the country, prosecuting counsel, Nigel Lickley, QC, is one of the most experienced prosecutors of murder cases. Nigel Lickley, QC, is formidable as an opponent. In September 2011, at the pre-trial hearing he raised 11 points with the defence team and His Honour Judge Martin Picton during the 30 minute pre-trial review. He announced that the prosecution's case would include a digital presentation and a site visit in Bristol.

9.2. Nigel Lickley, QC hails from 3 Paper Building chambers (telephone number 020 7583 8055). One 'arrow to his bow' is that 3 PB chambers has a Bristol office: (3PB Bristol; Royal Talbot House; 2 Victoria Street; Bristol; BS1 6BB. Tel: 0117 928 1520; Fax: 0117 928 1525; DX: 7836 Bristol).

9.3. Retired barristers from 3 Paper Buildings chambers include many who became judges, namely:

The Right Honourable Lord Justice Maurice Kay;

The Honourable Mr Justice Forbes;

His Honour Judge Beashel;

His Honour Judge David Harris QC;

His Honour Judge Philip Raynor QC;

His Honour Judge Hope;

His Honour Judge Teague QC;

His Honour Judge Lamb QC;

His Honour Judge David Grant;

His Honour Judge Henry;

Judge Francis Chamberlain;

His Honour Judge Seed QC;

His Honour John Main QC and

Sir Mota Singh QC.

9.5. Nigel Lickley QC is a criminal law specialist. His work includes general and regulatory crime and fraud. He prosecutes and also defends cases. He was recommended as a leader in Crime in the Western Circuit by the *Legal 500 2010 Directory*. He has been elected the Leader of the Western Circuit- a circuit of 1136 members. Nigel Lickley's role is to represent the views of circuiters to official bodies.

9.6. Nigel Lickley was called to the Bar in 1983 and so has 23 years of experience behind him. He took Silk just 5 years ago.

9.7. Nigel Lickley has prosecuted many murder cases, namely:

* *R v S and others* [2010] (death following a pub fight. Causation issues arose following determination of cause of death and the rare brain injury suffered by victim. Lawfulness of first blow delivered by S and the uncertainty as to which impact may have caused the fatal injury central to case).

* *R v Y* [2010] (death by stabbing of defendant's brother following her intervention in a fight between her brother and her partner; provocation and lawful defence of another issues in case).

* *R v Kibbuka* [2010] (murder of wife and deliberate sedation of children permitting crime to be committed).

* *R v B and B* [2009] (murder of man walking his dog).

* *R v Lovell* [2008] (death of elderly mother by son).

* *R v Maitland* [2008] (murder of landlord by tenant).

* *R v Healy* [2008] (murder of victim during robbery in own home)

* *R v Lang* [2006] 1 WLR 2509;

* *R v Cordner* [2007] (murder of wife by husband using petrol).

* *R v Carr* (murder of 18 year old in macabre manner by 12 year old female).

* *R v Benguit* (motiveless killing of female Korean student).

* *R v Jones* (knife killing of associate/friend); and others.

10. A note on real evidence

10.1. In general, the construction of documents is a matter for the jury (see *R. v. Adams*, *The Times*, January 28, 1999) except documents which are binding agreements between parties and all forms of legislation (see *R v Spens*, 93 Cr. App. R. 194, CA. The effective definition of hearsay is in section 114(1) of the Criminal Justice Act 2003: '*A statement not made in oral evidence in the proceedings*'.

10.2. Therefore any statement in a document will be hearsay and inadmissible if the purpose for which it is sought to tender it in evidence is to rely on the truth of the statement, unless the document can be brought within one of paragraphs (a) to (d) of subsection 1 of section 114 Criminal Justice Act 2003. Whether public documents or private documents are being considered, two issues arise:

* How may the document be proved? This includes questions such as whether a copy will suffice, whether parol evidence of the contents may be given and how to prove the execution of a private document.

* Once the document has been proved or secondary evidence of its contents given, what use may be made of the contents? It is only in relation to the second question that the issue of hearsay arises. If objection is successfully taken to the admissibility of a document on the ground of hearsay, then, of course, it will not be put in evidence at all.

10.3. Questions of hearsay usually arise in the context of private documents. Public documents can be regarded as constituting in themselves an exception to the hearsay rule: see *Sturla v Freccia* (1880) 5 App. Cas. 623, HL; *Irish Society v Bishop of Derry* (1846) 12 Cl. & F. 641; *Wilton & Co. v Phillips* (1903) 19 T.L.R. 390.

The exception is expressly preserved by the Criminal Justice Act 2003, s.118(1).

10.4. The common law is supplemented by a mass of legislation making specific provision for the admissibility in evidence of particular categories of document, or of copies thereof. Many statutes also make specific provision as to the use which may be made of the documents in question. It is in the case of private documents that the purpose for which the documents are being tendered has to be identified. Often, the documents are being put in evidence for a reason which has nothing to do with the hearsay rule. Correspondence with the defendant is an obvious example: see *R. v Rouse* [1957] Crim. L. R. 112, CCA.

10.5. A letter written by the witness to the defendant may be exhibited by the witness. Its significance is that it is what was said to the defendant. The letter may contain assertions of fact. *Putting it in evidence does not make it evidence of the truth of those assertions. That is hearsay. If the matter is within the knowledge of the witness he may, of course, give direct evidence thereof.* This assumes that the document in question can be properly proved and that there is no other reason for its exclusion. Examples would be that the letter contained assertions of fact prejudicial to the accused which could not be supported by other admissible evidence or that it contained prejudicial and irrelevant material, such as the author's knowledge of the accused's previous convictions. In either case, editing might solve the problem.

10.6. These are matters for the discretion of the judge: they have nothing to do with the principle of hearsay.

10.7. Apart from cases such as correspondence, where it is the fact of the document's existence and what was done with it, or what happened to it, that is relevant and which do not constitute an exception to the hearsay rule because they are not being put in to prove the truth of their contents, there is another class of document where no question of hearsay arises. This comprises documents which constitute 'real' evidence. The principal statutory exceptions to the hearsay rule in relation to private documents are the Bankers' Books Evidence Act 1879 and the Criminal Justice Act 2003.

10.8. The presence of a document at a particular location together with the word or words upon it may often be of evidential significance. The judge said in *R. v Romeo* [1982] 30 S.A.S.R. 243:

'Sometimes it is possible to avoid] the hearsay rule by showing that a statement made in a document is being used as an original and independent fact for instance, that a person who made use of the document had certain information in his possession at a relevant time - and not as evidence of the facts stated. It is always important therefore, whenever an objection is taken on hearsay grounds, to ascertain for precisely what purpose the evidence is being tendered. It may be hearsay for one purpose and not, and therefore admissible, for another'.

10.9. In order to put a document in evidence as 'real evidence' a sufficient foundation must be laid to link the defendant to the document. It is only relevant if he were the author of the document or was in possession of the printed contents of the webpage or was in some way connected to the website document viewed by millions of people. There must be prima facie evidence that he was in some other way connected with it. See cases of *Howey v Bradley* [1970] Crim.L.R. 223, DC; *R v Horne* [1992] Crim.L.R. 304 and *R v Podmore*, 22 Cr. App. R. 36, CCA.

10.10. Where the prosecution is in possession of a potentially incriminating document, the provenance of which they can prove but the contents of which they cannot prove against the defendant as part of their case, the document can still be used.

10.11. The appropriate procedure is for the finding of the document to be proved as part of the prosecution case with no reference to the contents (so as to give notice to the defence of the use which might eventually be made of the document).

BUT WEBSITE PAGES CANNOT BE PROVED UNLESS THE PROSECUTION CAN ALSO WITHIN THE CASE BRING WITNESSES WHO WROTE THE PAGES IN ORDER TO PROVE THEIR RELIABILITY. THERE ARE MILLIONS OF RUBBISH PAGES ON THE INTERNET.

10.12. If the defendant gives evidence, he may be asked if he was aware of the document and of its contents; if he answers in the affirmative, he may be asked about the meaning thereof as in the following caselaw:

* *R v Gillespie and Simpson*, 51 Cr.App.R. 172, CA.

* *R v Cooper* (W.J.), 82 Cr.App.R. 74, CA (letter signed in the name of the defendant and his wife, but in the handwriting of his wife only).

* *R. v Cross*, 91 Cr.App.R. 115, CA (note of a telephone call between the defendant and another, made by the other).

10.13. As Dr Tabak is not a lawyer, he cannot give legal scholarly explanations as to the nuances of the words contained in the law.

10.14. Absence of an entry in a particular record.

Where it is the absence of an entry in a particular record that is relied on, the record itself may be regarded as 'real evidence' To have any evidential value, however, it will have to be properly produced by a person responsible for maintaining it who can explain the significance of the entries and omissions. See *R v Patel*, 73 Cr.App.R. 117, CA (for the purpose of proving that a named man is an illegal immigrant it is insufficient for an

immigration officer to state that he has examined the Home Office records; it is necessary for an officer responsible for the compilation and custody of the records to testify as to the method of compilation and as to it being such that if the man's name is not there, he is an illegal immigrant). See *R v Shone*, 76 Cr.App.R. 72, CA.

10.15. Information obtained from computers

Information obtained from a computer, whether printed out or read from a display, may be divided into three categories. The first is where the computer has been used simply as a calculator to process information: See the following caselaw:

R v Wood (S.W.), 76 Cr.App.R. 23, CA, and
Sophocleous v Ringer [1988] R. T.R. 52, DC.

10.16. Information which the computer has been programmed to record

See *R v Pettigrew*, 71 Cr.App.R. 39, CA (recording of serial numbers of bank notes); *R. v. Spiby*, 91 Cr.App.R. 186, CA (recording of details of outgoing telephone calls from hotel rooms); and *R v (O) v Coventry Magistrates' Court* [2004] Crim.L.R. 948, DC (computer printout with breakdown of defendant's attempts to enter a website and of charges to be made to his credit card). Apart from the programming, installation and maintenance of the computer, there is no human input in the information produced.

10.17. Information recorded and processed by the computer entered by a person

Irrespective of whether information recorded and processed by a computer is entered directly or indirectly, this hearsay information is admissible evidence but it must be brought within one of the exceptions to the rule against hearsay (see the Criminal Justice Act 2003, s. 129).

11.1. Abuse of process

To use this law to prove the guilt of Dr Tabak in as serious an offence as murder is an ABUSE OF PROCESS and a judicial review should be applied for on this point. This law of presenting computer "evidence" is intended to be used for accounting and banking transactions and not murder, ie. what the accused did with the money, not what was in his mind when he looked at a webpage. Murder cannot be committed by looking at a webpage, whereas fraud can be committed by making an electronic transaction which can be put to evidence.

12.1. Any evidence will go to weight unless unreliability is proved

Prior to the repeal of section 69 of the Police and Criminal Evidence Act 1984 by the Youth Justice and Criminal Evidence Act 1999, s. 60, it was necessary to prove the reliability of the computer before any statement in a document produced by a computer could be admitted in evidence. This applied whichever category the information fell within: see *R v Shephard* [1993] A.C. 380, HL.

The repeal of s. 69 PACE means that any evidence pertaining to the reliability of a computer will go to weight.

13.1. In the absence of any evidence, to raise the issue of reliability it would seem that the maxim *omnia praesumuntur rite esse acta* will apply.

14.1. Computer print-out with no hearsay element

In a commentary on *Shephard* [1993] Crim.L.R. 295 at 296, another situation was identified where it is sought to put in evidence a computer print-out, and in which there is no hearsay element. *This is where the print-out is the fact to be proved.*

It is not relevant in the *Tabak* case because one cannot prove retrospectively, intention to murder by looking at a webpage. Such a situation is exemplified by *R. v. Governor of Brixton Prison, ex p Levin* [1997] A.C. 741, HL, in which it was held that where a bank's computer transfers funds from one account to another (as a result of a payment request by a customer made via a computer linked to the bank's computer) and the computer records the transaction automatically, a print-out of the record is not a hearsay assertion that the transfer occurred; it is a record of the transfer itself; production of the record is evidence in proof of the transfer with no hearsay element involved.

14.2. Significance of computer document is the defendant's reaction to it

In *ex parte Levin*, it was assumed that section 69 of the 1984 PACE would have to be complied with. In such a case, the reliability and accuracy of the computer are obviously relevant. In other cases, however, they have no relevance at all. The significance of the computer generated document lies not in its accuracy, but in the defendant's behaviour in relation to it.

In this case, Dr *Tabak* merely looked at a webpage. The prosecution could have made it all up unless defence experts were allowed to examine it. It is much too late at trial, and so this evidence should be excluded.

14.3. The relevance that Dr *Tabak* viewed certain online pages

Dr *Tabak*, even if he did look at internet pages, did not print them.

He did not use them.

He did not act on the information in them.

He did not act in response to them.

He did not annotate them.

It is the defendant's behaviour in relation to the print-out that is important.

Therefore, there is no hearsay element involved and no reliability issue.

But as Dr *Tabak* did not print out this information, this is not relevant to his case.

14.4. *Omnia praesumuntur rite esse acta*

It is a maxim of law that '*omnia praesumuntur rite et solemniter esse acta donec probetur in contrarium*' upon which ground, until the contrary is proved, it will be presumed, even in a case of murder, that a man who has acted in a public capacity or situation was duly appointed, and has properly discharged his official duties. See the caselaw-

R v Gordon (1789) 1 Leach 515.

R v Rees (1834) 6 C. & P. 606.

R v Jones (1806) 2 Camp. 131;

R v Verelst (1813) 3 Camp. 432.

R v Murphy (1837) 8 C. & P. 297.

R v Catesby (1824) 2 B. & C. 814.

R v Newton (1843) 1 C. & K. 469.

R v Townsend (1841) C. & Mar. 178.

R v Cresswell (1876) 1 Q.B.D. 446.

R v Manwaring (1856) Dears. & B. 132.

R v Stewart (1876) 13 Cox 296; and

R v Roberts (1878) 14 Cox 101, CCR.

Campbell v Wallsend Shipway and Engineering Co.

Gage v Jones

This principle will not operate so as to prove a fact, proof of which is central to an offence: In the case *Dillon v. R* on a charge of negligently permitting escape, the fact that the prisoner was in lawful custody is an essential ingredient of the offence.

15. Salient points in this trial

15.1. Neighbours at a party said that they had heard screams on the night of Yeates' death. On Monday, 17 October 2011, pathologist Russell Delaney said in evidence that he could not '*exclude the use of one hand*' that strangled Joanna Yeates to stop her screams. He also said that while it is not possible to determine the exact duration of the sequence that led to Miss Yeates' death, it could be a matter of seconds rather than minutes. Blood found on Miss Yeates's pink T-shirt may have been deposited after her death, Dr Delaney added. Tabak's QC William Clegg suggested his client used just one hand to strangle her. Mr Clegg said: *'My suggestion is that the injuries are consistent with being caused by one hand - a hand larger than the average hand perhaps.* Dr Delaney said he 'cannot exclude the use of one hand' as the claim was made.

15.2. A priest is alleged to be the last person to see Yeates alive

15.3. A plate of chips at lunchtime was her last meal

15.4. The prosecuting counsel alleged that Dr Tabak had searched the internet for information about murder and manslaughter sentences. Mr Lickley told the jury his story. He said that at some point that evening Vincent Tabak moved Joanna Yeates' dead body, put her in the boot of his car and drove it to Longwood Lane.

Mr Birch and his wife, Rebecca, spotted the pocket of her denim jeans exposed through the snow as they walked their chocolate Labrador Roxy along Longwood Lane, Failand, Somerset. A forensic examination of the scene where her body was found located *only Miss Yeates' blood on a wall* of a neighbouring quarry – and Mr Lickley told the jury that this means that the defendant may have tried to lift her corpse over the wall, Mr Lickley continued to tell his story of the case by saying that in the days after killing Miss Yeates, Tabak attended parties and dinners and coolly maintained the pretence of a worried neighbour, the prosecution claimed. However, these were all pre-arranged Christmas parties of friends and neighbours. It was the week before Christmas. Putting aside the presumption that Dr Tabak had committed this criminal offence, going to parties is the *normal* thing to do in the Christmas season.

Mr Lickley told jurors that witnesses would give evidence describing the defendant's *demeanour* after Miss Yeates disappeared and before he was arrested.

He said:

'Some will describe their meetings and conversations with him over the following days. Some talk of his normality, some the pressures and strains he was displaying. He was seen by the police on a number of occasions and his behaviour is important. When alone at work or at home his internet activity became ever more consumed, following news items as if almost following the police investigation as it unfolded when Greg Reardon gives evidence on Monday 17 October 2011

Nigel Lickley continued:

'Vincent Tabak put his hand around Jo Yeates's throat for 20 seconds to stop her screaming'

Tabak claims in his statement made in September 2011 that he 'didn't intend death or serious injury' Yeates's boyfriend Greg Reardon told the court on 17 October 2011, that he had a 'buzzing level of stress' at finding her missing. The Daily Mail reported that Tabak buried his face in his hands and made no eye contact with Reardon. How they could fathom this from a man behind a glass cage is questionable.

The Prosecuting counsel Nigel Lickley QC read out to the court a statement that Tabak had signed on 23 September 2011 in which the prosecutor said that Vincent Tabak claims that he strangled Joanna Yeates for 20 seconds after she screamed when he put his arm around her. Tabak claims to have used 'no more than moderate force and that Vincent Tabak did not intend to kill or seriously injure her. Mr Lickley said:

'The mechanism of death' set out in the statement was as good as Tabak can recall.'

Evidence was then heard (on 18 October 2011) by the pathologist who inspected Yeates' body. He was cross-examined by William Clegg, QC, defence counsel.

The other witness to give evidence in court on 18 October 2011 was Greg Reardon Ms Yeates' cohabitee.

'The two were facing each other. He put one arm around her back with his hand in the middle of her back,' Mr Lickley said.

'And she screamed. He put his other hand over her mouth which caused the noise of the scream to cease.

'He removed his hand from her mouth and the screaming continued.

'He then put his hand around her throat.

'He believes it was the one that had been from behind her back and held it there for about 20 seconds.

'He applied no more than moderate force on a scale of one to three - light, moderate and severe.

'He did not intend death or serious injury.

'The actions described above killed Miss Yeates.

'The defendant accepts his actions were unlawful.'

Referring to Tabak's statement, Mr Lickley said: 'He removed the hand from the mouth and the screaming continued and then he put the hand around the throat.

'He believes it was the one from around her back and held it there for about 20 seconds.'

In the statement, Tabak claims he 'didn't intend death or serious injury', Mr Lickley added. Mr Lickley earlier asked pathologist Russell Delaney about Tabak's statement that he held Miss Yeates's throat 'for about 20 seconds'. Dr Delaney replied: *'That period of time would be sufficient to cause the signs of venous obstruction and would be long enough to result in her death.'* The statement was referred to after Tabak's QC William Clegg suggested his client used just one hand to strangle her. Dr Delaney replied: *'I cannot exclude the use of one hand'*

During cross-examination of Dr Delaney, Mr Clegg said: *'My suggestion is that the injuries are consistent with being caused by one hand - a hand larger than the average hand perhaps.'*

Mr Clegg asked whether it would have been impossible for Miss Yeates to scream as her neck was being squeezed. *'That would depend on the nature of the neck compression,'* Dr Delaney replied.

The lawyer asked again if her injuries were consistent with being strangled with one hand. Dr Delaney replied: *'Or two, yes.'*

Dr Tabak was not called to the witness stand but his statement made in September 2011, was used and read out. Referring to the statement, Mr Lickley, the prosecuting counsel told the court: *'The actions above killed Miss Yeates. The defendant accepts his actions were unlawful.' Joanna Yeates was said to have started screaming after Tabak put his hand in the middle of her back'.*

Intention to kill

Intention is generally defined in terms of foresight of particular consequences and a desire to act or fail to act so that those consequences occur. It is distinguished from recklessness because, on a subjective basis, there is foresight but no desire to produce the consequences. But the perennial problem has always been the extent to which the court can impute sufficient desire to convert recklessness into intention. The original rule was objective. In *DPP v Smith* (1961) AC 290, the test was that a person was taken to foresee and intend the natural and probable consequences of his or her acts.

Given that s8 Criminal Justice Act 1967 now entitles a jury to draw reasonable inferences from all the evidence, Wien J. said in *R v Belfon* (1976) 3 All ER 46 that:

Foresight and recklessness are evidence from which intent may be inferred but they cannot be equated...with intent. Thus, when as in *R v Moloney* (1985) 1 All ER 1025 the defendant gets into an argument with his stepfather about who could load a shotgun and fire quickest, in the argument the stepfather was shot dead and Moloney was charged with murder. Lord Bridge held there was no rule that foresight of probable consequences was equivalent to, or alternative to, the necessary intention for a crime of specific intent. (Moloney established that a person can have intention, where they did not want the result but merely foresaw it) rather, the question of foresight of consequences was a part of the law of evidence. Lord Bridge gives the example of a man boarding a plane which he knows to be bound for Manchester. He conclusively demonstrates his intention to go there. It is not merely evidence from which such intention may be inferred. In the rare case where it may be necessary to direct a jury by reference to foresight of consequences, two questions arise:

- (a) was death or very serious injury a natural consequence of the defendant's voluntary act?
- (b) did the defendant foresee that consequence as being a natural consequence of his act?

If the answer to both questions was in the affirmative, an inference could be drawn that the defendant had intended that consequence. What was a natural consequence?

...in the ordinary course of events a certain act will lead to a certain consequence unless something unexpected supervenes to prevent it, the probability of the consequence taken to have been foreseen must be little short of overwhelming before it will suffice to establish the necessary intent.

The issue then focused on the probability that the particular harm will result from what is done. In *R v Hancock & Shankland* (1986) 1 ALL ER 641 Lord Scarman puts it:

'...the greater the probability of a consequence the more likely it is that the consequence was foreseen and if that consequence was foreseen, the greater the probability is that it was also intended.'

In *R v Nedrick* (1986) 83 Cr. App. R. 267 the Court of Appeal through Lord Lane said:

'...if the jury are satisfied that at the material time the defendant recognised that death or serious harm would be virtually certain (barring some unforeseen intervention) to result from his voluntary act, then that is a fact from which they may find it easy to infer that he intended to kill or do serious bodily harm, even though he may not have had any desire to achieve that result...Where the charge is murder and in the rare cases where the simple direction is not enough, the jury should be directed that they are not entitled to infer the necessary intention unless they feel sure that death or serious bodily harm was a virtual certainty (barring some unforeseen intervention) as a result of the defendant's actions and that the defendant appreciated that such was the case.'

After Lord Steyn's judgment in *R v Woollin* [1998] 4 All ER 103 (HL), affirmed in *R v Matthews and Alleyne* [2004], it is clear that, based on *R v Moloney*, foresight of death or grievous bodily harm as a mere probability is insufficient. This confirms *R v Nedrick* subject to the substitution of 'infer' for 'find'.

Where the charge is murder and in the rare cases where the simple direction is not enough, the jury should be directed that they are not entitled to *find* the necessary intention unless they feel sure that death or serious bodily harm was a virtual certainty (barring some unforeseen intervention) as a result of the defendant's action and that the defendant appreciated that such was the case.

It is clear that Lord Steyn intended that a virtual or moral certainty test should necessarily lead to a finding of intention. But by phrasing the guidelines in terms of what the jury are not entitled to do, the clarity of the direction is compromised. He may have felt that the jury are entitled to indirectly *infer* but not directly *find* intention. It would have been better expressed as a positive; i.e. "if the jury are sure that the defendant foresaw death or grievous bodily harm as a virtual certainty this equals intention". Nevertheless, it seems that "a result foreseen as virtually certain is an intended result". It is not clear that Lord Steyn intended the above meaning. Parliament require that the jury not be directed to find intention, and Lord Steyn cannot have intended to contravene Parliament's wishes. Where the jury is sure that the defendant foresaw the required level of harm to be a virtual certainty this is evidence which the jury may consider in consideration of whether the defendant personally intended this harm.

However, it can be argued that Tabak did not set out to kill Yeates. He set out to flirt with her. In the caselaw *Frankland and Moore v R* [1987] (Isle of Man), the defendants were charged with murder in the Isle of Man, where no provision corresponding to s.8 of the Criminal Justice Act 1967 was at the time in force and the law of murder was essentially the English common law. The trial judge followed *DPP v Smith* and directed the jury that the test was what a reasonable man would have foreseen as the probable consequence of the defendants' acts. After conviction, the defendants appealed their conviction, and the murder conviction was quashed. The court was strongly disapproving the use of *DPP v Smith* as precedent and declared that no such objective had ever been part of the common law so far as murder was concerned. Mr Reardon went into the witness box five minutes before the case adjourned for lunch. Mr Reardon, who had been staying in Sheffield on the weekend of her death, said the pair had been in a relationship for two years. They had previously lived together in the Bristol suburb of Westbury Park before moving to Clifton on October 25, the court heard. Mr Reardon said he gave Miss Yeates a cuddle and a kiss before setting off to see relatives in Sheffield on the night of her death. After failing to get hold of her all weekend, he said he 'did not immediately think something was wrong' after returning to find their flat empty on Sunday night. Mr Reardon told how he and Miss Yeates had been looking forward to watching the final of BBC show *The Apprentice* on the evening of his return to Bristol. When asked by Mr Lickley what her plans had been for the weekend, Mr Reardon said:

'She had mentioned her plans to finish her Christmas shopping. We also had a get-together coming up and she wanted to do some baking.'

He said of his return to Flat 1, on the Sunday night:

'It was quite untidy. There were clothing, boots and shoes and general paraphernalia.' He told jurors he paced around the flat, tidying as he went, and trying to piece together what may have happened'. There were clothing, boots and shoes and general paraphernalia. I was wandering about. I didn't really think there was a big problem. I thought she may well have gone away visiting friends. 'So I thought she may have been away doing fun things, so not having been able to get hold of her phone. I wasn't sure. I didn't immediately think anything serious was wrong.' I was quite annoyed that I had not been told what her plans were and she had not got back to me and I was starting to feel quite worried.' said Greg Reardon.

Mr Reardon said Bernard the cat was pleased to see him and wanted to go outside to the toilet. The cat was also hungry and quickly ate his dinner. Referring to the hungry cat, the clothes on the floor and general mess, Mr Reardon said:

Mr Reardon said he had eaten a pizza from the freezer for his dinner and drank the open bottle of cider he had found in the flat when he got home.

Mr Reardon, who works as an architectural assistant, said he spotted his girlfriend's rucksack on the dining room table and when he opened it he found her glasses, sunglasses, keys and wallet inside. Her striped jumper, which she had been wearing on the day she was last seen alive, WAS FOUND IN HER RUCKSACK.

15.5. Witness evidence on Wednesday 19 October 2011

The police analyst gave evidence on Wednesday 19 October and claimed that the following (partly set out below in blue) is the result of her analysis of the metadata from Buro Happold's computers and Tabak's laptops at Flat 2. Prosecuting counsel related to the witness and she confirmed that her analysis shows that Tabak researched 'police', 'missing persons', 'recycling', etc.

The jury was told that some webpages cannot now be recovered as they had been changed but that some webpages had not changed, and so the prosecution showed films of some pages that had not been changed.

The jury looked at pages that have not been changed, allegedly (as the defence did not dispute (by defence forensic analysis or otherwise) any of the police computer evidence whatsoever. Defence lawyers did not even attempt to show that metadata cannot be preserved and thus such electronic evidence may be partly unreliable. The prosecution evidence was bounded into a huge volume of A3 width and one wonders whether it was lack of Legal Aid funding that prohibited the defence team from challenging this evidence.

15.5.1. The prosecution's Internet evidence

On 17 December 2010 at 7.45:54 am

Tabak performed a Google search on the words

'weather'

'Bristol'

'Bath'

15.5.2. At Line 118 of the prosecution chart

Tabak accessed the Internet and performed some Google searches. On 18 Dec 2010, Tabak searched at 1.26 am- *'BBC news'* and *'weather forecast'*

1.46 am- *'weather forecast'*

1.47 am- *'BBC Bristol news'*

15.5.3. At Line 129 of the prosecution chart

Tabak accessed *'murder of 4 year old girl in London'*

Tabak continued his research **15.5.4. At Line 171 of the prosecution chart**

Tabak accessed *'Map of Bristol'*

Again, the Prosecution repeated their show the film of the road where Joanna Yeates was found although this could not be accessed on Map of Bristol.

15.5.6. At Line 216 of the prosecution chart

Tabak search

'weather'

15.5.7. At Line 217 of prosecution chart

Tabak searched for

'Murder inquiry- 4 arrested in Bristol'

and also searched

'South African murder'

'Dewani.'

15.5.8. On his computer at work, Tabak searched for news on

'Melanie Hall'

'Avon and Somerset police home page'

'News'

'Murder of Melanie Hall'

15.5.9. At Line 224 of prosecution chart

Tabak searched the words

'missing persons'

15.5.10.

At Line 226 of prosecution chart

Tabak searched for the words

'Avon Police'

'Bristol area weather forecast'

15.5.11. At Line 225 (sic)

Tabak searched using the words

'Joanna Yeates'

'Salt supplies in the Netherlands'

15.5.12. At Line 257 of the prosecution CHART

Tabak searched on Google Maps for

'Longwood Lane'

15.5.13. At Line 258 (afternoon- at work)

Tabak performed Google searches on the words

'manslaughter'

'previous offenders'

'Maximum sentence Manslaughter'

Tabak then performed a Yahoo search for the words

'penalty for manslaughter'

15.5.14. At Line 267 of the prosecution chart

At 15.00 pm on 21 December 2010, Tabak searched the words
'Extradition of Dutchman'
'Jo Yeates'

15.5.15. At Line 271 of the prosecution chart

Tabak searched the Dutch word
'doodslag' (English meaning: *'manslaughter'*)

15.5.16. At Lines 276-277 of the prosecution chart,

At 11.00 pm on 21 December 2010, Tabak searched
Press coverage

15.5.17. At Line 281 of the prosecution chart

In the morning -at work, Tabak Googled
'police'
'weather forecast'

15.5.18. At Line 286 of the prosecution chart

Tabak at lunchtime- at work-on 22 December 2010
Searched Google for the words
'What happens forensic?'
'Wiki'

'Forensic science and trace evidence'

15.5.19. At Line 287 of the prosecution chart

at 1.00 pm, Tabak searched the words
'Yeates'
'Police'

15.5.20. At Line 288 of the prosecution chart

Tabak Googled the words
'CCTV Canynge Road'

15.5.21. At Line 291 of the prosecution search

In the afternoon of 22 Dec 2010 Tabak searched Wikipedia for the words
'Crown Prosecution Service'
'Jo Yeates'

Then he Googled the word
'manslaughter'

Then back to Wikipedia, Tabak searched the words
'murder in English law'

15.5.22. At Line 292 of the prosecution chart

Tabak Googled the words
'manslaughter sentencing'

Then he went to Wikipedia website to search the words
'manslaughter in English law murder in English law'

Tabak left work at 5.06pm on 22 Dec 2010 and at home he Googled
'Los Angeles murder case'

15.5.23. At Line 305 of the prosecution chart

PC Karen Thomas went to 44 Canynge Road to search.

15.5.24. At Line 311 of the prosecution search

Tabak Googled the words
'body discomposition time' (sic)

15.5.26. At Lines 311 (a to g) of the prosecution chart (on 23 December 2010)

Tabak searched Wikipedia for the terms
'decomposition'

'how fast does body decompose'

'film of body decomposing'

'what takes place from hour to hour after death'

'what happens to human body after death'

15.5.27. At Line 318 of the prosecution chart

Tabak searched the words
'penalty for manslaughter'

15.5.28. At Line 321 of the prosecution chart

Tabak Googled the words
'Jo Yeates'

'weather'

15.5.29. On 23 Dec 2010 at 4.00 pm

Tabak searched the Dutch Wikipedia for the words

'extradition'

'Yeates'

'missing persons'

'% of grey cars in UK'

'Renault Megan cars in UK'

15.5.30. At Line 340 of the prosecution chart

Tabak Googled on 26 Dec 2010

'Yeates'.

At 3.00 pm he search the Telegraph Newspaper online

At 3:43 pm he searched online *global newspapers*

At 3.45 pm he searched the words

'Suspension bridge police footage'.

15.5.31. At Line 347 of the prosecution chart

Tabak searched Google maps for

'maps to Longwood lane..

'Mirror newspaper website'

'BBC news'

'alcohol –police limits'

15.5.32. At Line 368 of the prosecution chart

Tabak searched for the Press release about

'domestic rubbish'

'Yeates'

'architect's killer'

'maps for Clifton Road'

'Clifton Road rubbish'

'393 tons of rubbish trawled through'

'household collections- Bristol City Council'

'recycling'.

15.5.33. At Line 369 of the prosecution search

Tabak searched for the words

'amounts of rubbish seized'

15.5.34. At Line 372 of the prosecution chart

Tabak Googled the words *'rubbish collections'*

15.5.35. At Line 376 of the prosecution chart

Tabak's research was categorised by the police analyst into

'Google'

'forensic' and

'location'.

15.5.36. At Line 378 of the prosecution chart

Tabak Googled the word

'Yeates'

Tabak went to Google map and searched for the words

'Clifton Bristol'

'woods and surrounding area'

Then Tabak Googled the words

'average rubbish per person in UK'

'Yeates'

'rubbish'.

15.5.37. At Line 382 of the prosecution chart

Tabak Googled

'Yeates pizza'

'Avon police seize rubbish'

'Yeates'

'Sky news images'

'Yeates'

'police'

Tabak also searched the BBC news article for
 ‘missing sock when found’
 ‘Avon & Somerset police’
 Then Tabak researched for a Dutch article of ‘18 year sentence for murder’
 On 5 Jan 2011 lunchtime, Tabak Googled
 ‘press coverage’
 and again at 3.05 pm, Tabak Googled the words
 ‘press coverage’
 ‘Missing sock’
 Again, at 4.03, Tabak searched online newspaper articles for the words
 “frozen DNA”
 and
 “rubbish collection Clifton 23 December 2010”

On 6 Jan 2011, Tabak researched the words
 Pizza box

Tabak Googled the words
 ‘Rubbish collection York Place Clifton Bristol’
 ‘Jo Yeates rubbish’
 At 4.10 (pm) Tabak searched on Wikipedia for the words
 ‘Detention of a suspect’
 ‘letter and label sent to a public house’
 Then he googled the words:
 ‘Yeates’
 “Avon & Somerset police”

And at 5.00 pm, Tabak researched on
 Google map

“Clifton Richmond Terrace”
15.5.38. At Line 422 of the prosecution chart

At 9.10 am (at work)
 Tabak searched for press articles on the murder.
 Then he Googled the words
 “DNA test”
 “Waste recycling”
 “rubbish collection”

15.5.39. At Line 427 of the prosecution chart

Tabak researched on Wikipedia the words
 “life imprisonment”
 “previous offenders”
 “named persons”
 “sentencing”

In January 2011, at Line 10 of the prosecution chart

Tabak Googled news about Joanna Yeates and a label and letter sent to a public house.
 He Googled the words
 “Jo Yeates”
 “Jo Yeates murder”

15.5.31. At Line 443 of the prosecution chart

Tabak researched the words
 “Yeates” under news!

15.5.32. At Line 444-447 of the prosecution chart

Tabak continued his research. He Googled the word
 “Yeates”

15.5.33. At Line 449 of the prosecution chart

Tabak Googled the words
 “police found significant evidence”

15.5.34. At Line 451 of the prosecution chart

Tabak did further research on 11 Jan 2011.

15.5.35. At Line 457 of the prosecution chart

Tabak did a Google search of the word
 “aggravating”

Then Tabak did a Wikipedia search of the word
“murder”

At this point the jury on Wednesday morning 19 October 2011, were invited to write into their copy of the prosecution chart where they see the words typed in by Tabak (“definition of”) before the words “*sexual conduct*” the jury were invited to write the word “*definition*” (so that this entry is more accurate, the prosecution counsel Nigel Lickley QC said.)

and before the words “*sexual assault*” (jury to write in ‘*definition of*’) because these words were missed out when prosecution constructed the chart of evidence, Mr Nigel Lickley Qc, said..

15.5.36. At Line 457 (sic) of the prosecution chart

Tabak Googled the words
“*average manslaughter*”

15.5.37. At Line 459 of the prosecution chart,

Tabak had googled the words:
“*Google*”

“*penalty manslaughter*”

15.5.38. At Line 464 of the prosecution chart

Tabak searched for the words
CPS sentencing

15.5.39. At Line 465 of the prosecution chart

Tabak went to the Wiki page to search the words
“*Definition of murder*”

15.5.40. At Lines 488-491 of the prosecution chart

Tabak searched for an article on *Yeates*

15.5.41. On 13 January 2011 at 5:04 pm

Tabak Googled *news articles on Yeates*.

15.5.42. At Line 523 of the prosecution chart

Tabak accessed a Magazine article-

15.5.43. At Line 566 of the prosecution chart

at 6.00 pm on 19 Jan 2011, Tabak searched the webpage of
“*Avon & Somerset police*”

The Internet access evidence against Vincent Tabak ended at Line 566 of the prosecution charge. This completed all the prosecution evidence presented in this trial. The police analyst was in the witness box from 10.30 am to 12 noon on 19-10-11.

Finally, at 12.15 on 19 October 2011, QC William Clegg addressed the court in defence of Vincent Tabak, the accused. Justice Field has just dismissed the jury for the day because he had forgotten that defence council had asked permission to make his opening speech on 19-10-2011, and after a five minute break, the jury were recalled to hear Mr William Clegg’s most impressive address.

16. This is the Defence Counsel, Mr William Clegg, QC’s opening speech:

16.1. “*If Jo Yeates had stayed for just one more drink she would be alive today. If Vincent Tabak had gone to Asda as he had planned that same time, he would not in the dock today. ...*

16.2. *She turned on the oven to bake.*

16.3. *She phoned several male friends and told how she was bored.*

16.4. *She texted Samuel Ashcroft:*

“*Where are you this fine eve?*”

His reply was “Home- sorry”.

16.5. *She then texted Peter: “Where are you?”*

Peter replied “On my way to a wedding. Where are you?”

She replied: “At home- on my todd”!

16.6. *She texted a third male friend.*

16.7. *She has said she was bored and she was looking for company.*

16.8. *It was the Christmas period and many people were at parties.*

16.9. *In the next flat was Vincent Tabak.*

16.10. *They never really knew each other, save for a nod.*

16.11. *Vincent Tabak was also alone- and bored.*

16.12. *He decided to go to Asda – not for anything special but to fill in time.*

16.13. *He left his flat; was walking towards his car and went past her kitchen window.*

16.14. *The kitchen blind was broken and so stayed up all the time, as Greg Reardon had confirmed.*

16.15. *She beckoned to him to come in.*

- 16.16. Joanna invited Vincent in, as all the evidence indicated.*
16.17. She had opened the door and invited him in.
16.18. He took off his coat.

16.19. He hung it on her coat rack.

16.20. She offered him a drink and he declined as he was driving.

16.21. She said her boyfriend was away and she was alone and he said that his girlfriend was away and he was alone.

16.22. Vincent Tabak misread her friendliness toward him and made a move towards her as if he was about to kiss him on her lips.

16.23. He put one hand in the middle of her back as if he was about to kiss her, and she screamed fiercely.

16.24. He put his hand over her mouth and said sorry and when he moved his hand away she screamed again.

16.25. He put his hand to her mouth and throat and she went limp. She was dead.

16.26. He had never touched her before other than to shake hands as he went into her flat.

16.17. That one minute was all it took and she was dead.

16.18. Nothing was timed.

16.19. He thinks that maybe he was in the flat for 10 minutes before she screamed.

16.20. The incident when he put her hand on his throat was far less than a minute.

16.21. Defence expert Dr Carey will give evidence on Friday 21 December 2010 on this matter.

16.22. Prosecution pathologist expert witness, Dr Delaney, said on 18 October that it may well have been 10 seconds.

16.23. Those arriving at the party at Number 53 said they heard screams.

16.24. It is for the jury to decide whether a scream from inside Flat 1 could be heard from outside 53 Canynge Road.

16.25. The jury will have to decide whether anybody could have heard

16.26. But one thing is that three witnesses heard screams spread out over some ten minutes. This cannot be.

16.27. The couple arriving outside number 53, a short time after they were filmed on CCTV at number 83.

16.28. But the weather conditions were icy. How long did it take them to get there?

16.29. Warren Sweet said he did not arrive at Number 53's party until 8.50pm on Friday 17 December 2010.

16.30. When he arrived at No. 53, Warren Sweet said he heard a scream. That cannot be the same scream that the couple heard.

16.31. The reaction of all four people who heard screams was initially put down to students out celebrating as term had finished that day.

16.32. You may think that the whole of those screams is totally unconnected.

16.33. You just couldn't hear anybody from that distance....

16.34. This does mean that one really hasn't got a real clue as to when Tabak went into Joanna's flat except that it was between the time he went to Asda and the time he texted his girlfriend, say, between 9.00 pm and 11.00 pm.

16.35. Were you to conclude that the couple heard Joanna's screams and not the scream that Mr Sweet heard; if the Laymans and Sweet's evidence were to be dismissed, it would tie in with the scientific evidence.

16.36. One thing is certain. Joanna Yeates was killed between 21.00 and 21.30 pm on Friday 17 December 2010.

16.37. It was not something he planned.

16.38. It was, in the words of Dr Delaney, expert prosecution pathologist witness, that death had occurred in less than half a minute; less than 20 seconds, less than 10 seconds even.

16.39. A very important piece of evidence is that what Tabak wrote in his statement is nearly the same and corroborated the undisputed pathologist expert witnesses.

16.40. But his conduct afterwards was frankly disgusting.

16.41. He took her body and disposed of it.

16.42. He caused anguish to her family.

16.43. His defence will not be heard to excuse this behaviour.

16.44. He was obviously concerned with the incident, trying to track everything.

16.45. It was only a matter of time before the police came to arrest him.

16.46. Again he told lie after lie and you will hear no excuse from me about that. It shows a very calculating person trying to wriggle out of her death but it does not help in thinking of what happened at the flat....

16.47. He went to his flat and left Joanna's flat door on the latch.

16.48. He returned.

16.49. He turned off the oven that she had turned on.

16.50. He took the Tesco pizza that was in the kitchen.

16.51. He carried the body from her flat to his flat.

16.52. He then put her body in the bag that he used to cover his bike.

16.53. He then went to get his car, placed the body in the boot of his car, went to Asda, a trip he formerly planned, and drove aimlessly around whilst deciding what to do.

16.54. *He tried to put the body over the wall.*

16.55. *It was too heavy and so he left it by the roadside.*

16.56. *When he got back home, he put the pizza, the cycle cover and the sock into a corporate dustbin.*

16.57. *And then, despite the awful secret that he was carrying, he tried to carry on as before: going to parties, living with his girlfriend, etc, instead of going to the police.*

16.58. *There will be no excuse from me for that. He will be called to give evidence on Thursday 20 October 2011. He is not being tried for his behaviour after Joanna died. He is not being tried for dumping the body. What he is being tried for is whether he killed Joanna Yeates, intending to kill or cause really serious harm to her, or whether, he panicked and did it without thinking of the consequences.*

Most of what the prosecution has stated does not go this fact: it goes to what happened afterwards.'

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