

Criminal Law News



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'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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- Chief Editor: Sally Ramage, Member of the Chartered Institute of Journalists; Society of Editors and Society of Legal Scholars, UK.
- Consultant Editors: Anand Doobay, Partner, Peters & Peters Solicitors, London, UK.
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By

Sally Ramage

1.1. Bristol is an area of England with much crime

Bristol is a high-crime area in the United Kingdom, according to the police crime maps on the Internet.

1.2. Violent crimes in Bristol

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.

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. Neighbours at a party said that they had heard screams on the night The suspect is male, black, bald, skinny, about 5ft 7in tall, has bad teeth and a strong African accent. However, the case now focussed on not the usual street crime: it is a conviction of murder of a decent young English professional committed by another young middle-class professional. One common theme is that it happened in her own home.

1.3. *R v Tabak (Vincent)* [2011] Unreported; Case number T20117031

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.

1.3. English law

In English law, it is unlawful to kill a person unless in circumstances where reasonable force was used in self-defence¹ 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.

1.4. Miscarriages of justice and cessation of capital punishment

With the numerous miscarriages of justice in present day English courts, it is a very good thing that capital punishment in England, Wales and Northern Ireland 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.

1.6.1. Could Vincent Tabak have pleaded provocation?

It is alleged that Tabak made a confession² to an unlicensed prison chaplain, who was not called to give evidence, a most pertinent point. What are Tabak’s defenses? Was he provoked as per the Homicide Act 1957, section 3 which 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 See: Richard Moriarty, ‘Burglar killed by Dad was after Rolex’, The Sun, 20 September 2011. Burglar Jacob was stabbed six times in the arms and legs after a huge struggle broke out in the kitchen. It is thought he bled to death after being stabbed in the thigh.

² It is of note that there are forensic psychologists who specialise in finding out whether a confession was drafted by one or person.

It is suggested that Vincent Tabak could have and should have pleaded section 3, as he himself said in court, 'It was only a few moments. I still cannot believe what happened. I cannot get over what happened.'

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

A person can have a *sudden*³ and temporary loss of self-control through:

- (i) words or conduct of another⁴ or
- (ii) self-induced⁵
- (iii) anger⁶
- (iv) despair⁷ or
- (v) frustration⁸.

1.7.1. 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 of sentencing in the United Kingdom 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. In the case discussed in this paper, ie. *R v Tabak (Vincent)* [2011], unreported, when the charge of murder was upheld by the majority (ten members) of the jury, Mr Justice Field made no comment as to whether Tabak was a psychopath. Nor did he mention dangerousness, especially as 'psychopathic disorder' is not a medical term but is indeed a legal term in English law.⁹ He did not say that Tabak should be imprisoned for public protection (IPP).

1.7.2. Imprisonment for Public Protection (IPP)

In *R v Smith* [2011] UKSC 37, the court said that it was not unlawful to impose an IPP sentence on the defendant who had been recalled under a life sentence from which he must only be released if he satisfies the Parole Board that he no longer posed a *danger to the public*.

1.7.3. Section 5 of the Domestic Violence, Crime and Victims Act 2004

In a domestic situation, an IPP is imposed when the defendant has either caused the death, or should have been aware that the deceased was at *significant risk* of serious harm and

³ In this matter, the word 'sudden' does not mean 'immediate'. See *Ahluwalia* [1992] 4 All ER 889, CA. See also *Attorney General for Jersey v Holley* [2005] UKPC 23, [2005] 2 AC 580.

⁴ *Ibid* 1.

⁵ *Johnson* [1989] 2 All ER 839, CA.

⁶ The things done or said may be done or said by the deceased or anyone else: *R v Davies (P)* [[1975] Q.B. 691; and *R v Doughty (S.)*, 83 Cr. App. R. 319, CA.

⁷ *Morgan Smith* [2001] 1 AC 146 at 168, stated by Lord Hoffmann.

⁸ *Ibid* 4

⁹ David Canter, 2010, *Forensic psychology*, Oxford: Oxford University Press, p 26.

failed to take reasonable steps to prevent that harm. This section 5 DVCVA offence was necessary to resolve the problem that arose when it cannot be shown which member of the household caused the death and all members of the household will be liable for such a death.

It is noted that the term '*significant risk*' in this offence has been defined to be one of '*serious physical harm*', but the term '*serious physical harm*' is not defined and so, what must be shown, is that the defendant failed to take such steps as could reasonably be expected to be taken to protect the Victim from the risk.

1.7.4. Section 5 DVCVA offence carries a maximum sentence on indictment

The s.5 offence, tried and convicted carries 14 years imprisonment, an unlimited fine, or both. This s.5 offence was used to prosecute the case of *R v Uzma Khan, Nazia Naureen and Majid Hussain*¹⁰, in which the murder of Sabia Rani by her husband was found and it was also found that his family, which was also her family, utterly failed to protect her in the face of repeated violence. This situation is *not* relevant to Vincent Tabak's case because he did not know Joanna Yeates, nor was he her cohabitee.

1.7.5. Law Committee on the Penalty for Homicide

In 1993 the *Lane Committee on the Penalty for Homicide (Prison Reform Trust)* made recommendations that the mandatory sentence should be abolished and replaced with a maximum sentence of life imprisonment, in line with the recommendations of the 1989 Nathan Committee.

1.7.6. Law Commission's review of the offence of murder

In 2005, 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.

1.7.7. Recommended degrees of murder

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.¹¹

1.7.8. Gross negligence manslaughter and criminal act manslaughter

¹⁰ [2009] EWCA Crim.

¹¹ Law Commission No. 304, para.2.69.

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')'*.

1.8.1. Definition of murder; place where trial may be held, foreigners, etc

As to definitions of murder¹², as prosecuting counsel, 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 30¹³ in the year 1988 and the Law Quarterly Review, Volume 105 at 387 in the year 1989¹⁴ something that Vincent Tabak could never have known because he is not a lawyer. Such a spurious link to Miss Yeates' *murder* is despicable.

1.8.2. Section 9 of the Offences against the Person Act 1861

Section 9 states states that:

'Where any murder or manslaughter shall be committed on land out of the United Kingdom, whether within the Queen's dominions or without, and whether the person killed were a subject of Her Majesty or not, every offence committed by any subject of Her Majesty, in respect of any such case, whether the same shall amount to the offence of murder or of manslaughter, may be dealt with, inquired of, tried, determined and punished in England or Northern Ireland or Scotland. Provided, that nothing herein contained shall prevent any person from being tried in any place out of England or Northern Ireland or Scotland for any murder or manslaughter committed out of England or N. Ireland or Scotland in the same manner as such person might have been tried before the passing of this Act.'

1.8.3. The Crown Court is the correct jurisdiction for a murder trial

The status, jurisdiction and manning of the Crown Court is governed by the Constitutional Reform Act 2005, s.59(5), and Schedule 11, paras 1 and 26 and by certain sections of the Criminal Procedure Rules 2005 (S.I. 2005 No. 384).

2. The defendant charged with murder of Joanna Yeates

¹² Prosecuting counsel Nigel Lickley, QC, told the jury on 10 October 2011, that Vincent Tabak had researched the definition of murder.

¹³ A paper written by Lord Goff titled 'The mental element in the crime of murder'.

¹⁴ Glanville Williams, 'The Mens Rea for Murder'.

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 two people who were walking their dog on Christmas morning, 25 December 2010. Vincent Tabak had been at the time, a neighbour of Miss Yeates and her boyfriend Greg Reardon, both architectural staff in two Bristol firms.

2.3. In fact Dr Tabak and his girlfriend Miss Morson, a qualified analyst working for a multinational firm, Dyson, 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 at around the time when Dr Tabak travelled to Los Angeles in the United States of America, on a project for his firm's Los Angeles' office. 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 Christopher Jeffries, who himself resided in a flat upstairs (the detached house had, years ago, been converted into several flats, namely: (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 which was rented from Christopher Jeffries by Vincent Tabak for himself and his cohabitee Miss Morson; (iii) upstairs consisting of three flats.

After the murder, Vincent Tabak and Tanja Morson had reported to the police that they saw Chris Jeffries spying through windows and letting himself in with his own keys to Flat 1 (one probable reason why the police made an initial arrest of Christopher 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 Jeffries and he has lived here since 1990. In 2001 Chris Jeffries bought the 2 downstairs flats for £300,000 each. Jeffries has formed a limited company to handle the tenancy income. (the limited company he formed is called *44 Canynge Road Management Ltd* and its address is on record at Companies House, in Cardiff, South Wales, as 44 Canynge Road, Bristol, Avon, BS8 3LQ. On the top floor of the house at 44 Canynge Road lives Geoffrey Hardyman, who is 79 years old.¹⁵

2.6. Another upstairs flat is owned by a couple- Michael and Gillian Woodman-Smith -ex-colleagues of Christopher Jeffries a former teacher at a Clifton College of education. Richard Bland, former headmaster of Clifton College lives in another flat upstairs at 44, Canynge Road.¹⁶

¹⁵ He is the man who said that he was in bed with a cold on that Friday evening of 17 December 2010. He later made a statement which was read out in court- in it he stated that he heard no screams that evening of Friday 17 December 2010.

¹⁶ Michael Woodman-Smith was a teacher at Clifton College.

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, Trinmore (Garden Flat) Bristol BS8 3HT¹⁷. He is a font designer and a world expert in his field.

2.8. Dr Tabak had returned from Los Angeles to the United Kingdom on 11 December 2010. He returned to office at *Buro Happold*¹⁸ in Bath, England, on 14 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 had said that he saw Joanna Yeates and exchanged pleasantries. *He was not called to give evidence in court.*

2.12. At 17.15 hours on Friday 17 December 2010, Joanna Yeates' boyfriend and cohabitee, Greg Reardon, began his car journey to Sheffield (using her car) to visit his half-brother and is alleged to have returned to 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, giving evidence in court in October 2011, he said that he waited but when she did not arrive back after midnight, he telephoned his mother, her friends, her mother and later, the police. He reported Miss Yeates as a missing person to Avon and Somerset police. He made the 'missing person' report at 1:00 hours on Monday morning, 20 December 2010.

2.14. In his opening speech on 10 October 2011 in court, prosecuting counsel, Nigel Lickley, said that Greg Reardon had telephoned Miss Yeates' parents who live in Ampfield in the county of Hampshire, England, and they travelled to Bristol immediately.

Reading out Vincent Tabak's signed statement (signed in September 2011) Mr Nigel Lickley 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.'*

¹⁷ See webpage at <http://www.alex.com/siteinfo/lorp.org>

¹⁸ Buro Happold Ltd has enjoyed a large number of international awards recently.

UK Building magazine voted Buro Happold's 'Project of the Year' for the *Royal Shakespeare Theatre*. The Middle East Architect magazine voted Buro Happold as 'Engineering consultancy of the Year' and 'Engineer of the Year'.

In Poland won 'Building of the Year' for both the *Copernicus Science Centre* and the *British Embassy in Warsaw*. In the USA, ENR New York's 'Best Project' award went to Buro Happold for the *United States Institute of Peace*.

In a recent ID programme about Miss Yeates on SKY Television Channel in December 2011, Miss Yeates' mother said that it was she who, on arrival at Miss Yeates' Bristol flat, noticed the Tesco receipt relating to the pizza that Joanna Yeates had bought on her way home that Friday evening. Joanna Yeates' mother said in the television programme that she herself had gone out to the street and had banged on the boot of parked cars, in case her daughter had been kidnapped and placed there. In the SKY programme, She said that it was she who had rung the doorbell at 4:00 hours on Monday morning and asked Tanya Morson and Vincent Tabak if they had seen Joanna. The police reported that they arrived at Flat 1 soon after Reardon's telephone call to them.

2.15. Dr Vincent Tabak returned to the United Kingdom from Los Angeles on Friday, 10 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 on 17 December 2010, after she returned from the public house, the *Bristol Ram*, and whilst his girlfriend Miss Tanja Morson 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/cohabitee 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 Morson from the coach after midnight on its return at the end of the staff party.

2.19. Miss Morson 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 hours on 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 returned home to Flat 2, 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 trial estimated to last for four weeks at Bristol Crown Court.¹⁹ Of the chosen six men and six women none were black or elderly.

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

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

3.4. The judge warned the jurors to avoid reading any background material and not to speak to anyone about the case. It is difficult to see how the jury of twelve local people could have failed to hear or read about this murder case before this date. A chronology, admittedly incomplete, of news coverage from 20 December 2010 to 7 October 2011 is as follows:

3.5. When prosecution counsel Nigel Lickley opened the case, he produced copies of an 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 include alleged internet searches by Dr Tabak. This A3 document looked dauntingly complex and one wonders if all members of the jury followed this document; were on the right page at the right time as narrated by prosecuting counsel Mr Lickley. One juror at the end of the front row appeared almost asleep toward the end of Monday 10 September- speech by prosecuting counsel; Justice Field yawned several times during that day and it is arguable whether the document was used by the jury or whether the jury was merely stunned and impressed by its volume, as it appeared to be a very impressive document of listings, as alleged by the prosecution counsel, Mr Lickley.

3.6. On Wednesday, 13 October 2011, Mr 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.

¹⁹ The trial in fact lasted for two weeks.

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 Morson and Vincent Tabak lived in two adjoining apartments they rented from a man who lived in an upstairs apartment.

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

4.5. Defence counsel William Clegg, QC, also asked the jury to walk from 44 Canynge Road, BS8 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 the house at number 53 Canynge Street, BS8 3LY, Bristol.

5. The judge and jury visit scenes relating to the murder

5.1. Whilst Justice Field travelled in an unmarked police car, the jury travelled in a secure coach with blacked-out windows, to hide their identification. 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 relating to the case.

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

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. The party 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. When the murder occurred, 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 visited Percival Court- a property overlooking Flat 1 and adjacent to the rear of Miss Yeates' 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. Then the party visited the place where Miss Yeates' body was found at Longwood Lane in Failand, North Somerset, some three miles from Canynge Road, Bristol.

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 evidence was heard from colleagues of Joanna Yeates- colleagues who were at the *Bristol Ram* on the evening of 17 December, 2010. Prosecuting Counsel Mr Lickley, QC, had told jurors on Monday 10 October 2010 that witnesses would give evidence describing Dr Tabak's *demeanour* after Joanna 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. The police saw him 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, now 33 years old, had denied the premeditated killing of Miss Yeates, whose body was found by two people who were walking their dog on Christmas morning. The prosecuting counsel claimed that Dr Tabak, who lived in a ground-floor flat adjoining Miss Yeates' flat in Clifton, Bristol, was alleged to have murdered the 25-year-old woman after she went for festive drinks with colleagues on Friday 17 December 2010, after work. Her partner had gone to Leicester for the weekend to visit his half-brother because Miss Yeates and Mr Reardon had planned to spend the Christmas holidays with Miss Yeates' parents. Vincent Tabak denied the premeditated killing of Miss Yeates, whose body was found on a snowy verge on Christmas morning. He pleaded manslaughter.

8. Defence counsel Mr William Clegg, QC

8.1. 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); *R v Patel* (defence of Patel, a surgeon charged with manslaughter); *R v Wardell* (murder at *Nuneaton Building Society*); ; *R v Stagg* (acquitted of the murder of Rachel Nichol); *R v Stone* (charged with the Chillingdon murders); and *R v Duckenfield* (defending the police

superintendent charged with causing the deaths at Hillsborough Football Stadium). This set of chambers, 2 Bedford Row, is indubitably one of the best criminal sets in the country. These barristers work on high-profile cases. 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. 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.

8.2. Mr William Clegg demonstrated his very clear and simple oratory in the case. His opening speech for the defendant began with words to the effect that if Joanna Yeates had remained in the pub for an extra half-hour, the paths of Yeates and Tabak would not have crossed and she would be alive today. It was Mr William Clegg who first asked the Defendant to reconstruct the moments that he strangled Miss Yeates by closing his eyes and reliving the event. It lasted some 20 seconds. He addressed the court with the defence that this was not an intentional act but that the Defendant did not intend, nor did he set out to murder Miss Yeates: he had panicked when she screamed.

This is what Tabak's defence counsel said in his address to the court:

The two were facing each other. He put one arm around her back with his hand in the middle of her back. 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. 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 a typed statement signed by Vincent Tabak in September 2011, Tabak claimed that he didn't intend death or serious injury.

Defence Counsel, Mr William Clegg, QC's opening speech:

'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 be in the dock today.

She turned on the oven to bake.

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

She texted Samuel Ashcroft:

"Where are you this fine eve?"

His reply was "Home- sorry".

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".

She texted a third male friend.

*She has said she was bored and she was looking for company.
It was the Christmas period and many people were at parties.
In the next flat was Vincent Tabak.
They never really knew each other, save for a nod.
Vincent Tabak was also alone- and bored.
He decided to go to Asda – not for anything special but to fill in time.
He left his flat; was walking towards his car and went past her kitchen window.
The kitchen blind was broken and so stayed up all the time, as Greg Reardon had confirmed.
Vincent was walking towards his car when he passed Joanna's kitchen window. She saw him, there was a nod of acknowledgement and she beckoned him to come in. She had opened the door and invited him in.
He took off his coat.
He hung it on her coat rack.
She offered him a drink and he declined as he was driving.
She said her boyfriend was away and she was alone and he said that his girlfriend was away and he was alone.
Vincent Tabak misread her friendliness toward him and made a move towards her as if he was about to kiss him on her lips.
He put one hand in the middle of her back as if he was about to kiss her, and she screamed fiercely.
He put his hand over her mouth and said sorry and when he moved his hand away she screamed again.
He put his hand to her mouth and throat and she went limp. She was dead.
He had never touched her before other than to shake hands as he went into her flat.
That moment was all it took and she was dead.
Nothing was timed.
He thinks that maybe he was in the flat for 10 minutes before she screamed.
The incident when he put her hand on his throat was far less than a minute.
Defence expert Dr Carey will give evidence on Friday 21 December 2010 on this matter.
Prosecution pathologist expert witness, Dr Delaney, said on 18 October that it may well have been 10 seconds.
Those arriving at the party at Number 53 said they heard screams.
It is for the jury to decide whether a scream from inside Flat 1 could be heard from outside 53 Canynge Road.
The jury will have to decide whether anybody could have heard.
But one thing is that three witnesses heard screams spread out over some ten minutes.
This cannot be.
The couple arriving outside number 53, a short time after they were filmed on CCTV at number 83.
But the weather conditions were icy. How long did it take them to get there?
Warren Sweet said he did not arrive at Number 53's party until 8.50pm on Friday 17 December 2010.
When he arrived at No. 53, Warren Sweet said he heard a scream. That cannot be the same scream that the couple heard.
The reaction of all four people who heard screams was initially put down to students out celebrating as term had finished that day.
You may think that the whole of those screams is totally unconnected.
You just couldn't hear anybody from that distance.*

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.

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.

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

It was not something he planned.

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.

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. But his conduct afterwards was frankly disgusting.

He took her body and disposed of it.

He caused anguish to her family.

His defence will not be heard to excuse this behaviour.

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

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

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....

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

He returned.

He turned off the oven that she had turned on.

He took the Tesco pizza that was in the kitchen.

He carried the body from her flat to his flat.

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

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.

He tried to put the body over the wall.

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

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

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.

There will be no excuse from me for that. He will be called to give evidence on Thursday 20 October

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.'

Dr Tabak's evidence from the witness box

Below is a transcript of Vincent Tabak on the witness stand on 20 October 2011 during his trial for the murder of Joanna Yeates: He was being questioned by his own defence counsel, William Clegg, QC.

10.10 am

Defence Counsel William Clegg, QC: *'Call Mr Tabak'*
Vincent Tabak was sworn in.

Defence Counsel: *'Are you a Dutch National?'*

Tabak: *'Yes'*.

Defence Counsel: *'Where did you live in Holland?'*

Tabak: *In Uden.*

Defence Counsel: *Would you say that Uden was a town or is it a village?*

Tabak: *I don't know- perhaps a village maybe. It's population in only 30,000 inhabitants.*

Defence Counsel: *How old are you?*

Tabak: *Thirty-three years old.*

Defence Counsel: *Did you go to school in Uden?*

Tabak: *Yes.*

Defence Counsel: *Did you live there since childhood with your parents?*

Tabak: *Yes. I lived there with my parents, three sisters and brother.*

Defence Counsel: *You went to the University of Technology in Utrecht. Did you have to leave home then? Utrecht is about 30 kilometres away.*

Tabak: *Yes. I lived away. I studied architecture for seven years.*

Defence Counsel: *What qualifications did you pass?*

Tabak: *Equivalent to a combined Master Degree in Architecture and Computer Science.*

Defence Counsel: *Did you then obtain employment?*

Tabak: *No.*

Defence Counsel: *What did you do then?*

Tabak: *I studied for a PhD in people behaviour in the corporate environment.*

Defence Counsel: *How long did that degree take?*

Tabak: *It took 4 years to receive my PhD.*

Defence Counsel: *How old were you then?*

Tabak: *Twenty-nine years old.*

Defence Counsel: *Then you sought employment? Where were you employed?*

Tabak: *My first employment was at Buro Happold in Bath, England.²⁰*

²⁰ However an Internet search reveals that his first job was as an Associate Professor at the Utrecht University.

Defence Counsel: *Had you been to England before?*

Tabak: *Yes, on holiday several times.*

Defence Counsel: *And do you consider that you were fluent in English then?*

Tabak: *Yes.*

Defence Counsel: *When did you begin your employment at Buro Happold in Bath?*

Tabak: *I began in September 2007²¹.*

Defence Counsel: *What was your job title at Buro Happold in 2007?*

Tabak: *I was employed as a people flow analyst.*

Defence Counsel: *What was your job title in 2010?*

Tabak: *People flow analyst.*

Defence Counsel: *Did you have any girlfriends whilst at university?*

Tabak: *No.*

Defence Counsel: *Did you have any girlfriends before Tanya Morson?*

Tabak: *No.*

Defence Counsel: *How did you meet Tanja?*

Tabak: *We met online from a group called 'soul -mates'.*

Defence Counsel: *When did you first meet Tanja?*

Tabak: *On 1 November 2008.²² We moved to 44 Canynge Road in Bristol together in June 2009. 44*

Defence Counsel: *Tell me, what is the building, 44 Canynge Road made of?*

Tabak: *Stone. Stone is good insulation; hardly can hear others in other flats in the building.*

Defence Counsel: *When did the couple move in to Flat 1?*

Tabak: *25 October 2010*

Defence Counsel: *When did you leave for Los Angeles?*

Tabak: *I left for Los Angeles on 14 Nov and returned on 14 Dec 2010.*

Defence Counsel: *Did you ever see the couple from Flat 1?*

Tabak: *I only once saw them at the small garden gate.*

Defence Counsel: *Which route did you normally take to leave the property?*

Tabak: *Normally I always went to my car via the route past Flat 1.*

Does not wear a watch

²¹ Tabak was therefore only in full employment in the UK for a period of three years in total.

²² This meant that Tabak lived alone for one year in Bath before moving to Clifton, Bristol to share a flat with Tanja.

Not known either Reardon or Yeates.
Cat came into Flat 2 whilst he was in LA.

Defence Counsel: *Do you and Tanja often communicate every day?*

Tabak: *Yes. Tanja and I constantly emailed, telephone and text several times a day including all the time I was in Los Angeles, USA.*

(The Defendant was then handed an unmarked copy of the defence team's own timeline chart)

Defence Counsel: *Turn to entries 6 and 7. Incoming text message 7.35 and reply 7.40.*

Defence Counsel: *Turn to entry 11.*

'Entry 11- seen past the flat at 9.05 where Tanya had already left for work in a lift-share'.

Text message from Tabak: 'Love you'.

Text answer from Tanja: Love you too. Pretty snow.

Defence Counsel: *What time do you leave for work?*

Tabak: *9.00 am.*

Defence Counsel: *Do you always access weather reports on the Internet?*

Tabak: *I always access the Internet for weather reports even whilst in Los Angeles. I had my computers set up for that.*

Defence Counsel: *Let us look at your movements on Friday 17 December:*

Time line 11- left for work

Timeline 12- Cycled to Bristol T Stn

Timeline 13- Train to bath

Timeline 16- Arrive Bath 9.41

Timeline 17- Accessed Internet for weather- at work

Timeline 18- Accessed weather report.

Timeline 19- Accessed weather report.

Timeline 20- Telephone call to Tanja.

Timeline 21- Another telephone call to Tanja.

Defence Counsel: *What project were you working at on December 17?*

Tabak: *I had been working on a very big project- A Holy Mosque in Mecca- I was doing some analysis on it – the flow of pilgrims to the Holy Mosque. This was a project that Buro Happold was tendering for.*

Defence Counsel: *Continuing to look at our timeline- timeline 24 was a 'Divert voicemail'.*

Timeline 27- telephone call.

Timeline 28- text message from Tanja and to Tanja at 4 pm.

Timeline 29- there was a much longer telephone call at 4.23pm.

Timeline 30- Internet use at home- Tanja used the laptop – The Defendant was still at work.

Timeline 31- Vincent Tabak texted girlfriend Tanja: 'How are you? Getting ready for party?'

Timeline 37- Vincent Tabak leaves his workplace.

Timeline 45- Vincent Tabak's journey home- 6.54 at Constitution Hill. Home just after 7pm by which time Tanja had already left. Text message to Tanja- 'Just got home'.

Defence Counsel: Did you remain at home or did you go out?

Tabak: I went out

I sent Tanja a text message after I returned; just after 7.15pm

I had gone for a quick walk to take pictures of snow.

I left by small garden gate to Bristol Road then returned.

I didn't take any photos- the snow was dirty.

At 7.25 – after I had returned, I accessed my bank account via Internet until 7.37pm.

Defence Counsel: Can we just put the timeline to one side? What did you do after 7.37pm?

Tabak: I drank a beer. I watched TV- I cannot remember what. I had supper- a ready-made pizza. Then I decided to go out again.

Defence Counsel: Why?

Tabak: I was lonely; bored so decided to drive to the big Asda in Bedminster to buy myself some treats.

Defence Counsel: Where was your car parked?

Tabak: My car was parked on the street.

Defence Counsel: Without any help from the timeline, are you able to say what time it was you decided to go to Asda?

Tabak: No.

Defence Counsel: Look at our timeline chart again. No 76. Jo Yeates did not get back to her flat until 8.37 or thereabouts. Timeline 39- you ultimately went to Asda at approx 10.13 pm.

Can you help by telling what time you believe you went to Asda?

Tabak: No not exactly.

Defence Counsel: Can you look at item where you sent message to Tanja 'missing you' Can you remember if you sent it before you decided to go to Asda.

Recapping- you come off the Internet at 7.37pm (our entry 47) & remain in your flat until 9.29pm (our entry 88).

How soon before that did you leave your flat?

Phone?

Did you normally take the phone when you went out?

Tabak: Yes.

Defence Counsel: When at home, where was the phone kept?

Tabak: In a little room.

Defence Counsel William Clegg, QC, asked Dr Tabak about what happened in Joanna Yeates flat.

Tabak: *She invited me in.*

Defence Counsel William Clegg: *Did she open the door?*

Tabak: *Yes*

Defence Counsel: *Did you take off your coat?*

Tabak: *Yes.*

Defence Counsel: *What room did you go into?*

Tabak: *Kitchen- both of us.*

Defence Counsel: *What did you talk about?*

Tabak: *Being bored. About the cat- she was flirty- she said 'the cat went into places she shouldn't go- a bit like me'; Los Angeles and the sunshine; etc.*

Defence Counsel: *How long did you converse for? Did you decide to do something?*

Tabak: *Yes, I did.*

Defence Counsel: *What did you decide to do?*

Tabak: *To make a pass at her.*

Defence Counsel: *Did you think she would respond?*

Tabak: *Yes.*

Defence Counsel: *Did she offer you a drink?*

Tabak: *Yes. I declined.*

Defence Counsel: *Doing as best you can describe to the court exactly what you did.*

Tabak: *I put my hand in the small of her back and went to kiss her.*

Defence Counsel: *Did you kiss her?*

Tabak: *Noooo.*

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 were told that some webpages couldn't 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.

Defence Counsel: *What did she do?*

Tabak: *She started to scream quite loudly.*

Defence Counsel: *What did you say?*

Tabak: *I'm sorry. Please stop. I kept my hand to her mouth.*

Defence Counsel: *When you took your hand away what happened?*

Tabak: *She continued to scream.*

Defence Counsel: *What did you do then?*

Tabak: *I put my hand around her neck. I panicked.*

Defence Counsel: *What did Joanna do?*

Tabak: *Nothing at all.*

Defence Counsel: *Why did you put your hand around her neck?*

Tabak: *I was just trying to stop her screaming- to calm her down.*

Defence Counsel: *How long did keep your hand there?*

Tabak: *Only for a short time.*

Defence Counsel: *I will tell you to start to remember what you did and when you took your hand away from Joanna's neck. Now. When you took your hand away, what did she do?*

Tabak: *She went limp and fell.*

Defence Counsel: *Did she hit herself as she fell?*

Tabak: *I can't remember- I was still in a state of panic.*

Defence Counsel: *What did you do?*

Tabak: *I put her on her bed in her bedroom.*

Defence Counsel: *Where did you go?*

Tabak: *I went back to my flat.*

Defence Counsel: *How did you leave her door?*

Tabak: *Open.*

Defence Counsel: *How long were you in your flat?*

Tabak: *Only a couple of minutes maybe.*

Defence Counsel: *Where did you go then?*

Tabak: *I went back to Joanna's flat.*

Defence Counsel: *What did you do?*

Tabak: *I was hoping she was alive but clearly she wasn't.*

Defence Counsel: *Accepting that she was dead, what did you do?*

Tabak: *After a couple of minutes I lifted the body and carried it over to my flat.*

Defence Counsel: *Your hand being on what part of her body?*

Tabak: *One arm was underneath her knees.*

Defence Counsel: *Were you able to carry her to your flat?*

Tabak: *No she was too heavy. I tried again.*

Defence Counsel: *Where did you take her body?*

Tabak: *To my flat.*

Defence Counsel: *Did you leave Joanna's door shut or open?*

Tabak: *Open.*

Defence Counsel: *What did you do next?*

Tabak: *I decided to put her body in my bicycle cover.*

Defence Counsel: *Was it your bicycle cover or Tanja's?*

Tabak: *No- it was mine.*

Defence Counsel: *How easy was it to put the body in the bicycle cover?*

Tabak: *Very difficult but eventually I did it.*

Defence Counsel: *Why did you put her body in the bicycle cover?*

Tabak: *I didn't want anyone to find out and I put the body in my car.*

Defence Counsel: *Was Joanna's door still open?*

Tabak: *Yes.*

Defence Counsel: *After you put the body in the boot of your car, what did you do next?*

Tabak: *I went back to Joanna's flat and switched off the TV and the oven; I took away the sock and the pizza.*

Defence Counsel: *Why did you take the pizza and sock?*

Tabak: *I was not thinking straight.*

Defence Counsel: *Where did you take the pizza and sock?*

Tabak: *In my car.*

Defence Counsel: *You decided to take the body away. How were you going to do that?*

Tabak: *In the car.*

Defence Counsel: *Where was the car?*

Tabak: *On the street.*

Defence Counsel: *Then you took the body out to the street?*

Tabak: *No. I backed the car into the drive.*

Defence Counsel: *Was the car facing Canynge Road?*

Tabak: *No. The back of the car was facing Canynge Road.*

Defence Counsel: *Then what did you do?*

Tabak: *I went back to my flat.*

Defence Counsel: *Then what did you do?*

Tabak: *I put the body into the car.*

Defence Counsel: *Was it easy to put the body into the car?*

Tabak: *No.*

Defence Counsel: *How many attempts did you make at placing the body into the boot of the car?*

Tabak: *I think two.*

Defence Counsel: *Then when you put the body into the boot of your car, what did you do?*

Tabak: *I went into the car.*

Defence Counsel: *Look at our timeline 89. Did you drive with the body in the boot of your car?*

Tabak: *Yes.*

Defence Counsel: *Look at our timeline 90-96. Why did you go to the Asda supermarket?*

Tabak: *I was not thinking straight. I think I took upon my original plan to go to Asda.*

Defence Counsel: *At **our** timeline 100, you sent a text message to Tanja 'How are you? I am at Asda. Buying some **crisis**.' How did you feel?*

Tabak: *I just wanted to hear her voice; to get support and comfort.*

Defence Counsel: *As we can see you sent many messages You never make typing errors. Why did you type the word "crisis"?*

Tabak: *That's how I felt. I was in complete shock. Didn't know what to do.*

Defence Counsel: *In our Timeline 108 to 111- a journey that would take you home. Is that where you went? As the timeline suggests?*

Tabak: *Yes.*

Defence Counsel: *In our Timeline 113, when your car is seen at Clifton Down- after a period of 20 minutes or so. How did you feel?*

Tabak: *In a state of despair; panic; unbelief at what had happened.*

Defence Counsel: *When you left where did you drive then?*

Tabak: *I drove away from home; I drove in the direction of the airport; and ended up in Longwood lane.*

Defence Counsel: *Did you know Longwood Lane at all?*

Tabak: *No.*

Defence Counsel: *Was it a quiet area, did you think? What did you decide to do?*

Tabak: *I did something horrendous. I decided to leave her there.*

Defence Counsel: *Did you park your car?*

Tabak: *Yes.*

Defence Counsel: *What did you do then?*

Tabak: *I took the body out of the boot.*

Defence Counsel: *Having got it out of the boot, what did you do with the cover?*

Tabak: *I put the cover eventually back into the car.*

Defence Counsel: *Did the cover become inverted?*

Tabak: *I can't remember.*

Defence Counsel: *What did you do then?*

Tabak: *I tried to hide the body. I tried to put the body over the fence.*

Defence Counsel: *Were you able to?*

Tabak: *No, the body was too heavy.*

Defence Counsel: *Did the body come into contact with the wall?*

Tabak: *Yes. But she was too heavy.*

Defence Counsel: *Part of her breast was exposed- how did that happen?*

Tabak: *Perhaps when carrying her body.*

Defence Counsel: *Your DNA was found on the breast of the body- how did that come about?*

Tabak: *I think as I was trying to put the body over the wall.*

Defence Counsel: *There were many marks on the body. How did that happen?*

Tabak: *I at first left her by the roadside and two or 3 cars went past and I was in a state of complete panic. I'm sorry for doing that. I put her parents through hell. I'm so sorry for that. I can't believe I did that.*

Defence Counsel: *How were you feeling then?*

Tabak: *I was exhausted at carrying the body- my body was in a state of sweat. I took off my black jacket.*

Defence Counsel: *How did you hide the body?*

Tabak: *I put leaves over it.*

Defence Counsel: *Our Timeline 113 – your car was seen on the road and so you must have reached your flat around 10 minutes past midnight. At 18 minutes past we can see on the timeline, a text from you to Tanja- ‘Are you on the bus?’ Then your landline call to Tanja. What did you do?*

Tabak: *I realised that I still had the bicycle cover in my car and the pizza and sock in my flat.*

Defence Counsel: *What did you decide to do?*

Tabak: *I decided to dispose of them.*

Defence Counsel: *What did you do then?*

Tabak: *I remembered that there were some disposal containers on the road in Clifton.*

Defence Counsel: *What colour were these containers?*

Tabak: *Green I think.*

Defence Counsel: *Were they on wheels?*

Tabak: *I can’t remember.*

Defence Counsel: *Were they private or Council containers?*

Tabak: *I don’t know.*

Defence Counsel: *Why were you researching about rubbish?*

Tabak: *I read that police were sifting through rubbish and I was afraid they would find the pizza.*

Defence Counsel: *Then what did you do?*

Tabak: *I went back home*

Defence Counsel: *Tanja phoned on the landline. Why did you go for Tanja in the car?*

Tabak: *I didn’t want her to walk home in the cold.*

Defence Counsel: *You were on the Internet later. Why did you do that? Constant contact with Tanja by phone. At 1.38 am, 18 December, you were leaving again in the hatchback. Is this to collect Tanja from the Coach?*

Tabak: *Yes.*

Defence Counsel: *We can see the journey to collect her. We can see you turn right at Park Street into a lane that does not lead anywhere. Two minutes later- you came out. Why did you go there?*

Tabak: *I was not paying attention to where I was going- so I took a wrong turning and then to Park Street.*

Defence Counsel: *We can see the video of you going out of Park Street. Then you made a call to Tanja. That was to ask her directions as to where to collect her?*

Tabak: *Yes.*

Defence Counsel: *We can see that you travelled to a burger bar. Why did you go there?*

Tabak: *Tanja was hungry- she wanted something to eat.*

Defence Counsel: *Was it eaten there or in the car?*

Tabak: *In the car.*

Defence Counsel: *After you got home did you tell Tanja what happened?*

Tabak: *No*

Judge: *Break of 15 minutes.*

Defence Counsel: *You and Tanja continued living at Flat 2. How did you manage?*

Tabak: *I was drinking a lot of alcohol and doing a lot of Internet research.*

Defence Counsel: *What did you think would happen?*

Tabak: *I was sure I would be arrested. Tanya kept me going. Can I say that I am really sorry for being responsible for her death. I am really sorry for putting her parents through all that worry that week before she was found.*

Defence Counsel: *You went with Tanja and stayed with her parents in Cambridge?*

Tabak: *Yes.*

Defence Counsel: *And you went to Holland over Christmas?*

Tabak: *Yes.*

Defence Counsel: *Then in Holland the English police took your DNA. What did you think would happen?*

Tabak: *I was thinking I would be arrested anytime.*

Defence Counsel: *Do you know what DNA is?*

Tabak: *Yes.*

Defence Counsel: *What did you think if they found DNA on Joanna?*

Tabak: *A sure match.*

Defence Counsel: *What did you do in the days before the police arrested you?*

Tabak: *I was drinking very large amounts of Vodka. I was taking herbal sleeping tablets.*

Defence Counsel: *Were you eating?*

Tabak: *Hardly. I think I lost 7 kg during that time before my arrest.*

Defence Counsel: *When you were taken to prison, you were on what they call 'suicide watch'. How did you feel?*

Tabak: *I was in a state of total despair. I didn't know what to do. But I just hung on. I decided not to do anything.*

Defence Counsel: *Were you in despair at any other time?*

Tabak: *Yes- when the papers reported that police found DNA on Joanna's body.²³ I was drinking serious amounts of alcohol.*

Defence Counsel: *When you were arrested on 20 January 2011, you were put in contact with a duty solicitor. It was somebody you had never met before, is that correct?*

Tabak: *Yes.*

Defence Counsel: *You never answered any of the police questions except about the telephone calls. Defence Counsel: Why was that?*

Tabak: *I was following the advice of my solicitor who told me not to say anything at all.*

Defence Counsel: *In your first statement, you lied. Why did you lie?*

Tabak: *I was hoping that they didn't have enough evidence and I was hoping they would let me go.*

Defence Counsel: *When did you realise that they had enough evidence?*

Tabak: *When I learnt that they found DNA on the body.²⁴*

Defence Counsel: *You met Brotherton²⁵ and told him what you did? Did you want to kill Joanna?*

Tabak: *No definitely not.*

9. Prosecuting counsel Nigel Lickley, QC

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 a very experienced prosecutor of murder cases. He is said to be formidable as an opponent. In September 2011, at the pre-trial hearing he informed that the prosecution's case would include a digital presentation and a site visit in Bristol, which it did.

9.2. Nigel Lickley, QC, from 3 Paper Building chambers (telephone number 020 7583 8055), which 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. Nigel Lickley QC is a criminal law specialist. His work includes general and regulatory crime and fraud.

9.4. Nigel Lickley was called to the Bar in 1983 and so has 23 years of experience behind him. He became Queens Counsel five years ago.

10. A note on real evidence

10.1. In general, the construction of documents is a matter for the jury (see *R v Adams*²⁶), except documents which are binding agreements between parties and all forms of

²³ This was no correct because it was low-copy number DNA, ie Miss Yeates' and another's-unidentifiable.

²⁴ Ibid 23.

²⁵ BROTHERTON is the name of the alleged volunteer but unqualified CHAPLAIN at Long Lartin Prison whom Tabak told that he was a non-believer in Christianity but who still visited Tabak three times.

²⁶ The Times, January 28, 1999.

legislation (see *R v Spens*²⁷). The effective definition of hearsay is in section 114(1) of the Criminal Justice Act 2003:

10.2. A statement not made in oral evidence in the proceedings

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*²⁸; *Irish Society v Bishop of Derry*²⁹; *Wilton & Co v Phillips*.³⁰ 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*.³¹

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.

²⁷ 93 Cr. App. R. 194, CA.

²⁸ (1880) 5 App. Cas. 623, HL

²⁹ (1846) 12 Cl. & F. 641.

³⁰ (1903) 19 T.L.R. 390.

³¹ [1957] Crim. L. R. 112, CCA.

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*³²

'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*³³

**R v Horne*³⁴

**R v Podmore*.³⁵

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). However, 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.

³² [1982] 30 S.A.S.R. 243.

³³ [1970] Crim.L.R. 223, DC.

³⁴ [1992] Crim.L.R. 304.

³⁵ 22 Cr. App. R. 36, CCA.

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*³⁶

* *R v Cooper*³⁷ (letter signed in the name of the defendant and his wife, but in the handwriting of his wife only).

* *R. v Cross*³⁸ (note of a telephone call between the defendant and another, made by the other).

However, it depend on what questions are asked and how they are asked. All that Vincent Tabak was questioned was what he used Google maps for.

10.13. As Vincent Tabak is not a lawyer, he cannot give legal scholarly explanations as to the nuances of the words contained in the law. The prosecution maintained that the Defendant, Vincent Tabak, had researched on the Internet (on www.wikipedia.com) the meanings of the words ‘murder’ and ‘manslaughter’

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*³⁹ (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 also *R v Shone*⁴⁰.

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

The second type of information obtained from computers is informaion which he 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

³⁶51 Cr.App.R. 172, CA.

³⁷ (W.J.), 82 Cr.App.R. 74, CA.

³⁸ 91 Cr.App.R. 115, CA.

³⁹ 73 Cr.App.R. 117, CA.

⁴⁰ 76 Cr.App.R. 72, CA.

of details of outgoing telephone calls from hotel rooms); and *R (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

he third type of information produced by a computer is 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 can be interpreted by some as an abuse of process and it is too late for a judicial review on this point, because the trial did go ahead with the trial and the trial has concluded. The 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. Some would argue that 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. Looking at a webpage cannot be the cause of murder.

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*.⁴¹ 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 evidence

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

14.1. Computer print-out with no hearsay element

In a commentary on *Shephard*⁴², 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.*

⁴¹ [1993] A.C. 380, HL.

⁴²[1993] Crim.L.R. 295 at 296.

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*⁴³ 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 (now repealed) 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 looked at webpages. Hypothetically, this evidence could have been created for purpose and since the defence experts were not allowed to examine it, all the metadata which shows when and who created it, to whom it was forwarded, etc, has been lost forever. It is much too late at trial, and so this evidence should be excluded **because all the metadata has since been lost**. It would not have been difficult for the prosecution's expert to show he live documents. Documentary copies set up in a database alongside other documents alleging electronic conversations, etc. has corrupted all the live evidence and its metadata.

14.3. The relevance that Dr Tabak viewed certain online pages

Dr Tabak- 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 of:

**R v Gordon*⁴⁴

**R v Rees*⁴⁵

⁴³ [1997] A.C. 741, HL.

⁴⁴ (1789) 1 Leach 515.

**R v Jones* ⁴⁶

**R v Verelst* ⁴⁷

**R v Murphy* ⁴⁸

**R v Catesby* ⁴⁹

**R v Newton* ⁵⁰

**R v Townsend* ⁵¹

**R v Cresswell* ⁵²

**R v Manwaring* ⁵³

**R v Stewart* ⁵⁴

**R v Roberts* ⁵⁵

**Campbell v Wallsend Shipway and Engineering Co. Ltd* ⁵⁶

**Gage v Jones* ⁵⁷

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* ⁵⁸ 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

Neighbours at a party said that they had heard screams on the night of Miss Yeates' death. On Monday, 17 October 2011, pathologist Russell Delaney, expert witness, 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*

⁴⁵ (1834) 6 C. & P. 606.

⁴⁶ (1806) 2 Camp. 131.

⁴⁷ (1813) 3 Camp. 432.

⁴⁸ (1837) 8 C. & P. 297.

⁴⁹ (1824) 2 B. & C. 814.

⁵⁰ (1843) 1 C. & K. 469.

⁵¹ (1841) C. & Mar. 178.

⁵² (1876) 1 Q.B.D. 446.

⁵³ (1856) Dears. & B. 132.

⁵⁴ (1876) 13 Cox 296.

⁵⁵ (1878) 14 Cox 101, CCR.

⁵⁶ [1977] Crim.L.R. 351, [1983] R.T.R. 508, DC (proof that a constable was in uniform).

Kynaston v DPP, 87 Cr.App.R. 200, DC (proof of 'reasonable grounds for suspicion' under the Police and Criminal Evidence Act 1984).DC. In *Campbell*, the court held that the presumption applied to the validity of appointment of a Health and Safety Inspector and could not be weakened by mere challenge.

⁵⁷ [1983] R.T.R. 508, DC. Proof that a constable was in uniform.

⁵⁸ [1982] A.C. 484, PC.

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 vicar is said to be the last person to see Yeates alive apart from Defendant

It now transpires that Vincent Tabak was the last person to see Miss Yeates alive. Nevertheless, the vicar was not called to give evidence.

15.3. A plate of chips at lunchtime was last meal

This was verified by the pathologist report.

15.4. Searches of the Internet for the meaning of 'murder' and 'manslaughter'

The prosecuting counsel alleged that Dr Tabak had searched the Internet for information about murder and manslaughter sentences. Mr Lickley told the jury his version of the events that transpired- 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.

On Christmas morning, 25 December 2010, Mr Birch and his wife, Rebecca, spotted the pocket of her denim jeans exposed through the snow as they walked their Labrador dog Roxy along Longwood Lane, Failand, Somerset. A forensic examination of the scene where the 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 the corpse over the wall. Mr Lickley continued with his version of the story- by saying that in the days after killing Miss Yeates, Tabak attended parties and dinners and coolly maintained the pretence of a worried neighbour. However, these were all pre-arranged Christmas parties of friends and neighbours. It was the week before Christmas when going to parties is the normal thing to do during 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. The police saw him 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 claimed, in his statement made in September 2011, that he didn't intend death or serious injury.

15.5. Witnesses

15.5.1. Greg Reardon

When Greg Reardon gave evidence in court, the *Daily Mail* newspaper reported that Vincent Tabak buried his face in his hands and made no eye contact with Reardon. As to his demeanour during the length of the case, some might say that he appeared noticeably distressed throughout the court trial. Some might say that he did not show brightness, quickness, cunning or tricks as he sat there with oftentimes, three or four or more police on guard with him.

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. His discrepancy was never queried during this murder trial.

15.5.2. Witness: One police officer who guarded crime scene

When one police constable gave evidence, this officer who had been on guard at the crime scene of 44 Canynge Road, said that Vincent Tabak and Tanya Morson seemed very

pleasant and normal people as they arrived at their flat to collect some belongings. The officer could not remember what was said, what they wore, what they took, or anything except that their car pulled up and they asked to be allowed to go to their flat to collect their personal belongings. The police officer said that he could not clearly remember Vincent Tabak, or what was said on the occasion. All he could remember was that they were both pleasant. This does not prove the *demeanour* of the Defendant.

15.5.3. Expert Witness: Pathologist Dr Delaney

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

During cross-examination of Dr Delaney, defence counsel, Mr William 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.'*

When the prosecutor 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 QC William Clegg suggested his client used just one hand to strangle her. Dr Delaney replied to the prosecutor: 'I cannot exclude the use of one hand'.

15.5.4. Dr Tabak under cross-examination: badgered or 'a distressed witness'

During the prosecution's cross examination, it was clear that the witness was being badgered for hours, yet, Mr Tabak's defence lawyer, William Clegg QC never once interrupted or objected. During this badgering of Dr Tabak with multiple repeated questions, Tabak repeatedly rejected Nigel Lickley's allegation that he had meant to kill or seriously harm the 25-year-old landscape designer. Nigel Lickley for the prosecution questioned Tabak about his attempt to kiss Yeates. Tabak told the court that he made a pass at Joanna after she made a 'flirty' remark. He said that he thought she wanted him to kiss her. When the prosecution asked him if he had intended an intimate kiss, he said *'I was not thinking of that at that moment'*.

The prosecuting counsel put to Dr Tabak that he had derived sexual gratification from choking Joanna Yeates and was sexually aroused while he did it and Dr Tabak repeated his absolute denial of it. Nigel Lickley suggested to Tabak that, rather than being invited in, as Tabak had told the court, he may have knocked on her door with an excuse that the cat had strayed into his flat and Tabak fiercely rejected this scenario. The Defendant admits manslaughter but denies murder. He repeatedly apologised to Yeates' family and boyfriend, Greg Reardon, his own family and his girlfriend Tanja Morson. Yeates told him that her cat had gotten into his flat. He said she told him:

'The cat went into places where it shouldn't go. A bit like me.'

He said to the court: *'I decided to make a pass at her... I got the impression she wanted to kiss me.'*

When he moved to kiss her, he said, he put his hand in the middle of her back and she screamed. He said:

'She started to scream loudly. I panicked and I put one of my hands over her mouth. I said something like, 'I'm sorry, it's OK. Please stop'... I was panicking. I wanted to stop her screaming. I wanted to calm her down... she went limp, she fell to the floor. I still can't understand what happened.'

Then she was dead. He said that he didn't want anyone to find out what had happened and he decided to put her in the boot of his car. He returned to his flat. He picked up a pizza which she had bought on the way home. He picked up a sock which had come off as he moved her body. He said that he was in a state of panic. He headed towards Bristol Airport. But when he stopped at Longwood Lane, Failand, he said he did something horrendous.

15.5.5. Nat Carey: Defence Forensic Pathologist

Then the next witness was called to the witness stand – the forensic pathologist Nat Carey for the defence. The pathologist's evidence is that there was no evidence that Yeates's genital area had been interfered with. He could not exclude the possibility that her breasts had been interfered with but there was nothing positive to suggest that. He said Yeates' t-shirt could have been rucked up as her body was moved.

It was largely speculative that Tabak's motive for killing Yeates was sexual, Cary said. He told the jury that asphyxiation could, however, form part of a sexually motivated attack. Cary said Yeates' death would not have been 'instantaneous' but likely to have taken a period of time such as 20 seconds or more.

15.5.6. Expert Witness: Police computer analyst

The female police analyst was in the witness box from 10.30 am to before noon on 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 were told that some webpages couldn't 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.

According to the expert police computer analyst and as tabulated in the prosecution's thick A3 booklet of a timeline of 566 events, Dr Tabak went to the computer and created the following Prosecution Internet evidence:

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'

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'*

At Line 129 of the prosecution chart
Tabak accessed
'murder of 4 year old girl in London'

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.

At Line 216 of the prosecution chart
Tabak searched
'Weather'

At Line 217 of prosecution chart
Tabak searched for
'Murder inquiry- 4 arrested in Bristol'
He also searched
'South African murder'
'Dewani'

On his computer at work, Tabak searched for news on
'Melanie Hall'
'Avon and Somerset police home page'
'News'
'Murder of Melanie Hall'

At Line 224 of prosecution chart
Tabak searched the words
'Missing persons'.

At Line 226 of prosecution chart
Tabak searched for the words
'Avon Police'
'Bristol area weather forecast'.

At Line 225 (sic)
Tabak searched using the words
'Joanna Yeates'
'Salt supplies in the Netherlands'

At Line 257 of the prosecution Chart
Tabak searched on Google Maps for
'Longwood Lane'

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'

At Line 267 of the prosecution chart
at 15.00 pm on 21 December 2010, Tabak searched the words
'Extradition of Dutchman'
'Jo Yeates'

At Line 271 of the prosecution chart
Tabak searched the Dutch word
'doodslag' (English meaning: *'manslaughter'*)

At Lines 276-277 of the prosecution chart,
at 11.00 pm on 21 December 2010, Tabak searched
'Press coverage'

At Line 281 of the prosecution chart
in the morning -at work, Tabak Googled
'police'
'weather forecast'

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'

At Line 287 of the prosecution chart
at 1.00 pm, Tabak searched the words
'Yeates'
'Police'

At Line 288 of the prosecution chart
Tabak Googled the words
'CCTV Canynge Road'

At Line 291 of the prosecution chart:
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'

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'

At Line 305 of the prosecution chart
PC Karen Thomas went to 44 Canynge Road to search

At Line 311 of the prosecution search
Tabak Googled the words
'body discomposition time' (sic)

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'

At Line 318 of the prosecution chart
Tabak searched the words
'penalty for manslaughter'

At Line 321 of the prosecution chart
Tabak Googled the words
'Jo Yeates'

'weather'

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'

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'

At Line 347 of the prosecution chart

Tabak searched Google maps for

'maps to Longwood lane'

'Mirror newspaper website'

'BBC news'

'alcohol –police limits'

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'

At Line 369 of the prosecution search

Tabak searched for the words

'amounts of rubbish seized'

At Line 372 of the prosecution chart

Tabak Googled the words

'BCC household rubbish collections'

At Line 376 of the prosecution chart

Tabak's research was categorised by the police analyst into '

'Google'

'forensic'

'location'

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'

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'
At 3.05 pm, Tabak Googled the words
'press coverage'
'missing sock'

At 4.03, Tabak searched online newspaper articles for the words
'frozen DNA'
'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'

Tabak Goggled the words:
'Yeates'
'Avon & Somerset police'

And at 5.00 pm, Tabak researched on
Google map
'Clifton Richmond Terrace'

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'

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'

At Line 443 of the prosecution chart
Tabak researched the words
'Yeates' under news!

At Line 444-447 of the prosecution chart
Tabak continued his research. He Googled the word
'Yeates'

At Line 449 of the prosecution chart
Tabak Googled the words
'police found significant evidence'

At Line 451 of the prosecution chart
Tabak did further research on 11 Jan 2011
Tabak continued his research

At Line 457 of the prosecution chart
Tabak did a Google search of the word
'aggravating'

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'* 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 said, because these words were missed out when the prosecution constructed the chart of evidence.

At Line 458 of the prosecution chart
Tabak Googled the words
'average manslaughter'

At Line 459 of the prosecution chart,
Tabak had Googled the words:
'penalty manslaughter'

At Line 464 of the prosecution chart
Tabak searched for the words
'CPS'
'Sentencing'

At Line 465 of the prosecution chart
Tabak went to the Wiki page to search the words
'Definition of murder'

At Lines 488-491 of the prosecution chart
Tabak searched for an article on *'Yeates'*.

On 13 January 2011 at 5:04 pm
Tabak Googled
'news articles on Yeates'.

At Line 523 of the prosecution chart
Tabak accessed a Magazine article-

At Line 566 of the prosecution chart
At 6.00 pm on 19 Jan 2011, Tabak searched the webpage of Avon & Somerset police.

15.6. 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*⁵⁹ the test was that a person was taken to foresee and intend the natural and probable consequences of his or her acts. Given that s.8 Criminal Justice Act 1967 now entitles a jury to draw reasonable inferences from all the evidence, Justice Wien in *R v Belfon*⁶⁰ said 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*⁶¹ the defendant entered into an argument with his stepfather about who could load a shotgun and fire quickest, in the argument when the stepfather was shot dead, 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.

However, the case of *R v 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 gave the example of a man boarding a plane which he knows to be bound for Manchester, thus conclusively demonstrating his intention to go there. It is not merely evidence from which such intention may be inferred.

15.7. Foresight of consequences

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 is 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 and the probability that the consequence is foreseen must be overwhelming before it will suffice to establish the necessary intent.

The issue then is on the probability that the particular harm will result from what is done; ie. Will she die because he put his hand to her throat?

In *R v Hancock & Shankland*⁶², Lord Scarman said that:

'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*⁶³ the Court of Appeal through Lord Lane said:

⁵⁹ (1961) AC 290.

⁶⁰ (1976) 3 All ER 4.

⁶¹ [1985] 1 All ER 1025.

⁶² [1986] 1 All ER 641.

'...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*⁶⁴, 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 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], 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.

⁶³ (1986) 83 Cr. App. R. 267.

⁶⁴ [1998] 4 All ER 103 (HL).

16.1. Judge dismissed jury before defence counsel's summing up

At 12.15 on 19 October 2011, QC William Clegg made his final address to the court in defence of Vincent Tabak, the accused but Mr Justice Field *said he forgot and so he had already just dismissed the jury for the day* because he had forgotten that defence council had asked permission to make his speech on 19-10-2011. Mr Justice Field therefore gave the court a five minute break; and recalled the jury.

16.2. Defendant's second day of cross- examination

On Friday 21 October 2011, Tabak was in the witness stand for a second day. He continued to deny that he was sexually aroused as he killed Joanna Yeates, although he admitted that after her death he did research the definition of 'sexual assault'. He said that although he wanted to kiss her, he never intended to commit a sexual act. He said '*I wanted to kiss her. It's nice to kiss*'.

17. Conclusion of analysis

17. Conclusion: mistrial/unfair trial

One wonders whether Vincent Tabak should have been tried outside the jurisdiction of the City of Bristol where the police investigation caused the arrest of one man and then another for this crime. One wonders why the eminent defence team did not request this. Section 46 of the Senior Courts Act 1981, states that '*the jurisdiction of the Crown Court with respect to proceedings on indictment for offences wherever committed, and in particular on indictment for offences within the jurisdiction of the Admiralty of England.*' One wonders whether Vincent Tabak should be sent home to Holland to serve his sentence, as he will not be safe in an English prison, especially now that he has no ties whatsoever with the United Kingdom. The above narration of the case clearly shows that Vincent Tabak was suffering some form of mental illness for him to be using the Internet as he did, and having a doctorate in computing, would know about metadata. His work, previous to this crime, had deteriorated and he was surely suffering some sort of disorder, even schizophrenia, which becomes apparent in a person's late twenties and early thirties with early warning signs of sleep disorder, an inability to concentrate, inappropriate or unusual emotional reactions, and hyperactivity. Tabak did tell the court that he took herbal over-the-counter tablets in order to sleep.⁶⁵

One wonders whether the 'temporary chaplain' to whom Tabak confessed, was a plain-clothes police officer, planted there for that purpose as it is commonly known that there are

⁶⁵ How to Recognize Schizophrenia. See http://www.ehow.com/how_2038439_recognizeschizophrenia.html#ixzz1iNtraeXy

hundreds of police officers planted in prisons in England, Wales and Northern Ireland to befriend prisoners and induce confessions, etc.

17.2.1. The following issues that lean toward an unfair trial and a mistrial are as follows: It appears that police ‘fed’ the press information that would fuel their excitement before the trial:

(a) that Dr Tabak’s DNA was taken by a female police officer who went to Holland to do so.

(b) that a woman who was desperately crying telephoned the police to say that Tabak did things to her, withholding the complete information that the woman was overseas and a prostitute and, not being of good character, could not be called to give evidence.

17.2.2. Yet Avon and Somerset police did not go to the Los Angeles hotel where Dr Tabak stayed for a month to try to seize their CCTV films for evidence of the truth of the alleged telephone call from a prostitute from Los Angeles who allegedly phoned the police, sobbing, that Dr Tabak paid her for strangulation sex. Previous to this, newspapers had reported that the hotel had said that Dr Tabak never had visitors to his bedroom.

17.2.3. The Avon and Somerset police also fed journalists with news that Tabak had a large database of perverse strangulation pornography in his computer, yet no evidence of this was given. It may not be true, as it would have shown up in the original computer search.

17.2.4. That Dr Tabak confessed to murder is untrue. He was tricked to sign the confession statement in September 2011, because there could be no trial for murder or manslaughter without a signed confession statement. He thought they would try him for manslaughter, as he has maintained with excruciating honesty throughout.

17.2.5. That the man he allegedly confessed to in Long Lartin prison in Worcester was a chaplain, yet he was not called to give evidence in court; that the man said he knew that Tabak was not a practising Christian and yet he went to see Dr Tabak several times to develop a relationship with him. Might it be possible that Mr BROTHERTON the unqualified ‘chaplain’ is an under-cover police officer in plain clothes policeman, planted in prison to extract a ‘confession’?

17.2.6. A psychiatrist never examined Dr Tabak even though his was a very serious criminal charge.

17.2.7. Dr Tabak cried throughout the trial, indicating a depressive illness. Usually murderers are without emotion whatsoever, indicating further that a psychiatrist should have examined him.

17.2.8. Might it be that Dr Tabak was tricked into signing a confession in September 2011, which he did, believing that he was going to be a manslaughter trial? This was because no trial could have taken place without that signed confession as the evidence could easily have been contested by defence experts not called.

17.2.9. Notwithstanding the above, we know that both murder and manslaughter are extremely serious criminal offences, but the evidence points to manslaughter.

17.2.10. Dr Tabak enjoyed a very stable, two-year old relationship with a professional woman of an equally senior professional standing- a perfect union. They both worked very hard and very long hours and were intelligent enough to fuel their relationship with constant emails, mobile texts, and phone calls every day. They knew each other's movements throughout every day. Even when next door's cat entered their flat, Tanja told him of it when they phoned each other.

17.2.11. Dr Tabak and Chartered Accountant Tanja Morson were not an isolated couple; they had a large group of friends of a similar professional standing to them. They had a full itinerary of Christmas parties and 'get togethers' as would be expected.

17.2.12. If Dr Tabak was imbibing in too much alcohol, especially whilst in Los Angeles away from his partner, it may be that he was suffering from undiagnosed depression, which would account for his recent poor performance at work. But he was never examined and so we shall never know. He was on 'suicide watch' in prison, yet no psychiatric report was brought to trial.

17.2.13. Dr Tabak committed an aggressive crime in the manslaughter of Joanna Yeates, in panic. Being intelligent, he would have foreseen that after screaming, she might have called the police and reported attempted rape, meaning that his job would be over and his relationship would be over.

17.2.14. David Cantor, in his book *Forensic Psychiatry*, Oxford University Press, 2011, at page 40, said:

'Most psychological explanations of aggressive crimes revolve around the proposal that some people just do not understand their interactions with others well enough, or have the social skills to manage those interactions. They have difficulty, as psychologists put it, in "taking the role of the other": really understanding how others make sense of their world and react to the offender. As a consequence, they misinterpret what is happening and react with inappropriate violence. An extreme example of this is when a man thinks a woman is really consenting to sexual activity, when she is sure she is not.'

Miss Yeates mother said almost the same thing at the end of the SKY documentary shown twice in December 2011.

17.2.15. It was expected at such a very serious trial, that all of the post mortem results would have been revealed. We do not know what the alcohol content in Miss Yeates stomach was. We are reminded in the trial for the murder of Meredith Kercher in Italy, that her alcoholic content was revealed at trial- she was almost three times over the limit.

17.2.16. **The Defence team did not have the chance to examine DNA results by their own experts; nearly three thousand pages of 'evidence' was handed over to the defence team before the trial and this alone makes for an unfair trial, a breach of the right to a fair trial.**

17.2.17. The hotel at which Dr Tabak stayed in Los Angeles told a newspaper that he never did have any visitors to his room. Yet the prostitute from Los Angeles was not extradited to give evidence in such a serious case as a murder trial.

17.2.18. Avon and Somerset police spent millions of taxpayers money wasted on dredging up nearly two hundred tons of garbage in looking for a pizza box, which would never had shown any evidence whatsoever, *having been handled and contaminated amongst two hundred tons of rubbish.*

17.2.19. Newspaper reports in December 2010 had mentioned that Miss Yeates had been away from work with a cold some days before 17 December, but this relevant point was never mentioned at trial, when it is common knowledge that colds can cause nasal congestion.

17.2.20. They contaminated and lost the metadata of all the electronic evidence from computes they examined so that the defence team could not then examine that metadata for veracity and manipulations.

17.2.21. Avon and Somerset police did not have Dr Tabak's bank account examined by a forensic accountant for payments to prostitutes as they alleged at trial. Neither was the defence team privy to such examination by their own defence experts. One is left with the thought that much else has been kept secret from this unfair trial or mistrial.

17.2.22. Notwithstanding the above, one must heed the advice of many of those senior in the law whose opinion on the matter of murder law in the United Kingdom is that reform of the law on murder might reduce calls for the mandatory life sentence to be abolished. Lord Judge is one such senior person who believes that murder was always exceptionally serious but varied in seriousness. He felt that sentences for murder in reality should not be equal, depending on the particular case, an opposite and more humane view to the "hang them all" lobbyists. Noe also that no government to date has taken up the recommendations of the Law Commission report on murder, manslaughter and infanticide.
END

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