

**COURT OF APPEAL**

ON APPEAL FROM THE SUPREME COURT OF BRITISH COLUMBIA,  
FROM THE ACQUITTAL OF THE HONOURABLE MR. JUSTICE JOHNSTON,  
PRONOUNCED ON THE 10TH DAY OF JANUARY 2013.

**REGINA**

**APPELLANT**

**v.**

**OWEN EDWARD SMITH**

**RESPONDENT**

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**TRANSCRIPT**

**Volume 2 (Pages 157 - 351)**

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**In the Supreme Court of British Columbia**  
(BEFORE THE HONOURABLE MR. JUSTICE JOHNSTON)

Victoria, B.C.  
January 16, 17, 18, 19, 20, 23, 24, 25, 26, 2012  
February 1, 6, 7, 8, 27, 28, 29, 2012  
March 1, 2012  
April 13, 2012  
January 10, 2013

**REGINA**

**v.**

**OWEN EDWARD SMITH**

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**PROCEEDINGS AT TRIAL**

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Crown Counsel:

P. Eccles  
K. Guest

Defence Counsel:

K. Tousaw

## VOIR DIRE

Leon Edward Smith (for Accused)

re-exam on voir dire by Mr. Tousaw

1 Q Maybe I'll ask a better -- okay, I guess what I'm  
2 saying is --  
3 A Yeah, yeah. So --  
4 Q -- you'd have to sell ten cookies to bring in the  
5 same dollar volume as one gram of dry.  
6 A Exactly, yeah.  
7 Q Is that right?  
8 A That -- that's correct. So, yeah, it probably is  
9 closer to five percent than ten percent. You  
10 know, I know we just -- we go through a fridge  
11 full of cookies, and it's several hundred dollars  
12 worth. So, yeah.  
13 MR. TOUSAW: Those are my questions, Your Lordship.  
14 THE COURT: May this witness be excused?  
15 MR. TOUSAW: Yes.  
16 THE COURT: All right. Thank you, sir, for your  
17 assistance. You are now excused.  
18 A Thank you.

19  
20 (WITNESS EXCUSED)

21  
22 MR. TOUSAW: My Lord, I'm noting the time. Perhaps if  
23 we take the break early, I can speak to the next  
24 witness and --  
25 THE COURT: All right.  
26 MR. TOUSAW: -- have her ready.  
27 THE COURT: Take the afternoon break.  
28 THE CLERK: Order in court. All rise.

29  
30 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)  
31 (PROCEEDINGS RECONVENED)

32  
33 THE CLERK: Order in court.  
34 MR. TOUSAW: Yes, My Lord. The accused would like to  
35 call Ms. Gayle Quin to the stand.

36  
37 GAYLE QUIN

38 a witness called for the  
39 Accused, affirmed.

40  
41 THE CLERK: Would you state your full name, please?  
42 A Frances Gayle Quin.  
43 THE CLERK: And spell your last name.  
44 A Q-u-i-n.  
45 THE CLERK: And Frances is -- Frances is spelled?  
46 A F-r-a-n-c-e-s.  
47 THE COURT: You may have a seat, Ms. Quin.

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

1 A Thank you.

2

3 **EXAMINATION IN CHIEF ON VOIR DIRE BY MR. TOUSAW:**

4

5 Q Ms. Quin, you are a member of the Cannabis Buyers'  
6 Club of Canada, is that correct?

7 A That's correct.

8 Q And for how long have you been a member?

9 A Since 2003.

10 Q I'm going to take you through your medical history  
11 in a chronological fashion for His Lordship. I'd  
12 just ask that perhaps you -- perhaps I'll ask  
13 this. Do you suffer from a number of medical  
14 conditions?

15 A I suffer from quite a number of medical  
16 conditions.

17 Q Can you -- can you take His Lordship through your  
18 medical history, commencing really as early as  
19 you -- as you wish?

20 A My mother was very ill when she carried me. She  
21 was on a very specialized diet. And I had a twin  
22 that was lost in the pregnancy. I had my first  
23 operation when I was three months old to remove a  
24 growth from my abdomen. Scarred from here to  
25 here. And throughout my childhood I had --

26 THE CLERK: My Lord, I'm sorry for interrupting, but  
27 the witness isn't being recorded. She has to  
28 speak up a little bit. It isn't coming through  
29 very well.

30 THE COURT: Which microphone is it that is recording?

31 THE CLERK: They're -- I'll just maybe move this a  
32 little closer.

33 A I'll try to speak up.

34 THE CLERK: Thank you. It's just that we have to  
35 record you. Thank you.

36 MR. TOUSAW:

37 Q Now, Ms. Quin, just for purposes of the record,  
38 you were indicating that your medical issues began  
39 as early as three months of age --

40 A That's correct.

41 Q -- when you had a surgery to remove a growth on  
42 your abdomen?

43 A That's correct.

44 Q And what's the next event?

45 A The next events that I can remember, I had  
46 chickenpox twice when I was young. I had all  
47 three kinds of measles. I had lung infections

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Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 quite often, and colds. And I didn't really think  
2 it was abnormal until I got into school later, and  
3 my friends started saying things like, "Oh, she's  
4 sick all the time." And I thought everybody  
5 was -- I just didn't realize that I was sicker  
6 than everybody else.
- 7 And so by the -- when I was 13 my major  
8 health issues started so show up. My first  
9 menstrual period I haemorrhaged for three days  
10 before I got under control. And that's when my  
11 sister first introduced me to cannabis. I  
12 found -- I found if you -- after having a few  
13 puffs of cannabis I could -- it would relieve the  
14 cramps enough that I could stop crying, at least,  
15 and get out of bed. I usually would be off of  
16 school from five to seven days through the  
17 beginning of my menstrual periods, because they  
18 were so severe.
- 19 Q And this is at age 13, then, you commence using  
20 cannabis to essentially self medicate for that --
- 21 A That's correct.
- 22 Q -- issue? And you found it to be effective, did  
23 you?
- 24 A It stopped -- it relieved the cramps to the point  
25 where I could stand up straight. It didn't stop  
26 all of the pain, but it made it so I could walk  
27 and eat and function, and sleep at night.
- 28 Q And where at age 13 were you acquiring the  
29 cannabis?
- 30 A My sister gave it to me.
- 31 Q Was she an older sister?
- 32 A An older sister.
- 33 Q Did you have any other significant health issues  
34 in your teen years?
- 35 A Yeah. I -- my menstrual periods kept being very  
36 severe and irregular. By the time I was -- I got  
37 pregnant -- I was married when I was 17, and I was  
38 pregnant when I was 18, had my first son, and I  
39 was 20 when I had my second son. And by then the  
40 doctors knew that we should be having regular pap  
41 smears, and my pap smears started coming up  
42 irregular. By the time I was 23 I had a stage 4  
43 pap smear, so they did a cone biopsy on me.
- 44 And --
- 45 Q Let me stop you there and just ask you, what is a  
46 cone biopsy, in your understanding?
- 47 A They remove the -- it's called a cone. It's the

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 very beginning of your uterus, and it was  
2 pre-cancerous.
- 3 Q And what happened as a result of that cone biopsy?  
4 A My pap smears started to come back to normal, but  
5 I started having recurrent chronic infections in  
6 my abdomen. They just called it pelvic  
7 inflammatory disease. I was constantly on  
8 antibiotics, ever increasing in strength that were  
9 ineffective. I kept getting sick, sicker from it,  
10 and by the time I was 24 I asked my doctor if I  
11 could have a hysterectomy, because I had no  
12 quality of life. I -- I couldn't look after my  
13 children properly for usually two weeks out of  
14 every month. I was just having constant  
15 infections. And if I didn't have an infection, I  
16 was in constant agony from the menstrual period.
- 17 So he finally agreed to send me to a  
18 specialist, and a specialist looked at me and  
19 agreed to do a hysterectomy for me when I was 24,  
20 and at that time the doctor took out my healthy  
21 appendix, and just stitched my uterus up. He  
22 thought it was prolapsed, and he wanted to try and  
23 see if that would help. I suffered for another  
24 year after that with the same symptoms, until I  
25 asked my doctor to please, could I have another  
26 operation and have a hysterectomy. I used  
27 cannabis throughout that time, for pain relief,  
28 mostly, and to stop cramps.
- 29 Q In this period of time from your first pregnancy  
30 through hysterectomy at age 25, where are you  
31 living?
- 32 A In Victoria, B.C.
- 33 Q And who are you residing with?
- 34 A My husband at the time, Trevor Quin. I was  
35 married at the time.
- 36 Q And the two children?
- 37 A Yeah.
- 38 Q And you mentioned earlier that you first started  
39 consuming cannabis medically at age 13. Are  
40 you -- are you using cannabis throughout that  
41 entire span, from 13 to 25?
- 42 A Yes, I did. I had constant health problems, and I  
43 couldn't manage without it.
- 44 Q And is your -- are you also attending with a  
45 physician during that span of time?
- 46 A Yes. I had constant attention from physicians.  
47 My physician at that time was Kelly Chu.

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 Q And did you make your physician aware of your use  
2 of cannabis?
- 3 A Always.
- 4 Q Was any concern of that raised with you?
- 5 A Never. They told me every time I brought it up  
6 with a doctor, I -- it's like the fourth question  
7 you get asked, if you smoke. And I quit smoking  
8 tobacco when I was 20, 19, in between my two  
9 children. And so I told him I didn't smoke  
10 tobacco, but I smoked cannabis. And then they'd  
11 ask me if it helped, and I said it's -- it helps  
12 relieve my pain immensely, and that it helps me to  
13 sleep, because my cramps were so bad I couldn't  
14 sleep either. And they said to carry on. If it  
15 helps, to carry on, that I had no -- nothing to  
16 concern myself about with its use.
- 17 Q And so at age 25 you undergo a second operation,  
18 and this time you have a successful hysterectomy?
- 19 A Yes, that's right.
- 20 Q Does that assist in the symptoms that you were  
21 experiencing?
- 22 A Yeah. It stopped the -- yeah, I -- almo -- within  
23 a month from healing from the surgery, I had no  
24 more cramps. I had no more pain from having a  
25 period any more every -- I had one ovary left, so  
26 every other month one of my breasts would swell up  
27 and get sore, and that was the only symptoms that  
28 I had from that.
- 29 So I got -- I actually started to feel  
30 healthy enough that I went to school to get a job.
- 31 Q And what did you go to school for?
- 32 A I went to -- I went to Camosun College to become a  
33 certified long-term care aide.
- 34 Q Did you successfully complete that program of  
35 study?
- 36 A Yes, I did, Your Honour, and I worked as a  
37 long-term care aide for two years in Victoria, and  
38 for six years on Salt Spring Island.
- 39 Q So at age 25, you're -- you're in Victoria, and  
40 you begin work -- you begin this course of study  
41 at Camosun College at age 25?
- 42 A I was -- yeah.
- 43 Q And how old --
- 44 A Yeah, because my sons were -- I went back to  
45 school when my youngest son started school full  
46 time.
- 47 Q And how old are you today?

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 A I'm 54.
- 2 Q So this would have been approximately 29 years  
3 ago, or so?
- 4 A That's correct.
- 5 Q Early 1980s?
- 6 A Yeah, that's correct. Maybe 1983.
- 7 Q Do you develop, at any point subsequent to that,  
8 any further health complications?
- 9 A No. I felt -- we had to have a massive battery of  
10 inoculations to work in the hospitals, and three  
11 months after that I started to get quite ill. I  
12 had a lot of troubles with my skin. I started  
13 getting allergic react -- rashes and reactions at  
14 work. It was probably from the laundry soap, and  
15 it was -- and possibly from residents' urine. Not  
16 actually sure. A lot of soap gave -- caused me a  
17 lot of allergic reactions.
- 18 And I also develop -- started developing  
19 chronic ear infections. I was on -- started  
20 get -- was put on antibiotics again, and the pain  
21 kept getting greater and greater, and I was put on  
22 morphine for two years for that.
- 23 Q For the ear infections?
- 24 A For the ear infections.
- 25 Q What period of time would this have been?
- 26 A That was while I was trying to work, so that was  
27 1984 to 1986, just before I left for Salt Spring.
- 28 Q And are there any complications arising from the  
29 prescription pharmaceuticals?
- 30 A I couldn't work. I couldn't function at work. I  
31 was -- I felt totally inadequate to be able to  
32 function in a case of an emergency. I  
33 was -- myself and my partner were responsible for  
34 75 people at work. And the morphine made me feel  
35 very foggy, and it masked the pain, but I could  
36 still feel it. My head was always banging. I  
37 lost a lot of work through that time.
- 38 Q And are you continuing to use cannabis in this  
39 period of time?
- 40 A Yes, I did.
- 41 Q And is that assisting you in any way with your  
42 pain?
- 43 A The -- I was only smoking it and eating it now and  
44 then at that time. It instantly helps with pain,  
45 and you can be very careful about how much I use,  
46 so I didn't -- so if I had to go to work, I could  
47 use just enough to kill the pain and not get



## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 feeling fogged out and -- and unresponsive enough  
2 to be able to perform my job.
- 3 Q Let me back up and say from the period of time  
4 that you described from age 13 to the hysterectomy  
5 at age 25, what's your -- how are you ingesting  
6 cannabis? Are you smoking it, eating it? How are  
7 you getting it into your system?
- 8 A Mostly smoking it, but on occasion I would eat it,  
9 when I got to grow my own. We used to get Mexican  
10 cannabis with seeds in it, and I was brought up as  
11 a gardener, so I just started growing them.
- 12 Q And when would this have been, approximately?
- 13 A 1974.
- 14 Q Is when you first began to produce cannabis?
- 15 A No, no. The first plants I grew was when I was  
16 13. I had a -- the first seeds that I ever found  
17 I planted right away. And my mother found them,  
18 and she threw them out, and we got in an argument  
19 about -- about it. And I thought I should be  
20 allowed to grow them, because I was taught God  
21 gave us all the seeds and plants to use for  
22 medicine. We went to church quite regularly. And  
23 I thought I should be able to use it. It worked  
24 for me. It was another one of the plants that was  
25 around me. And I was quite upset when she threw  
26 them out. She said they're -- "You can't grow  
27 them in my house." Well, it's illegal. So I  
28 scooped them up and I took them up the hill and  
29 planted them outside.
- 30 Q And so you mentioned in 1986 or so you moved from  
31 Victoria to Salt Spring Island?
- 32 A That's correct.
- 33 Q And is it with your husband and children at that  
34 time?
- 35 A Well, it was -- it -- it was -- I tried to move by  
36 myself, but my husband ended up coming with me.  
37 We were having quite a bit of difficulty by that  
38 time. He was becoming a violent alcoholic.
- 39 Q So you get to Salt Spring Island in mid 1986/'87.
- 40 A That's correct.
- 41 Q Are you still suffering from the ear infections?
- 42 A Yes, I was. Soon after moving, I was on an  
43 acreage with lots of plants, I'd always been  
44 interested in herbs, and I started making an oil  
45 out of various herbs to use in my ears. And it  
46 was -- I found it was extremely more effective  
47 than -- than the antibiotic ear drops that I was

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Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 given. It reduced the swelling within three days  
2 instead of six days, and it killed the pain within  
3 a couple of hours of me using it, and then I  
4 started getting less recurrent ear infections the  
5 more I used it.
- 6 Q And you say various herbs. Do you -- did that  
7 include cannabis, or was it --
- 8 A Not at that time.
- 9 Q Do you recall what the herbs were?
- 10 A It was -- I had mullein leaves and flowers, and I  
11 think it had St. John's wort oil in it, and -- and  
12 yarrow.
- 13 Q And did you make that oil yourself?
- 14 A Yes, I did, in olive oil.
- 15 Q How did you know how to do that?
- 16 A I read it in herbal books.
- 17 Q Do you have any formal training in that area?
- 18 A No, I don't. I just used myself as a guinea pig,  
19 and when it worked I kept using it.
- 20 Q In -- so this is 1986, you're making the oil for  
21 your ear infections. How is the other aspects of  
22 your health at this time?
- 23 A It wasn't -- wasn't well. I kept -- I was  
24 starting to get sick a lot again. I was getting  
25 lung infections. It was -- it was better. I  
26 had -- it was better than when I'd left Victoria.  
27 Before we left Victoria I was having symptoms of  
28 environmental illness, although I didn't know what  
29 it was at the time. And I sort of develop  
30 illnesses before anybody knows what they are yet,  
31 and I have to wait for science to figure out  
32 what's the matter, and then I go, oh. It's  
33 like --
- 34 Q What kind of symptoms are you describing, when you  
35 say symptoms of environmental illness?
- 36 A My -- I would get asthma-like symptoms in too much  
37 pollution. Some of my favourite foods, when I was  
38 in the room with them, trying to -- trying to cook  
39 would make me want to actually physically vomit.  
40 I couldn't be in the kitchen when foods were being  
41 cooked. It was very -- it was a very peculiar  
42 reaction, I thought, and it's very specific to  
43 environmental illness, I've since found out. I  
44 get tired a lot, and ...
- 45 Q And you're on Salt Spring Island. Are you still  
46 growing cannabis when you're on Salt Spring  
47 Island?

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 A Yes.
- 2 Q And are you continuing to use it medically?
- 3 A Yes.
- 4 Q And is it at that time providing you with any  
5 benefits?
- 6 A It let me sleep, which made -- which let me get up  
7 in -- the next day to be able to go to work. I've  
8 always had trou -- I had -- I'm not exactly sure  
9 what order some of my illnesses have come in.  
10 They've come in batches, sort of. I've been -- I  
11 have mercury poisoning, so a lot of my symptoms  
12 have stemmed from that throughout my life. So I  
13 also developed chronic fatigue syndrome and  
14 fibromyalgia.
- 15 And those things sort of came a little bit  
16 before I got really sick and developed hepatitis  
17 C, while I was working in the hospitals, and that  
18 was in 1999. I had to quit -- I spent ten days in  
19 isolation over the holidays. The doctors didn't  
20 know what was the matter with me. They had no  
21 way -- none of the tests could tell what it was.  
22 It was eight months after I got out of the  
23 hospital that they finally sent my blood work to  
24 the United States, and it came back as positive  
25 for hepatitis C.
- 26 Q Now, we've sort of skipped a span of time there  
27 from 1986 to 1999.
- 28 A Sorry.
- 29 Q In 1986 you're living on Salt Spring Island,  
30 you're suffering from the various things that  
31 you've described to His Lordship, and then  
32 you're --
- 33 A Mostly skin problems and fatigue at that time,  
34 when I moved to Salt Spring.
- 35 Q And how long are you on Salt Spring Island?
- 36 A I lived there for 15 years, and I moved there in  
37 1986.
- 38 Q So from about 1986 to 2001?
- 39 A Yeah.
- 40 Q And you described being diagnosed with hepatitis C  
41 in 1999. This would have been just before leaving  
42 Salt Spring Island?
- 43 A 1989.
- 44 Q 1989, I'm sorry.
- 45 A Sorry.
- 46 Q Perhaps I misheard you.
- 47 A Sorry. 1989.

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 Q So 1989 --
- 2 A Twenty years.
- 3 Q -- you're working in a hospital on Salt Spring
- 4 Island?
- 5 A That's correct.
- 6 Q And you at that time contract hepatitis C?
- 7 A That's correct.
- 8 Q And this is the incident that you described
- 9 spending time in isolation and having to be
- 10 diagnosed by way of --
- 11 A Yeah.
- 12 Q -- blood work sent to the United States?
- 13 A That's right.
- 14 Q Yes?
- 15 A That's correct.
- 16 Q And what -- what symptoms are you experiencing as
- 17 a result of the hepatitis C?
- 18 A I had severe nausea and vomiting for three days
- 19 straight. And after I got -- I don't know what
- 20 kind of drugs they put me on in the hospital, but
- 21 it was seven days before I could eat anything, and
- 22 it was another week after that before they let me
- 23 out on a day pass. And when I could finally hold
- 24 solid food down, they finally let me go home. And
- 25 at that time I had excruciating pain. My liver
- 26 felt like a baseball trying -- or a football
- 27 trying to explode from under my ribs. It was very
- 28 swollen up.
- 29 I couldn't -- I had a great deal of trouble
- 30 eating. I was nauseous all the time. I didn't
- 31 want to eat. Smelling food -- again, smelling
- 32 food, cooking, made me lose my appetite. My
- 33 husband wasn't around all the time, so if I had
- 34 to -- if I had to cook for myself I'd be too tired
- 35 to be able to eat, so I'd just put it in the
- 36 fridge and know I could eat tomorrow because I
- 37 wouldn't have to cook.
- 38 And I was on my own property at that time and
- 39 was starting to grow a lot -- all of my own
- 40 cannabis, because it was my own property; I wasn't
- 41 renting. And I remember the cook book that I got
- 42 long time ago and -- and how well eating pot had
- 43 made me feel through my cramps, so I thought I'd
- 44 try eating cannabis again. And it really took the
- 45 pain out of my liver, and it started to take the
- 46 inflammation out of my liver, so I started eating
- 47 it very regularly. It was the only thing that

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in chief on voir dire by Mr. Tousaw

1           helped the pain in my liver and the only way I  
2           could sleep at night.

3   Q       And you're making recipes out of this cook book  
4           that you described?

5   A       Yes, that's right.

6   Q       And are you treating with a physician at that time  
7           on Salt Spring Island?

8   A       Yes. Dr. Roland Graham was looking after me at  
9           that time. He was very helpful. He was very  
10          helpful in a number of ways. When he  
11          finally -- when the -- when I was finally  
12          diagnosed with hepatitis C I asked him what to  
13          expect, and I was the first -- I think I was the  
14          first person in B.C., I think, to be diagnosed  
15          with it. And he quite honestly told me to expect  
16          to be dead in five years. I said, well, what did  
17          you -- "What do you mean by that?" And he said to  
18          expect to get cirrhosis of the liver within two or  
19          three years, and to be dead within two or three  
20          years after that.

21                 My sons were -- I think they were about 11  
22                 and 13, or 13 and 15, somewhere around there, and  
23                 I was about 33. I was -- felt I was far too  
24                 young, and I told him that that was unacceptable,  
25                 and I was going to go home and see what I could do  
26                 about it.

27                 So when I went home I started reading some  
28                 more, decided what I was going to take, and went  
29                 back to see him, and let him know. I had a list  
30                 of herbs that I was going to do, start taking, and  
31                 a vitamin C flush that I was going to start to do,  
32                 and let him know that I was eating cannabis every  
33                 single day, and if there was any reason why I  
34                 shouldn't do any of these things. And he checked  
35                 over my list, and wrote everything in my chart  
36                 that I was going to do, and said, go right -- go  
37                 ahead.

38                 And we carried on like that for two years. I  
39                 let him know every time I came to visit what I was  
40                 doing and how -- I ate milk thistle quite  
41                 regularly, and I made tea every day out of  
42                 dandelions, roots and leaves, and I ate -- and I  
43                 ate my cannabis every day.

44                 And two years later after that in one of my  
45                 visits he said he thought I was getting better.  
46                 And I told him I was afraid to think that myself,  
47                 because I didn't -- I thought I might be, but I

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1           was afraid to think that I was getting as better  
2           as I thought I was.
- 3    Q       Did you feel better?
- 4    A       I felt a lot better -- better. My -- the swelling  
5           in my liver had gone down considerably, I could  
6           sleep, and I was eating more regularly. I  
7           started -- I was starting to exercise again. It  
8           took about six months before I could walk, before  
9           I could actually get off of the couch and go  
10          upstairs to get clean clothes. That's how sick I  
11          was. I lived -- lived in the living room for the  
12          first six months, in my pajamas.
- 13   Q       And so this is the time-frame from approximately  
14          1989 to 1991, 1992, does that --
- 15   A       Yeah.
- 16   Q       -- sound about right?
- 17   A       That's correct, yeah.
- 18   Q       I understand that hepatitis C is a lifelong  
19          condition. You still suffer from it, is that  
20          correct?
- 21   A       No.
- 22   Q       You don't have any further symptoms?
- 23   A       No. No, I was -- I had myself tested in two  
24          thousand and -- oh. About seven years ago. About  
25          seven years ago by an infectious specialist here  
26          in town. I can't recall his name off the top of  
27          my head right now. And all of my results came  
28          back positive. Or, I mean, clear. I had --
- 29   Q       Came back negative, but --
- 30   A       Negative, but --
- 31   Q       -- that was positive news for you?
- 32   A       -- it was positive for me, yeah. I had no signs  
33          of the hepatitis C any more.
- 34   Q       I take it you have to date not developed cirrhosis  
35          of the liver?
- 36   A       No. But I had a CT scan in the summer to deal  
37          with my -- I had breast cancer this summer, and  
38          I -- they found some cysts in my liver. So I have  
39          to get back to work harder on it.
- 40   Q       In nineteen ninety -- I'll ask you this. When  
41          you're engaged in this regimen of homeopathic  
42          natural health products, call it, you're advising  
43          your doctor of what you're taking?
- 44   A       That's correct.
- 45   Q       And that includes that you're consuming cannabis  
46          regularly?
- 47   A       That's correct.

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 Q And did he at any point -- are you also taking  
2 pharmaceutical remedies?
- 3 A No. In fact on one of the visits that I went to  
4 see him, I was quite excited, because there was  
5 new news of a treatment for hepatitis C, and I  
6 wanted to ask him about it, and when I did, he  
7 said it's not an option for me. He wouldn't even  
8 consider it, because I was so chemically sensitive  
9 from my environmental illness.
- 10 Q And in that period of time were you taking  
11 pharmaceutical medicines for any of your other  
12 conditions?
- 13 A Not -- not at all. I was so chemically sensitive  
14 by that point that I couldn't even take a quarter  
15 of an Aspirin without it ripping my -- my  
16 intestines to shreds. I can't use normal toilet  
17 paper. I'm allergic to bleach. I have to -- I'm  
18 extremely chemically sensitive still.
- 19 Q You mentioned also suffering from chronic fatigue  
20 syndrome. Do you recall when you were -- or if  
21 you were diagnosed with that condition by a  
22 physician?
- 23 A I have -- I have it confirmed by a physician that  
24 I have chronic fatigue, but I'm not exactly -- I  
25 can't really remember when I was diagnosed with  
26 it. It was -- like I say, there was a lot of  
27 things in -- it was before the hepatitis C.
- 28 Q Prior to 1989?
- 29 A Yeah.
- 30 Q You also mentioned fibromyalgia.
- 31 A Yeah.
- 32 Q What is that, in your understanding?
- 33 A It's -- it's very -- fibromyalgia is very  
34 difficult. It's difficult to live with and it's  
35 difficult to explain. I can't -- I can't wear  
36 tight clothes, because it makes my muscles hurt.  
37 I can't wear a bra, because it makes my chest  
38 hurt, just the pressure of a little bit of  
39 elastic. It makes your joints ache constantly.  
40 It's -- it's -- it's not nice to live with at all.
- 41 THE COURT: Sorry, what was that?
- 42 A It's not nice to live with at all.
- 43 MR. TOUSAW:
- 44 Q And have you been formally diagnosed with  
45 fibromyalgia?
- 46 A Yes.
- 47 Q And do you recall when that was?

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 A Same time as the chronic fatigue.  
2 Q So prior to 1989?  
3 A Yeah, that's correct.  
4 Q And I take it you still suffer from those symptoms  
5 today?  
6 A Yes.  
7 Q You mentioned earlier being diagnosed with mercury  
8 poisoning; do you recall when that occurred?  
9 A 1998.  
10 Q And what are -- what are the -- what does mercury  
11 poisoning cause?  
12 A It causes neurological pain. It causes you to  
13 feel like you're eating tinfoil all the time. It  
14 started interfering with my memory. I couldn't  
15 read. All I had in my life at that time was  
16 studying. I studied herbs all I could, and got to  
17 the point where I couldn't read. I would -- I  
18 would be reading a page, and by the time I got to  
19 the end of the paragraph I couldn't remember what  
20 the beginning of the paragraph said. So I knew I  
21 was in real trouble.  
22 And a friend of mine told me she'd met this  
23 wonderful doctor in Victoria who could do testing  
24 for mercury poisoning. And I had suspected it  
25 because of one of the books that I -- *Prescription*  
26 *for Natural Healing* that I had been reading, I  
27 looked up mercury poisoning in -- in it, and it  
28 had a huge list of symptoms, and I had every  
29 symptom except for one. I looked at my gums, and  
30 they said to look for grey blotches on your gums,  
31 and my gums were solid grey. I had two little  
32 tiny pink blotches on them from the merc -- from  
33 mercury leaching into my system.  
34 So I came to see -- got an appointment with  
35 Dr. Nunn in Victoria, and I travelled back and  
36 forth from Salt Spring to see him. I was on -- by  
37 that time I was on a long-term disability from the  
38 B.C. government, and I had a very difficult time  
39 with it, because health-care wouldn't recognize  
40 mercury poisoning. They said it was a dental  
41 problem. And then of course there's no coverage  
42 for such things, for people on disabilities, when  
43 it concerns dental problems. So I had to pay for  
44 the treatments all myself. It was quite -- quite  
45 difficult to do. The doctor would actually give  
46 me -- he would save the -- the drug that was  
47 administered to me from other people if they



## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 cancelled their appointments, and so -- and he  
2 would give it to me so he wouldn't have to charge  
3 me for that. He would just charge me for his time  
4 for the treatment. He was very helpful that way.
- 5 Q And was that treatment for the mercury poisoning  
6 successful?
- 7 A It's been very successful. I've got reports from  
8 over the years. It's taken quite a number of  
9 years to get rid of it. My treatment started out  
10 every two weeks, and over a period of five years  
11 it got down to I was going once a year.
- 12 Q And you continue to treat for mercury poisoning?
- 13 A I stopped for a few years from I think about  
14 two -- I had to stop from about 2004 until just  
15 last year, because my naturopath retired and I  
16 couldn't find another one to do the treatments for  
17 me.
- 18 Q And this is a naturopathic treatment that you're  
19 undertaking --
- 20 A Yes it is.
- 21 Q -- for the mercury poisoning?
- 22 A Yeah. It's a chelation treatment.
- 23 Q Now, you mentioned a diagnosis of cancer. Tell  
24 His Lordship about that. When were you first  
25 diagnosed; when did you first suspect that you  
26 might have cancer?
- 27 A Well, I first noticed a lump in my breast about  
28 eight years ago, and try and have -- I've been  
29 trying to get a doctor to help me with it ever  
30 since I had to leave Salt Spring in 2000 or 2001.  
31 My husband became un -- extremely violent, and I  
32 feared for my life, so I left home. And --
- 33 Q And where did you go?
- 34 A Pardon?
- 35 Q Where did you go?
- 36 A Me?
- 37 Q Yeah.
- 38 A I came to Victoria here, and I stayed with  
39 friends. And I went up north and stayed with my  
40 family. And I came back here, and I was basically  
41 homeless for a year. And then I went and stayed  
42 with my mom and dad while -- I looked after my dad  
43 while he died of cancer. They put me up for a  
44 year while I helped with him.
- 45 Q And this -- this occurs prior to your own  
46 diagnosis, is that right?
- 47 A Yeah, yeah.

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 Q What period of time are you living with your  
2 father?  
3 A I lived with them for a year.  
4 Q And around 2001, 2000, 2001?  
5 A Yeah, 2000 -- or 2002.  
6 Q And you're in Victoria --  
7 A 2002.  
8 Q -- 2001, 2002?  
9 A That's correct.  
10 Q And at that time you're homeless?  
11 A That's correct.  
12 Q But you own this property on Salt Spring Island?  
13 A That's correct. I -- the Ministry of Human  
14 Resources cut me off of my disability to -- they  
15 wanted me to go home, because I own the property.  
16 And I told them I wouldn't go home because my  
17 husband was still there. I couldn't keep him out  
18 of my house. I had no lock on it. And he  
19 re -- and he wouldn't get a divorce. We ended up  
20 having to get a court order to get a divorce.  
21 Q And so in --  
22 A And that settle -- and that divided the property,  
23 and I got a settlement.  
24 MR. TOUSAW: My Lord, I -- I note the time.  
25 THE COURT: Yes. Ten o'clock tomorrow morning.  
26 MR. TOUSAW: Thank you, My Lord.  
27 THE CLERK: Order in court.  
28 A Thank you, My Lord.

29

30 (WITNESS STOOD DOWN)

31

32 (PROCEEDINGS ADJOURNED TO JANUARY 20, 2012,  
33 AT 10 A.M.)

34

35 Transcriber: R. Greenaway

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Victoria, B.C.  
January 20, 2012

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2  
3  
4 THE CLERK: In the Supreme Court of British Columbia,  
5 this Friday, the 20th day of January, 2012.  
6 Calling the matter of Her Majesty the Queen  
7 against Owen Edward Smith, My Lord.

8 MR. ECCLES: My Lord, I wanted to have a brief word  
9 with the court before the witness resumes the  
10 stand on two matters that have arisen.

11 One I did not address yesterday during the  
12 witness's evidence, but I have advised my friend,  
13 the Crown is not objecting to witnesses giving  
14 hearsay evidence on the stand in order to provide  
15 a narrative to the court. That failure to object  
16 does not mean the Crown is conceding such hearsay  
17 evidence is admissible.

18 The Crown will be objecting if witnesses, the  
19 patient witness, as my friend refers to them,  
20 start to give evidence as to, my doctor told me  
21 this, or my doctor told me that. The witnesses  
22 can say, I have fibromyalgia, I have had cancer.  
23 I don't anticipate that being contentious. But  
24 when they start advising the court of information  
25 received from medical professionals without  
26 providing anything from those medical  
27 professionals, and when they start giving classic  
28 pure hearsay evidence in order to provide a  
29 narrative, rather than object to every single  
30 question, the Crown simply maintains, for lack of  
31 a better word, a blanket objection to inadmissible  
32 evidence inappropriately tendered through  
33 witnesses who are not in a position to give that  
34 evidence in any recog -- legally recognizable  
35 manner, such as medical opinions from lay people,  
36 or, my doctor told me.

37 This is a problem that arises fairly  
38 frequently in cases of this sort. It's arisen in  
39 the *Beren* case. It arose in *Mernagh*, in Ontario.  
40 I was casting about on the desk just before Your  
41 Lordship came in to try to find the ruling in  
42 *Mernagh* dealing with this, and I can't seem to put  
43 my hand on it, but I should be able to find it,  
44 and I'll copy my friend if he doesn't have that  
45 particular ruling. It may be that this is  
46 something we'll have to address before Your  
47 Lordship anew at another point.

1           The other matter is the Crown's reply to my  
2 friend's evidence by way of expert evidence. I  
3 have spoken with my clients in Ottawa this  
4 morning. They are assembling affidavit materials,  
5 because apparently that's how Ontario does things,  
6 rather than a report, they file a report as an  
7 affidavit. In any event, they are assembling a  
8 response to Dr. Pate's report.

9           I'm hoping to have drafts of that later  
10 today, but given it's now one o'clock in the  
11 afternoon in Ottawa, I'm not terribly optimistic  
12 in respect to that particular draft.

13           I'm receiving a second affidavit that deals  
14 with the history of the MMAR and the numbers of  
15 individuals who have accessed the program from  
16 start to current date. That's, according to my  
17 note, almost done. I should have that draft later  
18 today. I don't know whether it's contentious,  
19 because I haven't seen it, and I don't know  
20 whether my friend is pursuing an argument that the  
21 program is unduly restrictive for applicants, and  
22 that the position as gatekeeper, so to speak, is a  
23 breach of *Charter*. That particular affidavit is  
24 more or less designed to address those issues.  
25 Once I see it, I'll know.

26           And finally, we are obtaining an affidavit  
27 from an individual who can assist the court with  
28 an explanation of how therapeutic products are  
29 regulated and licensed for lawful distribution  
30 under the *Food and Drugs Act*. That will be an  
31 outline of how such products are taken to market  
32 and the steps and the processes involved in  
33 ensuring unsafe products, or as best we can ensure  
34 unsafe products do not reach the market, or if  
35 products have no risks, the public is made fully  
36 aware of those risks and there are avenues  
37 available so the public can make an informed  
38 choice.

39           That affidavit material, I'm hoping to have  
40 the draft of that this afternoon. It's a little  
41 less problematic than the expert response to  
42 Dr. Pate. We -- I'm advised by Ottawa that there  
43 are two difficulties in arranging an expert. One,  
44 finding one with the necessary expertise, and,  
45 second, more crucial in this case, ensuring that  
46 individual is available to, in essence, down  
47 tools, get on a plane, fly here, and be on the

1 stand within the next two weeks.

2 THE COURT: There are occasionally video witnesses that  
3 might obviate, or at least eliminate the  
4 outrageous experience of having to go through  
5 airport security from time to time. But --

6 MR. ECCLES: Unfortunately, My Lord, as my friend may  
7 or may not recall, we, in the *Beren* matter,  
8 anticipated using a video -- a video link to take  
9 the evidence of Dr. Harold Kalant. He was  
10 anticipated to be testifying for three days, and  
11 maybe a bit longer. I believe he was in the stand  
12 for three days. The cost of the video link to  
13 have Dr. Kalant testify for three days was just  
14 over \$5,000. The cost of flying Dr. Kalant out  
15 here, having him stay in a hotel, and providing  
16 him with all food, meals, per diem, was I believe  
17 just over \$2,000. So we flew Dr. Kalant out.

18 Unfortunately, for reasons I cannot  
19 comprehend, video link-ups through -- into Ontario  
20 are prohibitively expensive. If there is a  
21 possibility of arranging a video for the expert  
22 witness the Crown is anticipating, we'll certainly  
23 endeavour to do so. But I expect that from an  
24 economic standpoint, it makes better sense to have  
25 the witness attend. It's not very comfortable for  
26 the witness, but it also may assist Your Lordship  
27 to have a witness here live without having to  
28 worry about the video link crashing at a point.  
29 That's the Crown's principal worry.

30 THE COURT: All right.

31 MR. ECCLES: I don't know what sort of time my friend  
32 needs to assess and weigh his response to these  
33 materials, and I'm in my friend's hands on that.  
34 We have four weeks set for this matter. Given my  
35 friend's outline of the anticipated case for the  
36 defence, I think we're on track to complete the  
37 defence case, with any luck at all, next week.  
38 And it may well be -- I have yet to ascertain the  
39 full availability of the experts the Crown's  
40 anticipating calling. I don't believe they're  
41 available next week.

42 So it may well be that we'll complete the  
43 defence case next week. I can provide my  
44 friends -- my friend with the materials as soon as  
45 I have them, and it might be that we'll have to  
46 adjourn for a couple of days, or possibly even a  
47 full week, to allow my friend the opportunity to

1 assess the information, and for the Crown to  
2 ensure these witnesses are indeed available to  
3 travel to Victoria. Those that can be  
4 video -- give their evidence by video link,  
5 we'll -- we'll endeavour to do so.

6 That's the difficulty I wanted to advise the  
7 court of. I do anticipate that the Crown will be  
8 seeking to adjourn at least one week of this  
9 matter to the final week to complete and reply to  
10 my friend's case. I'm hoping it won't be any  
11 longer than that, because if it goes beyond the  
12 four weeks we have set in this matter, the Crown  
13 has serious difficulties with finding available  
14 time. I'm basically booked solid in these courts  
15 until -- the last time I looked at my calendar, I  
16 think I have three weeks off between now and  
17 August, when I'm not in a trial court.

18 So that's a matter as well that may be of  
19 concern to the Crown, if we simply cannot arrange  
20 for Crown counsel to complete the case on a timely  
21 basis, then my friend may or may not have a delay  
22 remedy he will wish to address the court on, and  
23 the Crown may or may not have a position regarding  
24 that delay.

25 THE COURT: All right.

26 MR. ECCLES: I just wanted to be ensure -- assure Your  
27 Lordship and my friend are aware of these  
28 difficulties.

29 THE COURT: I will ask both counsel to stay in touch  
30 with trial scheduling on the second floor,  
31 particularly with respect to the possibility that  
32 this trial may have to go down for a day or a  
33 week, or however long, because the resources can  
34 be swiftly reallocated if we have some warning of  
35 a day or two. Not that I am mad keen on being  
36 sent to Prince George for a week while you two  
37 have something else to do, but that possibility  
38 has to be borne in mind.

39 MR. ECCLES: Certainly, My Lord. If it's of any  
40 assistance to Your Lordship or trial scheduling,  
41 if we're not calling evidence before Your  
42 Lordship, I do anticipate that my friend and I  
43 will be providing books of authorities. I have  
44 provided my friend with a Crown book of  
45 authorities. It's two volumes. It's most of the  
46 leading cases in the area. Seventeen, in the  
47 Crown's authorities. I have -- will likely have

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1           one or two additional updated cases to hand up or  
2           to include in a supplemental volume.  
3           If my friend has additional cases and wishes  
4           to save his client the expense of making the  
5           necessary copies, if he provides me with the  
6           cites, I can prepare a joint book of authorities  
7           containing any additional -- or the current  
8           additional cases the Crown anticipates relying on,  
9           as well as my friend's. We filed joint books of  
10          authorities in the *Beren* case, and it seemed to  
11          be --  
12        THE COURT: All right. Well --  
13        MR. ECCLES: -- a far more efficient way to do things.  
14        THE COURT: Simply having one volume with everything in  
15          it is more convenient to everybody than juggling  
16          two.  
17        MR. ECCLES: Yes, My Lord. Unfortunately the 17 cases  
18          don't fit into one volume, so --  
19        THE COURT: Oh, well.  
20        MR. ECCLES: -- we're stuck with three.  
21        THE COURT: Two's better than three.  
22        MR. ECCLES: I can probably fit whatever -- I don't  
23          know how many additional my friend has, but I can  
24          split the spine on Volume 2 and put a new index  
25          in, and hopefully we can include everything in a  
26          common book. I think I have most of my friend's  
27          cites, but I don't know whether he's still arguing  
28          everything that's in his pretrial summary.  
29          But we --  
30        THE COURT: Well, as soon as you can assemble that, if  
31          it's if a joint book, and give me a copy, the  
32          sooner I can start reading.  
33        MR. ECCLES: Certainly, My Lord. I should be able to,  
34          once I have my confirmation from my friend what he  
35          wants in a joint book, I can probably get that  
36          assembled next week.  
37        THE COURT: All right.  
38        MR. TOUSAW: My Lord, if I can briefly be heard?  
39        THE COURT: Yes.  
40        MR. TOUSAW: I thank my friend for the update on  
41          timing. Certainly if he's able to provide even  
42          draft reports by early next week, or middle of  
43          next week, I don't anticipate requiring any  
44          additional time to review those materials, so I  
45          would -- I would not in that circumstance be  
46          seeking any adjournment in order to review the  
47          Crown's materials.

1 I do have some concern with the Crown's  
2 comments vis-à-vis adjournment. This matter's  
3 been pending for quite some time, and I appreciate  
4 my friend's client's potential difficulties, but  
5 certainly if there's an adjournment application,  
6 I'll make whatever response I'm instructed to make  
7 at that time, but I just say that there are some  
8 concerns that arise.

9 With respect to my friend's lack of clarity  
10 on the issue of whether or not Mr. Smith will be  
11 challenging the access portions of the MMAR  
12 regime -- and by access, My Lord, I refer to the  
13 ability of qualified persons to obtain licences to  
14 possess and/or produce marihuana from Health  
15 Canada -- it is an issue that was raised in my  
16 *Constitutional Questions Act* notice filed quite  
17 some time ago, and again in the pretrial summary,  
18 and I've confirmed to my friend, I believe  
19 yesterday, before -- or perhaps it was the day  
20 before, at the end of the proceedings, that that  
21 was a live issue in this case.

22 THE COURT: I think he was aiming more at whether or  
23 not you're taking exception to the requirement of  
24 physician approval or involvement in that process,  
25 not necessarily whether or not everybody who  
26 applies can get a permit or a licence, or whatever  
27 it is Health Canada hands out by return mail.

28 MR. TOUSAW: I certainly will be arguing that because  
29 of what the court in *Mernagh* called an effective  
30 boycott by physicians of this program, that access  
31 to the legal protections are practically illusory,  
32 along the lines of the *Morgentaler* decision,  
33 Supreme Court of Canada, and that therefore s. 7  
34 of the *Charter* is engaged. I do not expect it to  
35 be the primary focus of my arguments, but it is,  
36 for my friend's benefit, a live issue in the case,  
37 as far as I can see.

38 THE COURT: So do I expect to hear some evidence that  
39 would form a basis for an argument of effective  
40 boycott?

41 MR. TOUSAW: I expect that some of the patient  
42 witnesses that will be testifying will describe  
43 the difficulties that they individually have had  
44 with obtaining authorizations from physicians  
45 despite the fact that they all both qualify under  
46 the terms of the MMAR and find substantial  
47 symptomatic or condition relief from cannabis.



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1 THE COURT: All right.

2 MR. TOUSAW: My friend yesterday -- well, let me  
3 actually speak to my friend's concern and  
4 suggestion of what he described as a blanket  
5 objection. I have on behalf of Mr. Smith some  
6 concerns about that, because it puts the accused  
7 in a position that at the time the evidence is  
8 going in, and even after the witness has left the  
9 box, it is unclear what if any evidence the Crown  
10 will be objecting to. And I certainly don't want  
11 to be in the position that when we come to  
12 argument, my friend is saying, well, that  
13 evidence, that evidence, and that evidence is  
14 inadmissible, Your Lordship shouldn't consider it,  
15 and not have the ability to either ask a better  
16 question or put the evidence in in a different  
17 format. My own preference is if my friend hears  
18 testimony that he believes to be hearsay, that he  
19 object, and that we deal with it at the time.

20 And I'm prepared to brief the issue, if  
21 necessary, of whether or not a lay witness is  
22 entitled to give evidence about his or her own  
23 medical condition, and have that accepted by the  
24 court. I hear my friend saying that he doesn't  
25 believe it to be contentious. For example, for  
26 Ms. Quin, she's testified that she has a number of  
27 medical conditions. I have some limited medical  
28 records that she's been able to assemble,  
29 certainly not her full medical records, for a  
30 number of logistical reasons, not least of which  
31 is that they stretch over the span of several  
32 decades, but if it's not contentious that she has  
33 cancer when she says she has cancer, then I won't  
34 take the court through the exercise of putting in  
35 the results of the mastectomy, for example. If it  
36 is contentious, I'd like to hear that from my  
37 friend so that we can do those things with both  
38 this witness and any other witnesses we call.

39 THE COURT: Presumably what admissions are all about,  
40 it does seem to me, Mr. Tousaw, that your friend  
41 has a point, at least to a point, and that is that  
42 a witness who says, I have cancer, may be heard to  
43 say, I have cancer, or, I have been treated for  
44 cancer, maybe more appropriately, and there's no  
45 exception, I would think, no real objection that  
46 could be mounted to that bald statement. Whether  
47 it's sufficient evidence to prove a medical

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1 diagnosis is a completely different matter.  
2 But a witness who says, my doctor  
3 tell -- told me I had cancer, that's not  
4 admissible as proof of a medical diagnosis, and I  
5 think that's your friend's point. Rather than  
6 interrupting the witness, particularly witnesses  
7 who are going to be telling me what medical  
8 conditions they've been treated for over the  
9 years, and how presumably cannabis products  
10 assist, having that flow of evidence constantly  
11 interrupted in order to point out the obvious,  
12 which is witnesses can't be heard to talk about  
13 what their doctors have told them to prove the  
14 medical diagnosis -- that doesn't mean they can't  
15 tell me what their doctors told them.  
16 MR. TOUSAW: Yes.  
17 THE COURT: It just deals with what I can make of it --  
18 MR. TOUSAW: Yes.  
19 THE COURT: -- later.  
20 MR. TOUSAW: Yes.  
21 THE COURT: And I think that's what Mr. Eccles is  
22 saying; we don't want to stop the witness from  
23 saying, my doctor told me I had cancer.  
24 MR. TOUSAW: Yes.  
25 THE COURT: But I frankly will be filtering that in the  
26 way I've described, and that is that's not a  
27 medical diagnosis, it's not proof of the doctor's  
28 opinion, but it's a fact that this witness has  
29 been operating on, whether or not it's correct.  
30 MR. TOUSAW: Yes. Thank you, My Lord.  
31 The final issue that arises comes from some  
32 comments my friend made yesterday about the  
33 potentiality of seeking to introduce affidavits  
34 and transcripts from a prior or prior pieces of  
35 litigation, namely the *Beren and Swallow* case and  
36 the *Mernagh* case. And I take it from his comments  
37 this morning that he is assembling new affidavit  
38 material, at least I expect to have that in draft  
39 form today, that he will no longer be seeking to  
40 introduce those old affidavits and transcripts.  
41 But I'm not sure about that, and it seems to me  
42 that if that material is going to come in, or  
43 there's going to be an argument that it should  
44 come in, better to know that now, so that we can  
45 deal with it perhaps middle of next week.  
46 THE COURT: Presumably the two of you are talking at  
47 the coffee shop down in the lobby from time to

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1 time, and can sort those things out.

2 MR. TOUSAW: We are talking from time to time, but  
3 occasionally I find it's important to place things  
4 before Your Lordship as well.

5 MR. ECCLES: I can provide some assistance to my  
6 friend, My Lord. The only material from previous  
7 proceedings that the Crown would anticipate  
8 seeking to place before Your Lordship would be the  
9 affidavit of Dr. Kalant in *the Beren and Swallow*  
10 case, and, having discussed this with my friend,  
11 potentially the transcripts of Dr. Kalant's  
12 evidence in chief and cross-examination in  
13 relation to the report. I do not anticipate my  
14 friend being amenable to the Crown simply filing  
15 the report without the additional evidence that  
16 relates to the report. It would be up to my  
17 friend and I to assist the court by suggesting  
18 areas in those transcripts that are relevant to  
19 the issues before Your Lordship. That's a matter  
20 for my friend and I to sort out.

21 I can also advise my friend that I am advised  
22 by my client in Ottawa that the individual who is  
23 currently putting together the materials in answer  
24 to Dr. Pate, I have asked that individual to  
25 review Dr. Kalant's affidavit filed in *Beren and*  
26 *Swallow*, and append it as an exhibit to their  
27 report, and in their -- their report, advise  
28 whether there's anything -- you know, what if  
29 anything in Dr. Kalant's report they don't agree  
30 with, and what they do agree with.

31 I don't know what my friend's position on  
32 that will be, but it would be -- it's not a back  
33 door attempt to slide a report in, or anything of  
34 that sort. It's one expert who's going to have  
35 materials from another expert, who's going to be  
36 able to say, I've read those materials, I agree  
37 with all of them, or, I agree with these portions,  
38 I can't comment on these. If that is indeed what  
39 happens, then I anticipate my friend will be  
40 asking the Crown to tender the direct and  
41 cross-examination of Dr. Kalant to put everything  
42 into context and to allow Your Lordship the  
43 opportunity to review the full evidence of  
44 Dr. Kalant on point.

45 I don't believe either my friend -- I know I  
46 don't have any suggestion that Dr. Kalant is  
47 anything other than an impartial, independent

1 expert witness who does not pose credibility  
2 issues in the usual sense with an expert witness.  
3 Bias doesn't seem to be an issue with Dr. Kalant.  
4 My friend, I don't anticipate, will be suggesting  
5 Dr. Kalant's credibility is questionable. He  
6 certainly didn't suggest that in *Beren* at any  
7 point, in either written or oral argument.  
8 Doctor -- I believe the description my friend  
9 and I arrived at with Dr. Kalant was, well, he's  
10 just such a prof. He's a quintessential  
11 professor.  
12 THE COURT: All right. But presumably at some point  
13 this arises if someone tenders in affidavit form  
14 the opinion of Dr. Kalant that was prepared for  
15 *Beren and Swallow*.  
16 MR. ECCLES: Yes, My Lord. And I do --  
17 THE COURT: If it's not tendered by anybody, I don't  
18 have a problem.  
19 MR. ECCLES: Correct, My Lord.  
20 THE COURT: If it is tendered by somebody, you may  
21 agree that rather than require Dr. Kalant to show  
22 up here to be cross-examined, that the  
23 supplementary questions in chief and/or  
24 cross-examination from *Beren and Swallow* will be  
25 admitted by consent, and that's up to you two to  
26 work out between now and whenever somebody wants  
27 to hand me Dr. Kalant's affidavit.  
28 MR. ECCLES: Yes, My Lord. We are cautiously  
29 optimistic we'll reach the point of agreement.  
30 THE COURT: All right. Well, if you don't, we'll deal  
31 with it.  
32 MR. ECCLES: Yes, My Lord.  
33 THE COURT: Are we ready for Ms. Quin?  
34 MR. TOUSAW: Yes, My Lord.  
35 THE CLERK: Witness, having been previously affirmed, I  
36 remind you you are still under affirmation.  
37 Please state your full name, and spell your last  
38 name for the record.  
39 A It's Frances Gayle Quin, Q-u-i-n.  
40 THE CLERK: Thank you.  
41 THE COURT: You may be seated, Ms. Quin.  
42 A Thank you.

43  
44  
45  
46  
47

**GAYLE QUIN**  
a witness called for the  
Accused, recalled.

EXAM IN CHIEF ON VOIR DIRE BY MR. TOUSAW, CONTINUING:

1  
2  
3 Q Ms. Quin, at the close of yesterday's proceedings  
4 we were discussing your consulting a physician  
5 with respect to a lump in your breast, and I  
6 believe you testified that there was going to be a  
7 biopsy performed, or there was a plan to perform a  
8 biopsy, is that right?

9 A That's correct.

10 Q Can you just tell His Lordship what happened next  
11 with respect to that issue?

12 A Well, I actually talk -- I've tried to talk to  
13 about four or five different doctors about the  
14 lump in my breast. And since I -- since about  
15 2003 I got settled enough after I left Salt Spring  
16 to start trying to find a new doctor here. I  
17 wanted to keep seeing my doctor on Salt Spring,  
18 but he felt he didn't want me to -- he thought it  
19 wasn't right that I be travelling from Victoria to  
20 Salt Spring to see him, so he asked me to find a  
21 new doctor.

22 So I have -- the first -- I went to a clinic,  
23 and the first doctor I tried to -- I went to a  
24 walk-in clinic, and we were going through the  
25 form, and when it got to the part that it -- where  
26 it asked if I smoked, I said, "I don't smoke  
27 tobacco, but I do smoke cannabis." At which point  
28 she looked at me and said, "We can't help people  
29 like you," and asked me to leave.

30 So I was a little upset. So I left, and I  
31 got a bit depressed, so I took another year before  
32 I tried to find another doctor, and I went to find  
33 another doctor, and I went to go see Dr. Fraser at  
34 a different clinic, and explained to him my health  
35 conditions, and that I had a lump in my breast  
36 that I was concerned about. And he told me -- he  
37 said to me he didn't believe I was as sick as I  
38 said, and wanted to see my records, so I filled  
39 out a form to have my records shipped over here,  
40 but they never sent it in, and they never received  
41 it, and I never got a call. And I phoned them  
42 when I was going to get an appointment, and they  
43 said I wasn't.

44 So I got depressed again about it, and waited  
45 a little while again, and asked -- and went  
46 to -- then I found Dr. Napier, who was just  
47 starting up, and a friend at the Club who

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1 Dr. Napier had signed her Health Canada forms for  
2 her, told me to go see her, because she -- because  
3 she at least respected cannabis as a -- as a  
4 benefic -- as beneficial for some people. So I  
5 went to go see her with the same request, that I  
6 was really concerned about the lump in my breast,  
7 and she refused me -- to be my doctor because she  
8 said she didn't have hospital privileges, and she  
9 felt I needed surgery.

10 So I went back home again, and suffered a  
11 couple months of depression again, from that. And  
12 eventually a friend -- and was asking friends if  
13 they knew of a good naturopath, because I was  
14 feeling the symptoms of my mercury toxicity  
15 building up again, and I needed to start my  
16 detoxification treatments. So I -- and a friend  
17 finally told me about a naturopath in Sidney. And  
18 I made an appointment to go and see her, Dr.  
19 Kristen Bovee. And I explained all of my health  
20 concerns to her, and she wrote out her request for  
21 me to get a mammogram, at which point I took it to  
22 the Burns -- Burnside clinic, walk-in clinic.

23 And when the doctor who examined me there saw  
24 the request, and then examined my breast, she  
25 instantly wrote a request for me to see a  
26 specialist at the Victoria General Hospital, and  
27 within -- I was in the hospital within about three  
28 days after that for a mammogram. That proved  
29 positive results, and they took me from the  
30 mammogram to have an ultrasound, and the  
31 ultrasound confirmed two cancerous lumps, one in  
32 my breast and one in my axilla, right axilla, a  
33 lymph node.

34 And they wanted to do a biopsy right then and  
35 there too, but it was -- I was afraid of it, and I  
36 was afraid of it aggravating the cancer, so I  
37 refused the biopsy at the time, and said I needed  
38 time to think about it. And they made an  
39 appointment for me to see a surgeon. So I went to  
40 go see the surgeon, and he scheduled me -- he did  
41 a biopsy. I tried to refuse, but he talked me  
42 into having a biopsy, fine-needle biopsy, and it  
43 came back inconclusive. And to the best of my  
44 understanding pertaining to breast cancer, 90  
45 percent of biopsies come back inconclusive. So  
46 this is one of the reasons why I didn't want to  
47 have it done, because they do a biopsy when you're

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1 put under anesthetic just before the operation  
2 anyway, so I didn't see the point of having it  
3 done twice.

4 But -- so I never mentioned my use of  
5 cannabis to any of these people except for my  
6 naturopath, because of my past history of the  
7 reactions that I've gotten from the doctors since  
8 trying to find a new doctor, moving over here.  
9 And I was very shocked and surprised at those  
10 reactions, because I'd never had a reaction from  
11 that before in my life, and I've been to see lots  
12 and lots of doctors in my younger years in  
13 Victoria, because I was so ill, and nobody -- none  
14 of the doctors could help me. All they knew was  
15 to give me antibiotics, and the antibiotics were  
16 slowly killing me. They were totally destroying  
17 my immune system, which I hardly had any one  
18 to -- of to start with anyway.

19 So I went to -- I started seeing every doctor  
20 in town. Actually I got -- I got into trouble for  
21 it. I got told I wasn't allowed to do that, and I  
22 said I was going to keep looking for doctors until  
23 I could find one that could work with me and help  
24 me.

25 Q Let me stop you there. This is all ongoing in  
26 what period of time, 2003, 2004?

27 A For the two thou -- oh, no, I fou -- the  
28 naturopath?

29 Q Yes. When did you find the naturopath?

30 A I found my naturopath just -- well, been seeing  
31 her for almost two years, just a little over a  
32 year, actually.

33 Q So this -- this process of going to a number of  
34 doctors to find one that would work with you --

35 A That was --

36 Q -- with respect to the lump in your breast is  
37 when?

38 A Oh, that was from 2003 up until -- 2003 up until I  
39 found my naturopath. The other doctors -- I'm  
40 sorry, I was jumping around -- was when I lived in  
41 Victoria in the 1970s and 1980s. That's when I  
42 was on massive antibiotics. Sorry to be jumping  
43 around, sir.

44 Q So you are -- you find your naturopath, you have  
45 the mammogram, you get scheduled in to see a  
46 surgeon, and you refuse a biopsy.

47 A That's correct.

1 Q What happens next with respect to the lump in your  
2 breast?

3 A Well, surgery was scheduled, and I went in for  
4 surgery, and was prepped for surgery, and I got to  
5 talk to my anesthesiologist before I went in, and  
6 I talked to her, and I told her that I was a  
7 cannabis user. I wanted her to be aware that I  
8 had cannabis in my system to help me through the  
9 operation. And she said, "Don't worry about it at  
10 all, but thanks for letting me know. And I'll  
11 take good care of you."

12 And with that, they put me under, performed  
13 an operation, I had a right mastectomy, and they  
14 removed 20 lymph nodes, 17 of which had been  
15 infected with cancer.

16 Q And when was this?

17 A This was on June 24th of 2011.

18 Q We talked at some length yesterday about a variety  
19 of health conditions you're dealing with, and  
20 today you've described the cancer. Any other  
21 health conditions that you suffer from that you  
22 haven't already testified to?

23 A Yes, Your Honour. I forgot that when I was 16 I  
24 had my knees crushed in an automobile accident.  
25 And I also had two crushed discs in my back  
26 from -- probably from lifting too heavy of weights  
27 for too long. Like, I'd lift people at work, lot  
28 of times quite a lot larger than myself. And I  
29 think those are the only health issues that I  
30 forgot yesterday.

31 Q Did the damage to your knees in your teens cause  
32 you any lasting problems?

33 A Yes. It -- it did. It -- it -- I had torn  
34 cartilage in my knees, and -- and I can't remember  
35 the year, but when I was working in -- on Salt  
36 Spring, the cartilage in my right knee tore again  
37 while I was at work, and I had to take three  
38 months off to recover from a laparoscopic surgery  
39 to correct it, at which point I was told I was  
40 going to have to have surgery on my left knee at  
41 some point in my life as well, as a -- from the  
42 operation. That -- I went to see a specialist, I  
43 think it was in 2005 or '6. It was giving me a  
44 little bit of trouble. And he, the specialist,  
45 X-rayed both of my knees, and he said I don't -- I  
46 don't need surgery on my left knee, and asked me  
47 what I'd been doing for them, because he couldn't



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1 find any sign of arthritis in my knees either. At  
2 which point I told him I used cannabis massage oil  
3 twice a day, and got in a hot bathtub every chance  
4 I got -- I could. And he said to keep it up.

5 Q With respect to your -- well, and did you keep it  
6 up?

7 A Yes.

8 Q With respect to your mastectomy, and subsequent to  
9 that, what are the, if any, symptoms or medical  
10 conditions that you suffer from as a result of  
11 that surgery, to the present day?

12 A I have a -- my shoulder was injured in the  
13 surgery, and it's taken a long time to get it  
14 unfrozen, so I get a lot of pain in my shoulder  
15 still, and if I don't wave my arm around a lot and  
16 do exercises, it starts to swell up; my arm will  
17 start to swell up from the lack of lymph nodes.  
18 Although all the doctors that have seen it and the  
19 physiotherapist so far have been extremely  
20 impressed with the lack of swelling in my arm.

21 Q And do you take any kind of medication to deal  
22 with that pain and swelling?

23 A I eat cannabis, Your Honour. If I -- I have tried  
24 to stop, cut back on my amounts that I eat, and I  
25 forgot to eat it for three days once, and my arm  
26 really swelled up, and I was still eating my other  
27 anti-inflammatories. I take frankincense and  
28 turmeric as an anti-inflammatory also. My  
29 naturopath asked me to take that. But I noticed  
30 a -- a very increased difference if I backed off  
31 on my ingesting cannabis as well. It would swell  
32 up a lot more and it was a lot more painful.

33 Q Have you had to undertake any regime of  
34 chemotherapy, or anything else like that with  
35 respect to the cancer?

36 A No, I didn't, Your Honour. I was extremely  
37 fearful of chemotherapy and radiation because of  
38 my chemical sensitivities. And the first  
39 oncologist I got to talk with wasn't ver -- wasn't  
40 very informative and helpful, so I asked to see  
41 another oncologist. And it took a couple of extra  
42 weeks to get the other appointment, and by the  
43 time I got to see the other oncologist, he told me  
44 that my time for taking chemotherapy was -- had  
45 been passed. I had waited too long.

46 But I had been having vitamin C treatments  
47 every week before and after the surgery from my

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- 1 naturopath, who was -- I was administered 50, five  
2 zero, grams of vitamin C intravenously once a week  
3 over a three-hour period, and that -- in that  
4 doses, vitamin -- it creates extra oxygen in your  
5 body, which will attack tumor -- tumours, and  
6 that's basically the same thing that chemotherapy  
7 does. So I had added health benefits. Instead of  
8 having my immune system broken down further, I had  
9 my immune system supported through the treatments.
- 10 Q Have you had any follow-up visitations or testing  
11 done to determine whether cancer has spread,  
12 whether you still have cancer, in your lymph nodes  
13 or otherwise?
- 14 A Yes. I had a CT scan performed before I saw the  
15 second oncologist. It was a request, so I went  
16 and had a CT scan done, and they reported that I'm  
17 all clear of cancer in my body, but they found I  
18 think three cysts in my liver.
- 19 Q And do you have any medical procedures scheduled  
20 to deal with those cysts?
- 21 A No, I don't.
- 22 Q You've mentioned through your testimony yesterday  
23 and today the use of cannabis. Could you -- to  
24 deal with various symptoms. Could you go into a  
25 bit more detail for His Lordship with respect to  
26 how you use cannabis, and what you use it for, and  
27 in particular what symptoms you use it for, and  
28 what if any benefit it provides you?
- 29 A Okay. Well, I'll start with my knees. I have  
30 hardly any cartilage in my right knee  
31 because of the laparoscopic surgery, and as a  
32 result of the hepatitis C, it weakens your veins,  
33 so I get very bad bruising all the way around my  
34 right knee, and it would get swollen and very  
35 painful. So I use the cannabis mixed with  
36 St. John's wort oil on my knee twice a day, and it  
37 takes the pain out of my knee so I can walk, and  
38 it strengthens my veins so I can actually jog now  
39 without it bruising. Because it would get bruised  
40 and it would swell up, and then I couldn't walk  
41 properly. So if I go more than a week without  
42 using it, all of those symptoms start coming back.
- 43 I also, for my cancer, I -- for my breast  
44 cancer I mostly ingested cannabis. At the Club we  
45 make a product called Can -- Cannoil, and it's bud  
46 infused into olive oil, and I'd mix -- it's two  
47 and a half grams of bud mixed into two ounces of

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1 olive oil. And I consumed one of those every day  
2 throughout my postoperative recovery, and it  
3 helped with the pain. It helped reduce the  
4 swelling. It allowed me to sleep. It helped to  
5 fight, to the best of my knowledge -- as I  
6 understand what was going on, it helped to keep  
7 any -- if any cancer cells were knocked loose, it  
8 would help to keep it from re-adhering. And I  
9 also was put on fractionated pectin for -- for  
10 that, as well.

11 THE COURT: By whom?

12 A By my naturopath, Kristen Bovee.

13 THE COURT: And what did your naturopath put you on?

14 A It's called fractionated pectin.

15 MR. TOUSAW:

16 Q Pectin.

17 A Yeah, yeah. And that's specifically to keep  
18 cans -- loose cancer cells from re-adhering  
19 anywhere. It lets your body get rid of them.

20 And as I said, I was on other  
21 anti-inflammatories, but they weren't as effective  
22 as in -- as ingesting the cannabis. And I  
23 didn't -- I had a -- I didn't want to smoke very  
24 much, because the year before we went to Ontario,  
25 and during -- when they were spraying the fields  
26 with pesticides, and I didn't realize it, and I  
27 came home with a very bad lung infection that I'd  
28 been fighting for the whole year. And I was  
29 really afraid of the anesthetic because of this  
30 lung infection. So after the operation I didn't  
31 want to cough a lot, or very much because of the  
32 stitches and the incision, and it was so painful.  
33 So I mostly just rubbed oil -- I used cannabis  
34 massage oil, again, the -- mixed with St. John's  
35 wort to help control the internal bleeding from  
36 the incision, and to keep swelling and bruising  
37 down. And then once the bleeding had stopped from  
38 my drain, I switched over to cannabis mixed with  
39 arnica oil, because it's a better  
40 anti-inflammatory, and it helped reduce the  
41 swelling a lot more, and also kills pain. They  
42 both help kill pain.

43 Q You've talked about using cannabis topically for  
44 your knees, and to reduce swelling post-surgery,  
45 and eating it, and you've mentioned that you don't  
46 like to smoke it. Do you smoke cannabis?

47 A Yes, I do, Your Honour.

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- 1 Q Is it your primary mode of ingestion?
- 2 A It used to be my primary mode of ingestion, but  
3 now I'd say I probably use half, and I eat -- I  
4 eat it a lot, and I smoke to -- it sort -- it  
5 gives a boost to the cannabis that's already in  
6 your system, so you don't have to smoke as much.
- 7 Q Do you know --
- 8 A So I've cut back on my smoking.
- 9 Q Do you notice different --
- 10 A I'm sorry.
- 11 Q -- effects from smoking versus eating cannabis?
- 12 A Oh, yes. Smoking, it stops pain almost instantly.  
13 And I can even just smoke two or three puffs, if  
14 that's all you need, or I can smoke the whole  
15 joint, and -- if I'm in that much pain. Whereas  
16 eating it, it lasts a lot longer. The  
17 symptom -- the symptoms from ingesting it are a  
18 lot -- they're a lot less noticeable, in that if  
19 your body is really using the cannabis a lot, you  
20 don't get psychoactive effects from it. You  
21 just -- your muscles -- your muscles can relax,  
22 and that loosens my back so all the tension in my  
23 back, that's how it loosened my back to relieve  
24 the pain in my back. Worked a lot better eating  
25 it, because it has so much more muscle relaxing  
26 qualities to it.
- 27 And it also helps me get a better and longer  
28 sleep, because it stays in your system longer. I  
29 would -- before I started eating cannabis really  
30 regularly, I'd have to get up in the middle of the  
31 night to smoke a joint because I would be in so  
32 much pain. So if I ate -- if I eat cannabis  
33 before I go to bed, that doesn't happen any more.
- 34 Q Do you -- does applying cannabis topically give  
35 you that psychoactive effect that you just talked  
36 about?
- 37 A Not at all. No. It just gives relief from pain  
38 and swelling.
- 39 Q Now, you are a member of the Cannabis Buyers' Club  
40 of Canada?
- 41 A That's correct.
- 42 Q And you have a personal relationship with Mr.  
43 Smith, Ted Smith, that is?
- 44 A I do, Your Honour.
- 45 Q And how long have you had that personal  
46 relationship with Mr. Smith?
- 47 A Five years.

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in chief on voir dire by Mr. Tousaw

- 1 Q When did you join the Cannabis Buyers' Club of  
2 Canada?
- 3 A In two -- 2003. March, I think.
- 4 Q And at that time you didn't know Mr. Smith?
- 5 A No, not at all.
- 6 Q What -- Mr. Ted Smith, my apologies, Your  
7 Lordship. At that time you did not know Mr. Ted  
8 Smith?
- 9 A No, Your Honour, I did not.
- 10 Q And at that time did you know the accused,  
11 Mr. Owen Smith?
- 12 A No, I did not.
- 13 Q What brought you to the Cannabis Buyers' Club of  
14 Canada?
- 15 A I had moved to Victoria, as I stated earlier,  
16 to -- because I had feared for my life, and then I  
17 read about -- I had heard a compa -- that there  
18 was a compassion club starting in Victoria before  
19 I left Salt Spring, and then when I came over here  
20 I heard about the -- that they had some raids, and  
21 were having to go to court, and I didn't think  
22 that was right, so I tried to find them. I wanted  
23 to see what I could do to help. And I didn't want  
24 to start, and I wanted -- I wasn't growing my own  
25 cannabis any more, so I needed access to the  
26 cannabis.
- 27 Q And so you ultimately find the CBC of C?
- 28 A Yeah. I tried to find the -- I actually found the  
29 VICS first, but they wouldn't help me, and so I  
30 went back to the CBC. I went back and forth a few  
31 times before the Cannabis Buyers' Club of Canada  
32 finally let me know what I needed, and they  
33 actually helped me with the fax machine get a hold  
34 of my doctor on Salt Spring, and we faxed a note  
35 over with my conditions, and I was signed up.
- 36 Q And at that time was the CBC of C located at 826  
37 Johnson Street?
- 38 A Yes, it was.
- 39 Q And at some point after joining the CBC of C, do  
40 you become more involved in the organization?
- 41 A I started volunteering almost right away, because  
42 it was -- I didn't meet Ted for two weeks. He was  
43 away on vacation. And there was very little  
44 staff, and it looked like they needed some help,  
45 so I started volunteering. And mostly I did a lot  
46 of cleaning, and I made posters and flyers, and  
47 things around town when -- and I started -- I

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- 1 found out that they had a Hempology  
2 Inter -- International Hempology Society, and so I  
3 started volunteering with that. We went to  
4 Camosun College and the University of Victoria  
5 every Wednesday afternoon and had a meeting, at  
6 3:20 at Camosun College, and 4:20 at the  
7 University of Victoria. And I'd help with those  
8 because Ted wasn't allowed on the campus at the  
9 university due to court cases pending.
- 10 Q And at some point subsequent to working as a  
11 volunteer do you become an employee?
- 12 A Yeah. I was there as a volun -- I was in the Club  
13 one day when somebody didn't show up for work, and  
14 they were pretty -- and it -- they were pretty  
15 desperate, so they asked me if I would work on the  
16 front desk, and I said I would, and that's how I  
17 started working with them. And I -- and I was  
18 employed for -- I worked part-time on the front  
19 desk for probably three years.
- 20 Q Would this have been around 2003 to 2006?
- 21 A That's correct.
- 22 Q And do you have any involvement in the bakery and  
23 the edible products?
- 24 A Well, I started -- I started talking to Ted about  
25 my past history of baking with cannabis. I  
26 didn't -- I wasn't involved with the baking, but I  
27 shared my knowledge of herbs, and -- and we had  
28 discussions about making other products of massage  
29 oils with -- mixing them with other herbs. And  
30 also the -- the addition of -- my naturopath on  
31 Salt Spring told me to start eating -- put  
32 lecithin in all of my baking to help with my  
33 joints. They would dislocate if I -- my joints  
34 dislocate if I'm exposed to too much chemical  
35 pollution. And so I started putting lecithin in  
36 my cannabis baking, and it seemed to increase the  
37 potency. And I didn't know if I was imagining it  
38 myself, at first, but my friends started asking me  
39 what I did to my baking, and I said all I did was  
40 put lecithin in it. So when I got to the Club,  
41 I -- we discussed that, why they -- if they had  
42 considered putting lecithin into the cookies.  
43 It's a fat emulsifier, so it helps your body  
44 absorb oils better.
- 45 Q And ultimately is that added to the baked goods?
- 46 A To the baked goods now, yes.
- 47 Q Does that -- does that role develop over time?

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 A Yes.
- 2 Q Can you tell His Lordship about the development of  
3 that role with the Club?
- 4 A Well, I just -- I just started helping with the  
5 bakery because I love baking. As I listened to  
6 people's complaints at the Club I realized what  
7 more people were -- you know, what more of my  
8 fellow members' problems were. I'd ask them if  
9 they tried some things, and they'd say, yeah, but  
10 it wasn't working quite so well. And that's what  
11 led me to make the first arnica oil. I went to my  
12 pharmacist and asked him what -- what's the best  
13 thing that -- herbal thing you know of -- to use  
14 for arthritis, and he said ar -- and he said  
15 arnica. And I asked him if there was any reason  
16 why we -- why we shouldn't be able to mix it with  
17 cannabis and use it topically, and he told me  
18 there was no reason, and I thanked him very much,  
19 and -- and I went back to the Club and we started  
20 making the arnica in the cannabis oil, was -- was  
21 the first combination infused oil that we made.  
22 And then soon after that we started making the  
23 St. John's wort mixed with cannabis oil. Because  
24 I'd already been using the St. John's wort oil for  
25 my knees, and when I mixed the two together, I  
26 couldn't believe how much better the pain relief  
27 was than just the straight St. John's wort by  
28 itself.
- 29 Q Do you ever actually work physically inside the  
30 bakery at the CBC of C?
- 31 A Only when -- only when the baker was ill or on  
32 holidays.
- 33 Q And you described having a part-time employment  
34 with the organization. Does that ever morph into  
35 a full-time?
- 36 A Yes, it did. I started working in distribution,  
37 and the distribution full-time, and -- what was  
38 that for? Probably for -- probably for about  
39 three years I worked full-time.
- 40 Q 2006 to 2009ish?
- 41 A Yeah. Around there, yeah.
- 42 Q When you say -- you described a couple of  
43 different jobs at the CBC of C. When you say  
44 front desk, my understanding is there's sort of a  
45 reception desk as you walk into the building?
- 46 A That's correct.
- 47 Q And that's the front desk?

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 A That's correct.
- 2 Q And what is that employee's role?
- 3 A It's basically keeping the Club safe, because
- 4 you're the first person that anybody coming
- 5 through the door meets. You -- you greet members,
- 6 ask for their membership card, check the -- check
- 7 the -- cross-reference their card number with the
- 8 database on the computer, or we have a card file
- 9 on the desk, to make sure that they're a member in
- 10 good standing, or there's no messages to be passed
- 11 on to them. And we check them in, and -- and they
- 12 go into the rest of the building to make their
- 13 purchase.
- 14 Q Then my understanding is there's then sort of an
- 15 open area, and if you turn left after the front
- 16 desk, and left again, you're standing in front of
- 17 a counter.
- 18 A Well, that's now. At that time the distribution
- 19 was in a separate room.
- 20 Q But at least now that counter is where members
- 21 would actually make the purchases?
- 22 A That's correct.
- 23 Q And so when you talk about being in distribution,
- 24 what's your role in distribution?
- 25 A In distribution, you -- the members ask what kind
- 26 of medicine is best for their condition, and we
- 27 supply -- they let us know what they want, and we
- 28 supply that to them.
- 29 Q And so the person working in distribution actually
- 30 sells the cannabis products?
- 31 A That's correct. And the baked goods.
- 32 Q And there's a -- I take it there's a fair bit of
- 33 back and forth between the members and the staff?
- 34 A Yes, there is.
- 35 Q And did that --
- 36 A A lot.
- 37 Q A lot. And did that inform your recommendations
- 38 to Mr. Ted Smith or other staff members about
- 39 product development?
- 40 A I al -- sorry.
- 41 Q Did the dialogues you were having with the
- 42 members, is that part of the product development
- 43 process?
- 44 A Oh, yes, very much so. Like I say, we made the
- 45 arnica oil first because so many people were
- 46 complaining of arth -- arthritic pain. And a lot
- 47 of the members are really stuck on smoking, and it



## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

1 really takes a lot of engagement and explaining to  
2 them the benefits of using it topically, and  
3 it -- and eating it, for them to actually try it.

4 So, like, if -- one member came and says, "I  
5 really want to cut down on my smoking," to me, one  
6 day. And he says, "Well, have you tried eating  
7 the Ryanols?" They're little capsules, a very  
8 minute dose of leaf suspended in olive oil. And I  
9 said, "If you eat two of those in the morning and  
10 two more later in the day, experiment a little  
11 bit, most people cut their smoking in half." And  
12 three days later he came back, and he was just  
13 bubbly with me, and he said, you're -- I  
14 can't -- "I can't believe that you were so right."  
15 He said, "In three days I've cut my smoking in  
16 half." So he -- just by eating the Ryanols.

17 Q Have you --

18 A So --

19 Q During your time working in distribution, did you  
20 notice changes in the purchasing patterns of  
21 members who began to use some of the other  
22 non-smoked products?

23 A Well, yeah. We've developed a lot more people who  
24 come in and use the cookies regularly. We have  
25 members that don't buy the smoke, the raw herb, at  
26 all. They only come for the edibles and the  
27 massage oils. We've had -- we've had  
28 member -- we've had a member come and turn her  
29 card back in after she was cleared from cancer.  
30 She only joined the Club to fight her cancer, and  
31 when she was given the all clear, she turned her  
32 card back in to -- to discontinue her use, and  
33 said, "Thank you very much for all the help."

34 So we have a very varied -- some things have  
35 been on the spot. One of our members came to me  
36 very distraught. She had third degree burn  
37 blisters all over her whole body from -- she  
38 reacted to one of her radiation treatments. And  
39 the doctors told her she was going to have to have  
40 a skin graft done. And so I asked her if -- like,  
41 just give me the night, at least. It took me  
42 almost two days to come up with an aloe vera  
43 salve. It had cannabis and aloe vera and shea  
44 butter and lavender oil, which is a specific also  
45 for burns. And gave that to her, and a week later  
46 she came back and said her -- and showed her  
47 doctors first, and they couldn't believe her skin.

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 She showed me three little tiny scars on her arm,  
2 and she had -- didn't have to have any skin  
3 grafts. Her specialists couldn't believe the  
4 condition of her skin.
- 5 Q At some point do you cease working for the CBC of  
6 C as an employee?
- 7 A Yes. When my health started to deteriorate, I was  
8 fired.
- 9 Q And what period of time was this?
- 10 A That was in -- that was in 2009.
- 11 Q Do you continue to have a non-employee role with  
12 the CBC of C?
- 13 A Yes, I do. People can leave their name at the  
14 front desk. We tell -- they're told during the  
15 sign-up sheet that if they have health concerns  
16 and would like more information or -- or  
17 one-on-one support, that they could make an  
18 appointment to see myself.
- 19 Q Is this on a volunteer basis?
- 20 A Yes, it is.
- 21 Q And are you familiar with the accused, Mr. Owen  
22 Smith?
- 23 A Yes, I am.
- 24 Q When did you first meet him?
- 25 A I met -- I met Owen Smith in 2003 at the Camosun  
26 College Hempology meetings.
- 27 Q And you're aware at some point he becomes an  
28 employee of the CBC of C?
- 29 A Yes, I was aware, yeah.
- 30 Q Are you an employee -- is there an overlap in your  
31 periods of employment?
- 32 A Yeah, we were both employed at the same time, Your  
33 Honour, yeah.
- 34 Q Are you aware at some point he -- he works in the  
35 bakery?
- 36 A Well, he -- he started working right in the  
37 bakery, because before he worked in the bakery he  
38 came to me and -- and expressed an interest in  
39 learning how to bake with cannabis, and had a  
40 friend who had a good leaf supply, and I agreed to  
41 go to their home and teach them both how to bake.
- 42 Q And did you do that?
- 43 A Yes, I did.
- 44 MR. TOUSAW: My Lord, I note the time. I have just a  
45 few documents that I'm going to seek to introduce  
46 through this witness.
- 47 THE COURT: All right.

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

1 MR. TOUSAW: Perhaps now would be an opportune time.

2 THE COURT: We'll take 15 minutes.

3 THE CLERK: Order in court.

4

5 (WITNESS STOOD DOWN)

6

7 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)

8 (PROCEEDINGS RECONVENED)

9

10 THE CLERK: Order in court.

11

12 **GAYLE QUIN**

13 a witness called for the  
14 Accused, recalled.

15

16 MR. TOUSAW: Thank you, My Lord.

17

18 **EXAM IN CHIEF ON VOIR DIRE BY MR. TOUSAW, CONTINUING:**

19

20 Q Ms. Quin, you've described a regimen of using  
21 cannabis for a variety of conditions. Focussing  
22 just on the pain you described, postoperative pain  
23 from mastectomy, have you used any conventional  
24 pharmaceuticals to deal with that pain?

25 A No, I haven't.

26 Q Do you currently use any conventional  
27 pharmaceuticals?

28 A No, I don't.

29 Q Through the course of the various conditions that  
30 you've described, and I don't want to take you all  
31 the way back to childhood, but at least in your  
32 adult life, have you had occasion to take  
33 conventional pharmaceuticals for any of those  
34 conditions?

35 A As I described earlier, in my late teens and early  
36 twenties I was put on numerous batteries of  
37 antibiotics, and since -- I think since after my  
38 hysterectomy in 1985 I think was probably the last  
39 time -- oh, no, the ear -- the antibiotic ear  
40 drops was the last time I used any kind of  
41 pharmaceuticals, except for when I was in the  
42 hospital with my mastectomy I ate one of  
43 their -- the nurse was really upset that I didn't  
44 want any painkillers or any anti-inflammatories,  
45 and so I finally agreed to eat one of their  
46 anti-inflammatories to settle their minds. And  
47 it -- it upset my stomach and -- and my

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

1 intestines, so when they asked me if I wanted  
2 another one, I refused it. I didn't [inaudible].  
3 MR. TOUSAW: My Lord, I'm going to -- my friend has a  
4 copy of this. I'm going to pass a document  
5 forward titled -- the title of is, "Cannabis  
6 Buyers' Club of Canada, Medicinal Cannabis Recipe  
7 Book." I'm going to ask that it be marked as the  
8 next exhibit in these proceedings.

9 THE COURT: What number are we at?

10 THE CLERK: This will be Exhibit 18, My Lord.

11 THE COURT: Exhibit 18.

12

13 **EXHIBIT 18 (on voir dire #1): Cannabis**  
14 **Buyers' Club of Canada - Medicinal Cannabis**  
15 **Recipe Book**

16

17 MR. TOUSAW: And I'll ask that when that's ready it be  
18 shown to the witness.

19 Q Ms. Quin, what's been marked as Exhibit 18 in  
20 these proceedings has been just put in front of  
21 you. I'm going to ask if you recognize that  
22 document.

23 A Yes, I do.

24 Q And what is it?

25 A It's our -- it's our recipe book that we put  
26 online.

27 Q And are you the Gayle Quin that's listed as,  
28 "Introduction by Gayle Quin and Ted Smith"?

29 A Yes, I am.

30 Q Did you have a role in putting this recipe book  
31 together?

32 A I did.

33 Q What role was that?

34 A I try to -- I made sure that the recipes were all  
35 correct. I made sure that there is as much  
36 current information that I could get about the  
37 products that we use in our baking, and how we do  
38 our baking. It describes the decarboxylation  
39 process that we put the raw material through  
40 before we bake -- before we infuse it into olive  
41 oil.

42 Q And have you --

43 A [Inaudible]

44 Q Have you actually yourself done and made all of  
45 these recipes?

46 A Yes, I have.

47 Q And have you yourself tried all of these products?

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 A Yes, I have.
- 2 Q Are the recipes set in stone, or is there any sort  
3 of developmental process?
- 4 A As -- as science and our information increases, we  
5 alter the recipes if they need it, and if we think  
6 they can be improved upon. Like I mentioned  
7 earlier, the addition of the lecithin into the  
8 edibles.
- 9 Q You were here and present in court on Monday of  
10 this week when the exhibit officer testified?
- 11 A Yes, I was.
- 12 Q And you heard some testimony about something  
13 called Ryanol?
- 14 A Yes, that's correct.
- 15 Q Is that the item that appears at page 10 of these  
16 proceedings? Page 10, sorry, of Exhibit 18.
- 17 A Yes, it is.
- 18 Q And did you yourself have occasion to be in the  
19 Chelsea apartments where the bakery for the CBC of  
20 C operated prior to December 3, 2009?
- 21 A Yes.
- 22 Q And were you familiar with the contents of the  
23 refrigerator?
- 24 A Yes, I was.
- 25 Q And based on your understanding of the testimony  
26 of the exhibit officer, were the materials  
27 photographed and seized from the Chelsea apartment  
28 on December 3, 2009, were they the ingredients  
29 that are --
- 30 A [Indiscernible].
- 31 Q -- listed in this medicinal cannabis recipe book?
- 32 A Yes, they are, yeah. The empty syringes used  
33 to -- we set the -- the oil up with it, put it  
34 into the capsules. Because you don't want to get  
35 any oil on the outside of the capsules, or it  
36 starts to dissolve them.
- 37 Q And similarly, the other products, such as Buddha  
38 Balls and the extra-strength cookies and the  
39 Cannoil, those are all products used to make the  
40 recipes in this book?
- 41 A That's correct.
- 42 Q I note that -- you mention that this is available  
43 online; it's on the website of the Cannabis  
44 Buyers' Club of Canada, is that right?
- 45 A That's -- that's correct.
- 46 Q And I note that there -- for example on page 17 at  
47 the bottom of that page, page 17 of Exhibit 18,

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

1           there's what appears to be a hyperlink that says,  
2           "View our Cannapatch video tutorial here." I take  
3           it that there are certain videos that exist online  
4           as well?

5       A     Yeah, that's -- that's correct.

6       Q     In the nature of demonstration videos?

7       A     Yeah, yes.

8       Q     And is this document, Exhibit 18, something that's  
9           available to your members on request?

10      A     We refer them to the online version. We don't  
11           print the copy out to give out.

12      Q     And if the person were unable to access the online  
13           version?

14      A     We have a copy at work that they could look at.

15      Q     I don't have any further questions with respect to  
16           Exhibit 18. You can --

17      A     Okay.

18      Q     -- pass it back to the clerk.

19      A     Thank you.

20      MR. TOUSAW: My Lord, the next document that I have,  
21           I'm passing my friend a copy, is a Vancouver  
22           Island Health Authority Department of Medical  
23           Imaging, breast imaging, what appears to be a  
24           report. I'm going to ask that that be marked as  
25           Exhibit 19 in these proceedings.

26      THE COURT: Exhibit 19.

27      THE CLERK: Exhibit 19, My Lord.

28

29                           **EXHIBIT 19 (on voir dire #1): Breast imaging**  
30                           **report - exam date 18-Apr-2011**

31

32      MR. TOUSAW:

33      Q     Ms. Quin, Exhibit 19 has just been handed to you.  
34           I'm going to ask you if you recognize that  
35           document.

36      A     Yes, I do.

37      Q     And is this something that was provided to you by  
38           your physician?

39      A     Yes, it was. I had to fill out a request, an  
40           information request form to get a copy of all of  
41           my test results, for the naturopath.

42      Q     There's a date, an exam date and time at the top  
43           centre of Exhibit 19, 18 April, 2011. Is that  
44           consistent with the testimony you gave earlier  
45           today about when you had an ultrasound and  
46           mammogram on your right breast?

47      A     Yeah, that's correct.

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

1 MR. TOUSAW: I don't have any further questions on  
2 Exhibit 19, My Lord.

3 A Thank you.

4 MR. TOUSAW: My Lord, the next document I've given my  
5 friend a copy of and handed up is titled,  
6 "Histopathology Report," and it's dated -- appears  
7 to be dated 24 -- at least with a collection date  
8 on the bottom right of 24 June 2011 and a received  
9 date 27 June 2011. Looks like the report is as of  
10 4 July 2011. I'll ask that that be marked as  
11 Exhibit 20 in these proceedings. It's a four-page  
12 document.

13 THE COURT: Exhibit 20.

14 MR. TOUSAW: Thank you, My Lord.

15 THE CLERK: Exhibit 20, My Lord.

16

17 **EXHIBIT 20 (on voir dire #1): Histopathology**  
18 **Report for Gayle Quin**

19

20 MR. TOUSAW:

21 Q Ms. Quin, Exhibit 20 has been put in front of you.  
22 Do you recognize that document?

23 A Yes, I do.

24 Q And is it your understanding that this is a report  
25 conducted subsequent to your mastectomy on the  
26 materials that were removed?

27 A Yes.

28 Q And did you obtain this from a physician as well?

29 A Yes.

30 MR. TOUSAW: I don't have any further questions with  
31 respect to Exhibit 20, My Lord.

32 A Thank you.

33 MR. TOUSAW: My Lord, the next document that I'm going  
34 to pass forward is dated November 28, 1997.  
35 Appears to be a prescription sheet, or at least a  
36 doctor's note sheet from a Dr. Roland Graham, and  
37 I'd ask that that be Exhibit 21 in these  
38 proceedings.

39 THE COURT: Exhibit 21.

40 THE CLERK: Twenty-one.

41 MR. TOUSAW: Thank you, My Lord.

42

43 **EXHIBIT 21 (on voir dire #1): Prescription**  
44 **sheet from Dr. Roland Graham dated November**  
45 **28, 1997**

46

47 A Thank you.

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 MR. TOUSAW:  
2 Q Ms. Quin, Exhibit 21 has been placed in front of  
3 you. I just ask you the same question; do you  
4 recognize that document?  
5 A Yes, I do.  
6 Q And was Dr. Roland Graham your treating physician?  
7 A He was my treating physician when I acquired  
8 hepatitis C, yeah. Yes.  
9 Q And did you obtain that from Dr. Graham?  
10 A Yes, I did. I believe he was trying to help me  
11 get funding with -- in regards to getting my  
12 amalgams, fillings, taken out.  
13 Q Did you ultimately get those fillings removed?  
14 A Yes, I did.  
15 Q Did you ultimately obtain funding for that?  
16 A No, I didn't.  
17 MR. TOUSAW: I don't have any further questions with  
18 respect to Exhibit 21, My Lord.  
19 The last document I'm going to pass forward,  
20 My Lord, is a four-page, again -- sorry,  
21 three-page document entitled, "Urine Toxic  
22 Metals." Appears to be dated August 12, 2002.  
23 I'd ask that it be marked as Exhibit 21 in these  
24 proceedings. There's a colour copy that's the  
25 original.  
26 THE COURT: Twenty-two?  
27 MR. TOUSAW: Twenty-two, yes, My Lord. Thank you. The  
28 colour's the original. The black and white copies  
29 are simply copies.  
30 THE COURT: Exhibit 22.  
31 THE CLERK: Twenty-two, My Lord.  
32  
33 **EXHIBIT 22 (on voir dire #1): Urine Toxic**  
34 **Metals report of Dr. Peter Nunn dated August**  
35 **12, 2002**  
36  
37 A Thank you.  
38 MR. TOUSAW:  
39 Q Ms. Quin, Exhibit 22 has been put in front of you,  
40 and I'll ask you, do you recognize that document?  
41 A Yes, I do.  
42 Q And it lists, in the top right corner, a doctor,  
43 Dr. Peter Nunn, MD. Do you recognize that name?  
44 A That's -- yes, I do.  
45 Q And who is that?  
46 A He -- he was my physician who was giving me the  
47 heavy metal detoxification treatments in Victoria.



## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 Q And I note that it's Peter Nunn, MD. Is it your  
2 understanding that he's a medical doctor?
- 3 A Yes. He used to be a surgeon, that -- he realized  
4 he wasn't helping people get better, so he  
5 switched his practice to more naturopathic  
6 practice, and he pretty much only did the heavy  
7 metal detoxification treatments when I was seeing  
8 him. He was specializing in that.
- 9 Q Do you know if he -- I note approximately halfway  
10 down the page -- well, this appears to show levels  
11 of metals within the body. Is that your  
12 understanding?
- 13 A That's correct.
- 14 Q And does this inform your statements earlier with  
15 respect to the elevated levels of mercury?
- 16 A Yes.
- 17 Q And is it your understanding that, sitting here  
18 today, or at least at your last test, you've had  
19 lower mercury levels than this?
- 20 A Yeah, that's correct.
- 21 Q And do you treat with Dr. Nunn any longer?
- 22 A No. He retired.
- 23 Q And your new treating naturopath is?
- 24 A Is Dr. Kristen Bovee.
- 25 MR. TOUSAW: I don't have any further questions on  
26 Exhibit 22. Thank you, My Lord.
- 27 A Thank you.
- 28 Q Ms. Quin, are you familiar with what's known as  
29 the Medical Marihuana Access Regulations?
- 30 A Yes, I am.
- 31 Q And do you currently hold an authorization to  
32 possess issued by Health Canada?
- 33 A Yes, I do.
- 34 Q And when did you obtain that authorization to  
35 possess?
- 36 A I obtained that after I saw the specialist at the  
37 hospital and got my mammogram report.
- 38 Q And who -- my understanding is that a physician  
39 has to sign an application form in order to obtain  
40 a licence; is that your understanding?
- 41 A That's correct.
- 42 Q And who signed that form?
- 43 A Dr. Gooch in Duncan, B.C.
- 44 Q And is Dr. Gooch your treating physician?
- 45 A No, he's not.
- 46 Q For what purpose did you attend at Dr. Gooch's  
47 office?

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 A To get my MMAR licence.
- 2 Q And you were able to do so?
- 3 A Yes, I was. Because I had a statement from the  
4 specialist that I had breast cancer.
- 5 Q Is it your understanding that breast cancer  
6 is -- or cancer is what's known as a Category 1  
7 condition under the MMAR?
- 8 A That's correct.
- 9 Q You would have attended with Dr. Gooch, then,  
10 sometime in the late spring or early summer of  
11 2011, is that correct?
- 12 A That's right.
- 13 Q Did you have an authorization to possess dried  
14 marihuana on December 3rd, 2009?
- 15 A No, I did not.
- 16 Q Had you made -- over the course of the various  
17 attendances at different physicians' offices that  
18 you described earlier in your testimony, had you  
19 made any prior attempts to have a physician  
20 authorize you to possess dried marihuana?
- 21 A I never got that far in the interviews to be able  
22 to ask the question, since that's what I was  
23 hoping to be able to do after I found a physician  
24 to look after me. My ultimate goal was to be able  
25 to get a Health Canada card, but my first priority  
26 was just simply to find a doctor to help me.
- 27 Q And this is when you experienced what you  
28 described earlier in your testimony as the  
29 physicians not being willing to treat you?
- 30 A That's correct.
- 31 Q When did you first learn about the existence of a  
32 program that allowed you to lawfully possess dried  
33 marihuana?
- 34 A In 2001, when it first came out.
- 35 Q And when did you first begin attempts to gain  
36 access to the legal protections of that program?
- 37 A Well, the first doctor that I went to, to see, and  
38 was turned away from.
- 39 Q What year would that have been?
- 40 A I think it was in 2003. I'm not -- I'm not  
41 positive, though.
- 42 Q You now have the authorization to possess dried  
43 marihuana, correct?
- 44 A That's correct.
- 45 Q And is it your understanding that your  
46 authorization to possess dried marihuana also  
47 allows you to make the massage oil, for example?

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 A No, I'm not aware.
- 2 Q Is it your understanding that your authorization  
3 to possess allows you to extract the active  
4 ingredients into the butter?
- 5 A No. As far as -- as far as I understand, I'm not  
6 allowed to do that. I haven't been keeping up to  
7 date with the changes as much as I'd like to  
8 because of my health concerns.
- 9 Q Has -- have you ever -- subsequent to receiving an  
10 authorization to possess dried marihuana, has  
11 Health Canada ever provided with you any  
12 information about how to make the massage oils or  
13 the butters or the other products that you use?
- 14 A No, they haven't.
- 15 Q Has Health Canada ever provided to you -- directly  
16 as opposed to indirectly on its website, has  
17 Health Canada ever provided to you a document  
18 titled, "Information for Health Care  
19 Professionals"?
- 20 A No.
- 21 Q Has Health Canada ever provided directly to you a  
22 document in the nature of frequently asked  
23 questions about medical use of marihuana?
- 24 A Yes. There was a document like that, I think, in  
25 with my --
- 26 THE COURT: Sorry, what was that, ma'am? I can't hear  
27 you.
- 28 A There's a -- I think I remember there was a page  
29 that said, "Frequently asked questions about the  
30 use of marihuana," or, "Things you should know."  
31 I'm not sure, sorry.
- 32 MR. TOUSAW: Could I have --
- 33 A I'm not --
- 34 MR. TOUSAW: -- what's been marked as Exhibit C for  
35 identification put before Ms. Quin, please?
- 36 A I can't remember precisely what all is in the  
37 package, off the top of my head.
- 38 Q And, Ms. Quin, the document that's been marked in  
39 these proceedings as Exhibit C for identification  
40 has been placed in front of you. I'm going to ask  
41 you to turn to Tab 1. And while you're doing  
42 that -- well, I'll ask you, have you ever seen the  
43 document that appears at Tab 1?
- 44 A No.
- 45 Q I'll ask you to turn to Tab 2. Same question;  
46 have you seen the document that appears at Tab 2?
- 47 A No, I haven't seen this before.

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 Q I'll turn to Tab 9, ask you to turn to Tab 9.  
2 Have you seen the document that appears at Tab 9?
- 3 A Having a little bit of trouble reading without my  
4 glasses on, sorry.
- 5 THE COURT: Do you have your glasses here?
- 6 A No, I don't, sorry. I forgot them this morning.  
7 It looks similar to the application form we  
8 had to fill out, but it's not quite the same.  
9 It's not the same.
- 10 MR. TOUSAW:
- 11 Q And Tab 10?
- 12 A Just --
- 13 Q Have you seen that before?
- 14 A No.
- 15 MR. TOUSAW: No further questions on Exhibit C for  
16 identification. Thank you, My Lord.
- 17 A Sorry.
- 18 Q Ms. Quin, in the period between 2003 and 2011,  
19 when Dr. Gooch signed your application to possess  
20 dried marihuana, did you ever contact Health  
21 Canada seeking to find the name of doctors that  
22 were willing to sign these application forms?
- 23 A No, Your Honour, I didn't. I was actually in  
24 disagreement with the program, and I didn't -- and  
25 I was more interested in just finding a doctor to  
26 help me than getting my MMAR forms signed.
- 27 Q Are you aware of whether or not Health Canada  
28 maintains a list of signing physicians on its  
29 website?
- 30 A No, I'm not aware of that.
- 31 Q Have you -- you're aware that you have the  
32 opportunity to ...
- 33 MR. TOUSAW: I just have one more document to pass up,  
34 Your Honour. I apologize; this one's unstapled.  
35 It is a two-page document.
- 36 THE CLERK: I have a stapler, My Lord.
- 37 MR TOUSAW: Thank you.
- 38 THE COURT: All right.
- 39 MR. TOUSAW: I pass a copy to my friend. It's not the  
40 best looking printout, My Lord, but I ask that it  
41 be marked as Exhibit 23.
- 42 THE COURT: Exhibit 23.
- 43 THE CLERK: Twenty-three.
- 44
- 45 **EXHIBIT 23 (on voir dire #1): Letter from**  
46 **Dr. Kristen Bovee dated January 6, 2012**  
47

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 MR. TOUSAW:  
2 Q Ms. Quin, Exhibit 23 in these proceedings has been  
3 put in front of you, and on the second page of  
4 that document there appears to be a signature and  
5 a stamp of a Dr. Kristen Bovee, MD. Is that the  
6 naturopathic doctor that you treat with?  
7 A Yes, it is.  
8 Q And do you recognize this, this document?  
9 A Yes, it is. I asked her if she would write a  
10 support letter for me for court.  
11 Q And this is the document that you received there?  
12 A Yes.  
13 Q I appreciate it's a little difficult to read.  
14 A Yeah, it's a little difficult to read, but, yeah,  
15 it looks like it.  
16 Q I have --  
17 A Natural medicines. Yeah.  
18 THE COURT: Pardon me?  
19 A I'm trying to read. It says, "Throughout her  
20 care, Gayle utilized natural medicines." Yeah,  
21 this is the document.  
22 MR. TOUSAW:  
23 Q And this -- this document indicates that you first  
24 attended on March 14, 2011, at Dr. Bovee's office.  
25 That's in the first --  
26 A Okay, yeah.  
27 Q -- paragraph. Does that --  
28 A Mm-hmm.  
29 Q -- comport with your understanding?  
30 A Yes.  
31 Q And in the fourth paragraph there's an indication  
32 that -- that you, Ms. Quin, followed Dr. Bovee's  
33 encouragement to obtain an ultrasound, a  
34 mammogram. Does that comport with --  
35 A That's --  
36 Q -- what you testified to earlier today?  
37 A That's correct.  
38 Q And it's accurate that during the course of your  
39 care you used natural medicines?  
40 A That's correct. I used only natural meth -- only  
41 natural medicines except for the one single  
42 anti-inflammatory pill that I ate in the hospital.  
43 Q There is a description in the last full paragraph,  
44 page 1, of your use of massage oil and a  
45 description of the healing of your incisions and  
46 minimal swelling. Does that comport with your  
47 understanding of what was happening to your body

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 as you were using these products?
- 2 A Yes. In fact I had to -- I had a little bit of  
3 trouble with my drain, and I had to go to see  
4 a -- my surgeon was away, so I had to see another  
5 surgeon, and I had to go to emergency once, and  
6 saw a nurse there about my drain, too. And  
7 everybody who -- all of the doctors that looked at  
8 my incision were just amazed at how well it had  
9 healed and how little swelling I had. I got  
10 comments from every doctor that looked at me about  
11 it.
- 12 Q My understanding is that your authorization to  
13 possess dried marihuana is issued for a one-year  
14 period; is that accurate?
- 15 A That's correct.
- 16 Q And when does your authorization to possess dried  
17 marihuana expire?
- 18 A It will expire in next Ju -- June or July.
- 19 Q Have you had any assurances from Dr. Gooch or any  
20 other physician that you'll be able to renew that  
21 licence?
- 22 A Not yet. I haven't been to see Dr. Gooch again  
23 yet.
- 24 Q From the time that you saw Dr. Gooch -- and he, I  
25 take it, signed what's known as a Form B1 on your  
26 behalf?
- 27 A Mm-hmm.
- 28 Q You have to say "yes" or "no".
- 29 A Yes. Yes, sir.
- 30 Q From the --
- 31 MR. ECCLES: My Lord, I will at this point caution my  
32 friend to avoid leading regarding specific details  
33 of forms and information. The Crown would prefer  
34 that we know what the witness recalls, as opposed  
35 to what Mr. Tousaw knows.
- 36 MR. TOUSAW: Yes, My Lord.
- 37 Q Dr. Gooch signed some forms on your behalf, is  
38 that correct?
- 39 A Yes, he did.
- 40 Q And what's the next step in the process that you  
41 took to obtain a licence from Health Canada?
- 42 A I went -- I went to see Dr. Gooch, and he had an  
43 in depth discussion about my history, and I showed  
44 him the mammograms, and he agreed that I would be  
45 a candidate for these, considering that the  
46 surgeon had recommended that I go through  
47 radiation or chemotherapy, and he signed the

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 forms. And we -- I paid him \$125, and we mailed  
2 them in. We mailed them in, and I got my  
3 authorization back in the mail in about six weeks  
4 later.
- 5 Q And you say "the forms". Do you recall which  
6 forms precisely you had to submit?
- 7 A I had to submit the -- the doctor -- the doctors  
8 submit, there's, like, four forms. First one for  
9 the -- maybe one for the doctor and my condition,  
10 and there was three pages to that, I believe, with  
11 how much he prescribed for me to take a day, which  
12 my prescription is 10 grams a day, and because I  
13 like to eat it, it takes -- you need more to eat  
14 to get medicinal effects than smoking. And I  
15 filled out, I can't remember the name, which  
16 exactly number the form is, but I also filled out  
17 the form to obtain dried cannabis from the  
18 government.
- 19 Q And have you obtained that cannabis?
- 20 A No.
- 21 Q Did you -- well, how did you --
- 22 A [Indiscernible]
- 23 Q How did you find the process of obtaining your  
24 authorization to possess?
- 25 A Well, I helped other people at the Club who want  
26 to apply for it. We have all the MMAR forms at  
27 the Club for people who want to apply for their  
28 licence, and we encourage people to do that. So  
29 I've known about the process for a while, yeah.  
30 But I just didn't access it, because I  
31 had -- didn't have a doctor.
- 32 Q So you were familiar with the forms that needed to  
33 be filled out and what you -- the steps you needed  
34 to take?
- 35 A Yes, I was.
- 36 Q Since receiving your authorization to possess  
37 dried marihuana, where do you obtain your -- where  
38 do you obtain your cannabis?
- 39 A I -- I obtain my cannabis from the Cannabis  
40 Buyers' Club of Canada.
- 41 Q And does that include dried cannabis and other  
42 products?
- 43 A Yes, it does. I'm extremely -- as I've said  
44 before, I'm extremely chemically sensitive, and  
45 other people -- a couple of people have brought in  
46 their dried cannabis that they received from  
47 Health Canada, and -- for us to look at, and just

## VOIR DIRE

Gayle Quin (for Accused)

in chief on voir dire by Mr. Tousaw

- 1 from the conditions that it was growing -- grown  
2 under and by looking at it and smelling at it, I  
3 knew I wouldn't be able to smoke it, because I  
4 could -- just from smelling it, I could detect  
5 chemical residues.
- 6 Q And have you actually ever consumed the cannabis  
7 sold by Health Canada?
- 8 A No, I haven't.
- 9 Q To your knowledge are you able to purchase medical  
10 cannabis derivatives such as the oils or the  
11 cookies from Health Canada?
- 12 A No, not that I'm aware of.
- 13 Q When you have reviewed the various forms that you  
14 say you've reviewed at Cannabis Buyers' Club of  
15 Canada, or in your own application process, have  
16 you ever seen a form that was a sort of an order  
17 form for non-dried cannabis?
- 18 A No, I haven't.
- 19 MR. TOUSAW: If I can have a moment just to speak to my  
20 client, My Lord?
- 21 THE COURT: Yes.
- 22 MR. TOUSAW: My Lord, those are my questions for this  
23 witness.
- 24 THE COURT: Mr. Eccles.
- 25 MR. ECCLES: Thank you, My Lord.

**CROSS-EXAMINATION ON VOIR DIRE BY MR. ECCLES:**

- 27  
28
- 29 Q Ms. Quin, items, the medical records, Exhibits 19,  
30 20, 21, 22, and 23 that have been entered into the  
31 proceedings today, when were those materials  
32 provided to my friend?
- 33 A The -- the medical --
- 34 Q Yeah, the medical stuff.
- 35 A -- reports?
- 36 Q Yeah.
- 37 A I -- yesterday.
- 38 Q Now, for a number of years, as I understand it,  
39 you worked as a long-term care aide; is that  
40 correct?
- 41 A That's correct.
- 42 Q And was that primarily in Salt Spring -- in Salt  
43 Spring Island, here in the Province of British  
44 Columbia?
- 45 A Yes, that's right. I worked for two years in  
46 Victoria first, at the Glengarry hospitals.
- 47 Q And you trained at Camos -- or you took schooling



## VOIR DIRE

Gayle Quin (for Accused)

cross-exam on voir dire by Mr. Eccles

- 1 at Camosun College?
- 2 A Camosun College.
- 3 Q Camosun? Sorry, I never --
- 4 A That's correct.
- 5 Q -- pronounce that --
- 6 A That's correct.
- 7 Q How long is the long-term care aide program at
- 8 Camosun?
- 9 A It was four months.
- 10 Q And as a long-term care aide, what predom -- who
- 11 predominantly was it that you would be providing
- 12 care to?
- 13 A The -- the residents of the hospital, who
- 14 is -- extended care hospitals, so they were
- 15 elderly residents.
- 16 Q And that particular line of employment involves
- 17 caring for elderly individuals in varying states
- 18 of health, correct?
- 19 A That's correct.
- 20 Q Some are bedridden and require lifting assistance
- 21 to transfer from one bed to another, or even turn
- 22 over to avoid bed sores, correct?
- 23 A That's correct.
- 24 Q It can be physically demanding work, correct?
- 25 A It was very physically demanding work.
- 26 Q In recent years Workers' Compensation Board has
- 27 imposed requirements on long-term care facilities
- 28 and hospitals to assist long-term care aides with
- 29 lifting of patients, and the like, to obviate some
- 30 of the load of trying to lift a 200-pound
- 31 individual from one bed to another; is that
- 32 correct?
- 33 A We had -- we -- we were taught how to lift people
- 34 in teams, and in extreme cases we had what was
- 35 called a Hoyer Lift, and it was basically a sling
- 36 that you could lay underneath a person and jack
- 37 them up and transfer them from the bed into a
- 38 chair, or into the bathtub, or whatever. So that
- 39 was for people who were capable of helping
- 40 transfer on their own.
- 41 Q As a long-term care aide, you're not authorized to
- 42 prescribe medications to patients, right?
- 43 A That's correct.
- 44 Q And --
- 45 A Or administer.
- 46 Q Or administer?
- 47 A Yeah.

## VOIR DIRE

Gayle Quin (for Accused)

cross-exam on voir dire by Mr. Eccles

- 1 Q And as a long-term care aide, the Camosun College  
2 program covers all aspects of health-care for  
3 debilitated or long-term care patients in the four  
4 months that you take the course, correct?
- 5 A That's correct.
- 6 Q Focusing on safe lifting practices, things to  
7 observe for, bed sores and the like?
- 8 A Yeah, that's correct. And general care of  
9 geriatrics.
- 10 Q And that includes care and how to deal with  
11 elderly Alzheimer's patients, correct?
- 12 A That's correct.
- 13 Q There are serious -- occasionally serious mental  
14 health issues with the elderly suffering from  
15 dementia or Alzheimer's, correct?
- 16 A Very much so.
- 17 Q They can become quite violent, through no fault of  
18 their own; it's just part of the disease, correct?
- 19 A That's correct.
- 20 Q And that's something you're trained in through  
21 Camosun College?
- 22 A That's correct.
- 23 Q How to assist and how to deal compassionately and  
24 effectively with senile dementia patients,  
25 Alzheimer's patients, and the like?
- 26 A That's correct, Your Honour.
- 27 Q That's all part of what's covered in the  
28 four-month program?
- 29 A Mm-hmm, yes.
- 30 Q You're not a registered nurse, are you?
- 31 A No, I'm not.
- 32 Q You're not a naturopath?
- 33 A No, I'm not.
- 34 Q You're not an herbalist?
- 35 A No, I'm not.
- 36 Q You're not a traditional Chinese medicine  
37 practitioner?
- 38 A No, I'm not.
- 39 Q Now, when did you stop working as a long-term care  
40 aide? I probably have it here, but I've lost  
41 track of it.
- 42 A Oh, jeeppers. It would have been 1989, very late,  
43 when I was hospitalized with hepatitis C. I  
44 wasn't able to return back to work after that.
- 45 MR. ECCLES: Could the witness be shown Exhibit 18,  
46 please?
- 47 A Thank you.

## VOIR DIRE

Gayle Quin (for Accused)

cross-exam on voir dire by Mr. Eccles

- 1 Q Now, this is a printout of the Cannabis Buyers'  
2 Club of Canada, Medical Cannabis Recipe Book,  
3 correct?
- 4 A That's correct.
- 5 Q And this is available on the CBC of C's website in  
6 a number of formats, PDF format, so that an  
7 individual who's interested can go to the website,  
8 open the document, and then print it out, correct?
- 9 A That's correct.
- 10 Q The introduction to that document, the first page,  
11 who authored that introduction? Is that your  
12 writing or is that Mr. Smith's or did you work --
- 13 A It's a combination --
- 14 Q -- together?
- 15 A -- we worked together on.
- 16 Q And I take it that in the introductory section,  
17 down to page 2, "Methods," you're setting out the  
18 joint beliefs of yourself and Mr. Smith regarding  
19 the efficacy of cannabis as a health product,  
20 correct?
- 21 A That's correct.
- 22 Q And you've indicated as well that part of what you  
23 did do, and as I understand it currently do at the  
24 CBC of C, is assist individuals who are members or  
25 seeking membership with knowledge about the  
26 efficacy of cannabis products to treat the  
27 conditions they advise you of, correct?
- 28 A That's correct.
- 29 Q And you assist them in advising them as to what  
30 particular form of cannabis product would best  
31 suit their needs?
- 32 A That's correct.
- 33 Q And in doing so, you're mindful of -- you're not  
34 departing from the information contained on page 1  
35 of the Cannabis Buyers' Club of Canada, Medical  
36 Cannabis Recipe Book, in the introduction, the  
37 purportions [phonetic] at page 1 that describe the  
38 efficacy of cannabis in treatment of individuals,  
39 that's fair? Let me back up and try that again.  
40 When you're assisting members who come forward to  
41 the Club and want advice on what product they  
42 should use, you do -- do you depart from or  
43 contradict anything that's set out in the first  
44 three full paragraphs of page 1? Read them over  
45 to yourself just so we're clear on what I'm asking  
46 you, if you could, please.
- 47 THE COURT: Are you going to be able to read this

## VOIR DIRE

Gayle Quin (for Accused)

cross-exam on voir dire by Mr. Eccles

- 1 without your glasses?  
2 A Oh, yes. It's big enough printing, Your Honour.  
3 Thank you.  
4 Okay, yeah.
- 5 MR. ECCLES:  
6 Q So that is sort of a capsule version of -- of the  
7 core belief you bring to your relationship with  
8 the members when advising them on the use of  
9 cannabis as a health product, is that --  
10 A That's correct.  
11 Q -- fair?  
12 A That's correct.  
13 Q And you've been work -- you were working full-time  
14 at the Cannabis Buyers' Club of Canada; starting  
15 in 2006 was when you started your full-time  
16 employment there?  
17 A I think so, yeah. Roughly, yeah.  
18 Q And from 2003 to 2006 you volunteered at the Club  
19 and worked part-time, correct?  
20 A That's correct.  
21 Q So basically for six years you were employed  
22 either part- or full-time at the Cannabis Buyers'  
23 Club, correct?  
24 A That's correct.  
25 Q Initially on the front desk, and then in the -- at  
26 the distribution desk, correct?  
27 A That's correct, sir.  
28 Q And at the distribution desk, there's a -- it's a  
29 counter with a glass dis -- I'll call it a display  
30 case, where the members can come forward and look  
31 and see what is on offer for the day as far as  
32 cannabis dried products that they can purchase,  
33 correct?  
34 A That's correct, Your Honour.  
35 Q And as one stands and faces that counter, there  
36 will be in small jars roughly -- roughly the width  
37 of the cap of a pen, and each jar would have a  
38 sample; it's a clear glass jar with a sample of  
39 what's in it?  
40 A The -- the sample jars are weighed out to 3.5  
41 grams, so people will know what it looks like.  
42 Some people like fluffier buds, and some people  
43 like really dense buds, and it's quite obvious  
44 by -- just by looking at it, the size of the 3.5  
45 grams can be quite different, depending on the  
46 density of the buds.  
47 Q And directly to the left of that glass display

## VOIR DIRE

Gayle Quin (for Accused)

cross-exam on voir dire by Mr. Eccles

- 1 case is a fridge containing the various edible  
2 products that are made available, correct?
- 3 A That's correct, Your Honour.
- 4 Q Turning to the -- the edible products, when  
5 they're refrigerated do they have much of an  
6 odour?
- 7 A No.
- 8 Q The dried products, however, have an odour ranging  
9 from mild to pungent, depending on the strain of  
10 cannabis in the jar, correct?
- 11 A That's correct, Your Honour.
- 12 Q It's a rather distinctive smell?
- 13 A Yes, it is.
- 14 Q Do you have any difficulty recognizing the smell  
15 of dried cannabis?
- 16 A No.
- 17 Q If I was to place before you three jars of green  
18 plant-like material looking vaguely similar, we  
19 use the old joke from our high school days, bag of  
20 oregano, bag of dried parsley, and a bag of dried  
21 marihuana, would you have any difficulty telling  
22 the difference between the three and picking out  
23 which was the marihuana?
- 24 A No, I wouldn't.
- 25 Q If I was to put before you three glass jars, one  
26 containing a dark oily substance, a second  
27 containing a dark oily substance, and a third  
28 containing marihuana-infused olive oil, similar  
29 colour to the other two jars, all refrigerated to  
30 the same temperature, would you be able to tell  
31 the three apart by smell?
- 32 A Yes, I think so.
- 33 Q You seem a little less sure, just judging from  
34 your having to consider it. It would be a more  
35 difficult task, would it not?
- 36 A The odour isn't as strong once it's in oil.
- 37 Q Now, the information you provide to members when  
38 you're working at the distribution counter, does  
39 that include advising members as to which  
40 particular cannabis product will best treat the  
41 condition they present with?
- 42 A Yes, it does.
- 43 Q And does that include advising members that  
44 cannabis can be used to replace allopathic  
45 medicines?
- 46 A In some cases.
- 47 Q Allopathic, what exactly does the word *allopathic*

## VOIR DIRE

Gayle Quin (for Accused)

cross-exam on voir dire by Mr. Eccles

1 mean? What do you understand that to mean?  
2 A Modern medicine or man-made medicine.  
3 Q So pharmaceutical?  
4 A Or chemically -- pharmaceutical drugs, yeah, and  
5 chemically produced.  
6 Q And part of the information you provide to members  
7 is that for some individuals, as you understand  
8 it, they may be able to replace their  
9 pharmaceutical products with cannabis products,  
10 correct?  
11 A In some instances, yes.  
12 MR. ECCLES: My Lord, I note the time. It's a minute  
13 or two early, but I would like the opportunity to  
14 review the medical records. I'm hoping I'll have  
15 no questions on them, but --  
16 THE COURT: All right. Till two o'clock.  
17 MR. ECCLES: Thank you, My Lord.  
18 MR. TOUSAW: Thank you, My Lord.  
19 THE CLERK: Order in court.  
20 A Thank you.

21  
22 (WITNESS STOOD DOWN)

23  
24 (PROCEEDINGS ADJOURNED FOR NOON RECESS)  
25 (PROCEEDINGS RECONVENED)

26  
27 THE CLERK: Witness, I remind you, you are still under  
28 affirmation.  
29 A Yes, sir. Thank you.

30  
31 **GAYLE QUIN**  
32 a witness called for the  
33 Accused, recalled.

34  
35 **CROSS-EXAM ON VOIR DIRE BY MR. ECCLES, CONTINUING:**

36  
37 Q Ms. Quin, during your evidence in chief you  
38 described working on the front desk, I believe,  
39 at, for lack of better words, the CBC of C, the  
40 desk where individuals come in to show their  
41 membership card?  
42 A Yes.  
43 Q You worked there on a part-time basis, or  
44 full-time?  
45 A Part-time.  
46 Q In your work on the front desk, did you also sign  
47 up people as members of the CBC of C?

## VOIR DIRE

Gayle Quin (for Accused)

cross-exam on voir dire by Mr. Eccles

- 1 A Yes, I did.
- 2 Q And in the course of the sign-up process, what  
3 information did you require individuals provide?
- 4 A They need a note from their doctor stating a  
5 permanent physical condition or disease.
- 6 Q Would you accept an individual for membership if  
7 rather than a note from their doctor they were to  
8 present with medication or a recognized  
9 permanently disabling condition, such as  
10 retrovirals for HIV/AIDS?
- 11 A On occasion, and -- and we would ask for a  
12 doctor's note, supporting note, as well, at a  
13 later date, if they didn't have it, when they  
14 showed up just with their medication, if they had  
15 proper photo ID to verify that that's  
16 who -- actually who they were.
- 17 Q Was there a written outline of what was required  
18 and what process should be followed in screening  
19 applicants?
- 20 A A written?
- 21 Q Yes, a check sheet, or something like that?
- 22 A Oh, yeah, yes.
- 23 Q Where was the check sheet or written outline of  
24 information required from applicants kept?
- 25 A In the front desk, beside -- on the lower  
26 right-hand drawer.
- 27 Q And was this provided to the applicants, or was  
28 this something that you would reference?
- 29 A This was something that we would reference, and if  
30 we were unsure of a condition, if it wasn't  
31 specified in our -- in our procedure manual, then  
32 we would check online to see if it was a chronic  
33 or permanent condition.
- 34 Q If an individual attended with medical records  
35 indicating a chronic condition, but advised that  
36 they were no longer seeing their treating  
37 physician or they no longer had a treating  
38 physician, or their treating physician didn't  
39 believe in cannabis therapy and wouldn't sign  
40 anything, but this is what I've got, would that be  
41 sufficient to be accepted?
- 42 A If it was proof of a permanent physical condition  
43 or a disease.
- 44 Q And what conditions or diseases would be accepted?  
45 Anything permanent and disabling?
- 46 A Physically.
- 47 Q What if any inquiries are made of individuals who

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- 1 present with physical chronic pain conditions of a  
2 non -- permanent ongoing chronic pain, what if any  
3 inquiries are made as to their psychiatric  
4 history?
- 5 A We're -- we don't ask specifically, if it's not  
6 provided at the time.
- 7 Q And what if any questions are asked regarding  
8 their medication history, current and past  
9 medications they may be on?
- 10 A That's not discussed unless they come and ask to  
11 speak to me about health concerns, and then I go  
12 through the products and their health issues with  
13 them, and advise them to go and speak further with  
14 their pharmacist to make sure there's no counter  
15 indications of what the drugs that they're taking  
16 now are --
- 17 Q Do you -- oh, I'm sorry.
- 18 A The -- the drugs that they were already  
19 prescribed, if they would -- to make sure that  
20 there would be not interactions with the cannabis  
21 they wanted to use, I'd ask them to go and talk to  
22 their pharmacist about that.
- 23 Q You've indicated there were some medical  
24 conditions that you believe cannabis can be used  
25 and replace allopathic medications; you mentioned  
26 that earlier, correct?
- 27 A That's correct, sir.
- 28 Q Which conditions would that be?
- 29 A Inflammatory conditions, especially, like  
30 tonsillitis, arthritis, hepatitis, things like  
31 that. It's a -- cannabis is a very beneficial  
32 anti-inflammatory with -- I haven't found any  
33 adverse side effects yet so far from anybody.
- 34 Q If an applicant for membership chooses not to  
35 share their psychiatric history, I take it you  
36 don't press them?
- 37 A No, sir.
- 38 Q And if an applicant chooses not to share their  
39 medication history, you don't press them?
- 40 A No, sir, we don't.
- 41 Q Now, my friend put before you Exhibit C in these  
42 proceedings. It's the ...
- 43 A Thank you.
- 44 Q And on the cover of Exhibit C it says, "Health  
45 Canada Website Information." The first question  
46 I'll ask is, have you visited on the web, Health  
47 Canada's website for the medical mari -- *Marihuana*



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- 1           *Medical Access Regulations?*
- 2   A       I have tried on several occasions.  The first  
3           three times that I tried, their -- the website was  
4           down.  I couldn't access at all -- any of it at  
5           all.
- 6   Q       And currently?  When was the last time you tried?
- 7   A       Oh, it would have -- oh, at least two years ago,  
8           I -- yeah.
- 9   Q       Have you ever been able to open the website,  
10          access the website?
- 11   A       Personally, no.
- 12   Q       Have you recent -- have you at any point, through  
13          either web research or library research, looked  
14          into the process that is -- one must follow to  
15          obtain approval under the *Food and Drugs Act* for a  
16          health product?
- 17   A       I've looked at some documents pertaining to that,  
18          but I haven't read the whole thing.
- 19   Q       I take it you've never looked into whether or not  
20          it could be possible to obtain *FDA* approval for  
21          massage oils that are infused with cannabis?
- 22   A       Yeah, no.  Ted was looking into things like that.
- 23   THE COURT:  Sorry, what was that, ma'am?
- 24   A       Sorry.  Ted was looking into the proper regulatory  
25          procedures to go through.
- 26   MR. ECCLES:
- 27   Q       And by "Ted" you mean Mr. Ted Smith?
- 28   A       Mr. Smith, yes, sorry.
- 29   Q       Have you ever heard of the phrase, "First pass  
30          effect," in relation to consuming medications?
- 31   A       No.
- 32   Q       Have you in the course of your years of using  
33          cannabis and cannabis based products to assist  
34          your health looked into the varying absorption  
35          rates between smoked cannabis and consumed  
36          cannabis?
- 37   A       I have.
- 38   Q       Is it your understanding that vapourized or smoked  
39          cannabis has a higher absorption rate than  
40          consumed cannabis products?
- 41   A       Yes, that's corr -- yeah.
- 42   Q       And the level of absorption may vary depending on  
43          the nature of the product and how one ingests it;  
44          is that fair to say?
- 45   A       That's very fair to say.  It totally depends on  
46          the state of a person's lungs, if they're smoking  
47          it, and it totally depends on the state of a

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1 person's digestive tract, if they want to ingest  
2 it. I advise people to start with -- if they have  
3 never eaten cannabis before, to start with a very,  
4 very minute dosage. It could -- the first time  
5 you eat cannabis it can produce a lot stronger  
6 effects than normal, so I would advise people to  
7 take a quarter of the normal dose, dosage, until  
8 they're used to the effects of it, and then to  
9 gradually increase it if they need to.

10 MR. ECCLES: Perhaps the witness can be shown Exhibit  
11 18 again, please.

12 Q I'd just like to -- I understand you -- you  
13 assisted in authoring this document, correct?

14 A That's correct.

15 Q And on page 1 of the document, the second full  
16 paragraph, the sentence starting that paragraph  
17 is:

18  
19 Cannabis can be used to replace almost any  
20 type of allopathic medicine, from diuretics  
21 to anti-depressants - ear oil; throat sprays  
22 and salves that reduce tumors.

23  
24 I've read that sentence correctly?

25 A Yes.

26 Q And that was your belief at the time the  
27 document -- this document was created, and  
28 continues to be your belief today; is that fair to  
29 say?

30 A Yeah, it is fair.

31 Q And that's one of the things that you assist the  
32 membership of the CBC of C when they're  
33 questioning you about products and the like,  
34 that's the sort of information you impart to them?

35 A That's correct.

36 Q Carrying on that paragraph:

37  
38 Extracts have been found to be effective on  
39 everything from bacteria and fungi, to the  
40 herpes virus and staphylococcus.

41  
42 You've also -- that's also the belief you  
43 held then, and it's the belief you hold today?

44 A Yes, sir.

45 Q And that's information that you impart to members  
46 of the CBC of C when they come to you to ask for  
47 questions and advice and assistance in designing a

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- 1 treatment regimen?
- 2 A Yes, sir. I also remind everybody that everybody  
3 is a unique individual, and not everything works  
4 for everybody.
- 5 Q And that applies -- that's the advice you give  
6 them --
- 7 A That applies for cannabis as well.
- 8 Q Cannabis as well as allopathic medications?
- 9 A That's right.
- 10 Q Now, prior to your work at the CBC of C and  
11 assisting in the preparation of the recipe book,  
12 when you first started to ingest cannabis orally,  
13 eat it, how did you prepare whatever -- how did  
14 you get it into an edible form?
- 15 A I cook it into olive oil.
- 16 Q So that's always been your practice?
- 17 A Not always. When I was really sick I tried to  
18 just throw the leaf into my pancake batter and eat  
19 it like that, so I could cook and eat -- eat the  
20 same day.
- 21 Q Did that work?
- 22 A Not well. It's -- it was very hard to chew and  
23 swallow, and I never get my whole pancake down.
- 24 Q In your evidence in chief you indicated that  
25 initially you attended to the VICS, the Vancouver  
26 Island Compassion Society, and they would not  
27 assist you. Why would they not assist you?
- 28 A I don't know. They never -- they never answered  
29 my questions. They offered me a magazine that I  
30 was looking for, and asked me to leave.
- 31 Q And thereafter you found the Cannabis Buyers' Club  
32 and began to gain assistance from them?
- 33 A That's correct.
- 34 Q Have you ever worked in a laboratory?
- 35 A No, sir, I haven't.
- 36 Q Have you ever assisted in the conduct of a  
37 political trial for allopathic or naturopathic  
38 health products?
- 39 A No, I haven't.
- 40 Q Oh, in Exhibits 19 through 23, which is the  
41 medical information you've provided for us  
42 today --
- 43 A About my breast cancer.
- 44 Q Your breast cancer.
- 45 A Okay. Thank you.
- 46 Q The breast imaging histopathology report, the note  
47 from Dr. Graham dated November 28, 1997 --

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- 1 A Mm-hmm.
- 2 Q -- and the urine toxic metals analysis, and then
- 3 the letter from the naturopathic physician, Dr.
- 4 Christine Boyce.
- 5 A Bovee.
- 6 Q Sorry?
- 7 A Bovee, sorry.
- 8 Q Oh. I guess you're not the only one that needs
- 9 new glasses. Yes. That's not your complete
- 10 chart, by any stretch of the imagination is it?
- 11 A No, not by any means.
- 12 Q And from working in a long-term care facility,
- 13 you're familiar with medical charting and how
- 14 extensive the documentation in there can get to
- 15 be?
- 16 A Yes, I am.
- 17 MR. ECCLES: Could the witness be shown Exhibit A for
- 18 identification, please? It's the Cannabis Buyers'
- 19 Club of Canada product guide.
- 20 A Thank you.
- 21 Q You have Exhibit A before you, correct? It's the
- 22 Cannabis Buyers' Club of Canada product guide.
- 23 A Yes, I do.
- 24 Q Did you assist in preparing this product guide?
- 25 A Yes, I did.
- 26 Q Which portions did you assist in the preparation
- 27 of?
- 28 A All of it.
- 29 Q Now, on -- just so we're all on the same -- clear
- 30 on -- or on the same page, so to speak, this is
- 31 actually a pamphlet form that's been printed on 8
- 32 by 11 paper, is that correct?
- 33 A That's correct. Folded.
- 34 Q So if we're looking at the first page of this
- 35 document that's before you, there's three columns.
- 36 Left to right, the left column is "Edible
- 37 Products," correct?
- 38 A That's correct.
- 39 Q And did you assist in the description of the
- 40 various edible products set out here?
- 41 A Yes, I did.
- 42 Q And is that -- the description of the products
- 43 that's on the page, does that match the
- 44 description of products that you would give to
- 45 members when they are at the distribution desk and
- 46 they're asking questions about what's available?
- 47 A That's right. That's correct.

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- 1 Q Would you also provide members with questions with  
2 this particular pamphlet so that they can read it  
3 at their leisure and give some thought to it?
- 4 A This pamphlet?
- 5 Q Yes.
- 6 A Yes, always. As soon as they've signed up to the  
7 Club.
- 8 Q As soon as they're signed up to the Club, they're  
9 handed this so they know what the Club can make  
10 available to them?
- 11 A That's correct.
- 12 Q And so that they know or can inform themselves as  
13 to what the Club believes these products will  
14 assist them with, is that correct?
- 15 A That's correct. I've asked -- when members have  
16 had trouble talk -- talking to their doctors about  
17 cannabis, I suggest they take -- take -- taking  
18 the product guide to show to their doctors to help  
19 educate them about the herb.
- 20 Q Do you suggest to the members that they direct the  
21 doctors to Health Canada's MMAR website, and in  
22 particular the portion of the website with  
23 Information for Medical Health Care Practitioners?
- 24 A We -- we tell mem -- we tell members when they  
25 signed up that we have medical -- the application  
26 forms for the MMAR program if they wish to take  
27 them to have their doctors sign them.
- 28 Q Now --
- 29 A And that there is a website if they want more  
30 information.
- 31 Q Now, on form A -- or Exhibit A for identification,  
32 under, "Conditions helped with cannabis," there's  
33 a list of various matters. The first on that list  
34 is:
- 35
- 36 AIDS, HIV, wasting conditions, affected  
37 immune systems, and cancer are all greatly  
38 benefited by ingesting cannabis. It is a  
39 smooth-muscle relaxant, stops nausea,  
40 stimulates the appetite, eases hot flashes  
41 and enables one to eat, and maintain their  
42 normal body weight.
- 43
- 44 Is that sort of -- that information,  
45 information you would communicate to the members  
46 if they question you when you're on the -- about  
47 what do I do for this or that at the distribution

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1 desk or when they're signing up?

2 A Yeah. This is the type of information that I  
3 provide them, yeah.

4 Q And then the next heading is:

5

6 Tumors of all types (including breast and  
7 fibroids) have been reduced with the use of  
8 cannabis. The antitumor properties of THC  
9 (tetra-hydrocannabinol) and CBN (Cannabinol)  
10 can inhibit tumor growth by 25% to 82%,  
11 without damaging normal cells.

12

13 And then there's a bracket:

14

15 (Harris et al., 1974)

16

17 End brackets. Do you know what "Harris et al,  
18 1974," refers to?

19 A That refers to a scientific study that was done in  
20 the use of cannabis being injected directly into  
21 tumours, I believe, if my memory is serving me  
22 right.

23 Q And have you looked at anything since Harris 1974  
24 in this particular area to assist your members and  
25 suggest to them where they might follow up?

26 A Not lately. Mostly it's what I witness with my  
27 own eyes.

28 Q And this information about tumours is information  
29 you provide to the members when they're at either  
30 the sign-up desk, when you were working part-time,  
31 or at the distribution desk where you -- when you  
32 worked full-time, to assist them in selecting  
33 their medication?

34 A I wouldn't read the whole product guide over with  
35 each member.

36 Q Well --

37 A I just -- just gave it to them for them to read  
38 when they took it home, and then I would ask them  
39 to have a blank piece of paper with them to write  
40 down any questions that came back, and then bring  
41 that back to discuss with me --

42 Q And that --

43 A -- further.

44 Q That assists you and the member in focussing their  
45 inquiries?

46 A Yeah. It helped to -- we do discuss a lot of the  
47 benefits in the sign up procedure, and it helps,

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- 1 and I ask them to read through it, because it  
2 helps to retain in their memory a little bit, if  
3 they go over it. We go -- we give them a lot of  
4 information. It's a 45-minute to an hour  
5 introduction to the Club, and it's quite  
6 overwhelming for people when they're really sick  
7 and in a lot of pain. So that's why we made the  
8 product guide, so they would have something they  
9 could go home and go over at their convenience  
10 when they were more able to absorb it.
- 11 Q And when they come back, part of your role with  
12 the CBC of C when you're on the distribution desk  
13 is to assist them in selecting the appropriate  
14 cannabis product for their condition, correct?
- 15 A Yes, that's correct.
- 16 Q And informing them as you understand it of what  
17 the various products do and how they can assist  
18 their health?
- 19 A That's correct. And also I inform them -- I ask  
20 if they have any anxiety issues, really, and then  
21 I ask them to stay away from the right-hand side,  
22 which to them would be the left-hand end of the  
23 medicine jars, because that's where we keep our  
24 sativas, and sativas have been shown to -- in some  
25 cases they can aggravate anxiety type issues, so  
26 we strongly encourage our members to stay away  
27 from them.
- 28 Q Are there any other contraindications that you  
29 bring to the attention of members, or any other  
30 risks regarding the use of cannabis products that  
31 you bring to the attention of members when they're  
32 asking your advice?
- 33 A I try to encourage them to eat the edibles,  
34 because they are such better at pain killing, and  
35 smoking over a long-term isn't the best thing to  
36 do for your lungs. And I -- I'm sorry, would you  
37 say that again? Sorry.
- 38 Q Sorry, just what -- other than, you know, the  
39 suggesting sativas versus indicas --
- 40 A Oh, yeah. No, that's about the extent of  
41 the -- any problems that have arisen from people.  
42 That's usually what it is. So we try to discuss  
43 that with everybody who signs up, make them aware  
44 of it.
- 45 Q Do you canvass with female members who are signing  
46 up whether they are currently pregnant or  
47 contemplating becoming pregnant in the near

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- 1 future?
- 2 A No, I don't ask specifically.
- 3 Q Do you ask potential members or individuals
- 4 approaching the distribution desk whether they
- 5 have a history of schizophrenia, manic depression,
- 6 or bipolar disorder?
- 7 A Not specifically. We ask if they've had -- we
- 8 will ask if they have, like I say, anxiety or
- 9 other mental issues, and -- and then, like I say,
- 10 just ask to refrain from the sativa end.
- 11 Q Is there a standardized check sheet of areas of
- 12 concern that are to be canvassed with members when
- 13 they approach the distribution desk? Is there a
- 14 standard set of questions?
- 15 A For?
- 16 Q For members who are -- if someone's at the desk,
- 17 and they say I'd like to buy three grams, are
- 18 there standard questions you on the distribution
- 19 desk ask them?
- 20 A We'd ask them right away if they'd like an indica
- 21 or a sativa.
- 22 Q Any other questions?
- 23 A No, no.
- 24 MR. ECCLES: Those are my questions, My Lord.
- 25 THE COURT: Re-examination?
- 26 MR. TOUSAW: None, My Lord.
- 27 THE COURT: May this witness be excused?
- 28 MR. TOUSAW: Yes, My Lord.
- 29 THE COURT: Thank you, Ms. Quin, for your help. You're
- 30 now excused.
- 31 A Thank you very much, Your Honour.
- 32
- 33 (WITNESS EXCUSED)
- 34
- 35 MR. ECCLES: My Lord, I've had a brief discussion with
- 36 my friend. I note that it is very early.
- 37 However, I seem to be having some health issues
- 38 today, and the next -- the next witness would be
- 39 another individual who would provide evidence as a
- 40 patient, slash, member of the CBC of C. However,
- 41 my friend has also scheduled, as I understand it,
- 42 Dr. Pate to fly in from --
- 43 MR. TOUSAW: California.
- 44 MR. ECCLES: -- from Berkeley, and to be on the stand
- 45 Monday morning at 10:00. Subject to Your
- 46 Lordship's wishes, I would -- I'm asking if we can
- 47 stand down early, for the simple reason that I'm