

IN THE COUNTY COURT OF DISTRICT NUMBER THREE

BETWEEN:

HER MAJESTY THE QUEEN

- versus -

ROBERT DALE MILNER

HEARD: At Annapolis Royal, Nova Scotia, on March 1,
April 27, June 29, September 14 and October 12,
1982.

BEFORE: His Honour Judge Peter Nicholson, J.C.C.

DECISION: The 8th day of November, A.D. 1982

COUNSEL: David Cottenden, Esq., for the Crown
W. Bruce Gillis, Esq., for the Accused

MEMORANDUM OF DECISION

The Accused was charged with possession of cannabis (marihuana) for the purpose of trafficking contrary to Section 4(2) of the Narcotic Control Act. He eventually elected to be tried by a Judge sitting without a Jury.

Several hearings were held and evidence was taken. By previous Decisions filed herein, I dealt with certain

motions and objections made by Counsel.

At a hearing on the 14th of September, the Crown established to my satisfaction that the Accused was in possession of the narcotic in respect of which the charge was laid.

At that stage it became incumbent to follow the procedure set out in Section 8 of the Narcotic Control Act whereby the Accused shall be given an opportunity of establishing that he was not in possession of the narcotic for the purpose of trafficking.

Counsel for the Accused elected not to call evidence at that stage, and made a motion that the Court should find that the onus placed on the Accused under Section 8 of the Narcotic Control Act offends the provisions of the Charter of Rights and Freedoms, Section 11(d), as contained in the Constitution Act.

After considering that motion I filed a written Decision on 7 October, 1982, dismissing that motion. The Accused appeared in Court again on 12 October and his Counsel elected not to call further evidence on the issue of trafficking. The Crown then proceeded to call Constable Douglas Brown of the Royal Canadian Mounted Police to give evidence as to trafficking. Brown was qualified as an expert in matters relating to methods

of packaging and handling marihuana in the illicit trade and of the street value of the drug.

He testified that the marihuana in respect of which Milner was found in possession would have a street value of approximately \$600.00, and that the method of packaging employed by the Accused and his Co-Accused was consistent with packaging normally carried out in the illicit trade. I accept his evidence.

The facts of the case as adduced by the Crown as to quantity, value, and the circumstances in respect of which the marihuana was handled were consistent with the Accused having possession of the marihuana for the purpose of trafficking. So consistent in fact that I do not have any reasonable doubt but that the Accused was guilty as charged, and I so find him to be.

DATED at Annapolis Royal, Nova Scotia, this 8th day of November, A.D.1982.



JUDGE OF THE COUNTY COURT OF
DISTRICT NUMBER THREE

TO: The Clerk of the Court
David Cottenden, Esq.
W. Bruce Gillis, Esq.