

other car to the side of the road and stopped it about 150 yards from the intersection above referred to. When asked by Sergeant Nilsson why he did not stop, Hache replied. 'I don't know. I was too nervous'.

"It is impossible to say whether the defendant actually heard the officers order him to stop, but I am convinced that he recognized the police and that he knew they were requiring him to stop. He failed to do so until practically forced off the road by the police car. There is no evidence that either of the officers used the words 'in the King's name' when requiring the defendant to stop his vehicle. The magistrate held that this was an essential element of the charge, and in the absence of proof of the use of these words, he dismissed the information.

"The prosecution contends that the actual use of the words 'in the King's name' is not necessary in order to prove a charge under the section and that it is necessary to establish only that the person purporting to act in the King's name was actually an officer of excise.

"I have been unable to find any reported cases, dealing with the point. There are such as *R. v. D'Entremont*, 4 M.P.R. 142; *R. v. Mason*, 9 M.P.R. 97, and *R. v. Griffin* 9 M.P.R. 84, which hold that behaviour similar to that of the defendant in this constituted an offence under section 167 of the Criminal Code, but these cases are of little value in determining the point at issue here. It is of interest to note that in the Griffin case the charge was laid first under section 257 of the Customs Act (which corresponds with section 96 of the Excise Act) but that charge was dismissed

by the magistrate and a new charge laid under section 167 of the Criminal Code and the accused was convicted on indictment under the latter section. The report does not disclose the reason for the dismissal of the former charge.

"It seems to me quite clear from the wording of section 96 of the Excise Act that the officer is required to make his demand 'in the King's name'. I cannot agree with the prosecution's contention that the inclusion of these words is surplusage and that the meaning of the section would not be changed by their deletion. It is true that an officer of excise when in the performance of his duties, is acting in the name of the King. But very often these officers, including members of the R.C.M.P., for various reasons, do not wear uniforms when performing their duties and the requirement that they state their authority seems reasonable, if for no other purpose than to prevent an accused from alleging that he was unaware of the officer's authority.

"The fact that the use of the words 'in the King's name' may under some circumstances seem unnecessary or even ridiculous is no reason for assuming that their inclusion in the statute is meaningless.

"I have no doubt that if the charge in this case had been laid under the provisions of section 167 of the Criminal Code for wilfully obstructing a public officer in the execution of his duty, there would have been a conviction; but I think the magistrate was right in dismissing the present charge.

"The prosecutor's appeal will be dismissed".

R. v. Johnson

Forgery and Uttering of False Document—Crime Detection Laboratory—Document Examination—Unusual Motive

The motive behind a crime is of course no crime in itself, nor is it necessary in Court to establish the motive for a crime. However, the motive is an important element in the detection of crime, and the absence of any reasonable motive might complicate the investigator's problem by obscuring the trail

which logic otherwise would take him on. Usually the motive for committing fraud is gain—a factor that may offer a clue to its identity—but occasionally when a desire for gain obviously does not exist the investigator may be forced, as in the present case, to spend time and effort in discounting certain misleading