

that the liquid was spirits. A search of the car was made but no further evidence was disclosed.

All past offenders under the Nova Scotia Liquor Control Act, the three suspects were taken to the detachment for questioning. Hache and Murphy declined to make any statement, but Steele said that he had been out examining some rabbit snares he had set in the area when he met up with Hache and Murphy and asked them to drive him home. The car, a 1942 Chevrolet sedan, was seized by virtue of authority contained in s. 169 Excise Act.

Jointly charged with Unlawful Possession of Spirits, s. 169 Excise Act, while in addition Hache was charged with Failing to Stop, s. 96 of the Act, the trio on Jan. 31, 1947, appeared before Provincial Magistrate R. V. Read at Glace Bay and pleaded not guilty. Defence counsel was Mr. J. L. Dubinski, barrister of Glace Bay, and the prosecution was conducted by Mr. A. McGillivray, barrister, also of Glace Bay. On the joint charge, each accused was found guilty and ordered to pay a fine of \$100 and costs or in default to serve a term of three months in the county gaol, Sydney. The other charge against Hache was dismissed on grounds that the investigators had only called upon him to "stop" and not to "stop in the King's name" as set forth in the information; as all the ingredients of the charge had not been proved, His Worship held that he had no alternative but to dismiss the case.

Notices of appeal were immediately served by all three accused against the convictions, and on Feb. 12, 1947, by the Crown against the dismissal of the Failing to Stop charge. The appeals against the convictions came up for hearing on Apr. 1, 1947, before Judge George Morrison of Sydney. Murphy abandoned his appeal and, called as a witness on behalf of the other two appellants, testified that he had the spirits on

his person unknown to his companions and took full responsibility regarding it. Decision in the Hache appeal given on Apr. 8, 1947, upheld the conviction. And six days later Steele's appeal was allowed, His Honour commenting:

"The case of Steele gives me more difficulty. He says he was out attending to his rabbit snares in the woods. He had intended to take the tram car home but missed it. He then saw the Hache car at the airport, with Murphy standing beside it, and he asked for a drive home. He admits seeing Murphy throwing articles from the car but says he did not know what they were. He called as a witness one Doran, whom he had run across in the woods and who was also in search of rabbits. Doran does not live in the same locality as Steele and when they separated they departed in different directions. Doran does not recall the exact day of the meeting, but he said Steele came to him the next day and told him he was implicated in this case and that he might require him as a witness. One cannot help being suspicious that rabbits have usurped the well-known role of red herring in this case; but that is only a suspicion, and I must say that I was rather favourably impressed by the evidence of both Steele and Doran. I am under the impression that Steele allowed himself to get into an awkward position with Hache and Murphy, and while I think he knew they were carrying illicit spirits, I do not think this knowledge constituted such possession on his part as would implicate him in this offence".

On April 19 the Crown's appeal was decided in favour of the respondent; this judgment lays down that in offences under s. 96 of the Excise Act the requirements of the statute must be adhered to, that the name of the King must be invoked when the driver of a vehicle is called upon to stop. Judge Morrison's decision in this case is of wide interest to members of the R.C.M.P. and reads:

"This is an appeal by the prosecution from the dismissal by Provincial Magistrate R. V. Read of an information charging the defendant with that he 'did at Reserve Mines, etc., unlawfully, being the driver of a motor vehicle, refuse to stop such