

Young didn't live in the rooming house, but he had told the landlady that a parcel for him would be sent there. When the parcel arrived this woman informed him by telephone that it had come and he said he would be over to pick it up within an hour.

Two investigators hid behind a screen in the living-room and two others behind an inside basement door and awaited him. Young himself didn't show up, but presently Posner, accompanied by Oliver "Ollie" McQueen a known local bootlegger, entered the house, located the parcel and picked it up. As the pair moved toward the front door the investigators emerged from their hiding-places and one closed in on Posner who ran through the door-way to the veranda. In the brief scuffle which followed, Posner tried to toss the incriminating parcel ahead to his accomplice but it missed its mark and fell inside a hedge whence it was recovered and identified by the police. Both suspects were arrested, as was their confederate, Young, when subsequently located.

Several facts were established that strengthened the case for the Crown: analysis revealed that the powder was heroin, a trade name applied to a drug derived from morphine; examination by an R.C.M.P. document examiner at the crime detection laboratory, Rockcliffe, Ont., corroborated the suspicion that the handwriting on the parcel had been executed by Posner, and according to witnesses in Toronto, Posner had made a long distance telephone call from a jewellery store in that city to Vancouver and on January 11 had been a passenger on the TCA plane to the West Coast.

The three suspects were jointly charged with Conspiracy to Commit an Indictable Offence, namely, to have in their possession a drug, morphine, s. 573 Cr. Code; and with Illegal Possession of Narcotics, s. 4 (d) Opium and Narcotic Drug Act.

As the date set for the hearing of the first charge drew near, however, one of

the Toronto witnesses refused to go to Vancouver as he did not want to be absent from his place of business. N. L. Mathews, K.C., Toronto, was appointed by the Crown to handle the action arising out of this development, which resulted in establishing what is believed to be a precedent.

Although ss. 974-976 Cr. Code authorize the courts of the several provinces and the judges of the said courts to act as auxiliaries to one another in the matter of enforcing the attendance of witnesses at a trial in a province other than that in which such witnesses reside, the procedure to be followed to give effect to these provisions is obscure. Neither Mr. Justice J. C. McRuer nor Crown Counsel Mathews, who appeared before him on May 28, 1945, with a notice of motion in the Supreme Court of Ontario, knew of any previous occasion where this procedure had been adopted. His Lordship, however, issued a bench warrant under which the witness in question was brought before him and bound over in the sum of \$3,000 to attend the trial at Vancouver on the date set.

On June 22, 1945, the three accused appeared before Mr. Justice A. D. Macfarlane and jury at Vancouver and pleaded not guilty to the charge of conspiracy. Crown counsel was G. S. Wismer, K.C., of Vancouver; defence counsel were Senator J. W. deB. Farris, K.C., W. J. Murdock and T. F. Hurley, all of Vancouver, for McQueen, Young and Posner, respectively. Posner, in his defence, stated that he was a drug addict. The jury brought in a verdict of guilty against all the accused and on July 7, 1945, His Lordship sentenced McQueen and Young to three years' imprisonment, and Posner to two years' imprisonment, in the British Columbia Penitentiary.

The joint charge of Illegal Possession of Narcotics was traversed to the fall assizes.

On July 25 L. H. Jackson, a Vancouver solicitor, entered an appeal on behalf of Young, and Crown counsel immediately