

## ROBERTS MAN WHO SHOT COMPANION, SAY 2 WITNESSES

Prisoner Positively Identified as Lone Highwayman on Whitehouse Road; Roberts Little Concerned.

Two men who saw the highwayman aim a gun at the night of March 12, the morning positively identified Jack Roberts as the man who held the gun and fired the shots that killed Donald Stewart and George Hastings.

This testimony, connecting up with circumstantial evidence and admissions said to have been made by the defendant, is the chief reliance of the state in its effort to convict Roberts of the murder of Donald Stewart, for which Roberts is on trial in Judge Morrow's department at the circuit court.

While the witnesses were giving their testimony, "Jack Roberts" in the man, the prisoner manifested an unusual concern. He kept his eyes on the witnesses and much of the time rested his head on one hand in the attitude of an interested spectator.

Besides this direct and positive evidence against the prisoner, the morning session resulted in the crushing of the hope of the defense that it could profit by the holding of the trial in this county. The question of the jurisdiction of the court was raised by F. H. Whitfield, chief counsel for Roberts, when Bruce Stewart was made with Donald Stewart in the front seat of the automobile when the hold up took place, testified that the scene of the shooting was in Clackamas county.

Whitfield quoted the constitution of the state guaranteeing trial to a defendant in the county where the crime is committed, also a section of the Oregon code. Dan J. Malachuk, who is assisting Deputy District Attorney Fitzgerald in the prosecution of the case, said a Florida case where under a similar constitution and laws it was decided that the case may be tried in either of two counties when the wound or blow is inflicted in one county and the victim dies in another.

The defense did not make any serious fight on the question and Judge Morrow sustained the position of the state. Bruce Stewart was the first witness this morning and told the story of the fatal night when the machine he was driving was held up by a man who stood in the center of the road as they approached and commanded him to halt. He did not realize just what was happening until the man fired, and that was after the machine had passed the man, who were what appeared to be a gunnysack around his legs and was at first mistaken for a woman by two occupants of the car.

Stewart said he was positive Roberts was the man because he could not be mistaken in the voice. He described the highwayman as of similar size and build to the defendant. He said the three shots came close together, and could only have been fired from a pump gun.

H. L. Tabb, another occupant of the car, who was riding in the rear seat with George Hastings and Irving Lupton, followed Stewart on the stand. His identification of Roberts was yet more definite and complete. He said the moon shone full in the face of the man and he watched the murderer closely until the third shot was fired. "This is no joke," he testified behind the machine as he passed and I could have touched the end of his gun with my hand.

"He fired with his gun only a foot or two from the end of the rear seat. The first shot hit me, grazing my wrist. My arm was around Hastings, and he slipped down in the seat as the second shot was fired. The shots came like this." (The witness snapped his fingers three times in quick succession.)

Testimony Not Shaken. "Have you seen this man since?" asked Fitzgerald.

"Yes, he is Jack Roberts, the defendant," came the answer.

Tabb was not shaken in this testimony. The cross-examination by Roberts' attorney was directed to showing that trees grew near the road that might have thrown shade over the roadway and to trying to have Tabb tell how close the shots were to each other. Tabb said the shots were only a few seconds apart.

Tabb gave a full description of the journey of himself and companions through Oregon City that night. He described the death of Hastings and the latter was being taken from the machine at the home of C. H. Carey, about one mile from the scene of the shooting. He identified and put on the overcoat and gloves he wore, showing the jury the holes in the coat and the blood stains on the gloves.

Lupton Tells Same Story. Irving Lupton, another occupant of the rear seat in the machine, came next, and told much the same story as the other witnesses, except that he did not attempt to identify Roberts. He said he was talking with Hastings up to the moment the shots were fired, and scarcely knew what was going on until it was over. His left arm was paralyzed by three bullet wounds, his arm, like that of Tabb, being thrown around the shoulders of Hastings.

Over the protest of the defense, Lupton removed his coat and bared his left arm to the jury, showing where the shot entered and left his arm. Whitfield said this was "needless display, tending to prejudice the jury. The cross-examination dealt with the position of the wounds on the arm and the way the witness was riding in the car. It was not clear whether the defense was groping without definite object in the hope of finding flaws and discrepancies in the testimony of the state, or had a well defined theory as to how the shooting was done different from the testimony shown by the state.

Dr. Sanford Whiting described the wounds of Lupton and identified a shot extracted from the arm. This shot is misshapen. The witness said it was a No. 1 buckshot. He had it weighed and it tipped the scales at 40 grains, the exact weight of a No. 1 buckshot.

He admitted it might be only part of the shot when it was extracted, but the state has other testimony to prove the removal of the body of Hastings. Judge Morrow held court until 1 o'clock today.

## Two of Uncle Sam's Barelegged Cops



## MRS. T. J. LUPER ASKS FOR DIVORCE DECREE

The famous Luper case came up again this morning in the divorce court where Mrs. T. J. Luper asked for a decree. This case has been to the supreme court two times, and in the local state courts six times. Luper was convicted twice of perjury, but saved from state prison by his wife, whom he deserted after she secured him a pardon from Governor Chamberlain.

The original suit by Luper against his wife for a divorce was started at Salem eight years ago. He was granted a temporary decree, which later proved to have been secured fraudulently by falsely swearing to an affidavit. Mrs. Luper came from Kansas to oppose the case. She secured a rehearing, and proved that Luper had made false statements, secured his indictment for perjury, and he was convicted. This case went to the supreme court, which remanded it to the lower court.

In the second trial, Mrs. Luper convicted her husband of perjury, and he was sentenced to five years in the state prison. Twenty days before time to begin sentence, she secured a complete pardon. In the divorce court this morning, Mrs. Luper testified that she worked hard to get the pardon, in order that their son would not have it said that his father had been a convict.

Promises were made by Luper, she said, that if she got him out of trouble, he would work and support her, forgetting the past and be a good husband. After several visits to the governor's office, her work was rewarded by a pardon. "My husband came home after he was released from jail," she testified today. "But said he had promised to be in Portland that day. He promised faithfully to return on the twentieth. I have not seen him since. That was four years ago. He has not written me a line or sent me a penny."

The Luper were married February 15, 1885, in Portland. He is a bridge carpenter. The judge said he would look over the old suits and later pass upon her request for a decree.

Other divorces were granted to Benjamin H. Miles from Rose Miles for desertion, Martha C. Cox from Charles Lee Cox for desertion, Marie A. Roberts from Edward A. Roberts for cruelty.

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## GEORGE SHEPHERD IS OFFICIALLY SAT UPON BY GOVERNOR

West Signs Commission Naming Edgar M. Simpson as Captain of Oregon Naval Militia.

George S. Shepherd, who captured the cruiser Boston single handed last Tuesday and then lost it again the same day in the course of his fight for the captaincy of the Oregon naval militia, was officially set upon this morning by Governor West, when the governor signed a commission naming Edgar M. Simpson as captain.

The governor declares that this action, following an examination which Simpson took for the captaincy yesterday, automatically disposes of Shepherd and his claim. This Shepherd emphatically denies. He says he will now carry his case to the supreme court, and that he will certainly win in the contention in which the lower court upheld him.

The governor this morning also decided two other matters of supreme importance to the naval militia. One was that the organization will not be disbanded, for the present at least, and the other was that the naval militia shall take its two weeks' cruise as planned.

Under command of Simpson, officers and men will board the cruiser Boston Sunday. It was settled at a meeting of the naval board of the office of Adjutant General Finzer, which the governor attended, and the cruise will begin Monday.

May Throw Him Overboard. "Suppose Shepherd tries to take command," the governor was asked. "Will Simpson have authority from you to put him in the brig?"

"He will have authority from me to throw him overboard," answered the governor with a grim smile. "Sensational charges that under the regime of Simpson as acting captain on the Boston, women have been seen to leave the cruiser as late as 2 o'clock in the morning, and that the officers have not always been discreet in their libations, were made by Shepherd today after he learned of the governor's action.

"I am not through with this matter by any means," he said. "By naming Simpson, the governor has formally thrown down the gauntlet, and I shall certainly pick it up."

Says Simpson Not Fit Man. "I want it understood that I am in this fight not for what I shall get out of it, but for the good of the naval militia. I do not consider Simpson a fit man to be in command."

"Before this meeting of the naval board today, I informed Harvey Beck, with, chairman, and Adjutant General Finzer, that I would gladly withdraw from the contest and quit all opposition if anyone else than Simpson were duly elected and commissioned as captain of the naval militia. I had made the same proposal earlier in the week.

"My only contention is a demand that the naval militia have a sober man at its head, and that these three rules be complied with:

"That no women be permitted aboard the Boston after sunset;

"That no liquor be permitted aboard the vessel, which is supposed to be under strict discipline;

"That any officer who gets under the influence of liquor be removed from duty."

Says All Rules Violated. "Every one of these rules has been violated since Simpson has been in command of the Boston. I have undisputable authority that women have been seen leaving the boat as long after sunset as 2 o'clock a. m.

"I shall file charges myself against Executive Officer W. H. Rober for being drunk on duty."

"In expelling Simpson, the governor has ignored these charges. I would

have been glad to withdraw, but I shall now fight to the finish. Shepherd further says that Simpson has never been legally elected, and that the governor's commission does not qualify him for the office.

"Shepherd's case has nothing to hold it up now," said Governor West, after announcing his appointment of Simpson. "But have absolutely recognized the validity of the court order naming him captain, but the court order no longer has any effect because Simpson, his duly elected successor, has been qualified for the office."

Give Militia Another Chance. "When the Oregon naval militia was organized in 1910 Acting Governor Burner recognized it by commissioning its officers. The act of the legislature authorizing the militia provided that these officers should hold until their successors were duly qualified."

"Simpson at the election was elected by the officers, while Shepherd was chosen by some of the men. The court order itself said election by the officers was the legal procedure, but Simpson never qualified. He has now done so, and I have commissioned him. Shepherd automatically drops out."

"I have decided to give the naval militia another chance to show by its actions whether it is justified in existing. It is up to them to prove it, though, for this is not final by any means."

## BANDITS TAKE \$29.50 FROM STREETCAR CREW

Two masked highwaymen, each carrying a large blue revolver, at 1:30 o'clock this morning held up Conductor T. R. Hutchinson and Motorman John Carney of Willamette Heights car at the end of the line, and at the points of the weapons compelled the conductor to give them \$25 of the streetcar company's money and about \$4.50 of his own money.

The two car men were preparing to return to the city when the two masked men, each with a bandana handkerchief tied across the lower part of his face, stepped out of the brush, one man accosting each of the car men, who were ordered to go into the car.

A demand was made for the money belonging to the company, the robbers claiming that was all that was desired, but when Hutchinson gave up the \$25, the robber declared that it was not enough and demanded more. The motorman was not asked for money. When this search had been completed, the two men descended from the car but warned the streetcar men not to start the car until they were out of sight. As soon as they stepped off the car, however, the motorman jumped to the front end of the car, but he was met by one of the hold-ups who had waited, and was forced to sit down again.

Captain of Police Keller assigned 15 patrolmen to duty in the vicinity of the holdup and he himself joined in the search, speeding to the scene in an auto. An all night search yielded nothing, however. The streetcar men gave a good description of the two men, and the case was this morning turned over to the police detectives.

One Way of Doing Things. Redding, Cal., June 14.—Rather than hurt a mud turtle which wasn't speedy enough to get out of his way, W. H. Bergh ran his car off the road, injuring himself and three friends. The friends, strangely, are angry.

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