

## *Elmer P. Jacobs*

CALIFORNIA

ON August 16, 1928, taxi driver E. A. Stocks reported to the Los Angeles police that two men, whom he had picked up as passengers, had stolen his cab and \$7.00. On August 17, taxi man Newt Troelson made a similar report, with the loss of \$12.00. On the eighteenth, E. M. Shaw, and on the twentieth, E. I. McDonald, had the same experience. On each occasion the taxi driver was requested to drive to some place which proved to be a lonely spot, where he was held up. Similar crimes were being committed in and around Los Angeles.

The four victims attended the police-department "show-ups," where arrested persons in groups of six were marched before victims of all sorts of crimes for identification. Early in September, each of the taxi drivers identified one of the prisoners, Elmer P. Jacobs, as one of the taxi robbers.

Jacobs had been arrested for "borrowing" a parked automobile for a joy ride on August 28, 1928. He pleaded guilty to grand larceny on this charge and was sentenced to Folsom as a second offender, having had a criminal record.

In the meantime, however, he had, as related, been identified as the taxi thief. He was indicted for each of the four taxi robberies just described. He was tried on October 30 and 31, 1928, before Judge Emmet H. Wilson of the Los Angeles County Superior Court. R. S. McLaughlin appeared as Prosecutor for the People, and Deputy Public Defender John J. Hill, for Jacobs. Each victim appeared as a witness and described the holdup, stating that Jacobs was one of the robbers. Jacobs was a man with wavy hair, a

crooked nose, tight, thin lips (as viewed from the side), and almond-shaped eyes—a person readily recognizable. Jacobs endeavored to establish alibis that he was elsewhere at the time of each occurrence. The alibi evidence was rather indefinite, and a verdict of guilty was returned by the jury for each robbery. On November 5, 1928, he was sentenced on each count to serve “for the time prescribed by law,” which was from fifteen years to life.

. . . . .

DURING the first week in November, Harvey Hossafrasse, Fredell Nicholson, John Shelby Hobbs, and William Schmittroth were arrested by the police on various charges. Hossafrasse and Nicholson confessed to robbing Newt Troelson and taking his taxicab. The confessions were corroborated by fingerprints. Confessions followed connecting these two with the Stocks and Shaw robberies, and implicating Hobbs and Schmittroth in the McDonald affair. None of this gang knew Jacobs. Detective Captain McCaleb then had these four men placed in the “show-up” and called in again the victims of the robberies. This time the confessed robbers were all positively identified by the victims. It was clear to every one that their earlier identifications of Jacobs had been erroneous. The court, the prosecutor, and the Deputy Public Defender all cooperated to unravel the legal situation.

On November 16, 1928, the court granted Jacobs a sixty-day stay of sentence so that the cases against the real culprits could be disposed of. They were all convicted and sentenced to the penitentiary for various terms. On December 26, 1928, following a hearing, in which the police officers testified that they were satisfied of Jacobs’ innocence, the court vacated the judgment and sentence, set aside the verdicts, and dismissed the robbery charges against Jacobs “in the interest of justice,” and for lack of evidence that would justify a conviction.

. . . . .

THIS was manifestly a case of mistaken identity. But for the subsequent capture and confession of the real culprits,

the mistake might never have been corrected. Fortunately for Jacobs, the error was discovered within a few months. Again we have a demonstration of the fallibility of first-impression identifications by the victims of a crime.

#### BIBLIOGRAPHY

1. Records of the Clerk of the Superior Court, Los Angeles County: Case No. 34770, *People v. E. P. Jacobs*; Case No. 34800, *People v. E. P. Jacobs*; Case No. 35349, *People v. Harvey Hossafraße and Fredell Nicholson*; Case No. 35389, *People v. William Schmittroth and John Shelby Hobbs*.
2. Acknowledgment: Mr. George A. Benedict, Los Angeles, Calif.