

**THOMAS MISTOOK ALLEN FOR HIGHWAY MAN BENT ON ROBBERY, HE SAYS**

(Continued from Page One.)  
 The point where Allen's car was standing on the night of the tragedy, came back up the left side of the road and crossed to the car. The witnesses testified that they were in the car, but could not recognize either Maness or Sherrin until they

reached the car. The moon was partially shining when the test was made, they stated, and the lights on the car were burning.  
 On cross examination Lowe stated that he was deeply interested in the case for two reasons:  
 "Thomas is a good friend of the Lowe family, and my sister-in-law's reputation has been assailed by the state."  
 It had been assailed only in court, he later stated.  
 C. F. Misenheimer and Sam Query testified that they had been on swimming parties with Thomas

and Mrs. Lowe, and had never seen anything improper.  
 Among the character witnesses introduced were O. L. Barringer, E. R. Scoggins, W. D. Mitchell, and Mrs. C. W. Wain, of Charlotte. Robert Lowe and Mrs. Thomas gave good reputations.  
 The last evidence introduced was several photographs, showing various homes and scenes near the scene of the shooting. The pictures were of the Overcash and Setzer homes and streets running by the homes.  
 The case is certain to continue the next week.  
 Rebuttal evidence is expected to be offered by the state tomorrow.

**On Direct Examination.**  
 On direct examination Thomas testified that he is 34 years of age, and was born in Spartanburg, S. C. He was in the U. S. navy when the war closed. Afterwards he went to work for H. L. Morrow, of Charlotte, selling automobiles in Concord and Kannapolis about four days every week. Charlotte. Robert Lowe last June or July a year ago, and they were good friends. He also met Mrs. Lowe about the same time. A close friendship sprang up between Mr. and Mrs. Lowe and the defendant and Mrs. Thomas. Mr. and Mrs. Lowe often entertained Mr. and Mrs. Thomas at their home in Kannapolis over the week-end, while Mr. and Mrs. Thomas entertained Mr. and Mrs. Lowe at a Charlotte hotel on different occasions. Mrs. Lowe occasionally desired to go to Concord or Salisbury or some other place, and he often took her in his car, always in the day time. He had taken Mrs. Lowe to Winston-Salem twice, once in a party of five and later alone.  
 Thomas said he had ridden twice along with Mrs. Lowe at night, the first time when he was asked to come to Concord from Kannapolis and bring Mrs. Lowe home. On this occasion Miss Rosa Mund was to have accompanied them. Defendant said he had also taken many ladies to ride at Kannapolis, possibly as many as 40 of them. He stated that nothing improper had ever taken place between himself and Mrs. Lowe, and that he knew her reputation was exceptionally good.

The deceased, Arthur J. Allen, was well known to the defendant. Thomas said, and the best of feeling existed between them. On the morning of October 25, he said, he saw Allen in the barber shop, and spoke to him and the others present. When Thomas got out of the barber's chair Allen told him that he knew of a prospect who wanted to buy a car, and gave the name of the prospect to Thomas. This occurred about 1:30 or 2 o'clock in the morning, and he saw Allen no more that day.  
**Had Lost His Revolver.**  
 Thomas said that he had lost his pistol on the morning of the 25th. He had discovered that his motor was missing and left the car at the Fixall Motor company to be repaired. He had his pistol in his automobile and always kept it handy because of the fact that he handled quite a bit of money, and there was a lot of talk at Kannapolis about several recent holdups. When he was riding with a lady he always laid the pistol in the lap of the person in the front seat. He told of several parties who had ridden with him, and who carried the pistol for him. On the night of October 25 he had several hundred dollars on his person, having made several sales of automobiles that day. Fif-

teen or twenty, as a witness stated him when he handed a roll of money to pay a colored boy.  
 Thomas said he had lost his pistol, and the gun he had on the night of the shooting was the one that belonged to Mr. Walters, which he found in the pocket of the car Walters had driven to Concord to have repaired.  
 The witness said he wanted to see Mr. Overcash, and he went to the house for a car he had sold. The witness said he had learned that a purchaser of his car was using it in the whiskey business and he feared the state would seize it, and he would locate the same. Mr. Overcash had been named as a reference by the purchaser, and Thomas wanted to see Overcash at once and see about collecting the rest of the money on the car. He went three times to see Mr. Overcash, but failed to find him at his garage.  
**Invited Party to Drive.**  
 At supper the defendant said he invited Miss Sloop and Mr. Deal to go with himself and Mrs. Lowe to the Fixall garage and to see the car for a car he had sold. Mr. Overcash, after supper he went down town and ascertained that Overcash had returned to Kannapolis. He then went by the Fixall garage and he had a car for a car he had sold. Mr. Overcash was sitting in the car on the front porch with Mr. Cline.  
 Thomas invited them both to go with him over to Mr. Overcash's, but Mr. Cline said he could not leave the house. Mrs. Lowe got into the car and went with him. They drove down the national highway to the Fixall garage, passing the house. Mrs. Lowe was sitting in the car on the front porch with Mr. Cline.  
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to Kannapolis, on the night of the shooting about 9 o'clock. He went to police headquarters, where he found Officer Spring and Mr. Thomas. Thomas told him then that some one tried to hold him up and he shot him. Thomas said the sheriff that night that the man walked up and put his hand on his car, but he could not recognize who he was. Sheriff Spears also testified as to several hold-ups and killings which occurred near Concord within the past several years. He mentioned the shooting of a carnival man, Jones, at Kannapolis, the killing of W. M. Allman and the hold-up and robbery of Jim Norman, Concord "Honey" driver.  
 Thomas stated in his testimony that he had heard of these killings and hold-ups, and these witnesses were introduced to corroborate this statement from him.  
 Miss Gladys Sloop was called back to the stand and told what she saw after the shooting on the night of October 25. He asked her to go with him and Mrs. Lowe to the Overcash home and then to the picture show. She did not go with them, but with O. W. Deal, who had also been asked by Thomas. They got tired of waiting for Thomas to call for them. On cross examination she stated that Mrs. Lowe did not go with them.  
**Deal Also Recalled.**  
 O. W. Deal was also called back to the stand, and he corroborated Miss Sloop's statements. Mrs. Lowe did not go with them, but stated them to wait for Thomas, he urged on re-direct examination.  
 J. C. Goodnight, who was working for Mr. Overcash on October 25, testified next. He said Thomas three times that day, he stated that Thomas asked where Overcash was and he told him in Concord and Salisbury. He did not tell Thomas what time Mr. Overcash was coming back, for he did not know.  
 R. T. Frye, Kannapolis merchant, stated that he talked to Thomas several times on October 25. He said he planned to go to Charlotte with Thomas. He said just after dinner Thomas called and told him that he had to see several parties in Kannapolis, including O. Overcash, and he could not tell what time he would go. He said that was suitable to him. He had been to Charlotte

boardings to the Overcash home at Midway, turned there and drove in the home of O. Overcash over the same route Thomas and Mrs. Lowe stated they took. Maness and Sherrin stood on Leonard street, just opposite the garage of Mr. Rogers, at the point the sedan of Allen was standing the night of the tragedy, and from the Overcash house, where they stopped the car, he could not see them. He stated that they walked back up the ditch on the left side of the road, and crossed the road from the ditch to the car behind one another. The question as to whether or not he could see them as they walked from the ditch to the car was not allowed upon objection from the state.  
 Testimonies given in evidence entered the evidence of the trial, and front seats are selling now for 10 one spectator stated. Many of the spectators are women.

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"Cap, are you following me?"  
 The witness said he replied "No," and the man then commanded: "Then throw up your hands."  
 The defendant said that in a flash he snatched the pistol from the lap of Mrs. Lowe and fired three times as fast as he could. He did not aim the pistol.  
**Had Money in Pocket.**  
 He testified that at the time he had about \$100 in his pocket and was sure he was being held up. After he had shot three times he drove rapidly away, not knowing that he had killed the man. Mrs. Lowe was arrested by the shooting and Thomas drove immediately to her home. He then went to find the police and gave himself up. Later the officers told him that he had shot Arthur J. Allen.  
 After reaching police headquarters he said he telephoned his wife that he had shot and killed a man who had tried to hold him up.

**On cross examination** Thomas stated that he had known Allen about one year. Allen's place of business was a short distance from the Forest Hill Motor company, where Thomas had his quarters while in Concord. Thomas sold Allen an automobile last summer a year ago. Allen later returned the car to the garage and the defendant told him that he had sold Allen a Ford sedan. Allen had paid a total of \$150 on the car. He had used the car only one Sunday. Thomas denied that Allen had said the car was unsatisfactory, and the reason the money was not returned was because H. L. Morrow refused to return it. He said Allen had no ill-will toward him personally, but was "sore" with Morrow and company and said they were a "crooked bunch."

**When Thomas stopped near Overcash's the Ford sedan was about 50 yards from his car.** Before defendant stopped he had seen the man get out of the Ford, but paid no attention to him and did not notice him again until he was 10 or 15 feet from his car. The man walked up to the Thomas car on the left hand and laid his hand on the car. Thomas did not see what was in his hands, and he never looked to see if he had anything. The defendant illustrated how the man had stood beside his car at the time the shots were fired. Then the defendant drove away rapidly.

**Been in Courts Before.**  
 The defendant admitted that he had been in the courts before. He was convicted of hitting a man and fined \$15. He had some trouble with a party who stated he was going to shoot Thomas on sight. The man approached Thomas in a threatening manner and Thomas held a gun in his face, he testified. The case was thrown out of court. In Spartanburg he had had two fights. One was with a man who slapped him in the face, and the other with a negro who had hit him.  
 Thomas contradicted part of the stenographic report of the hearing in Charlotte relative to the number of times he had visited the Overcash home. He stated here today that he had been to the home but one time. The stenographic report stated that the hearing Thomas said he had been there several times. He denied this, and stated that the stenographer was mistaken.  
 He stated that he had been with Mrs. Lowe on numerous occasions, but most of the time some one else was with them. He stated emphatically that no improper relations had ever occurred between them, saying that "Bob Lowe is a good friend of mine and I would not say anything improper to his wife."  
 He denied that he had had trouble with a Mr. Hellig, of Mt. Pleasant. He left the witness stand at 11:20, after beginning his testimony at 8:30.  
**Rutledge Appears Again.**  
 John Rutledge made his third appearance as a witness. He and E. Lady and G. R. Morton were also introduced and testified that they were in the F. L. Smith Drug company on the night of the shooting and heard Mr. Thomas state to the jury that "some one tries to hold me up, and I shot him." Mr. Rutledge stated that he saw the gun the next day.  
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