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(Linn follows Jordan, Nov. 24, 1931, a. m.)

GEORGE NAKEA

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was duly called and sworn as a witness for the defendants, and testified as follows:

DIRECT EXAMINATION

By William H. Heen, Esq.

Q. What is your name?

A. George Nakea.

Q. Are you a member of the police department of Honolulu?

A. I am.

Q. And what work do you do in that department?

A. As a detective.

Q. Detective?

A. Yes, sir.

Q. How long have you been a detective in the Honolulu police department?

A. Five years as a detective, about two years as a foot patrolman.

Q. On the night of September 12th, or early in the morning of September 13th, did you go up to the home of Mrs. T. H. Massie?

A. I did.

Q. Who did you go with, if anybody, at that time.

A. Detective Bettencourt.

Q. Is Bettencourt a detective?

A. Yes, sir, that is, at that time.

Q. At that time?

A. Yes sir.

Q. And when you went to this place did you go to the

house?

A I did.

Q Did you see Mrs. Massie?

A I did.

Q Do you remember who were present at that time when you went into the house?

A Yes, sir.

Q Who?

A It was Furtado, the radio patrolman, Furtado, Harbottle, Mr. Massie and Mrs. Massie.

Q Did you hear any statement made by Mrs. Massie at that time?

A At the time when I got there Furtado was taking a statement from her, but I didn't hear, - I just went in and spoke to Mrs. Massie myself, - I just butted in, but I did not hear what Furtado was saying. Furtado had a book and pencil

Q What did you say to Mrs. Massie?

A I went to Mrs. Massie. She was laying on a couch like, and Furtado was standing at her head, and Mrs. Massie was in the middle and Harbottle was at the foot of the bed there, and I went in between myself, - I went in.

Q Was it a bed or not, or something else?

A It is a couch like.

Q What did you say to Mrs. Massie?

A I asked Mrs. Massie, - I went to her, right at her head, and she was looking at me; she was holding

a handkerchief over her mouth, and I told Mrs. Massie, I said, "What is the matter?" so she said "I have been assaulted." I says "Who was you assaulted by?" and she said "Some Hawaiian boys", and I asked her, I says, "Do you remember where the place you been assaulted at?" and she said "Yes, the other side of Ala Wai Inn". That is all she asked me. Then I told Mr. Massie to come out with me and with Furtado.

Q Did she tell you or say anything about who assaulted her?

A No, she just told me it was Hawaiian boys.

Q But did she say anything about the number of the car?

MR. WIGHT: Objected to; these are leading questions.

Q What else did she say at that time?

A Well, I heard Furtado ask her if she remembers the numbwr of the car, then she says all she know was "55", and that is all.

Q Fifty-five?

A Fifty-five. That is what she told me and told Furtado, with my being present there.

Q Did you make a report?

A I did not.

Q To Mr. McIntosh, after you came back?

A I did not. I was sent up there by Inspector Jardine.

Q What else did she say as to the identity of the boys if anything, of the Hawaiians, rather?

*Furtado
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A She did not make no identification about the boys to me, but all she said was Hawaiian boys, and that is all she said.

Q Did she say anything at that time as to whether or not she could identify these Hawaiians?

A She says she could not, because I asked her at that time if she could identify the boys if we were to go out and pick up the boys and bring them in and she said no, she could not identify, all she knew was Hawaiian boys.

CROSS EXAMINATION

By Griffith Wight, Esq.

Q You say you went in and could not hear what Furtado was questioning her about, that is correct, is it?

A Yes, that is when I went in, Furtado was talking, was questioning, but I don't know what Furtado was talking about, and I could not hear him put the questions.

Q You did not hear Furtado question her?

A No

Q Not at all?

A The only thing I remember is when Furtado asked her if she knew the car number, then she said "55"; that is all I know.

Q What did you mean by saying you did not hear him question her at all?

A Before that. I came out with Mr. Massie and went in again.

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Q Did you make a statement in this case?

A I did.

Q Did you say that in your statement, that the number was "55"?

A Mrs. Massie, yes.

Q Did you say that?

A Maybe I did. If I can get my statement now I could look at it and tell.

Q Didn't you say in your statement that Mrs. Massie didn't remember the car number at all that time?

A Yes, I said that she didn't remember the car number, but in my statement I forgot to say she mentioned about the car number "55".

Q Didn't you say in your statement "What is the car number", "Do you remember what the car number was?" and she said "No"?

A I didn't ask her about remembering about the car number. Furtado asked her.

Q Well, didn't you say this--

A I didn't,- I remember officer Furtado asked her that, if she knew the car number, and she told him that, - after, I told that.

Q You told him after?

A Yes, after that. It is not in there. (After looking at paper) Maybe Mr. McIntosh did not type it down because--

Q But you told him afterwards?

A Well, I told him right after that.

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Q Did you sign another statement beside this?

A That is the only statement; no, sir, just the one.

Q Why did you leave that out of that statement?

A O, well, I told Mr. McIntosh and Mr. McIntosh was the man that typed the statement out, and I was the one that dictating to him.

Q You read it over before you signed it, didn't you?

A Yes, I did.

Q You distinctly remember Mrs. Massie saying that she remembered two numbers, "55"?

A Fifty-five, yes.

Q There may have been other numbers in between. You could not remember any numbers in between?

A No.

Q There may have been numbers in between?

A I know the lady's number is 55.

Q But there may have been some other numbers in between?

A Some others? Other numbers besides 55? The number I heard was 55. Mr. McIntosh didn't put it down.

Q You read it over before you signed it?

A Yes, I did.

Q You did not think that was important enough to include in there?

A After Mr. McIntosh typed this off he left the office, while we were reading it, Bettencourt and I

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both.

Q What was the condition of Mrs. Massie's face?

A I don't know. She had some mouth covering over her mouth.

Q What about her eyes, were they wide open?

A Yes, nothing the matter with it.

Q Nothing at all the matter with her eyes?

A Yes, nother.

Q You looked at her?

A I was right close to her.

Q It was light enough to see her, wisn't it?

A Yes.

Q And there was nothing the matter with her eyes?

A I didn't see nothing the matter with her eyes.

There was a cloth over her mouth.

A You saw nothing the matter with her face at all?

Q Just a cloth over her mouth.

A She looked absolutely normal?

Q I would not say she looked absolutely normal; she looked as if she may have been hurt.

Q I asked you what she looked like, and you said she just had a cloth over her mouth?

A She was laying down.

Q What was the first remark you made when you butted in on Furtado?

A I told her "What was the matter?" and she said she was assaulted, and I said "By who?" and she said "Some Hawaiian boys".

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Q Anything else?

A Yes. Before I entered the house--

Q Was anything said about where it had happened?

A No, - I asked her where and she told me on the other side of Ala Wai Inn. That is all she said.

Q That is all she said?

A That was all she said.

Q That is all you talked to her about?

A That is all I talked to her about, yes.

Q (Witness excused.)

GEORGE HARBOTTLE

was duly called and sworn as a witness for the defendants, and testified as follows:

DIRECT EXAMINATION

BY MR. HEEN:

Q What is your name?

A George Harbottle.

Q Are you connected with the police department of Honolulu?

A I am

Q And what position do you hold in that department?

A Detective.

Q Under chief of detectives Machado?

A Yes, sir.

Q How long have you been in the position of detective?

A A little over a year now.

Q And before that time were you on the police department? Were you in the police department?

A You mean before the year? No, sir.

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Q Now on the night of September the 12th or the early part, the morning of September the 13th, Sunday, did you, - this, - did you have occasion to go up to and enter the home of Mrs. T. H. Massie?

A I did.

Q Who went along with you?

A We received the call on the radio on that night. Furtado, officer Furtado, was with me then.

Q Whereabouts were you at the time this radio call came to the radio on your car?

A Up at Lusitania and Emma.

Q Were you riding on the patrol car at that time?

A On the radio car.

Q Radio patrol car?

A Yes sir.

Q And the first flash that came over was when you were at that point?

A Yes.

Q And did you hear it again later on?

A No, we just heard it once and we started right off.

Q They gave you the address?

A Yes, they gave us the address, and we headed for the address.

Q Do remember approximately the time that you got up to Mrs. Massie's home?

A I don't remember clearly right now. I have not read my report over.

Q Did you make your report or did Mr. Furtado make a report?

A I didn't make a report. Furtado made a report.

Q Furtado made the report?

A Yes.

Q Did you read that report?

A I did at that time.

Q Could you say whether or not that report was correct?

A Yes, it is correct as far as I know.

Q As far as you know?

A Yes.

Q Would you want to have that report to refresh your recollection?

A If I could have it.

MR. HEEN: Mr. Wight, have you that report.

MR. WIGHT: Now, listen, I think that is going too far. I saw this witness reading some stuff off of Mr. Heen's desk, a few minutes ago. This is just a game, and Judge Heen knows it. It seems Mr. Heen is going a little too far.

THE COURT: There is nothing before the court.

MR. HEEN: The witness has a right to call for any memorandum that will refresh his recollection. If they see fit not to produce it, it is all very well.

MR. WIGHT: We are within our rights.

MR. HEEN: If you are afraid of it, why--

MR. WIGHT: I object to these remarks.

(11)

THE COURT: They jury will disregard the remarks of counsel. Proceed.

Q Now when you went into the house who did you see there, Mr. Harbottle?

A When I entered the house I saw the woman who was assaulted and the husband in there. They were in the living room at that time. The husband came out to meet us.

Q. What was said at that time, do you remember, as far as you can remember now?

A Well, the husband said that his wife was assaulted, so we went into the house and looked the woman over. She was laying in the touch at the end of the living room.

Q You questioned this woman?

A Officer Furtado questioned thw woman. I was standing by.

Q By Mr. Furtado. Did Mr. Furtado write down what was said at that time?

A He did write it down; I saw him noting it down.

Q What was said at that time?

A Well, officer Furtado was questiong her, and I cannot remember all the questiong but I do remember some. He asked her what had happened and she said that she was assaulted by a gang of boys and he asked her where it happened and she said it happened on John Ena Road.

Q On John Ena road?

A. Yes, And he asked her whether she could identify the boys when she saw them, and she said she could not at that time.

Q She could not at that time?

A No. And he asked her how were the boys going at the time they assaulted her, and she said they picked her up with an automobile, two men jumped off the car and struck her, beating her up, one hit her under the mouth, and threw her in the car, and when he asked her what kind of a car it was and she said it was a Ford car with a back flapping; she said she could not identify the car because she was thrown in the car and every once in a while she got a glimpse of it; the car was an open car, and that the back, the top was flapping, and it might have been an old car. He asked her whether, -what kind of a car it was and she said it was either a Ford or a Dodge, she didn't know what kind it was, and then he questioned her further and he said if she really could identify the boys, and she stated that she could not, and he asked her if she could tell them by their voices, and she said yes, that is the only way she could identify them, is by the voices.

Q By the voices?

A By the voices, if she heard them again. So then I left the room and went out and Furtado was questioning her then, and then Furtado went on and he

*At top flapping
argue this -
why not in
report -
and report*

called up for McIntosh and instead of that he got Jardine, I guess, who was in, and who was in charge of the bureau the, and Jardine came up and the case was turned over to him.

Q Was anything said at that time as to whether or not she heard any names?

A Well, Officer Furtado asked her if she heard any names, and she stated that she did not hear any names, but there was only one name that she remembered, and that was the name of "Bull"; that is the only name she heard.

Q Now/^{was}anything said as to the number of the car?

A I don't remember there was anything said about the number of the car in the house then, but I think somebody said it over the telephone, that one of the men picked up a car which later in the early part of the evening, had some kind of an assault case down at King street some place, and they had picked that car up, - I am not sure, I am sure the woman could not have heard the number, she was far in the corner, away from the telephone; her husband was next there.

Q You said you heard somebody repeat that number over the telephone?

A Captain Furtado told me he got the number of the car, so I knew what the car was, which I knew

earlier, in the early part, we were looking for, and we knew the car by a certain number, and when he said he talked about the car I knew what car it was.

Q When did Jardine tell you that, up there at the house?

A No, he said it to the telephone; transmitted the thing over the telephone.

Q What telephone, from where?

A From the detective bureau up to the home where we were out at Manoa.

Q Who received the number there at Mrs. Massie's home?

A The number was received by officer Furtado.

Q Do you remember whether she was questioned by Mr. Furtado about the number of the Ford car, the old Ford car or Dodge car?

A That was the time he was questioning her, he asked her whether she could identify the car, give the numbers, "How could we get to the way of picking up this car?" and she said the only way she could see was to give us the description of the car, which I stated a little while ago, - the back of the car, the top, was flapping, it was an old car; she said it sounded like an old car, between a Ford and a Dodge, she did not remember that. That is the only way; she could not give us any number at that time.

Q What else did she say?

A She said it was dark; at least she did not remember; could nor recollect her kind, I guess.

Q She said it was dark?

A Yes, she said it was dark, and when she was picked up from the road the boys started in to beat her and she only got glances so she could see what kind of a car she was riding in.

CROSS EXAMINATION

BY MR. WIGHT:

Q Did you hear her say to Furtado that the number of the car had two 5's in it?

A No, sir.

Q Were you listening?

A I was right there with Furtado all the time.

Q And are you sure she did not say that?

A No, sir.

Q You are not sure?

A She did not say that.

Q What?

A I am sure she didn't say anything.

Q If Officer Nakea testified that she did give those two numbers when Furtado was questioning her was Nakea wrong or not?

MR. HEEN: Objected to, it is not for a witness to testify whether another witness is testifying falsely or incorrectly; I object to it as not proper cross-examination.

THE COURT: Proceed.

MR. HEEN: May we have a ruling on that?

THE COURT: The objection is overruled.

MR. HEEN: May we have an exception?

A No, I don't think I was in the room at that time because after Furtado was about through with her I left the room and went out and came back again and he may have asked her that question while I was out; I don't remember.

Q Did Mr. Nakea question her?

A I don't know

Q You don't know?

A I am not sure.

Q How is it you remember everything else and can't remember that?

A We were the first officers there. When the other officers came I went outside.

Q You stepped outside?

A No, I mean I went outside and stayed until we left.

Q Did you hear Nakea question her?

A No.

Q If he questioned her you were outside at that time?

A I was not there.

Q Did you see Nakea come in?

A I was there when He came in. He just came in and looked at the woman, I guess.

Q What did he do?

A I don't know; he didn't do anything while I was there. He was in the room while I left the room.

*8 officers
remember - can't
how can I think
every girl*

Q What did he do?

A He walked in the room. I saw him; I went out.

Q Where did he walk to?

A To Furtado and talked to Furtado, and I left the room and went out.

Q Did he interfere with Furtado's questioning of the woman while you were there?

A Not while I was there.

Q How long were you there after he came?

A I was there about maybe about three minutes, I guess.

Q And there was no questioning by Nakea at that time?

A Not while I was in the room.

Q Now I want you to cover Nakea's steps, as he came in he came in and walked up to Furtado. Where was Furtado at that time?

A Furtado was right about in the middle of the bedroom,--of the room/

Q Standing?

A Yes, he was standing.

Q How far from the bed?

A He was about, oh, about five feet from the bed.

Q Five feet away, questioning Mrs. Massie?

A Yes, she was on the couch.

Q Where did Nakea stand when he came in?

A He was standing about immediately in front of the door, about five feet from there.

Q He stood right there as long as you were in the

room?

A Yes, stood there and talked to Furtado.

Q Then when they were there Furtado was not ~~xxx~~ talking with the woman?

A No, he was talking to Nakea; he was not talking to the woman.

Q Furtado and Nakea talked all of the three minutes you were there?

A I guess they talked, because I walked out, left, after Nakea came in.

Q During the three minutes/^{you}were there what did Nakea and Furtado talk about?

A I don't know; I didn't listen to them.

Q You were there.

A I was there.

Q How is it you can remember the other things and you can't remember that.

A I can't remember that; well I was not in the room.

Q You said you were there three minutes. I will have the reporter read your prior answer. (Answer read by the reporter as follows: "I was there about maybe about three minutes, I guess.")

A When you said "there" I thought you meant that particular place; I didn't know whether you mean in the room or not.

Q What did you mean by that?

A I meant I was at the scene about three minutes after Nakea came in.

Q What did Furtado and Nakea talk about?

A That I don't know.

Q You can remember the other things but you can't remember that. You remember they were talk^king?

A Yes, they were talking. I left when they started in talking.

Q You said you were in there three minutes. Did they sit there or stand and look at each other for three minutes?

A I didn't say they talked for three minutes.

Q What did you mean when you said that, about three minutes?

A I left the room when Nakea came in.

Q You said awhile ago you were in that room?

A I was not in the room. I went out, so I don't know really what they talked about.

Q What do you mean by the three minutes. Read that again. (Previous answer read by the reporter as follows: "I was there about maybe about three minutes, I guess".)

A During that three minutes I was in and out of the room.

Q What did you go out for and come back in again for?

A I went to see a man they picked up.

Q What did you go back for?

A I went back in to see things and hear, I guess.

Q What happened when you went back in?

A Then all the men came there, Detective Jardine came over with somebody.

Q During that three minutes?

A Yes, just during that time. When all of them went into the room I did not stay in the room, I was outside then.

Q You can remember some things, but you can't remember anything of what anybody else said except Mr. Furtado?

A Yes.

Q Why didn't you put it in your report that Mrs. Massie said that the back of the car was flapping?

MR. HEEN: Objected to.

Q Did you not sign a report with Furtado?

A A report, yes.

Q A report?

A Yes,

Q A statement?

A Yes, I did.

Q And that statement was correct?

A I read the statement over.

Q Was it correct?

A It was.

Q Was it complete?

A We answered the questions they asked us, is all.

Q Was it a complete description of what happened up there?

A I cannot recall whether it was correct or not, because I only answered the questions they asked me.

Q Did you put in that report the fact Mrs. Massie stated the back of the car was flapping?

A I guess we did.

Q Are you sure of it?

A In the report, yes.

Q In your statement?

A I don't remember whether it was in the statement or not.

Q You signed a statement preparatory to this trial did you not?

A Yes.

Q Will you swear you put that in your report?

A No, I will not swear I put that in the report.

Q You will swear you put it in your statement?

A I don't believe I put it in the statement; I can't remember.

MR. PITTMAN: Mr. Wight, may we look at that report before you examine any more on it?

MR. WIGHT: I have some more questions to put before I let you see it.

Q What condition was Mrs. Massie in?

A Oh, she was in quite a critical condition at that time.

Q Did you see her face?

A I did.

Q What shape was that in?

A Her mouth was bleeding. It happened that somebody punched her I guess.

Q You guess?

A Yes.

Q You don't know?

A I don't know when they punched her.

Q What about her eye?

A I think her eye was a little swollen up at that time. She happened to be crying.

Q Would you say she was in a hysterical condition?

A She was in quite a hysterical condition.

Q In this statement did you put in your own stuff or the stuff that Dr. Liu reported?

A In the statement?

Q Yes.

A I don't remember.

Q In your report did you put in your own statements or what?

A In the report I guess it was our own statement, how she was at that time when we saw her, in the report.

(Counsel for Territory hands a paper to counsel for the defendants.)

Q Now you have sworn that you are positive that in this report, in the statement, that it says Mrs. Massie said that the back of this car was flapping. Will you show me where that is contained in there? (Handing document to witness) That is your signature?

A Yes, that is my signature.

Q This is the statement to which you refer?

A Yes, that is the report.

Q The report, I mean.

As argued

As to report on flapping

A. Yes.

Q Where is it in there, please?

A I don't see it.

Q- Didn't you swear under oath that it was in there?

A I did.

Q Is that as truthful as the rest of your testimony in this case here?

A ~~Exaid~~ The rest is true.

Q But that is not the truth.

A. Not the truth as that report reads.

Q Isn't this the report you signed?

A Yes.

Q Isn't that the report you are speaking about?

A I didn't read the report and I can't remember everything.

Q Didn't you say you put that in the report, to Judge Heen and to me?

A What is that?

Q Didn't you tell Judge Heen and tell me that you did put that in the report?

A I didn't tell Judge Heen that.

Q You told me it was in the report?

A Yes, I said that was in the report.

Q Is that your signature?

A Yes.

Q Is that fact, about that loose top, in the statement then that you made to Mr. McIntosh, that you made for the purpose of this case?

A The flapping in the back of the car?

Q Yes.

A I didn't say it was in there.

Q I want to find out if you put it in either the statement or the report, I am trying to find out if you put it in anything or if you made any report of it whatsoever to anyone?

A (Witness reads paper)

MR HEEN: We can shorten this. It is not in there.

MR. WIGHT: It is not in there.

Q A few minutes ago, Mr. Harbottle, you were over reading some paper in Mr. Heen's file. What was that paper?

A That was some note he had on there. I was looking for the report, that is what I asked him, asked him for the report, I wanted to refresh my mind.

Q You wanted to refresh your mind from what?

A On the report to the police station.

Q You were reading over there for three or four minutes,- in fact after the Judge came into the room you were still reading. What were you reading over there?

A I wasn't there for four minutes, only a couple of seconds. I wasn't there ~~for~~ long.

(Mr. Heen hands paper to Mr. Wight)

Q Did you go to Mr. Heen's ~~for~~ office and make a statement?

A I did go there to make a statement. I got a call from him, he wanted to see me. I didn't know what it was all about.

Q You didn't know what he wanted to see you about?

A. No.

Q You didn't know he was a defense counsel in this case?

A I didn't know.

Q You never read the papers, or haven't in the last couple of months?

A I hardly ever read the papers.

Q You can read?

A Yes, I can. I do.

Q Why did you say in here, reading from this statement. "She didn't hear the names called except the name "Bull" when in your statement here you say: "I asked her if she heard any names mentioned and she said the name "Bull". You didn't say "any name except the name "Bull"?"

MR. HEEN: That is objected to. It is just quibbling.

(Argument)

THE COURT: The objection is overruled. Proceed.

MR. HEEN: Acting silly

MR. WIGHT: I object to these comments when I am asking him questions.

Q Can you explain that?

A May you ask me the question again.

(Previous question, before the objection, is read by the reporter)

A Why that must have been a mistaken of the fellow who was taking the notes.

Q Who typed, it, who wrote this?

a The report?

q Yes.

a Furtado made the report.

q You found it correct when you signed it?

a I read the thing and I signed it, yes.

(Recess)

q Didn't it occur to you that this description of the car was quite important, this flapping in the back?

a Yes.

q Very important, wasn't it?

a Very important.

q Yet you didn't include it on either your statement or in your report, did you?

a I read the report. I don't see it there.

q It is not in the report?

a Yes it is not in the report.

¶ REDIRECT EXAMINATION

BY MR. HEEN:

q Now this statement here you made under date of September 16, 1931, "Statement of William Furtado made to John McIntosh of the detective bureau on September 16, 1931", I will ask you whether or not you were present when he made that report?

a I was not present when he was asked the questions.

q You were not?

a No,

q Then afterwards you were given this report and you read it?

A I read the report, yes.

Q And Mr. McIntosh wasn't there at that time?

A I don't remember.

Q You don't remember. Is that your signature, "George Harbottle"?

A Yes.

Q And that is the signature of William Furtado?

A Yes.

MR. HEEN: We will offer this in evidence, if the Court please.

MR. WIGHT: No objection, your Honor, to that going in evidence.

THE COURT: It will be received and marked.

(Document offered in evidence is received and marked: "Defendants" Exhibit 4*)

Q With reference to this report, 15619, made under date of September 13, 1931, 3:10 a. m., now who made that report, did you make it or did Mr. Furtado make it?

A Officer Furtado made that report.

Q Officer Furtado made the report, and then after he made the report I will ask you whether or not you read it?

A ~~Who asked you to read it?~~ I read the report.

Q Who asked you to read it?

A Well, we generally read the report before signing it.

Q And when who asked you to sign it, anybody?

A No sir, I signed it.

MR. HEEN: We offer this evidence, if the Court please.

MR. WIGHT: I will object to that one, your Honor. It contains the testimony of the other witnesses at the bottom and other places, and I object to it going in evidence. Of course it can only go in evidence if I agree to it.

THE COURT: It is a composite statement, that is the trouble it is not admissible.

Q Is this the signature of Mr. Furtado, officer Furtado, at the foot of it?

A I believe it is.

MR. HEEN:

Of course the intention of offering this report is not to get whatever may have been said as to the other witnesses, it is only as to what was reported by Furtado and officer Harbottle.

THE COURT: I understand that, but having come into evidence the trouble is it is all here. I have no objection to your covering any part you want on examination, but the document itself is, over objection, not admissible. The report as such is individually admissible in a criminal case only by virtue of examination of this witness, and if it becomes admissible it is only as to him.

MR. HEEN: May we have ^{this} ~~xxx~~ marked for identification, if the Court please.

THE COURT: All right. Mark it for identification.

MR. HEEN: I understand the offer is denied?

THE COURT: Yes.

MR. HEEN: And may we have an exception to the Court's ruling.

THE COURT: Yes, that will be noted.

(Document offered for identification is received and marked: "Defendants' Exhibit 5 for identification.")

Q Now you said that this woman was hysterical. What do you understand "hysterical" to mean, Mr. Harbottle?

A Well, I say she was, - she happened to be nervous and seemed to be not in her right mind. Well, she was just, - all, - I would say she was nervous.

Q Nervous?

A Very nervous, happened to be crying and must have been crying long before we got there.

Q What do you mean by saying she was not in her right mind?

A Well, she appeared to be crying, I don't know whether she was thinking clearly at that time or not, at that time; I don't know that.

Q Did she answer the questions asked by Mr. Furtado?

A She did answer the questions.

Q Now did she hesitate in answering these questions?

A She did not hesitate, she answered the questions all right.

Q Did she appear to you at that time as if she knew

what she was talking about?

MR. WIGHT: Objected to as calling for the conclusion of the witness.

THE COURT: You may answer that.

A Well, she answered the questions that was asked her. She appeared all right then, by asking the questions. I don't know if she was in the right mind or not.

WILLIAM K. SIMERSON

was duly called and sworn as a witness for the defendants, and testified as follows:

DIRECT EXAMINATION

BY MR. HEEN:

Q What is your name?

A William K. Simerson.

Q Are you connected with the Honolulu police department?

A Yes sir.

Q In what capacity?

A Traffic department

Q In the traffic department. I will ask you whether or not you were on duty early Sunday morning, September the 13th, 1931?

A I was

Q And who was with you at the time, if anybody?

A A merchant patrol by the name of William Gomes.

Q Do you recall getting an order to go up Manoa

*Wouldn't
look anyone
in the
eye*

SON

early Sunday morning on that date?

A I was a sub-station officer in the Manoa district for the night.

Q And where were you that early morning, on Sunday?

A I was patrolling around Manoa there.

Q In Manoa?

A Yes.

Q Well, did anything unusual happen up there that morning?

MR. WIGHT: Objected to as immaterial, your Honor; unless it has something to do with Mrs. Massie.

THE COURT: I think the witness understands the question. Answer it.

A Well, around 1:40 Sunday morning when I was coming up East Manoa Road, I saw a fellow waling towards town on East Manoa Road.

Q Who was he?

A Stopping him-I found out later it was,- I don't know, - Lieutenant Bronson or something.

Q Lieutenant Bronson:

A Bronson

Q Do you know where Lieutenant Massie's house is up there in Manoa?

A Yes sir.

Q Did you go there that night?

A I did.

Q How far from there did you meet Lieutenant Bronson?

A Oh, about ^{a good.} 250 yards.

Q And at that time how was he dressed?

MR. WIGHT: Objected to as immaterial, your Honor.

I object to it.

THE COURT: You may answer it.

A Well, he was all in white. He had his coat off and his shirt was all open. His hair was all mussed.

Q How about his trousers?

A Well, later on the merchant patrol called my attention to--

MR. WIGHT: I object to what anyone called his attention to.

Q You can't say what he told you. What did you see yourself?

A I saw his trousers all open.

Q All open?

A Yes.

Q How about his shoes?

A I didn't notice that.

Q Then what did you do after you saw Lieutenant Branson?

A After I saw Lieutenant Branson I asked him a few questions and he would not answer me, so I took him to the police station box.

Q What happened?

A Well, at the police box the radio patrol came up.

Q What happened?

A The radio patrol told me that there was a rape

case in Manoa and he asked me who I had here and I told him, and he said "Maybe we can use that man" and "put him on this car."

Q Then what happened?

A Then we went to this Kahawai street place, there.

Q To Lieutenant Massie's home?

A Lieutenant Massie's home.

Q What happened to the patrol car?

A The radio patrol?

Q No, what happened to the patrol car, did the police patrol come up there?

A No, not then.

Q Then you all went up to Lieutenant Massie's home?

A Yes, sir.

Q Did you go into the house?

A I did.

Q And what did you see when you got into the house?

A When I first went in Mrs. Massie was lying on the couch, under cover there, and Mr. Massie was standing on the side, on the outside.

Q Then what happened?

A Then officer Furtado started in questioning Mrs. Massie.

Q And did she answer the questions which were asked her by officer Furtado?

A She did.

Q What was the condition, -What was her condition at that time?

A Well, she was crying at the time. That is about all I could see; she was crying, that is all.

Q Did you notice anything about her face?

A I did. I noticed a little mark over her (indicating); right on this lip here, and a black and blue mark on her neck.

Q How about her eyes?

A I don't know; that night I didn't notice anything in the eyes, that night.

Q I will ask you whether or not at that time Mrs. Massie appeared to understand what she was talking about?

A Seems like it to me.

Q Did you ask her any questions yourself?

A I don't remember. Furtado was doing most of the questioning.

Q After Furtado spoke to her did you say anything yourself?

A Yes, I remember asking her if she realized that all local cars, Honolulu cars, had five numbers, and can she give one or two of the numbers that was on the car and give us a lead on the case. I remember that. And she said no.

Q Did you hear her say anything about being able to identify the persons who assaulted her?

A She said she could not.

Q Did she say anything as to whether or not she was able to identify the car which the men had who

*What
a low
Gladstone*

assaulted her?

A The only thing I could remember she said that it was some kind of an old touring car, whether it was a Ford or a Dodge.

Q Did she say at that time whether she had been able to overhear the men calling names?

A I don't know.

Q You don't remember that?

A I don't remember.

Q Did she, Mrs. Massie, say anything about the nationality of the men who assaulted her?

A Yes, she said she was positive that they were Hawaiian boys.

Q Did she say how many Hawaiian boys?

A Four or five, she was not sure.

Q Did she attempt to name any of them at that time?

MR. WIGHT: I object to that question on the ground it has already been asked and answered.

THE COURT: You may answer it.

A She did not mention any names at that time.

Q At that time, Mr. Simerson, did Mrs. Massie attempt to describe any of those boys or any of these men?

A She did not.

CROSS EXAMINATION

BY MR. WIGHT:

Q Did you make a report of this case?

A No, sir.

Q Did you think this wasn't important enough to make a report on?

A Well, officer Furtado was the one who made the report.

Q Did officer Furtado say anything in his report about you saying that all of the Honolulu cars had five numbers?

A I don't remember whether he put that down there or not.

Q You don't remember ~~whether she put that down there or not?~~ Was Nakea there when you were there?

A Yes, sir.

Q You didn't hear her say to Nakea that she remembered two numbers were 5's.

A I did not.

Q You can't remember that?

A No.

Q You won't swear that she did not?

A No.

Q You don't know whether she did or not?

A No.

Q Then when you said she could not remember any number you are not correct in that, - when you say she could not remember a number?

*Q. And you are sure she said that she could not remember any of the numbers at all?
A. Yes, sir.*

A She did to me. To Furtado and^I/she did say that.

q Wasn't she talking about Nakea there?

A She was talking to Nakea after/

q Wasn't Furtado there and weren't you there?

A I walked out after Nakea came in, for a little while there. I walked out, it was so warm, and I thought I would go out and get some air.

q How long were you there before you walked out, when Nakea was there?

a About 15 or 30 or 25 minutes.

q But you didn't hear her say anything to Nakea that she remembered two of the numbers?

a no, sir.

q Did you make any report that she said she could not identify any person who assaulted her?

a I did not.

q Did you make any report that she said it was an ole Ford or Dodge touring.

a No, sir.

q Now what were her words when she said or described what nationality these boys were?

A She said they were Hawaiian.

q You tell me her exact words?

a She said that the boys were Hawaiian, positive they were Hawaiians by the way they spoke.

q That is exactly ~~what she~~ her words?

a Well, I could not say it word for word , but it

sounded something like that.

q What were the words, word for word?

a I cannot remember.

q As near as you can remember?

a Something like that.

q She did not use the word "she" did she?

a She did not use the word "she". She said "I am positive they were Hawaiians because of the way they spoke."

q At that time she did not mention any names that she heard down there?

a Not while I was there.

q You are positive of that?

a Yes.

q And you were there during all of the time Furtado was questioning her?

A Yes.

q And you were there during the time Nakea was questioning her?

a Not all the time.

q Just with Furtado?

a Yes.

q You were there all that time?

a I walked out and Furtado and Nakea stayed in there. Not all the time.

q During the fifteen minutes you ~~were~~ there when Nakea came, and during the time before that, when Furtado was there with you, she did not answer any

question as to remembering any of the names she heard that night, any names down at the site of the rape?

a No

q You are positive, Do you know ~~whether~~ where the rape occurred,- Didn't you think it occurred up Manoa or did you know?

a I didn't know at the time, but they told me it was down on the Ala Moana road.

q You thought it was up Manoa all the time?

a When Furtado told me I thought it was up Manoa but after that when we saw the woman we found out where it was.

q You were up at the police station afterwards when Mrs. Massie was being questioned by Mr. McIntosh?

a Yes.

q You were there when she walked out with her husband?

a I must have been. I didn't see her walk out, but I was there.

q Didn't you see Mr. and Mrs. Massie walking out and you and Bettencourt and a few others laughed at them?

a I laughed at them?

q Laughed at them, yes.

a I did not.

q Did you hear the others laugh at them?

a No.

q You are positive of that?

a yes, sir.

q Haven't you consistently made statements that these men are innocent?

a No.

q And have taken that attitude consistently all the time?

a No.

q Didn't we have to call you up to have you quit make statements around that they were innocent men, and to get you to back up the police force. Didn't we have to do that with you?

a About making statements?

q- Didn't we have to; didn't you have to be called up and officially complained about, about making statements adverse to this case, as a police officer?

a Yes.

q Did you make any statement to any newspaper or reporters?

a No, sir.

REDIRECT EXAMINATION

BY MR. HEEN

q When was the first time any of us saw you about this case?

a Last night.

q Last night Mr. Kai came to your office, to your place?

A Yes, sir.

q Mr. Simerson, has Mr. Wight or anybody in the police department been telling you not to say anything

about this case?

a No, Mr. Wight has not said nothing to me about it.

q- Nobody at all?

a No, sir.

q Now who was it that told you to back up the police department?

a Nobody told me to back up the police department. They told me not to shoot my mouth around about this case.

q Who told you that?

a Some of my brother officers down there.

q Do you remember who?

a I don't know; it is one of these boys who is up here as a witness. I don't know just exactly which one.

q ~~Where~~ you called on the carpet for it?

a- No, no.

q Well, have you been shooting off your mouth about the case?

a I have not.

(Witness excused)

(Recess until 1:30 o'clock p. m.)

*Several
he had
been
fighting
case*

NOVEMBER 24, 1931

1:30 o'clock P. M.

MR. HEEN: Call Officer Machado.

LOCIANO MACHADO, a witness called on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY W. H. HEEN ESQUIRE:

Q What is your name?

a Lociano Machado.

q And are you connected with the Honolulu Police Department?

a Yes, sir.

q- In what capacity?

a As a detective.

q How long have you been a detective?

a About five years.

q Do you know Mrs. T. H. Massie? The complaining witness in this case.

a I do.

q I'll ask you whether or not you took some of these defendants to the Queens Hospital while Mrs. Massie was there sometime--some few days after September 12th, 1931?

a You mean I did?

MR. HEEN: Yes.

a I was one of them that went up with the bunch.

Handwritten notes:
if any
Single
Machado
is
Sylvia
Can you
believe
a check that
was the
call by the
Machado
11/24/31

q Do you remember on what day that was?

a I'm not sure but I think it was Monday or Tuesday.

q Did you go there more than once in this connection?

A Only once.

q And what were the boys taken there for, do you remember?

a To be identified by the woman.

q By Mrs. Massie?

a Yes, sir.

q- Who else was there at the hospital besides yourself?

a Mr. Wight.

q Among the officials, I mean.

q What do you mean "Officials"?

MR. HEEN: I mean police officers.

a Mr. Massie was ther and another naval officer.

MR. HEEN: I mean police officers.

a There was Silva, Mr. Wight, Mr. McIntosh and Mr. Stagbar.

q And how were those boys taken into Mrs. Massie's room; all together or one at a time?

a One at a time.

q Who were those boys taken on that occasion when you were there.

a What you mean?

q At the Queens Hospital. Which of thse boys were taken there at the time?

a I remember Kahahawai, Chang, Ben Ahakuelo and Ida also.

q Were you in the room when each of these boys were taken into the room where Mrs. Massie was ^{at} that time?

a I wasn't ⁱⁿ there when---Certain of the boys were in there when I was not there.

q Which boys were there when you were there?

a Chang, Kahahawai and Ben Ahakuelo.

q- What did Mrs. Massie say when she looked at Joe?

a She was trying to accuse Joe and Joe says "Not I". He said something about not he was the one. She was trying to accuse him of it and he was saying "No, not me".

q How about Henry Chang?

a Chang the same way.

Q And how about Ida, do you remember?

a When Ida was brought in there, I walked out.

q Do you recall when Ben Ahakuelo was brought into that room?

a- Yes, I recall.

q Was anything said by anyone just before Bennie was brought into the room?

a Yes, I think so. Either Mr. Wight or Silva mentioning to Mrs. Massie that "we are bring Bennie in now".

q And when Bennie was brought in, did anyone say anything at that time?

a It was mentioned. They said "This is Bennie standing?" "Yes". When McIntosh was at the woman's head, Mrs. Massie said "Yes."

Q Who said "Yes" first?

a McIntosh. He was sitting right near the woman's head there and when Mr. Wight asked "This is Bennie? Do you know this is Bennie" Mr. McIntosh whispered to the woman "Yes" and Mrs. Massie said "Yes".

q Have you a clear recollection of that?

a I do.

q How did Mrs. Massie look at these boys, - whether or not she uses any glasses.

A I don't recall whether she had glasses or not. I know ~~youxdi&xi&~~ I saw her look at the boys and she was saying "You know you did it. Why don't you come out clean? Why don't you come out with the truth?"

q What did the boys say?

a When she accused Bennie Ahakuelo, Bennie said "Oh, Yeah" to Mrs. Massie. In the meantime Mr. Massie was going for Ben Ahakuelo, - as if making an attempt to strike Bennie. Bennie stood crouched there and he told me afterwards if he took a sock---

MR. HEEN: Never mind that.

MR. WIGHT: I move the rest of the answer be given.

MR. HEEN: I move the answer is stricken, - the rest of it.

THE COURT: Proceed.

q Mr. Machado, did you question those boys as to whether or not they had anything to do with this assault on Mrs. Massie?

a I did because I was the arresting officer of the four boys.

q Which four boys?

a Takai, Joe Kahawai, Chang and Ben Ahakuelo.

q What did you say to those boys?

a I was sent out by Inspector Finnigan to go out with Ida in regards to a case last night.

q No use going through all that. Did you ask him what connection they had with that case?

A After they admitted Kahahawai here struck Mrs. Peoples, I came on further and I asked them did they know anything about that rape case at Ala Moana and they said they didn't know anything about that case; and I pleaded with them to give the break,- if they should say anything about the assault case, to give me the bread. They looked at me in the eyes and they told me No they didn't know anything about the case. I even got hold of Ida and I pleaded with Ida and everything He said "I don't know anything about it". He said "God-damn that detective last night tried to blame me for that assault case". I pleaded some more and he said "I don't know about the thing". I said "What detective?" and he remembered Black. He didn't remember the other officer.

MR. HEEN: You may cross examine.

CROSS EXAMINATION

QUESTIONS BY GRIFFITH WIGHT ESQUIRE:

q You don't like Mr. McIntosh, do you?

a I have no reason for not liking him.

q You don't like him, do you?

a I am saying I have no reason.

q I didn't ask you that at all.

A I cant answer because I don't have any reason to don't like him.

q Please answer the question.

a I like him.

q- Fond of him, aren't you? Really fond of him?

a I'm not going to say I'm fond of him; but as a boss I like him.

q Didn't you ask for a separate detail so you wouldn't be under McIntosh?

a I didn't ask the Sheriff in regards to this case. I told the Sheriff--

q (Int) answer my question, please?

a I didn't ask the Sheriff.

q You were put on a separate detail weren't you?

a Yes.

q Do you mean to say that I said, when you were in the room up there at the Queens Hospital "This is Bennie " as they brought Bennie in?

a I said either you or Mr. Silva.

q ~~xxxxxx~~ And I was there and it was said?

a- Yes.

q And you mean to say that Mr. McIntosh whispered to Mrs. Massie "Yes".

A Yes.

q Were you in the inner room or the door?

a It was attracted to my attention because she could not identify Ahakuilo. I understand they identified Chang and Kahahawai. That is what attracted my attention when they brought Bennie in;

q Is that the first time that Bennie was brought ~~up~~ⁱⁿ?

a When I was there, yes.

q This is Mr. Silva right here (indicating the Deputy City and County Attorney?)

a ~~That~~ Where were you standing?

a- At the foot, -- at the back of Ahakuelo.

q I was nearer Mrs. Massie than you were when Mr. McIntosh whispered as you said?

a Yes.

q Have you a very, very acute hearing?

a Yes.

q Have you a better hearing, -better than other people?

a I didn't say anything about other people.

q Do you hear better than other people?

a It attracted my attention when I saw McIntosh at Mrs. Massie's head.

q How long have you known these defendants?

a I know Kahahawai, Chang and Ahakuelo for a long time.

q Where have you known them?

a Around Vineyard Street.

q Where else?

a All my life around Vineyard Street there.

q Any place else?

MR. HEEN: If the court please, we object if he is trying to get in evidence that is not competent. You may ask if it is in Honolulu but I don't propose to let you get in anything that is incompetent against these boys.

MR. WIGHT: Evidently Mr. Heen is afraid of the question. I withdraw it.

q Didn't you tell Mr. Gleason, the Sheriff, week before last that you knew nothing about this case at all?

a I beg your pardon.

q Didn't you tell Mr. Gleason, the Sheriff, about a week ago or week-before-last, that you didn't know anything at all about this case?

a That is after you made a complaint to the Sheriff that I--

q (Int) I realize I made a complaint but didn't you tell the Sheriff that you knew nothing at all about this case?

a The question was put to me if I said anything against the City and County Attorney to any people on the outside and I said no I didn't discuss anything about the case.

q Didn't you also say that you knew nothing about the case?

a No, sir. Finding what I said, he started an investigation---

q (Int) That you found nothing else at all?

a Exactly

q Did you give information to some of the newspapers here of the evidence we have in this case?

a I never did? About facts that were to be kept secret?

a Nothing whatsoever that was to be kept secret/

q Have you always kept it secret?

a Always did/

q Have you any idea of how some of this evidence to be testified to here got into the some of the newspapers, if you know? Have you any idea?

a I have no idea/

q Were you pp in the Police Station the night of-- the early morning of September 13th when Mrs. Massie was in Mr. McIntosh's office?

a No, sir. I was work^king in the morning.

q How would you say Lieutenant Massie compares to Bennie in size,- physical size?

a To my recollection they are about the same size.

q ~~xxxxxxkxxxxxx~~ Isn't Lieutenant Massie much lighter, much smaller?

a I don't know whether they are the same build or not.

q Does Mr. Massie look like a prize-fighter to you,- that type.

A I don't say he looks like a prize-fighter.

q Would you say he was an athletic prize-fighting type.
Mr. Massie?

MR. PITTMAN: I object to the question as incompetent,
irrelevant and immaterial; not proper cross examination
and merely wast of time of the court and jury and the
court attaches.

THE COURT: Proceed.

MR. PITTMAN; May we have an exception.

THE COURT: Exception may be noted.

q Would you say, of Lt. Massie and Bennie: which would you
say was the huskiest?

a I would guess that Bennie is slightly huskier than
Massie.

q You know that Bennie is an amateur prize-fighter,
don't you?

a I do, sure.

MR. WIGHT: That is all.

MR. HEEN: Thats all. Call Robert Vierra.

ROBERT VIERRA, a witness called on behalf of the de-
fendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY W. H. HEEN EXQUIRE/

q What is your name?

a Robert Vierra.

q Where do you live, Mr. Vierra?

a 513 Vineyard Street.

ra
mination

*Nothing
in the transcript
about
Benny
suffering
from
any?*

q Are you married?

a Yes sir.

q And where do you work, Mr. Vierra?

a Out at Schofield Barracks.

q What kind of work do you do?

a Tile

q A tile se ter?

a Yes sir

q Who do you work for?

a E. A; Friedman.

q Do you know Tatsumi Matsumoto?

a Yes.

q Do you know George Silva?

a Yes

q Does George Silva belong to Honolulu or some other place?

a From Maui

q Were you with George Silva and Tatsumi Matsumoto the evening of September 12, 1931?

a Yes, sir.

q Out ^{at} ~~of~~ what place?

a Waikiki Park attending a dance.

q About what time did you go out there?

a I would say about ten o'clock.

q Ten o'clock day or night?

a Yes, at night.

q Who did you go with at that time?

a Matilda Silva, Ida Alves, George Silva, Tatsumi Matsumoto
and myself.

q What relation is Matilda Silve to George Silva?

a Brother and sister.

q How did you go out to this park?

a On Tatsumi's Ford car.

q What kind of a car?

a 1924 roadster, no rumble.

q Whereabouts on that roadster did you sit?

a On the top in the back. ~~He~~ The top was down.

q Who else sat in the back there?

a George Silva.

q How were you facing when you were sitting on the car?

a My back was to Tatsumi. He was driving.

q You were facing, back, then?

a Yes, sir.

q And how was George Silva facing?

a The same way I was.

q How long did you stay at the dance that night?

a Until the dance was over.

q And after the dance was over, where did you go?

a Walked out to the car.

q And who got on the car?

a I don't remember who got on the car first.

q What car do you mean?

a Tatsumi's Ford car.

q The same car you went out to the park in?

a The same car we went out to the park in.

q Do you know Ben Ahakuelo?

a Yes, sir.

q How long have you known him?

a About a year and a half.

Q Did you see him in the dance pavillion that night?

a Yes, sir.

q Do you know Henry Chang?

A Yes, sor.

q Did you see him there if you remember?

a I don't remember.

q Do you knwo Joe Kahahawai?

a No, sir.

q Do you know Ida?

a Yes, sor.

q Did you see him there at that night?

a No, sir.

Q Do you know Takai?

a Yes, sor.

q Did you see him there that night?

a Yes, sor.

q Well, who got on Tatsumi's Ford roadster when you people came out?

a ~~M~~ I came out with another girl.

q Who?

a Miss Davis.

Q Sybil Davis?

a Yes, sor.

q And when you came out, what did she do?

a She said "Wait a little while. There's another girl. She has my coat" and so we had to wait for the other girl to come out.

q Who was this other girl?

a A Hawaiian girl; I don't remember her name.

q Did you see her?

a Yes, sir.

q Where? When?

a When she came to the car.

q What car?

a Tatsumi's Ford.

q Then what happened?

a Sybil asked for her coat and then Sybil said "Come on; go with us" and she said "Alright";

q Did you people get on the car?

a Yes, sor.

q Who sat in the front seat?

a Tatsumi driving, Miss Davis in the center and the other girl on the side, -right side.

Q Where were you sitting?

a Left back

q Behind the driver?

a Yes, sor.

q Or behind one of the girls?

a Behind the driver.

q And where did George Silva sit?

a Alongside of me.

q Both facing back?

a Yes, sor.

q Was the top of the car still down?

a Yes sir.

Q And how long after the dance was over was it when you people left the park?

a I would say about fifiteen minutes

q Did you see Ben Ahakuelo before you left the park?

a Yes, sor.

q Where was he?

a He was stânding close to the booth with some boys.

Q And when you left the park on this Ford roadster, sitting the way you sat at that time did you see Ben Ahakuelo?

a Not when we came out. On the way to the road. In the yard.

q On the way to the road--

a (Int) I didn't see him.

q Did you see him later.

a Yes.

q Where?

a When the car turned to go on John Ena Road.

q When the car turned to go on John Ena Road?

a I saw him again.

q Where was he then?

A Right front seat.

q Were you coming out of the Park at that time?

a We were out on the road already.

q And you say he was in the right front seat?

a Yes, sor.

q What do you mean by that?

a He was sitting down with the friver.

q He was on the car?

a Yes, sor.

q What kind of a car?

a I cant tell you.

Q Was it a roadster or--

a (Int) Touring car.

q And where did the car which you were on proceed?

a Toward Kalakaua.

q And when it got to Kalakaua, where did it go to?

a Turned left to King on Kalakaua, right up to King Street.

q Then what?

a We crossed King Street to Beretania.

q Then when you got to Beretania Street, what happened?

A Turned left and drove to ~~the~~ town.

q Now, how agout this car in which Bennie was on?

a They were following us.

q Following you?

a Yes, sir.

q Have you got a clear recollection of that?

a Yes, sir.

q Then as you were proceeding along Beretania Street what happened? As you were coming down Beretania Street did anything happen?

a Yes, Bennie tried to tell me something but I couldn't hear him and I told him to drive close. I tried to get on the bumper but the car moved away, - came forward and back and I told them to drive alongside and I got on the running board and I asked him what he wanted. He said "Where you going" and I ~~said~~ said to Judd Street. And then somebody asked me for a match, } I don't remember who it was. We drove close to our car again and I got on.

q Whose car?

a Tatsumi's car.

q Did you know at that time who these other boys were?

a I didn't notice.

q Do you know who was driving their car that night?

a No, sir.

q When did you know Ida?

a We used to go to the same school together.

Q How long ago?

a Oh, when we were samll. I would say about ten years ago.

q When was the last time you had seen him around town here; do you remember? Before that occassion.

a I would say about ~~four~~ years.

q Now, this person who asked you for the matches, do you remember who that was?

a No.

*Carter
to
Matsunaga*

q Was it someone in the front seat or someone in the back seat?

a Someone in the back seat.

q About how fast was the Ford roadster travelling along Beretania Street?

a About twenty to twenty-five miles.

q Do you remember at about what point on Beretania Street that you got on to the running-board of this car on which Bennie was at that time?

a Close to Lincoln School

q And do you know whether it was on the Waikiki side of Lincoln School or town side of Lincoln School?

a About the center of Lincoln school

q And then how far did you go along Beretania Street when you got back from that car to Tatsumi's car?

a I got back on the car in front of the Art Academy.

q And were the two cars still travelling along at that time? Did they keep going or did the cars stop at any time?

a No, the car didn't stop.

q Then how far did you go?

a Proceeded down to Fort and King, --Fort and Beretania.

q Then what happened there?

a There was a big crowd there. We thought it was an accident and we slowed down. We stopped to see what was wrong. The car Bennie was on turned up Fort street.

q From the time you saw Bennie on this touring car following the car which you were on, the car in which you were, as you got on John Ena Road I'll ask you whether or not you saw that car all the time until Fort Street?

a Yes, sir.

q After you left Waikiki Park up to the time you stopped at the corner of Fort and Beretania Street, did you stop at any place at all?

a No, sir; only stop signs.

q As you were coming along from Waikiki Park down to the corner of Fort and Beretania Street, did you at some point speak to George Silva about the car that was following?

a Yes, sir.

q About what point was that?

a When we left King and Kalakaua toward Beretania.

q When we-left-K- you crossed King Street, did you go down King Street or did you go up the extension of Kalakaua?

a Went up Kalakaua Extension.

q Did you go down to the Police Station to make a report about what you had seen that night?

a Yes, sir.

q Now, do you remember just about what day it was that you went down to the Police Station?

a I think it was on the fourteenth. September 14th

q September ~~14th~~. 14th About what time was it when you went down there?

a About eleven or eleven thirty,- something like that.

q In the morning?

a Yes, sir.

q Who went with you, anybody?

a Tatsumi Matsumoto and George Silva.

q And do you remember who questioned you?

a Mr. Wight.

q Was Mr. McIntosh there at that time.

a He was, later on.

q Between the time that you last saw Bennie Ahakuelo at the corner of Fort and Beretania Street where he turned up that night after leaving Waikiki Park did you see him at any time before you made this statement to the Police?

a No, sir.

q Did you see Ida at any time before you made your report to the Police?

a No, sir.

q Did you see Henry Chang before you made your report to the Police.

a No sir.

q Did you see Takai at any time before you made your report to the Police?

a No sir.

q Showing you Defendant's Exhibit 3, and calling your attention to this signature towards the bottom of the page there, - Bob Vierra, - is that your signature?

a Yes, sir.

q Do you remember signing that?

a Yes, sir.

q Now, at the time--Oh, yes. At the time you left Waikiki Park were there many cars left?

a No, sir.

q You have any idea at all just about how many cars were left at that time?

a About three or four.

q Now, in this statement that you signed, you were asked this question: (Reading) "What time was this about: 12:40? Answer: "I don't remember exactly but I do know how long that was from Waikiki. It must have been ;2:40. Do you remember whether or not it was 12:40 at the time you reached Beretania Street and Fort Street?

a No. Sir:

q Did you look at a watch at that time?

a Did you look at a watch at that time?

a No, sir/

q Now, in this statement you said something to this effect: ~~X~~ "Bob Vierra jumped on the runningboard of the car Bennie was riding in and he jumped back on my car two minutes later and we stopped at Fort and Beretania Street"?

A I didn't say that. Tatsumi said that.

Q Well, about how long were you on the ~~running~~ running board if the other car? Do you remember? Have you any idea at all?

Tatsumi says Vierra said it

a I said I didn't know. Mr. Wight said "About two minutes" and I said "Yes, about two minutes".

q During all the time that you have known Bennie, have you heard anyone call him "Bull"?

a No, sir.

q And how about Henry Chang: have you ever heard anybody call him "Bull"?

a No sir.

q Have you known him at all: Henry Chang?

a No.

q Do you know Joe Kalani or Joe Kahawai?

a No

q You know Ida, do you?

a Yes.

q Have you ever heard him called Bull by anybody?

a No, sir.

q You know David Chang?

a Yes.

q You know of anybody ever calling him "Bull"?

a No sir.

MR. HEEN: You may cross-examine.

CROSS EXAMINATION

QUESTIONS BY GRIFFITH WIGHT ESQUIRE.

q Mr. Vierra, have you talked to anybody about this case yesterday or today?

a Yes, with Mr. Heen.

q Anybody else?

a Mr. Murakami.

q Who?

a That gentleman there (indicating counsel for one of the defendants)/

q Anybody else?

a Mr. Pittmen.

q Anybody else?

a Mr. Pittman.

q Anybody else?

a Tatsumi Matsumoto.

q Anybody else?

a I talked to Bennie.

q Anybody else?

a Takai

q What about George Silva.

a I talked to him about it.

q The fellow from Maui who is out in the hallway, or was this morning?

a Yes.

q How are those girls seated in your car?

a What girls?

q The girl you came back with.

a Miss Davis in the center and this other girl on the right side.

q Now, where did you see Bennie out at the Park?

a In the pavilion and out of the pavillion.

*Murakami
his
story*

q Just as the last dance was over?

a Yes.

q The last time you saw him was as the last dance was over?

a Yes, sir.

q At the same time you saw Takai? Or was that inside?

a I saw Takai inside.

q What girl did you come out with?

a Miss Davis.

q How long did you wait there?

a I don't know.

q You knew when you answered Mr. Heen; why don't you know now?

a I don't know how long we waited out there.

q You just told Mr. Heen a while ago; why don't you tell me?

a After the girl came with the coat, we drove off/
MR. HEEN: He didn't tell me. I object to that as not based upon the evidence in the case. What he stated was: it was about fifteen minutes after the dance that they left that place.

MR. WIGHT: Mr. Heen is objecting so that he can get the word over to the witness.

THE COURT: Proceed.

q How long did you wait there.

a We left about fifteen minutes after the dance.

q- Fifteen or twenty minutes?

a I don't know about twenty. It was about fifteen.

q Did you say in your statement---

a- (Int) You said fifteen or twenty minutes.

q (Int) The statement you signed.

a You asked me and I said I didn't know and you said fifteen or twenty minutes and I said "Yes, maybe."

q You said yes when you signed this?

a Yes.

q And it is correct?

a Yes.

q Didn't you tell me and Mr. McIntosh that the first you saw Bennie that night after you left the place was at Thomas Square?

a You didn't ask us the question. You told us to tell you what we knew about it.

q. Didn't I ask you when was the first time you saw Bennie after you left the Park and you said it was at Thomas Square? Didn't you tell me that?

a I don't remember.

q You remember telling that to Mr. McIntosh?

a No sir.

q Do you remember telling Mr. McIntosh in my presence that the first time you saw anybody in that car was when you saw Bennie at Thomas Square?

a No, sir.

q- You don't remember that?

a I don't remember.

*Don't
remember
said -
9 months
later however
then doesn't*

q What did they tell you to say?

a Tell the truth.

q Why don't you remember, then?

a It happened so long ago, I can't think of anything.

q So then you may be mistaken?

a The things I am telling now I remember.

q You remember those things but not the other things? You don't remember what you told Mr. McIntosh?

a I do, some things. I can't remember everything.

q Don't you remember we questioned you at great length as to where you first saw them and you said at Thomas Square?

a Didn't I tell you I saw them inside the dance?

q Yes, you did. But didn't you say the first time you saw them was at Thomas Square?

a I forgot to tell you about seeing them in the yard.

q On the 14th you didn't remember very well?

a I didn't think about the time.

q You forgot to tell me about their following you down to Fort Street?

a I think I did.

q Did you tell me the first time you saw him after the dance was at Thomas Square?

a I remember I saw them.

q Don't you remember you didn't tell me they were following you?

a No, sir.

q And didn't you tell me, at Thomas Square?

a I saw them at Thomas Square but not the first time.

q Didn't you tell me that?

a I don't remember. I don't think I did.

q Now, what was this about a coat that you spoke about?

a Miss Davis loaned another girl her coat,- a black coat.

q Now, did Matsumoto--You said you saw Bennie when you came out of the Park at the booth before you left. Did Matsumoto see him there, too?

a I don't know.

q You mean you don't know or don't remember?

a I don't know.

q Did these girls see them drive down behind you?

a I don't know.

q Did you hear them say anything about seeing them?

a I don't remember.

q Now, you say Bennie was in the right front seat?

a Yes, sir.

q When he turned into John Ena Road and from John Ena Road into Kalakaua Avenue?

a Yes.

q Who was in the left front seat of that car?

a- Tatsumi Matsumoto.

q No, you said Bennie was in the right front seat of the other car?

a Yes.

q Who was in the left front seat?

a I don't know.

q Don't you know Takai?

a I know Takai.

q Look when you turned in like that (indicating) that car comes and turns this way to the left and you were ahead of them,--

a (Int) That car turned to the right.

q Up Waikiki Beach?

a No, toward Kalakaua Avenue.

q I am talking about when he turned John Ena to Kalakaua. It turns to the left?

a Yes.

q At that time, I mean, isn't the left front seat nearest to you?

a Yes.

q Didn't you see who it was at that time?

a I didn't see who it was at that time.

q Didn't you see Bennie?

a I didn't see anybody. The headlights were flashing in my face.

q ~~When we made~~ Do you mean to say that the headlights flashed into your face?

a When we made that turn, we were away from them. Twenty yards away.

q When he was over here, did you see Bennie?

a When we turned John Ena Road.

q And wasn't the lights in your face:

a No, sir.

q Of all your friends, all you swa was Bennie?

a I didn't see them in years.

q How about Bennie?

a I saw him about every other day.

q You and Bennie Ahakuelo are good friends?

a I don't know.

q Where have you seen him?

a Down at Bethel Street I say Hello to him.

q Do you hang around Bethel Street with him?

a No, not with him.

q With who?

a By myself when I go to the show or something like that.

q How long since you seen Takai?

a What do you mean?

q Before that night.

a I would say last night.

q The night before that you mean? How long before that night at the park?

a I would say months. I don't remember.

q How about Chang?

a For a long time before.

q Don't you see that bunch hanging around Bethel Street?

a I don't remember seeing them around.

q Where did you see Takai last night?

a At Mr. Heens office.

q You went over to that office and want over this evidence?

a Just asked me a few questions.

q He told you what was in this statement?

a He said he read it. Didn't tell me anything about it.

q Bennie wasn't the only one in that car you knew, was it? You knew some of the other boys?

a Yes.

q Why did you say in this statement that Bennie was the only one you knew?

a I didn't know who was on the car at the time.

q Still you want to state that you didn't tell Mr. McIntosh any myself you didn't know who was in the car and didn't say who was in the other car until you got to Thomas Square?

MR. HEEN: We object to that. That is not the evidence?

THE COURT: The objection is over-ruled.

(Exception noted)

a I don't remember.

q Did anybody tell you to say "I don't remember?"

a No, sir; nobody told me to say that.

q You haven't been coached by anybody?

a No.

q You haven't talked over the evidence?

a I talked about it.

q All of it?

a The parts that I know.

q Now, when you jumped on Bennie's car, was it right even with you?

a I wouldn't say it was even. About this distance (indicating) like that.

q Did you jump from the top of your car where you were sitting on to the running board of the other car?

a I got on the runningboard of our car and on to their front runningboard.

q Now, this is the running board (indicating).

a Yes.

q When you were on the running board of that car was that in front of the driver?

a In back of the driver.

q How far does the runningboard run?

a About like that (indicating) He was seated here and I was in back.

q- How far did you ride on that runningboard?

a I would say from the Lincoln School to the Art Academy.

q That's about a block?

a About that.

q And you gave a match to someone in the rear seat?

a Yes.

q That is, to light a cigarette?

a I suppose so.

q- He light the cigarette?

a I don't know.

q Did you think they were going to light the gasoline?

a I didn't see them light the match.

q What kind of a match was it? In a box?

a No, sir.

*Match
given*

q What kind?

a Booklet.

q- Did you get it back?

a I don't remember whether they gave it back to me or not.

q Didn't they give it back to you? You wouldn't give any matches to strangers would you?

a The driver drove ^{up} to our car and I got on. I didn't know if they were strangers.

q Don't you remember they lit a cigarette and passed you back your matches?

a No, sir.

q And by the light of the match you saw who was in the car?

a No, sir.

q You mean to say that you rode one block and gave a match to someone on the rear seat and don't even know who was your friends in the car?

a I was not interested in the rest of the boys.

q You were interested enough to give them a match.

a No sir. Bennie wanted to know where we were going and I said going up Judd Street. That's what he wanted to know. He was trying to ask me what was doing or about where we were going and I couldn't hear him.

q You shouted loud?

a No, sir.

Separate boys was kind of the shout?

Why shout by Bennie to establish identity they do it without together

q He shouted loud?

a No, sir.

q Who asked you for the match?

a I don't know sir.

q How do you know it was at the Lincoln School that you jumped over to the other car?

a I remember.

q Did you look through the car and see it over there?

a What do you mean?

q If you were on the running board of their car, how could you see the school?

a I was sitting in the car and I could see.

q Couldn't you see who the people in the car were?

a No, sir. If ^I did I wouldn't recognize them.

q You knew three of them didn't you?

a I do; but I haven't seen them for a long time.

q The whole trip, did you talk to the girls at all?

a I don't remember.

q Do you remember turning around and talking to the girls at all?

a I was talking to George Silva most of the time.

q And you didn't talk to the girls at all?

a Maybe I did. I don't remember.

q You don't remember much about that night, do you? Now I mean, - do you?

a I remember ^a few things.

q When you talked to Silva, did you face him? Talk to him like this?

a Yes, turned over and talked to him.

q Talk to him any length of time? You remember the subject?

a Talked to him about different subjects.

q Talked to him all the way in?

a Talking and looking across at him.

q You were talk^king to him and then you lost sight of the car?

a No, the car was right in back.

q What were you telling Silva?

a I said "That's Bennie Ahakuelo. Have you heard the name of Flash Ahakuelo on Maui" and he said no. I said he was one of the amateur boxers who went to the states to represent Hawaii.

q Did Silva see the car?

a Yes, I think he did.

q He was looking at the car?

a Yes.

q Is Silva out here now?

a Yes.

q Did you tell him that: "In that car back there is Bennie Ahakuelo?"

a Yes.

q Isn't it a fact that down at the Police Station I asked you--First you know we had a conversation first before you made the statement?

a Yes.

*From
interview
at 2007 St.*

q Didn't I ask you and Matsumoto what time you got to Fort and Beretania Street and you said about twelve-forty?

a You said Twelve-forty. We wasn't sure about the time.

q About twelve-forty. How long do you think it took you to drive from Waikiki Park to Fort and Beretania?

a We left there before.

q You said twelve-forty,- and ten minutes to go down would be twelve-thirty.

a I didn't have a watch to look at the time. We had no reason to look at the clock.

q And then you must have left there at twelve-thirty.

a I couldn't be that late.

q You said you didn't know the time.

a I know.

q Why do you know that when you didn't know any other time?

a We didn't stay there a whole half-hour.

q You said you didn't have a watch and didn't know the time.

a We didn't know the time.

THE COURT: We will recess just a moment.

(RECESS)

q Now, in this statement somebody mentioned that Bob Vierra jumped on the running board of the car Bennie was riding and he got back on my car two minutes later. You say that Matusumoto said that? That's correct?

a At the time we thought it was correct.

q You said you didn't say it.

a I didn't say.

q He said it?

a Yes, sir.

q You remember that?

a Yes sir.

q You sure of that?

a- You said "about two minutes" and Tats said "About right?"
and I said "About right".

q How well do you know these boys? Pretty good friends?

a Used to be pretty good friends when we were kids.

q Good friends now?

a I haven't seen them so long, I don't know.

q Then, how do you know they are not being called "Bull"
by somebody else?

a I don't know.

MR. WIGHT: That's all.

MR. HEEN: That's all. This was put in yesterday,- this
Exhibit 3 for the defense. It was not read to the jury.

May I read the exhibit to the jury at this time?

THE COURT: Alright.

(Mr. Heen reads)

THE COURT: The next witness.

MR. HEEN: Dr. Mossman.

DR. THOMAS MOSSMAN, called as a witness on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY W. H. HEEN ESQUIRE

q What is your name, please?

a Thomas Mossman.

q And you are a practicing physician in the City and County of Honolulu?

a Yes.

q What position do you hold?

a Assistant City and County Physician.

q Sometime in the month of September, were these defendants brought to the Emergency Hospital.

a Yes.

q By whom?

a Detective Finnegan.

q And they were brought there for what purpose?

a Examination.

Q Did you examine them?

a I did.

q And what part of their anatomy did you examine?

a The genital organs.

q To ascertain what?

a Oh, for evidence of traumatism, presence of blood or the secretions.
presence of genital ~~secretions~~ ~~secretions~~.

- Q Did you find any of those things on those boys?
- a I did not.
- q Did you examine their clothing?
- a Their underclothing.
- q To find traces of those same things you just mentioned?
- a I did.
- q Did you find any of those things on their underclothing?
- a I did not.
- q Did you report that to Mr. Finnegan?
- a No.
- q Did you make a report as to your findings to anyone?
- a Yes.
- q To whom?
- a Mr. McIntosh.
- MR. HEEN: You may cross examine.

CROSS EXAMINATION

QUESTIONS BY GRIFFITH WIGHT: Esquire:

- q You know what day that was you examined them?
- a The 14th of September.
- q Now, Dr. Mossman, that assuming that was two days after
a sexual act, would you/^{be} apt to find anything on the sexual
organs at that time?
- a Most unlikely.
- q Do you know that the underwear you examined was the
underwear they wore the night of September 12th or not?
- a I do not.

q Did you examine them for venereal disease?

a Superficially.

q Did you find any?

MR. HEEN: I object to that as incompetent, irrelevant and immaterial. They haven't laid the foundation for it.

THE COURT: The objection is sustained.

MR. WIGHT: That's all.

MR. HEEN: That's all. Call George Silva.

GEORGE SILVA, a witness called on behalf of the defendants, being first duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY W. H. HEEN EXQUIRE:

q What is your name?

a Mister George Silva.

q Where do you live, Mr. Silva?

a Spreckelsville, Maui.

q How old are you?

a Nineteen years old.

q- Were you here in the month of September this year.

a Yes, sir.

q When did you come here at that time?

a About the 7th.

q About the 7th of September?

a Yes, sir.

- q Was that the first time you had ever come to Honolulu?
- a Yes, sir.
- q Never seen Honolulu before that time?
- a No, sir.
- q And then after that--- You came for your vacation, did you?
- a Yes, sir.
- q And then you went back to Maui?
- a Yes, sir.
- q Did you come down again?
- a Yes, sir.
- q When?
- a About October the 20th I think.
- q And stayed a short time?
- a Yes.
- q And then went back?
- a Yes, sir.
- q And when did you come this time?
- a This morning.
- q Got here this morning?
- a Yes, sir.
- q Now, on a Saturday night in September, a few days after you arrived here in Honolulu, I'll ask you whether or not you went to Waikiki Park to a dance?
- a Yes, sir.
- q Who did you go with?
- a Tats Matsumoto- Tatsumi Matsumoto.

q And who else?

a Mr. Bob Vierra.

q Anybody else?

a My sister Matilda Silva.

q Anybody else?

a Another girl frinedy Ida Alves.

q About what time was it, if you can remember, when you got out there to Waikiki Park?

a Must have been between ten and eleven.

q Did you stay there until the dance was over?

a Yes, sir.

q And after the dance was over, what did you do?

a We came home.

q How did you come home?

a With Mr. Matsumoto.

q Well, how did you travel, - foot or street car or how?

a On Mr. Matsumoto's car.

q What kind of a car did he have?

a Ford car.

q What kind of a Ford car?

a Ford motor.

q A touring car?

a No, run-about car.

q Who got on the car at the time you came home from the dance?

a Well, it was me, Mr. Matsumoto, Mr. Vierra, a girl I know by the name of Sybil with another girl I don't know her name.

q Who was driving?

a I can't exactly tell you because I was sitting in the back. I sat in the car before he went into the car to drive.

q How did you sit in the back?

a Oh, we just jumped in the back,- There was no room in the front,-me and Mr. Vierra.

q Was there any rumble seat?

a No, just in the back of the car.

q How about the top of that car, - was it up or down: the roadster?

a I can't remember.

q Can't remember?

a No, sir.

q Then were you familiar with the streets of Honolulu at that time?

a No, sir.

q Do you remember any car following the car Matsumoto had?

a There were a few cars following us. Usually when you are riding in the car cars always following, so I didn't---

q (Int) Didn't pay any attention?

a No, sir.

q Did George Silva call your attention to any car that was following you? No, Bob Vierma.

a Yes; he told me--

MR. WIGHT: I object to what he said.

q Did you notice a car following you at that time when he spokd to you?

a Yes, sir.

q Some time after that, did you notice anything between that car and the car you were riding?

a Yes.

q What did you notice?

a Mr. Vierra jumped from our car to--

q (Int) That car?

a Yes, sir.

q- Did those cars stop when M r. Vierra went from the car you were on to the other car?

a No, sir.

q- They kept on going?

a And then what happened?

q Well, I can't exactly tell you. Mr. Vierra came back into our car and we kept on going. We kept on going until we saw something like a fight or accident and stopped there to see what it was. I looked in front and when we started again, I saw no car in back of us. Tell you true fact I don't know what side the other car turned.

q You don't know what side the other car turned?

a No, sir.

q You mean the car that was behind?

a Yes, sir.

q Did you go down to the Police Station, Mr. Silva,
a few days after this matter, - after this thing occurred?

a Yes, sir.

q Did you make a statement down there?

a No, sir.

q They didn't ask you any questions?

a No, sir.

MR. HEEN: Cross Examine.

CROSS EXAMINATION

QUESTIONS BY GRIFFITH WIGHT ESQUIRE

q When you went to the Police Station, didn't I ask you
if you knew anything about it and you said you didn't know
anything about it? You said you didn't know anything
about it?

a Nobody talked to me except Matsumoto told somebody
I was a stranger who came for a vacation.

q That you didn't know anything about it?

a I was a stranger.

q In the hallway didn't you speak to me when you were
standing out there?

a Yes, sir.

q Didn't you tell me you didn't know Bennie Ahakuelo?

a No, sir.

q Do you know him or don't know him?

a I don't know him.

q Didn't you also say "I didn't know whether his car followed me or not"?

a I didn't know until Mr. Vierra told me.

q Didn't you tell me this morning that you didn't know whether that car followed you?

a I was going to tell you. I told you I didn't know I didn't tell you about Mr. Vierra but I was going to tell you and I walked away.

q Didn't I have another man, Mr. Louis Dean, and we asked you whether any car followed you and you said you didn't know?

a Lot of cars followed me us but I didn't know what kind---

q (Int) Didn't you say no car followed you?

a No, sir.

q You didn't say that to me in the hallway, with Mr. Dean?

a No, sir.

q Didn't you say you didn't know Bennie Ahakuelo and didn't know whether he followed you in?

a Not until Mr. Vierra told me who Flash was and that he was a football player and boxer.

MR. TIGHT: Please answer the question.

q Didn't you say that to me?

a Yes, but I didn't know then. I didn't know it was his car following me.

q Didn't you also say you didn't know any car was following you?

a I meant to say I didn't know it was his car.

q Didn't you say you didn't know any car was following you?
Didn't you tell me that in the presence of Mr. Dean?

a No, sir.

q You sure you didn't tell me that?

a Sure.

q You talked to anybody else since you talked to me?

a Yes.

q To who?

a The the boys: Matsumoto and Mr. Vierra.

q Who else?

a Mr. Heen

q Who else?

a That's all.

q Did you talk to Vierra?

a Yes.

q What did he tell you?

a He asked me "Do you remember".

q And you didn't remember. When you told me that you didn't remember him speaking to you?

a About Flash?

MR. WIGHT: Yes.

a No. After he spoke to me, a little afterwards I got it.

q That's the first time you remembered it?

a When Mr. Vierra spoke to me?

MR. WIGHT: Yes.

a Yes.

q After he spoke to you this morning?

a Yes.

q Why didn't you tell me? I didn't give you time? You walked away. Will you tell me whether you said "I don't know him at all" and that no car followed you?

a I didn't tell you that. I walked away.

q You state that is the reason you didn't tell me?

a No, sir. I told you I didn't know the car was following us. That's why I didn't tell you he followed. After Vierra told me about "Flash", then I knew. I didn't know who was in the car before that.

q I asked you if you knew Bennie Ahakuelo and you said "No".

a ~~Sure~~. I don't know any one of them.

q Then you told me a while ago that you would have told me about the fact that Vierra told you about Ahakuelo following you but you didn't because you walked away. Is that correct?

a No, I didn't know he was following us.

MR. WIGHT: That's all.

MR. HENK: That's all. We want to recall Mr. Vierra a moment. There is one question I forgot to ask him.

(Relieved by Mr. Jordan)

(Relieved Chillingworth at 3 p. m.)

1

ROBERT VIERRA

A WITNESS for the defendants, was recalled for further cross-examination, and testified as follows:

CROSS EXAMINATION

By Griffith Wight, Esq.

q You are a married man?

a Yes.

q Are you living with your wife?

a Yes.

q You were living with her September 12th?

a Yes.

q What name did you do under that night?

MR. PITTMAN: Objected to as incompetent, irrelevant and immaterial, merely asked for the purpose of prejudicing the jury.

THE COURT: Objection overruled.

MR. PITTMAN: Exception.

q What name did you go under that night?

a Robert Vierra.

q Didn't you go under another name that night?

a No, sir.

q Did you go under the name of Robert Carter that night with Sybil Davis?

a Only when she addressed me.

q Didn't you tell her your name was Robert Carter?

a I never did.

q Some other time?

a Yes.

q- What was your purpose of giving a false name?

a I didn't give a false name. She asked me if my name was Robert Carter.

q What was the reason for that?

a I think one reason was because I am married?

q When did that happen?

a About a month before this case happened.

q Where was that?

a At a party party.

MR. HEEN: Objected to as incompetent, irrelevant and immaterial.

THE COURT: Objection overruled. It is proper cross-examination.

MR. HEEN: Exception.

q Where was that?

a Up in a house up on Kuakini and Fort.

q Whose house?

a Ben Borden.

q What girl was this?

a Sybil Davis.

q Didn't she call you Mr. Carter that night of September 12th?

a ~~Mr~~ She didn't call me Mr. Carter.

q Didn't she know you were Mr. Carter?

a Yes, but she didn't call me Mr. Carter.

q What did she call you?

a Bob.

SYBIL DAVIS

was duly called and sworn as a witness for the defendants, and testified as follows:

DIRECT EXAMINATION

By William H. Heen, Esq.

q What is your name?

a Sybil Davis.

q Do you know Tatsumi Matsumomo?

a No.

q Do you know Tuts?

a Yes.

q Stand up. (Addressing Tatsumi Matsumoto who was in the audience and who stood up) Is that the boy you mean?

a Yes. (Indicating Tatsumi Matsumoto)

q Do you know Bob Carter?

a I do.

q Did you know him by some other name?

a When he told me his name he told me his name was Bob Carter.

q Afterwards did you find out his real name?

a Yes, Bob.

q Bob what?

a Vierra.

q Do you know George Silva?

a Yes.

q On the night of September 12, 1931, did you see Tuts, Bob and George?

a Yes.

q Where?

a Waikiki Park.

q Did you dance with any of those boys that night?

a Yes.

q Did you stay there at that dance until the end of the dance?

a Yes.

q And at the end of the dance with whom did you leave that place?

a With Bob Vierra.

q When did you leave that place?

a About ten after twelve.

q How did you leave there?

a In Tuts' car.

q What kind of a car was it?

a Ford.

q What kind of a Ford car?

a Roadster.

q Was the top up or down on that roadster?

a Down.

q Where did you sit on that roadster?

a In the center.

q Who sat on your right, anybody?

a Margaret.

q Margaret who?

a Kalia.

q Who was driving the car?

a Tuts.

q Was anybody else in that car?

a Yes.

q Who?

a Bov Vierra and Silva.

q George Silva?

a Yes.

q Where did they sit?

a In the back.

q How were they facing?

a They were facing back.

q During the time you were dancing out there and while the dance was going on did you see Benny Ahakuelo?

a Yes.

q You know him, do you?

a Yes.

q Do you know any of these other boys?

a No.

q Referring to the defendants you don't know these other defendants?

a I didn't know them at the time, but now I do.

q Did you see Ben Ahakuelo at the time you left the Waikiki Park?

a No.

q You didn't?

a No, sir.

q Did you see him afterwards?

a Yes.

q Where?

a Between Williams Undertaker and Thomas Square.

q Between Williams' undertaking--

a Parlor and Thomas Square.

q You mean the mortuary, the new place?

a Yes.

q Between there---

a And Thomas Square.

q How did you happen to see Benny at that time?

a He drove alongside of us and I turned around and I seen it was Benny.

q Anything happen at that time?

a Yes.

q What?

a Bob Bierra jumped on his car.

q Were the two cars stopped at that time or were they moving, when Bob Vierra jumped on his car?

a They were still moving.

q Do you remember what kind of car Benny was riding on at that time?

a Yes.

q What kind?

a Ford.

q What kind of Ford car?

a It was an open car.

q Did you see any others, -any of the other boys in that car at that time?

a Just Ida.

q Do you know Ida?

a No.

q Did you know him at that time?

a No.

q Did you recognize him at that time?

a Just a little.

q Was Benny driving or not at that time?

a Ida was driving.

q Where was Benny sitting on that car?

a On the right-hand side.

q Right-hand side of whom?

a Of Ida.

q What did Bob Vierra do when he jumped on to the car Benny was riding?

a I don't know.

q Did he stay on that car?

a I don't know. I didn't even know he was back in our car.

q You didn't even know he had got back on your car. Then how far did you go?

a We went to about Fort and Beretania street and we stopped there.

q Did you notice anything there at that time?

a Yes.

q What?

a Patrol wagon was there. There was some kind of trouble. We stopped for just a second and then pushed off.

q Do you know what happened to the car that Benny

was riding in?

a No.

q When you got down there did you notice whether Bob Vierra was back on your car?

a Yes.

q You noticed it at that time?

a After awhile I turned around and I seen Bob was back, but I didn't know how he got back.

CROSS EXAMINATION

By Griffith Wight, Esq.

q You said Vierra told you his name was Bob Carter?

a Yes.

q When was that he told you that?

a Not that day, a month before.

q Where?

a Going to a party somewhere.

q You always called him Bob Carter after that time?

a Yes, sir, I did.

q Did he tell you his name was Bob Carter himself?

a Yes.

q You didn't tell him, he told you?

a He told me.

q You say you left this dance at ten minutes after 12,- how do you know that was the time?

a It was about that time.

q How do you know?

a The dance ends about 12 and we stayed out in the grounds about ten minutes.

q Might you have stayed 20 minutes?

a It might have been, but I don't know.

b Did you have a coat that night?

a Yes.

q Did you lend it to some girl?

a Yes.

Q What girl?

a Margaret Kalia.

q Is her name spelled K-a-n-a-e?

a I don't know.

q You don't know her very well?

a No.

q Where did you meet her that night?

a At the Park.

q Did you go out with somebody else to the park?

a Yes.

q Who with?

a Ramona.

q Ramona what?

a Figueroa.

q Where do you live?

a Kalihi, 1533 Gulick Avenue.

q Whom do you live with?

a Mrs. Coelho.

q Whom did you live with in September?

a With Ramona and Mrs. Gora.

q Is Ramona married?

a Yes.

q Didn't you call her Mrs. Gorse?

a Mrs. Gora.

THE COURT: How do you spell that?

a "G-o-r-a."

q You didn't live with Ramona?

a Ramona was staying there too.

q You both lived with Mrs. Gora?

a Yes.

q Where was that?

a Punchbowl.

q Do you work?

a Yes.

q Where do you work?

a At the Goblin stand.

q The Hawaiian juice stand?

a Yes.

q You didn't come back with Ramona that night, did you?

a No.

q Does Ramona work?

a Yes.

q At the Goblin stand too?

a Yes.

q You say you saw Benny out at the dance?

a Yes.

q About what time was that?

a About 11 o'clock.

q What happened between you and Benny, if anything?

a He asked me for a dance and I didn't want to

*Benny
dances*

dance with him.

q Did he do anything else?

a No.

q Didn't he hit you?

a Yes.

q What did he do?

a He just slapped my back side.

q Did you dance with him?

a No.

q Why didn't you?

a I thought he was kind of drunk.

q Did he act that way?

a He acted that way.

q That is the last time you saw him before you saw him near Thomas Square?

a Yes.

q And it was about Thomas Square where you saw him, was it?

a Yes.

q You don't know exactly where at Thomas Square that was?

a It was on Beretania street.

q You don't know exactly where?

a No.

q But it was about Thomas Square?

a About Thomas Square.

q Was there any top up in the car you were in?

a No.

*Benny
drunk*

q Where was Vierra sitting?

a He was sitting in the back.

q Facing back or front?

a Facing back.

q Was there another boy there?

a Yes, George Silva.

q What name did he give you?

A George Silva.

q When you refused to dance with Benny because he was drunk did he say anything to you?

a He just said "May I have a dance" and I looked at him and thought he was drunk.

q When was it he slapped you on your back side? Right after that?

a Yes.

q Was he made?

a No.

q Did he do it for fun?

a Yes.

q Did you like that?

MR. HEEN: Objected to as incompetent, irrelevant and immaterial.

(Question withdrawn)

q You didn't see Vierra jump from your car to their car at Thomas Square or any other place?

a I did see him jump.

q Do you know what made him jump over?

a No.

q Did you see anybody in the next car speak to

*Effort to establish alibi
Dadon '88 hears
Honeywell
Why?*

him?

a No.

q Did you see him give a match to anybody in the car?

a No.

q Did you see anybody in the car light a cigarette?

a No.

q You were looking at the car, were you not?

a I just looking, turned my head around, and didn't pay any more attention.

q How long did you look at the car?

a Just for a second.

q In that second you recognized Ida?

a Yes.

q Was it easy to recognize him?

a I saw he was a Japanese boy.

q You must have recognized him then?

a I just recognized him a little.

q It was light enough so anybody could see anybody in the next car? Was it light enough for you to see anybody in the next car? Was it If there had been a friend in that car you could recognize him?

a I recognized just his hair.

q You said you saw him?

a I did see him.

q You recognized his face?

a Just a little; a side view.

q Was it light enough to see a friend in that car if there had been a friend of yours there?

Same as Kansas

*Light enough for Ida to see why car was 1940
from Missouri
Iowa*

*Light. He recognized Ida in dark car
from Missouri
Iowa*

just

a Yes.

q Plenty of light down there?

a Yes.

q You said you didn't know the other boys at the time, but now you know them. How is it you know them now?

a I met them at the dance.

q Where did you meet them?

a At the dance.

q Since that time you met them at the dance?

a No, after.

q After that time you met them at the dance?

a Yes.

q Talked to them?

a Yes.

q Talked to all of them?

a No, just Benny.

q Any of the others?

a No.

q You said you didn't know the others at that time but you do know them now. How do you know them now?

a Ida came up Gillick Avenue for me one day.

q Picked you up for a date?

a No, he came up and asked me to come to the Bishop Trust, I think.

q To see who?

a To see Mr. Heen.

q When did you meet Chang?

a The first time I have seen him.

q You don't know him yet?

a No.

q When did you meet Joe, the big fellow in the center with the green shirt?

a The first time I have seen him.

q When did you meet Takai?

a He and Ida came up to the house for me.

q You don't know them all, you just know three of them now?

a Yes.

q How long did they stay at your house, fifteen or twenty minutes?

a About that.

q Talking to you that whole time?

a No, they came to get me, and say Mr. Heen wanted to see me.

q And when they were up there 15 or 20 minutes they talked to you, didn't they?

a Yes, sir.

REDIRECT EXAMINATION

By William H. Heen, Esq.

q Did you go down to the police station and make a statement?

a I went to the City Hall and made a statement?

q To Mr. Wight?

a Yes.

q About when was that, - about how many days after that dance?

a About a week after.

q After that dance and before you went to the City Hall to make your statement did you see Benny Ahakuelo at all? After you saw him that night, the last time you saw him on Saturday night, after the dance, - between that time and the time you went to Mr. Wight's office in the City Hall to make your statement, did you see Benny at all?

a No, sir.

q To talk to or see him?

a No, sir.

q Didn't talk to him during that time?

a No.

q Did you see any of these other boys during that time?

a No, sir.

REXCROSS EXAMINATION

By Griffith Wight, Esq.

q Did you ever live near Benny?

a No, sir.

q How long have you known Benny?

a I have known Benny for a long time; not to talk to just by sight.

q Out at the park you said you didn't see Benny from the time he slapped you until you saw him at Thomas Square?

a I saw him at the time he asked for a dance.

q The next time you saw him down at Thomas Square?

a Yes.

q Do you remember when you were outside in the car, outside the dance hall, waiting with Vierra, did you hear anybody say "There is Benny. He used to be a neighbor of ours"?

a No.

q Nothing like that was said by you or Margaret or Vierra?

a No.

q And you didn't see Benny outside then?

a No.

- - - - -

(Recess)

JOHN PUAALOA

was duly called and sworn as a witness for the defendants, and testified as follows:

DIRECT EXAMINATION

By William H. Heen, Esq.

q What is your name?

a John Puaaloo.

q How do you spell that last name?

a P-u-a-a-l-o-o.

q Where do you work, Puaaloo?

a Hawaiian Lines.

q How long have you been working there?

a Five years.

q Straw boss of some kind?

a Yes.

q Do you know Henry Chang?

a Yes, I do.

q How long have you known him?

a A couple of years.

q Did you ever hear anybody call him "Bull"?

a No.

q On the night of September 12, 1931, were you out at Waikiki Park at a dance?

a Yes.

q About what time did you leave that dance?

a About 11:30.

q At the time you left the dance did you see Henry Chang?

a Not until I left the dance hall.

q Where did you see him?

a Right at the door.

q Did you talk to him or he talk to you at that time?

a No, we didn't talk.

q Did he say anything to you?

a No.

q What did he do?

a He just called me by name and asked me for a stub.

q So he did talk to you, - he asked you for a stub?

a Yes, that is the only time he talked to me.

q What kind of stub was that?

a Return stub to get back in the dance hall.

q Did you give him the stub?

a Yes.

q How did you happen to get the stub when you were going home at that time?

a The door-man always gives the people a stub going out in order to get back in the dance hall.

q How do you remember it was about 11:30 when you gave the stub to Henry Chang?

a Because I took out my watch and it was 20 after eleven.

q Where were you at that time?

a I was in the dance hall yet and told my woman friend to go home.

q When you told her that did she come right along?

a No, she was still dancing.

q About how much longer did she dance?

a That I don't know.

q About how much longer?

a About ten minutes.

q So that is why you fixed half-past eleven as about the time you left?

a About that.

q Why did it take so long for that dance?

a Because they always encore a long time.

(Cross-examination waived.)

- - - -

GEORGE LUM

was duly called and sworn as a witness for the defendants, and testified as follows:

DIRECT EXAMINATION

By William H. Heen, Esq.

q What is your name?

a George Lum.

q Where do you live?

a Fort and Cunha Lane.

q Where do you work?

a I am not working at present.

q Do you know David Takai?

a Yes.

q How long have you known him?

a About eight years.

q You used to go to school together?

a Yes.

q Did you ever hear anybody call him "Bull" all the time you have known him?

a No.

q On the night of September 12th 1931 were you at Waikiki Park to a dance?

a Yes.

q Did you see Takai out there that night at the dance?

a Yes, I saw him.

q About what time did you first see him?

a I first saw him during the intermission.

q About what time would that be?

a Usually have about 10:30.

q Did you see him later on?

a Yes, I saw him near the last dance.

q Did you talk to him at that time?

a Yes, I talked to him.

q You are sure it was David Takai?

a Yes.

q What did you say to him at that time?

MR. WIGHT: Objected to as calling for hearsay.

THE COURT: Objection overruled.

a I told him how he was going home that night, and he said he was going home with some boys. I was going home by myself on the streetcar and wanted company. Since he told me he was going home with some boys on the car I took the streetcar and went home myself.

q About how many more dances were there at the time you talked to him?

a About two or three dances to the last,- almost the last dance.

(Cross-examination waived.)

- - - -
CHARLES KALAMI

was duly called and sworn as a witness for the defendants, and testified as follows:

DIRECT EXAMINATION

By William H. Heen, Esq.

q What is your name?

a Charles Lalami.

q Do you know Ben Ahakuelo?

a Yes.

q How long have you known him?

a Since I turned out for football.

q About how many years?

a Just this year.

q Since this year?

a Yes.

q On the night of September 12th, Saturday night, of this year, were you out to a dance at Waikiki Park?

a Yes.

q And on that night did you see Ben Ahakuelo at the dance?

a Yes.

q About what time did you see him?

a Around 9 o'clock.

q Did you see him later?

a Yes, sir.

q About what time?

a Around about almost the dance over.

q At that time did you have any talk with him?

a No, sir.

q Say anything to him at all?

a Just salute is all.

MR. WIGHT: What is that?

a Just wave each other.

q At the time when the dance was almost pau did you talk to Benny?

a Yes, sir.

q What did you say?

a Just say about how is the dance getting along.

q Did you have a hat that night?

a Yes, sir.

q What kind of a hat?

a Brown hat.

q Did you hand that hat over to Benny?

MR. WIGHT: Objected to as leading.

(Question withdrawn)

q What did you do with that hat at one time there?

a I had a dance with a girl and so I had my hat and Ben was sitting on the platform, the orchestra, and I told him to hold my hat and I danced with the girl.

q What color hat was it?

a Brown.

q Have you that hat here?

a Yes.

q Where is it?

a Outside.

q What kind of hat, straw hat?

a Straw hat.

q And how long did Benny hold that hat for you?

a I think it was almost the dance over, about third to the last dance.

q And about how long did he have it?

a About 15 minutes.

q Then did you get the hat back from him?

a Yes.

q Where was he when he gave you the hat?

a On the other side of the hall.

CROSS EXAMINATION

By Griffith Wight, Esq.

q How many times did you dance that night, every dance?

a Every dance.

q Did you ever dance with your hat on?

a No.

q What did you do with your hat at other dances?

a I give it to my other friends.

q What other friends?

a Some boys.

q What boys, don't you remember?

a Yes, I remember.

q What friends?

a Close friends.

q Do you remember the names?

a Yes.

q Who?

a Harry Pratt.

q How many times did you give your hat to him?

a About three times.

q What did he do while he held your hat, when he was holding your hat and wanted to dance?

a He put it on the bench.

q Why didn't you put it on the bench?

a I don't want to lose my hat.

q What is the difference if you put it down or he

puts it down?

a I don't know what he do with my hat. Maybe he put it on the bench or give it to some other friends.

q Do you know anybody else you gave your hat to?

a No.

q Those two, just those tow, are the only ones you remember that whole night?

a That is all.

GEORGE GOEAS

was duly called and sworn as a witness for the defendants, and testified as follows:

DIRECT EXAMINATION

By William H. Heen, Esq.

q What is your name?

a George Goeas.

q Where do you live?

a 663 Captain Cook.

q Are you married?

a Yes.

q Where do you work?

a I work for the Dillingham Company, Insurance Department.

q Do you remember hearing or reading in the papers about this assault case at Ala Moana?

a I do.

q Do you recall that at that time on a Saturday night whether or not you were out at Waikiki Park

to a dance?

a I was.

q And was there anyone with you at the dance?

a I went there with my wife.

q How did you go out there?

a I took my car.

q Where did you park your car when you went to that dance?

a I parked my car on John Ena Road, right opposite the side entrance to the park.

q Was it directly opposite?

a It is a few feet away.

q Further mauka or makai?

a Towards Kalakaua.

q About what time did you get to the dance?

a I got to the dance about quarter to nine.

q Did you stay there until the end of the dance?

a I did.

q Do you remember about what time that dance ended?

a When they announced the last dance I asked my wife what time it was. She told me it was--

MR. WIGHT: Objected to as hearsay.

THE COURT: Never mind what your wife said.

a (Continuing) When I heard the party announcing the last dance I asked my wife what time it was, and when I looked at the time it was about 13 minutes to 12.

q Who had the watch?

a My wife had the watch.

q What kind of watch?

a She had a Gruen watch.

q A wrist watch?

a Yes.

q Did you look at it?

a I did

q Did you dance the last dance?

a I did.

q About how long did that last dance continue?

a Usually ~~the~~ the last dance is longer than the others, so I take it about eight to ten minutes, I believe.

q At the end of that dance what did you do?

a At the end of the dance we walked out slowly and got on our car and we started off and drive down about, say about 25 or 30 yards, and turned in the road and went in for some noodles, Japanese saimen.

q This road was on what side of Ena Road?

a On the right side.

q As you go down?

a Going down towards Kakaako.

q Was that place where the noodles were sold near the stores?

a Below the stores.

q This road that goes Ewa from Ena Road, where was the saimen stand with relation to that road?

a The saimen stand was not on the road; it was in an empty lot like, and I drove in the empty lot say about five yards away from the road.

q From what road?

a From John Ena.

q And this road that goes Ewa way, is that a wide road or narrow

a It is a wide road. It is not a lane, it is a road all right. It is quite wide. You could turn right around there.

q Do you think you can draw us a diagram of that place?

a I think so. (Witness goes to blackboard).

q Suppose we start this way, Kalakaua Avenue.

Suppose this is Kalakaua Avenue, this is the makai side and this is the mountain side.

a (Witness draws on blackboard) Kalakaua Avenue, Waikiki Park, the entrance is here, and I had my car parked about here. (Indicating)

q Off the street or on the street?

a On the street.

q Suppose there is a street here?

a Then I drove down and there is a road that turns in toward Ewa-way, right in this corner is an empty space, and the saimen wagon was standing right here, and I drove in this way and turned on my right and drove in a lot right by the side of the saimen wagon.

MR. PITTMAN: Let him show where Fort DeRussey is, so we will be sure.

q Do you know how this road continues and which way it goes toward Fort DeRussey?

a (Witness draws on board) This is Fort DeRussey road and this is Ala Moana.

q Were there any cars leaving the grounds of the Waikiki Park at the time you came out?

a There were cars coming out. The dance was just over.

q When you got out of your car did your wife get on to, at the same time?

a She got on the car the same time as I did. She went around the front and got on from the sidewalk.

q Did you drive off right away or wait there for a little while?

a As soon as she got on the car I just drove right on.

q As you were driving to this place where the noodles were sold did you observe anybody walking down there?

a You mean, -I didn't get the question.

q As you were driving down where the noodle stand was did you observe anybody walking on the sidewalk?

a Yes, I saw a man and woman walking.

q About where were you at the time you first observed this man and woman?

a I was just going out, just about starting the car, when they first passed down and then I turned into Ena Road where the noodle stand was and at the angle I parked I could see them coming right down.

q Were they still at some distance from you when you saw them coming down, after you parked?

a When I first saw them they were, I believe, about 15 yards away.

q Away from you?

a Away from me.

q In which direction, ahead of you or behind you?

a They were coming down Eha Road when I first saw them. The first time I saw them they were about fifteen yards away from me and they came down and the closest they came to me was about six yards, five or six yards, I think.

q What is your estimate of five or six yards?

a About from here to Mr. Wight there. (Indicating) from witness stand to deputy City and County Attorney)

q Was there any light there at that time?

a There were lights.

q Where did the lights come from?

a They had light from the store right above the salmon wagon and then there was a store on the other side of the street, the road that branches out.

q You mean the makai side of that street?

a Yes.

q Do you remember whether that store was open or closed at that time?

a I didn't notice at the time.

q What was the relative position of this woman and

this man as they walked down?

a You mean distance apart?

q Whether one was ahead of the other or not?

a When I first saw them she was on his right, about a yard in front of him. They kept that distance all the way until they passed my car. Then I turned around toward my left and I looked back again and he just at that time took the opposite. He walked about a yard in front of her.

q At that point had they passed that little side street?

a They did.

q They were on the other side?

a Just going over the curb on that road there.

q- How did you happen to turn around and look again?

a I noticed the way she was walking at the time. It seemed kind of funny to see a white woman walking in that kind of condition and I thought she might be under the influence of liquor and noticed the way she held her head down, and it made me think they had had a quarrel or something.

MR. WIGHT: I move to strike the last par, what he thought.

THE COURT: The motion is granted, The jury is instructed not to pay any attention to that.

q Did you make any remark to your wife at that time?

a Yes.

q You say this was a white woman?

a She was.

q Will you please step down and walk ~~as~~ as near as you can the way she walked, as you observed her that night?

a How fast she walked, you mean?

q The style of walking you noticed at that time?

a (Witness leaves stand and goes to rail in middle of court room and walks back to the jury box) She was walking with her head on the side like this (illustrating) and very stooped over, at a very slow pace like this, going down the road, (Illustrating)

q This man who was following her, did you notice his complexion, whether white man or Hawaiian or what nationality?

a He was a white man.

q How was he dressed at that time? Do you remember?

a He had dark trousers and he had a brown sweater or slip-over coat.

q Did he have a hat on?

a He had no hat;

q Did the lady have a hat on?

a I don't remember that. I don't think she did.

q What kind of hair did she have, what color?

a Her hair seemed to be a little brownish color.

q How was ^{it} fixed, do you remember?

a It was hanging down in the back, I don't just know what they call it.

q What kind of dress did she have on?

a She had a green dress that came almost to the ground.

q About how tall was this white lady?

a I believe she was about 5-6.

q About how tall is your wife?

a My wife is 5-8-1/2, I think.

q She is shorter than your wife?

a ~~She-is-shorter-~~ Yes, and smaller build.

q About how much of the distance did you observe they after they passed your car?

a About eight yards, I believe it was about eight yards.

q Did you lose sight of them or just simply turn around?

a When they passed me and lady brought my noodles we kept on eating and forgot about everything.

q Did you go down to the police station a few days after that?

a I did.

q At whose request?

a My own request. I read in the paper where this case happened, so I wanted to do my bit and try to see if this was the right party, so I just wanted to say what I saw to help get the real party, so I went down and talked to detective Jardine.

q You made a statement at that time?

a I did. I signed four or five copies, I think.

q Did they show you the dress at that time?

a Not at that time. They showed me the dress on
a Friday

q Showing you this green dress top and also the
skirt part, which is included in Exhibit 6 in this
case,--is that the dress that they showed you?

a That is.

q And do you recognize that as being the dress
you saw on that woman?

a It is, that is the very color I explained to
them.

q About what time would that be when you saw this
lady walking down?

a When I saw her walking down?

q Yes.

a It was about five to ten past twelve.

q You mean five or ten minutes after twelve?

a Yes.

q That is your best judgment?

a Yes.

q- This white man whom you saw walking near this
lady, about how tall was he in relation to this lady?

a He was about two or three inches taller than she
was.

q As they were walking downtowards this side
street from Kalakaua Avenue, way after you observed
them did you notice if there was any change \neq in

the distance between the man and the woman?

a When I first saw them she was on his right, about one yard ahead of him, and as they passed my car I turned around and while I looked back he just went the opposite way, - he moved one yard or yard and a half ahead of her.

q Before they reached that point when they changed their positions, how about their positions as they came down, did they keep the same distance apart?

a They kept the same stride all the way.

q How was he walking?

a He kept straight all right. He was in a different position from her altogether.

q I mean as to his gait, as to whether or not he was walking slow or fast?

a He had the same pace as she; kept it all the time until he passed the car and then he went a yard ahead.

q Does this dress appear similar to the one this woman had on that night that you have just seen?

a Yes, sirl

CROSS EXAMINATION

By Griffith Wight, Esq.

q Do you remember whether the dress had fur on the arms or not?

a I didn't notice at the time. I just noticed the color.

q You say she had brown hair. What shade do you

mean, - about like mine or more like Mr. Heen's or between these two?

a Something like the Judge's.

q You don't know whether she wore a hat or not?

a She had her hair hanging down. I don't think she had a hat.

q Didn't you tell me once you didn't know whether she wore a hat?

a I don't remember.

q This afternoon you said you didn't know whether she wore a hat or not, didn't you?

a You mean this afternoon?

q Yes, you told Mr. Heen you didn't know whether she wore a hat or not?

a I didn't know whether she had a hat. Maybe she had a hat on, but she had her hair hanging down.

q Was she carrying anything similar to that in her hand? (Showing witness a purse, Exhibit ____.)

a I didn't notice it.

q If she had carried it do you think you would have noticed it?

a If she had it in her hand maybe I would have noticed it.

q You think you would have noticed it if she had carried it?

a (No answer)

q As I understand, you walked out of this park, you walked slowly over to your car and drove immediately

down to this saimen stand?

a Yes.

q That didn't take you more than three or four minutes?

a We were walking out very slowly.

q How long did it take you to get from here to your car?

a From the dance to the car, you mean?

q Yes.

a It took me about seven minutes.

q About 150 yards, it took you seven minutes?

a We were walking slow.

q You didn't stop?

a Just gazing around.

q You didn't stop?

a I didn't stop.

q You might have walked that short distance in as little as three minutes?

a It could be done, but I didn't do it.

q Don't you think you did it that night?

a No.

q How long did it take you to walk 100 yards slowly as you did then? A sprinter does it in ten seconds.

a I think I couldn't run it in 15 seconds. I don't know how I would walk it.

q Taking it walking the way you did you would have to stop four or five times to take seven minutes to walk it?

a I think about three minutes, I think.

q After you have thought that over how long do you think it took you to walk to your car?

a Five or six minutes.

q And you started and drove immediately to this stand?

a Yes.

q And that took you probably thirty seconds, didn't it, about 75 feet?

a There was a lot of traffic at the time. It took me about a minute, I believe.

q So it took you about six minutes in all after the dance to get there?

a (No answer)

q Six or seven minutes after the dance to get to that point and you just ordered your stuff when she walked up, is that correct?

a I had just ordered my stuff.

q You had just got there and she walked up?

a When I ordered my stuff my wife and I were talking and from the position I was I saw her coming down just after I ordered the stuff.

q And you ordered just as soon as you got there?

a Just as we got there a man came out. There is a man and lady there.

q The last time you saw the woman this man had passed her and gone ahead of her?

a About a yard and a half.

q Did he speak to her or she speak to him?

a I didn't hear anything.

q Did you see him turn and speak to her?

a No.

q Wasn't she walking more or less like this?

(Illustrating)

a No, she had her head farther down than that.

q Didn't she walk as though she were thinking very deeply, -she couldn't have had her head down farther than that?

a She wasn't walking in the same position; she was like this, wobbling down like this. (Illustrating)

q Her knees were bending?

a I didn't see her knees.

q Were there street lights across the street at that time?

a I didn't notice.

q By any chance was that person you saw behind her in a white linen suit, this man behind her?

a No.

q Did he have a white naval uniform on?

a He did not.

q Did he in any way resemble any naval officer?

a He had dark trousers.

q There was nothing white about his clothes?

A No.

q Was he dressed in the manner her escort would be dressed?

MR. HEEN: Objected to as calling for a conclusion of the witness.

(Question withdrawn)

q Was he dressed in a costume he would wear at a dance?

MR. HEEN: Objected to as improper cross-examination and calling for a conclusion of the witness.

THE COURT: Objection sustained.

q He had a sweater on, didn't he?

a Yes.

q And golf knickers?

a Dark long trousers.

q Does your wife agree with you on that?

MR. HEEN: Objected to as not proper cross-examination.

THE COURT: Objection sustained.

q The thing that obscured him from your vision, wasn't it this across here, - there is a store and sidewalk in front and when they got beyond that edge you couldn't see them any more; isn't that correct? When she got beyond this store across this alley you were unable to see her more because the store intervened? She got about eight yards from where you were and there was a store?

a Yes.

q And at no time did you see her speak to the man or he speak to her, that is correct?

a I did not.

q And you didn't see her turn and face the man?

a She kept the same position all the way.

q She kept the same position all the way?

a Yes.

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(Adjourned to 8:30 o'clock a.m. Wednesday,
November 25, 1931.)

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