

8

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT OF THE
TERRITORY OF HAWAII.

TERRITORY OF HAWAII,

-vs-

BEN AHAKUUELO; HENRY CHANG;
JOSEPH KAHAHAWAI, JR;
HORACE SHIMITSU IDA;
DAVID TAKAI

The above entitled matter came on for further hearing before the Honorable A. E. Steadman, First Judge of the Circuit Court aforesaid, at 8:30 A. M., December 2, 1931, and the parties being represented by counsel as heretofore, the following proceedings were had and testimony taken:

THE COURT: Will counsel stipulate that the jury is present?

MR. WIGHT: Yes, Your Honor.

MR. HEEN: We will so stipulate.

MR. WIGHT: Yesterday afternoon, during Judge Heen's argument to the jury, we discovered new evidence that we thought was important. We wish to stipulate that this new evidence discovered during Judge Heen's argument---

MR. HEEN: (Int) We will stipulate that some new evidence was discovered but we do not agree that it was important.

MR. WIGHT: We will accept that stipulation.

THE COURT: Alright, call your evidence.

GEORGE McCLELLAN, a witness on behalf of the prosecution, being first duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY GRIFFITH WIGHT ESQUIRE:

Q What is your name?

A George McClellan.

Q Where do you work?

A Luke Field.

Q What agency do you work for?

A The service.

Q What branch?

A Army Air Corps.

Q Round about September 12th this year, where did you live?

A 1945 Kalia Road.

Q Are you married?

A Yes.

Q Were you married then?

A Yes.

Q Your wife's name is what?

A Ramona McClellan.

Q Did you go to a dance at Waikiki Park with your wife?

A What night was that?

Q Saturday night, September 12, 1931.

A I did.

Q What time did you leave the dance?

A After the last dance.

Q How soon after?

A Immediately.

Q Where did you go from there?

A Across the street to the saimin place.

Q When you say saimin place, which one do you mean?

A The one nearest Kalakaua. They also have a flower-store there.

Q You know they have two saimin places,- one further up towards the beach?

A Yes, one further up towards the beach.

Q What time did you leave that saimin stand?

A After we got through. I don't know what time it was.

Q You are not sure?

A No.

Q When you left, in what direction did you and your wife walk?

A Towards Kalia.

Q Down John Ena Road towards Kalia Road?

A Yes.

Q In what position did you walk?

A Well, we walked together a few steps from the saimin stand.

Q Were you ever separated that night?

A Just for a few minutes. I stopped to pay the bill and had a drink of water.

Q Did you have an argument that night?

A No.

Q How was your wife dressed?

A Green evening dress.

Q Do you know where that dress is?

A I do.

Q Where is it?

A Outside.

Q Is this the dress to which you refer? (Indicating a garment)

A Yes.

Q And what is this; the slip that goes over it?

A Under it.

MR. WIGHT: Do you object to this being in evidence?

MR. HEEN: No objection.

THE COURT: That will be received and marked Prosecution's Exhibit "M".

Q What did you wear?

A These pants, a blue sweater and a white shirt.

Q Those trousers that you have on?

A Yes.

MR. WIGHT: May this sweater be introduced in evidence?

MR. HEEN: No objection.

THE COURT: It may be received in evidence and marked Prosecutions Exhibit "N".

Q From this saimin stand, where did you walk to?

A Walked down John Ena Road to Kalia Road.

Q Did you walk all the way home?

A Yes.

Q Do you know about how long you were at the Saimin stand?

A I don't remember.

Q Was it long or comparatively short time?

A Oh, it was not a long time.

Q Now, do you know whether or not there were any lights in the stores beyond that salmon stand when you were walking down?

A There generally is at that time. I didn't take particular notice.

MR. WIGHT: You may cross examine.

CROSS EXAMINATION

QUESTIONS BY W. H. HEEN ESQUIRE:

Q What time did you go to the dance that night, Mr. McClellan?

A Probably eight-thirty.

Q And did you go to the dance directly from your home?

A I believe we did.

Q That is your best recollection?

A It is.

Q And you say that your home at that time was at 1945 Kalia Road?

A September 12th you say?

MR. HEEN: Yes, September 12th.

A Either 25 or 45, I don't know which.

Q Either 25--

A (Int) We lived in both lanes. One time we lived in 25 and moved over to a bigger house at 45. All the time we lived in Kalia Road.

Q In other words, the number is given to the lane?

A The number is given to the lane, yes.

Q What were the letters of this house?

A Either 1925-02 cottage 11, -- I believe it was 1925-02 at that time.

Q Which one did you live in first?

A 1925-02.

Q How long did you live there?

A Two months, I believe.

Q And when did you move there the first time?

A In July, I think.

Q In July?

A Yes, towards the end of July.

Q Then after living there in 1925-02 for about two months from the latter part of July then you moved over directly, did you, to--

A (Int) 1945.

Q 1945-11?

A Yes.

Q How long did you stay there?

A I just left there the first of this month.

Q This month? December?

A First of November.

Q You remember meeting anybody at the dance that night, - any of your friends?

A Oh, yes; there was several there, yes.

Q Can you name some of them?

A Mr. Godfrey, for one; he knows my wife and I personally.

Q Mr. Godfrey, the probation officer?

A Yes.

Q Anybody else can you remember?

A Not that I can recall at this time.

Q Did you dance the last dance?

A Yes, I did.

Q And after that last dance, you left?

A Yes.

Q And you think that was about twelve o'clock?

A I couldn't say for sure. I didn't notice the time.

Q Where did your wife buy this dress?

A In the Ramona Dress Shop, I believe.

Q Were you with her when she bought it?

A I was.

Q You were?

A That is the dress she got married in.

Q That's the dress she got married in?

A It was white and she dyed it since then.

Q You mean her marriage to you?

A Yes.

Q When was that?

A About eighteen months ago.

Q Eighteen months ago?

A Longer than that.

Q And is this how she wore that dress that night; exactly like this?

A Not exactly like this, but it was the dress she had on.

Q Did she have any bow to it?

A I couldn't say.

Q Do you remember her ever wearing a bow with this dress, around the waist?

A I think once in a while she may have worn a green belt with it. A leather belt. I don't know whether she had it on that night.

Q But she used to have a belt that she used to wear with this dress?

A Once in a while.

Q And that was a leather belt three inches wide?

A Yes.

Q Of what color?

A Green.

Q Do you know where that belt is now?

A I guess up in my room some place.

Q What color was this dress at first?

A White.

Q And when was it dyed green?

A Over a year ago.

Q Over a year ago. Where?

A American Sanitary Laundry, I think. I'm not sure.

Q And was this under-slip white at the beginning?

A It was.

Q And also dyed at the same time?

A Yes, sir.

Q How tall are you?

A About five eight and a half, I believe.

Q In your shoes?

A Bare feet.

Q Is that your exact measurement or just your judgment?

A I think it is my exact measurement.

Q Five feet eight and a half inches in your bare feet.

And how tall is your wife?

A That I couldn't say. She is smaller than I am.

Q About how many inches shorter than you?

A I have never taken particular notice. With high heels, only a few inches.

Q When you look her straight in the eye, where would her eyes be?

A I would say she is about five four.

Q Will you please put this coat on, if you don't mind.

(Witness puts on sweater-coat)

Q Did you have it buttoned up that night up to the top of your neck?

A I generally only keep the two bottom buttons buttoned.

Q But on that night how did you have it?

A I don't remember.

Q Was that coat about the same shade that night as it is now?

A It was.

Q Did you have a white shirt on that night?

A I think I did.

Q You are not sure about it?

A I'm not sure.

Q You had this pair of trousers on that night?

A I did.

Q That is light gray with white stripes?

A Yes.

Q Did you have that pair of shoes on that night?

A Yes. White with brown or tan tops.

Q Did you have any hat on that night?

A I did.

Q Did your wife have any hat on that night?

A I don't remember. I doubt it.

Q What kind of shoes did your wife have on that night?

A I couldn't say for sure.

Q Does your wife wear her hair bobbed?

A Yes, she does.

Q Short?

A Yes.

Q And the color of her hair: is it darker than yours?

A It is.

Q Almost black?

A Dark brown.

Q What would you call the color of your hair, -dark brown or light brown?

A Oh, I guess in between.

Q In between light and dark?

A Yes.

Q Now, about how many minutes did it take you to go from the dance pavillion to this saimin place?

A Just a few minutes.

Q What's your idea of a few minutes?

A About three or four minutes.

Q Then what did you order there?

A Bowl of saimin.

Q And what did your wife order?

A The same thing.

Q About how long did it take you to wait for the saimin to be brought to the table?

A Oh, it only takes a few minutes.

Q How many minutes would that be?

A Two or three minutes.

Q Might have been a little longer?

A It might have been.

Q May have been three or four minutes?

A Possibly.

Q About how long did it take you to eat the saimin?

A I don't remember.

Q To the best of your recollection about how many minutes?

A Well, it is generally pretty hot. We talked and kidded along; took our good old time eating it.

Q Was it hot?

A Generally is when you get it.

Q Was it hot that night?

A It always is.

Q Was it hot that night?

A Always is.

Q Did you eat it hot or leave it to cool first?

A Oh, let it cool off first.

Q You said you were talking and taking your good old time. Just give us, according to your best recollection and judgment about how long you and your wife were in that saimin stand waiting for the saimin, waiting for it to cool and eating it.

A I haven't the slightest idea.

Q Might have been fifteen minutes?

A Might have been. Might have been less and might have been more.

Q Might have been less than fifteen minutes?

A Yes, it might.

Q Could it have been five minutes?

A I doubt it.

Q Was there a clock there at that time?

A I didn't see any. If there was, I don't remember; it being so far back.

Q You didn't see any clock on the wall at all?

A I did not.

Q Did you have a watch with you at that time?

A I don't think I did, no.

Q Then, did your wife have a cloak on that night?

A I couldn't say.

Q Was she carrying a cloak?

A That I couldn't say.

Q Were there any other people in the saimin place when you and your wife were there?

A There was nobody inside but I think there was someone being served in a car outside. I don't remember.

Q Then when you and your wife got through eating saimin you and your wife came out and walked toward the beach?

A She came out ahead of me. I stopped to pay the bill and to get a drink of water.

Q Where did you stop to get your drink of water?

A In the saimin place.

Q And then you came out and walked down together?

A Yes.

Q Had you been drinking that night?

A No.

Q Had your wife been drinking that night?

A No.

Q She was absolutely sober?

A Yes.

Q And you don't remember whether or not there were any lights in the stores which you had to pass going down?

A I think the barber shop was lit up there and several stores. There's another place, a delicatessen place and grocery store lit up. They generally stay up until 12:30. I can't say positively.

Q Going down, you had to pass first an automobile stand?

A Yes.

Q And next to the automobile stand was the barber shop?

A Barber shop, yes.

Q And next to the barber shop is a store?

A Correct.

Q And next to the store is another store?

A Yes.

Q And next to that is a saimin place?

A Yes, in the alleyway.

Q A little alleyway right where they serve saimin from a wagon?

A Correct.

Q That would be Hobron Lane?

A I don't know the name of the lane.

Q Then on the lower side of that, right opposite that saimin stand, was another store?

A Delicatessen store.

Q That's the last store going down?

A It is.

Q And then beyond that delicatessen store was two cottages?

A Yes, I believe they set back a little.

Q Yes, they set back from the road?

A Yes.

Q You are familiar with that place there, are you, in walking back and forth along there?

A Yes.

Q And as you down that sidewalk, after you leave the store,-after you pass the store you can still walk on the side walk in front of the delicatessen store?

A You can, yes.

Q And in passing the two cottages--

A (Int) I generally walk on the street.

Q On account of the shrubs?

A On account of the shrubs growing on the sidewalk.

Q Don't you remember after passing the second cottage below the delicatessen store the shrubs come right out to the curb?

A I couldn't say for sure.

Q But they do grow out toward the curb in that vicinity?

A Somewhat toward the curb, yes.

Q Now, do you remember reading in the newspapers at or about the time --- about this alleged assault upon a white lady on Ala Moana Road?

A I do.

Q You remember reading at that time about a Japanese lady making a statement that a woman had been seen passing down that John Ena Road about 12:05 or 12:10 with somebody walking behind?

A I remember reading something about it rhee or four weeks ago.

Q Was that the first time you read about it?

A The first time I took any notice of it. Might have been before; I don't remember.

Q When you read about it did you tell your wife you were that couple?

A I just mentioned it to my wife casually. I said "I wonder whether someone had passed us".

Q Wondered whether somebody had mistaken you for the party referred to?

A I passed it off, and I never said anything more after that.

Q Where was this that you spoke to your wife about it?

A I believe at home.

Q At home?

A Kalia Road.

Q You are not living there now?

A No. My wife is at the hospital the past three or four weeks.

Q And now you are living at the Army & Navy Y?

A Yes.

Q And it was before you moved to the Army & Navy Y that you mentioned the matter to your wife?

A I did.

Q Are you certain of that?

A Practically, yes.

Q How long has your wife been in the hospital?

A Since the 12th of November.

Q Last month?

A Yes.

Q Now, how do you fix the time with reference to telling your wife about having read in the papers that a woman with a green dress and a man following her was seen walking down John Ena Road?

A Because I remember reading it about a month ago and I passed it off because it didn't interest me and didn't concern me. I just said it in a joking way and passed it off and didn't think about it since.

Q How do you fix that time?

A I just passed it off. I haven't been following the papers.

Q If I should tell you that this case was not started until November 16th, would that cause you to change your testimony now?

A I told you my thought. I told you I told my wife about a month ago.

Q About a month ago?

A Three or four weeks ago to the best of my knowledge.

Q And you are certain you told her that at Kalia Road?

A I'm pretty sure I did.

Q Isn't it a fact that you told her at the hospital?

A I don't think I did.

Q You don't think so or you know you didn't?

A I don't think I did.

Q You are not sure about that?

A I wouldn't say positively, no.

Q And if you did tell her about this matter at the hospital, that would be in addition to what you told her at Kalia Road?

A If I told her there, it would be, - yes.

Q Now, did your wife tell you what time it was that you left the saimin place when you spoke to her about the incident?

A She did not.

Q Now, don't you know she did?

A I said she didn't.

Q She didn't?

A Yes.

Q Didn't you discuss with her at that time about when it was that you and she left the saimin stand?

A I think I did.

Q And did she say what time it was?

A She did not.

Q You are sure of that?

A I'm almost pretty sure. I won't say positively because it has been a long time back.

Q Now, you didn't see my about it, did you?

A No.

Q This is the first time you seen me?

A I have seen you before.

Q Oh, have you?

A Casually.

Q Now, Mr. McClellan, do you think that it was at a point in front of the delicatessen store that you and your wife stepped out onto the road?

A Just around there, yes. I generally cross there pretty nearly all the time.

Q You keep near the curb?

A No, we generally get on the park side.

Q Back on to the sidewalk there?

A No, we walked in the street.

Q Now, as you walked down there past this delicatessen store did you see an automobile parked about in front of those two cottages?

A I don't remember.

Q Do you remember that?

A No.

Q And you don't recall having to get further out in the street in order to pass this automobile?

A I couldn't say that either.

Q And then when you got to the intersection you turned off to Kalia Road, - that's the road leading off to Fort De Russey?

A That's correct.

Q Will you look at this map (indicating map on the blackboard). This is a map drawn on a scale of one hundred feet to an inch, being Exhibit 9 in this case.

THE COURT: There is only one map in this case.

Q (Cont'g) This is Kalakaua Avenue, marked Kalakaua; and this is John Ena Road, marked Ena Road. The top of this map is toward the sea. Do you recall that?

A Yes.

Q This is Ala wai Canal, marked Alawai Canal. Then in going down John Ena Road, you went along and took the road toward Fort De Russey?

A Yes.

Q Which lane did you go down; the first one or the second one?

A I don't remember. Either the first or the third.

Q And what would be the number at the third?

A Cottage eleven.

Q That would be the lane nearest Fort De Russey?

A Yes, next to Niumalu.

Q The first one would be near cottage 1925-02,- at that time?

A Yes.

Q As you went along there to your place, did you hear an automobile turning the intersection where John Ena Road goes into Ala Moana Road?

A There's cars travelling there all the time and I didn't take particular notice.

Q Your attention was not drawn to a car that was going at a high rate of speed?

A It was not.

Q Whatever cars were going around there at that time were travelling at an ordinary rate of speed? In other words, you didn't notice anything out of the way?

A I don't remember any cars going,- nothing to draw my attention in walking home.

Q At that time, after you turned the intersection to go into Kalia Road on the way home, did your wife make a remark about a car travelling at a high rate of speed?

A I don't think she did, no.

Q You don't know Mr. Kai here, do you?

A No.

Q You don't know Mr. Pittman do you?

A I know him casually.

Q Do you know Mr. Murakami?

A I can't say that I do.

Q Did you say that you knew Mr. Pittman casually?

A Yes, by sight; that's all.

Q You have never talked to him have you?

A I don't think so.

Q You never talked to him about this testimony that you are giving?

A No; never talked to anybody about it.

Q You haven't talked to anybody about it at all?

A Nobody concerned here. Only to my wife.

Q Were you questioned by the Army authorities?

A No.

Q By the Naval authorities?

A No.

Q Were you questioned by the prosecuting attorney or the police?

A Nobody.

Q Who told you to bring your sweater down?

A Jardine.

Q And he told you to bring the dress down?

A He did.

Q That's all he said to you at all?

A He told me to be sure and come because if I didn't I would be subpoenaed.

Q He didn't question you about this matter?

A He said he was not interested.

Q He said he wasn't interested?

A He said he wasn't interested but he wanted me to come to court.

Q Have you been attending the trial of this case?

A I have not.

Q Why didn't you report this matter to some of the authorities?

A I didn't think it concerned me and the fact is that I didn't want to get in the case. I didn't think it was anything, to tell you the truth.

Q Now, when you walked from the saimin place down John Ena Road on your way home, did you walk at your ordinary pace?

A We did.

Q Would you mind coming over here and stepping to the jury-box at the pace you think you were walking home that night?

A (Stepping off the witness stand) I don't remember,--the average gate.

Q Well, as near as you can remember it.

A Walking about like this (walking toward Mr. Heen).

Q All right. Now, in front of the automobile stand did you see a car parked?

A I don't remember anything about any cars because my attention was not called.

Q Did you see a car parked by the saimin stand?

A I believe---

Q (Int) At the second saimin stand.

A At the second--

Q (Int) At the second saimin stand.

A I couldn't say.

Q Did you go to the Waikiki Park dance on the Saturday night prior to September 12th?

A Yes, we been going there practically every Saturday night.

Q Did you go on that Saturday night prior to September 12th?

A I couldn't say. I'm pretty sure. We generally go every Saturday night.

Q But you are not sure you were there?

A I would say we were there.

Q What time did you leave that dance?

A We generally leave at the last dance.

Q You say generally. On that particular dance night, September 5th, what time did you leave that dance?

A I couldn't say positively when.

Q After you left that dance where did you go?

MR. WIGHT: Which dance do you mean?

MR. HEEN: On the 5th of September.

MR. WIGHT: I object to that as immaterial.

THE COURT: You may answer it.

A. When we go to the dance, we generally always go to the

Saimin place afterwards.

Q Did you go to the saimin place on the 5th of September?

A It is pretty far back to remember.

Q You don't know?

A I say we generally go.

Q I know you said that; but I am asking you whether you want there on that night?

A I couldn't say.

Q Did you go to the dance on September 19th? At Waikiki Park.

A I did.

Q What time did you leave that dance?

A I'll say after the last dance.

Q And where did you go from there?

A Saimin.

Q What time did you go to the saimin place?

A I wouldn't say for sure. I never looked at the time.

Q About how many minutes would that be after the dance is over?

A Three or four.

Q How long did you stay there eating saimin?

A Indefinite time.

Q About how long, according to your best judgment? This is a later date now.

A I don't know how long. We sat there and ate saimin and talked.

Q Would it be about ten or fifteen minutes?

A Just about.

Q And then you left there and came down back to your home?

A Yes.

Q What kind of clothes did you have on that night of September 19th?

A I don't remember.

Q What kind of clothes did your wife have on that night?

A I couldn't say that.

Q Now, on September 26th, did you go to the Park to the dance?

A If I knew what orchestra was playing that night, I could tell you.

Q What orchestras do you know that play there?

A Sometimes the "City of L.A.", "Happy Farmers" and others.

Q But you don't remember now whether you were there on September 26th?

A I couldn't say positively.

Q What's that?

A I couldn't say definitely.

Q Were you there the week following?

A I don't remember what night we were there. We generally go there Saturday night. That's the best I can give you.

Q This is getting down closer to the present time.

A I don't remember that.

Q Do you remember going there, --On the 15th--No, on the fifth day of September this year when you were at that dance, what orchestra was playing there?

A The 5th of September?

MR. HEEN: Yes, the week prior to the 12th of September.

A Either the Happy Farmers or the City of L.A.; I couldn't say for sure.

Q On the 12th day of September, what orchestra was playing there?

A Happy Farmers again, I believe.

Q You remember who was giving the dance on September 12th?

A I think it was the regular park dance, - I'm not sure.

Q Now, on October 3rd were you at that dance?

A I couldn't say for sure. I think I was.

Q You know how you were dressed that night?

A I generally go with striped pants or some palm-beach pants.

Q Do you know what clothes you had on that night?

A Exactly, no.

Q Do you know what your wife had on that night?

A Exactly, no.

Q Do you know what your wife had on that night?

A I couldn't say that I do.

Q Do you know what orchestra played that night?

A Too deep.

Q What's that?

A That's too deep.

Q On October the 10th did you go to the dance there?

A Too many dances for me to remember.

Q You don't remember?

A I say we generally go every Saturday night. I wouldn't say definitely whether we were there or not.

Q And if you did go there, do you remember what clothes you had on?

A I couldn't say I would.

Q You remember what clothes your wife had on?

A No.

Q Did you go to the dance there on October 17th?

A What day is that?

MR. HEEN: That is a Saturday night.

A I believe I did.

Q Do you remember what clothes you had on that night?

A I think I had white and brown striped pants on.

Q And what clothes did your wife have on that night?

A I don't remember.

Q What was the last dance you went to there?

A At Waikiki Park?

Q Yes, Waikiki Park.

A I have not been there for about a month, I believe.

Q You say that you lived away from the Kalia Road place since about the first of November?

A November first, yes.

Q And that would mean that you left the Kalia Road place on the last day of the month preceding?

A No, it was after the first.

Q After the first?

A Around the first. Either on the first or second or third I believe.

Q Do you remember going to the dance a few days before you left Kalia Road?

A If it was on a Saturday night, I would say yes.

Q All right. That was October 31st, the last day of the month.

A Is that on Saturday?

MR. HEEN: That's a Saturday night.

A I would say we were there, yes.

Q What kind of clothes did you have on that night?

A I think brown and white pants.

Q. You are not sure?

A No.

Q What kind of a shirt did you have on?

A White shirt. I usually go with a white shirt.

Q Have you any colored shirts?

A I have two.

Q Did you have that sweater on that night?

A No. I only wore this sweater about two weeks at the dance.

Q Oh, boy the way: what kind of -- what did your wife have on that night?

MR. WIGHT: What night?

MR. HEEN: October 31st.

A I don't remember.

Q Did you tell any of your friends about this incident of going to the dance on the night of September 12th?

A It is possible. I wouldn't say I didn't.

Q Possible. Did you say anything to Mr. Wight about this?

A No.

Q Or Mr. Hewitt, the Attorney General?

A No.

Q Or to Mr. Gilliland, the City & County Attorney?

A No.

Q You never said a word to them?

A No.

Q Or to Mr. Silva?

A No.

Q Did you say anything to Mr. McIntosh about it?

A No; nobody.

Q None of the lawyers on the other side?

A No.

Q Do you know how the information got out at all?

A I have an idea.

Q What's that idea?

A Personal.

Q Personal? What do you mean by personal?

A Little gossip between my wife and friends, that's all.

MR. HEEN: Nofurther questions.

RE-DIRECT EXAMINATION

QUESTIONS BY GRIFFITH WIGHT ESQUIRE:

Q That sidewalk at the delicatessen store extend beyond the delicatessen store toward the beach?

A It does.

Q How do you fix it in your mind on September 12th what your wife and you were wearing?

A It was only a short time after that I seen something in the paper about it and I mentioned something about it at the time.

MR. WIGHT: That is all. I move that we now adjourn to go to Tripler General Hospital in automobile so that the wife of Mr. McClellan may be interviewed.

THE COURT: Gentlemen of the jury, the court has provided automobiles that are out here. There are two seven-passenger

which you will occupy. The bailiff will not go with the jury; it is too crowded. You will kindly go outside and enter those automobiles and wait and I'll go ahead. It will be necessary of course for the defendants also to go. You gentlemen, when you get out there, kindly stay in your automobiles until we can fix up some approximation of a courtroom.

(Adjourn to meet at the hospital)

At Tripler General Hospital, the following proceedings were had and testimony taken:

THE COURT: Will counsel stipulate that the jury is present?

MR. HEEN: Yes, I'll stipulate.

THE COURT: Will you also stipulate that all the defendants are present?

MR. HEEN: Yes.

THE COURT: (To witness) Mr. McClellan, ---Are you Mrs. McClellan?

WITNESS: Yes.

THE COURT: We want to ask you a few questions. Will you kindly raise your right hand?

MRS. GEORGE E. McCLELLAN, a witness on behalf of the prosecution, being first duly sworn, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY GRIFFITH WIGHT ESQUIRE:

Q What is your name?

A Mrs. George E. McClellan.

Q Mrs. McClellan, you are married?

A Yes.

Q And your husband is George McClellan?

A Yes.

Q You were married on the 12th day of September, - you were married to your husband at that time?

A Yes.

Q Did you go to a dance with your husband that night at Waikiki Park?

A Yes.

Q What dress, - -what color dress were you wearing?

A I wore a light green dress, - very long.

Q Is this the dress to which you refer (indicating Prosecution's Exhibit "M")?

A Yes.

Q That comes down to about your ankles?

A Down to my ankles.

Q And this is the slip that was underneath?

A Yes.

THE COURT: Referring to exhibits what?

MR. WIGHT: Referring to Prosecution's Exhibits "M".

Q Now, when did you and your husband leave that dance?

A I don't remember what time we left the dance. It might have been at the end of the dance or near the end. We have been to dances there very often and leave sometimes at the end of the dance or near the end.

Q You go to the dance there nearly every Saturday night?

A Yes.

Q That night of September 12th you say you left there at the end of the last dance or near the end of the last dance?

A Yes.

Q Where did you go from there?

A We went across the street to where there is a saimin place.

Q which one?

A Close to Kalakaua Avenue.

Q You know what time you left that saimin stand?

A Ten after twelve.

Q How do you know that?

A I looked at the clock when we stood up to leave.

Q How did you walk away from the place?

A I started off and my husband stopped a minute to pay the bill, and then he followed.

Q During the rest of the trip where was he?

A Mainly in back of me. Near the corner he started to walk alongside of me and we kept on together.

Q What corner was that?

A The corner going down Ala Moana road.

Q The corner that leads down to Fort De Russey?

A Yes.

Q Up to that time he was walking behind you?

A Most of the time.

Q Had you had any trouble, you and your husband, that night?

A We had a little quarrel that night.

Q Anything of any moment?

A No.

Q How did you carry your head; like that (looking up) or like this (looking down)?

A I usually have a habit of hanging my head when I walk, - Looking down when I walk.

Q Now, this dress is as it was then?

A Yes.

Q Now there was no fur on the sleeves of your coat at that time, were there?

A No.

Q How tall are you?

A About five foot three, -somewhere around there.

Q Do you know if you had anything around your waist that night?

A I always wear a sash with that dress; sometimes a belt and sometimes a ribbon with a bow in the back.

Q What color ribbon?

A White.

Q Do you know what color you were wearing that night?

A I don't remember. I have no idea.

Q What color is the belt?

A The belt is sort of silver. Not very noticeable. A narrow silver belt.

Q That blends with the color, you mean?

A Yes.

Q Do you know what your husband wore that night?

A He wore a dark blue sweater and dark gray trousers.

Q Is this the sweater to which you refer? (Referring to Exhibit "N".)

A Yes.

Q Where did you live about that time?

A We lived in the first lane on Kalia Road.

Q Number 1925?

A 1925-02.

Q you lived there at that time?

A Yes.

Q You didn't live over in the third lane?

A No.

Q You lived there some other time?

A Moved over later.

Q Did you walk all the way home or ride home?

A Walked all the way home.

Q What type of sash was that you say you wore?

A It was about that wide (indicating) and it had a bow in the back.

MR. WIGHT: About an inch and a half. Will you stipulate to that?

MR. HEEN: Yes.

MR. WIGHT: You may cross examine.

MR. HEEN: No questions. Mr. Bailiff, will you call Mr. and Mrs. Goes in here please, - and Miss Aramaki.

(Three persons enter). Will you look at her please, Mr. and Mrs. Goes and Miss Aramaki? That is all.

THE COURT: Now, you gentlemen will please go back to your automobiles and tell the chauffeur to take you back to the Judiciary Building.

(Adjourn to resume sessions in courtroom)

Upon arrival at the Judiciary building, the trial was resumed in the regular courtroom and the following proceedings were had and testimony taken:

MR. HEEN: I ask the permission of the court to further cross-examine Mr. McClellan.

THE COURT: All right.

,GEORGE McCLELLAN resumes the stand for further

CROSS EXAMINATION

QUESTIONS BY W. H. HEEN ESQUIRE:

Q Mr. McClellan, you used to promote boxing out at the Stadium?

A I worked there.

Q And did you run some of the fights out there after Mr. Bevins gave up?

A I did.

Q And you also used to keep the score at football games, did you not?

A I did.

Q And used to act as lineman at the barefoot league games?

A I have, yes.

Q When did you act as scorer, or whatever you would call it, at the football games?

A I never was the scorer.

Q What did you do at the scoreboard?

A That was when I first started working there. I was working the scoreboard.

Q At the football games?

A That's before I was made assistant manager. That was when I first came here four or five years ago.

Q How long did you do that kind of work?

A About a year and a half.

Q And after that?

A I was assistant manager.

Q Assistant manager of the Stadium?

A Yes.

Q Under Mr. Bevins?

A Yes.

Q Mr. Bevins ran some fights for a while?

A Yes.

Q And after he left you ran some fights yourself?

A With Mr. McKenzie, sales manager of the Honolulu Dairy-men's association.

Q When was that, - last year?

A I would say about June a year ago.

Q How long did you do that?

A Until Mr. Bevins returned from the Mainland about Steptember.

Q Last year?

A Last year.

Q Did you have anything to do with that this year?

A No, no professional bixing.

Q But in these barefoot games you acted as linesman. Any other work?

A Also as an official.

Q Also acted as an official at these barefoot games?

A Yes, I have also done that this year, too.

MR. HEEN: That is all. I am through with the cross.

MR. WIGHT: That is all.

MR. HEEN: I would like to call Mr. Goeas.

GEORGE GOEAS, a witness called on behalf of the defense, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY W. H. HEEN ESQUIRE:

Q. Mr. Goeas, you have already been sworn as a witness in this case. Do you know a man by the name of,--Withdraw that. Just a little while ago at the Tripler General Hospital at Fort Shafter do you recall being brought into a room there to look at a lady who was sitting in a wheelchair?

A Yes.

Q Have you seen that lady before?

A Seen her many times.

Q With whom?

A Seen her with her husband.

Q Do you know her husband's name?

A McClellan.

Q How long have you known this man McClellan?

A I have seen him about, --oh, about two years now. Seen him at the football games.

Q When you say you know him, do you mean that you are acquainted with him?

A Never talked to him.

Q Never talked to him. Seen him at football games doing what?

A. The first time I saw him, he was a score-boy; taking care of the score at football games, sitting way up on the scoreboard. They had a platform-like.

Q. What else did you see him do?

A. I have seen him officiating as linesman and time-keeper at barefoot league football games.

Q. Senior league?

A. Senior barefoot league.

Q. Have you seen him do anything at all out at the Stadium other than what you have told us?

A. I have seen him connected with the boxing game. Boxing at the stadium was not a success at first; so when they was starting to draw crowds I heard that McClellan was running it; and so I found out that this was the same boy and I was surprised how he was promoted so fast.

Q. You don't know his initials, do you?

A. I do not.

Q. You only know him by McClellan?

A. Yes.

Q. You attend the boxing frequently?

A. Very seldom I miss one.

Q. Now, did you ever see Mr. McClellan out at the dance at Waikiki Park?

A. Seen him many times.

Q. With whom?

A. With his wife.

Q. That was his wife that you saw there at Tripler General Hospital?

A. Very same one.

Q Now, I'll ask you whether or not you can pick Mr. McClellan out if you see him in this courtroom? Will you step down please and look around.

(Witness leaves the stand)

A That gentlemen there, with his hand on his chin (indicating a gentleman in the audience).

Q The one in the gray clothes?

A Yes.

MR. PITMAN: Will you stand up please?

(Gentleman stands up)

A That's Mr. McClellan (indicating gentleman standing up).

MR. HEEN: Let the record show that he pointed out Mr. McClellan sitting in the audience in the courtroom.

Q Now, you already testified that you saw a lady in a green dress and a man walking behind her along John Ema Road in the direction of Kalia Road and you testified that the gentleman had on a sort of slip-over coat of some kind.

I'll ask you whether or not the coat that you saw on the man that night was a coat of this kind? (indicating Exhibit "N").

A It was not.

Q Now, I'll show you this dress, which is Exhibit "M" in this case, and I'll ask you whether or not this was the kind of dress you saw on the lady that night, the lady whom I just referred to?

A The dress I saw was a little darker than that.

Q You remember looking at the hair of this Mrs. McClellan at the hospital this morning?

A Yes.

Q How do you compare Mrs. McClellan's hair to the hair of that lady you saw that night?

A Mrs. McClellan's hair is sort of blackish hair. What I mean, I think they call it dark brown, -almost black.

Q And the lady you saw that night--

A (Int) The lady I saw that night had a light brown hair.

Q And if you had seen Mr. and Mrs. McClellan come down the street that night while you were driving off on your automobile toward the saimin stand, while you were at the saimin stand, would you have recognized Mr. and Mrs. McClellan?

A Yes.

Q This man and woman whom you saw walking down John Ema road on the night of September 12th this year or early Sunday morning September 13th this year, was that couple Mr. and Mrs. McClellan?

A They were not.

Q Now, the trousers that that man had on that night, whom you saw walking as already described, was that pair of trousers similar to the pair of trousers Mr. McClellan has on now?

A No; darker color.

Q You don't know any of these defendants, do you, Mr. Goeas?

A I do not.

Q That is, you are not acquainted with them?

A I have seen Shakuelo play football. That's all I have seen. I have never talked to him.

MR. HEEN: No further questions.

CROSS EXAMINATION

QUESTIONS BY GRIFFITH WIGHT: ESQUIRE:

Q Now, Mr. Goess, if Mr. and Mrs. McClellan walked by right back of your car that night while you were eating saimin, would you have seen them?

A Yes.

Q And they didn't walk by?

A No.

Q So, if they started to go by there at 12:10, you must have left the place, if they did?

A They didn't walk down.

Q Assuming that they walked or left the point one hundred yards further down at ten past twelve o'clock on that side of the street; if they did leave at ten minutes past twelve, they must have left after you left?

MR. HEEN: I object to that as argumentative.

A I didn't see them.

Q Now, you never could describe,--When I first talked to you, didn't you tell me you didn't know the color of the lady's hair that walked by?

A I did not.

Q What did you tell me?

A I told you her hair was brownish color.

Q Now, you say the man had a coat on, Mr. Goess, walking behind.

A Looked like a brown slip over sweater.

Q Didn't you tell me you thought it was a sweater and she thought it was a sweater?

A I did not.

Q Up at your house?

A I did not.

Q Don't you remember that there was some discussion--

A (Int) You just mentioned the opposite.

Q Didn't you tell me you thought it was a sweater and she thought it was a coat?

A I did.

Q You said at that time that the man who followed this woman was about five feet nine inches tall?

A About that.

MR. WIGHT: That is all.

MR. HERN: That's all. Call Mrs. Goeas.

MRS. GEORGE GOEAS, a witness recalled on behalf of the defense, testified as follows;

DIRECT EXAMINATION

QUESTIONS BY W. H. HERN ESQUIRE:

Q Your name is Mrs. George Goeas?

A Yes.

Q You have already been sworn in this case as a witness. A little while ago while out at Tripler General Hospital at Fort Shafter you remember being brought into the room to look at a lady sitting in a wheel-chair?

A Yes.

Q You know who that lady is?

A Yes.

Q Who was that lady?

A Mrs. McClellan.

Q You are not personally acquainted with her are you?

A No.

Q How long have you known of this lady?

A What do you mean?

Q Do you know, - do you remember knowing about her, having seen her before?

A I used to see her at dances quite often with her husband.

Q Where?

A At Waikiki Park.

Q Do you know who her husband is?

A Well, I would know him if I saw him but not to speak to.

Q Do you think you could pick him out if you saw him in this room?

A I think so.

MR. WIGHT: I'll stipulate that she will recognize him.

MR. HEEN: Mr. McClellan, will you stand up please.

(McClellan stands up)

Q Is that Mr. McClellan?

A Yes.

MR. HEEN: Will you stipulate that Mr. McClellan stood up?

MR. WIGHT: Yes.

Q You have already testified, Mrs. Coeas, that you saw a lady and a man walking down John Ema Road early Sunday morning a little after midnight, - a lady with a green dress on and a man with, I think you said a brown pair of pants, or something like that. At that time, was the lady's dress

that you saw that night similar to this dress here, which is Prosecution's Exhibit "M" in this case?

A No. No, it was not.

Q That wasn't it?

A No.

Q I believe you stated on your last examination here that the lady you saw that night with a green dress on that night had elbow sleeves?

A Yes.

Q Now, this lady and man whom you saw walking down John Ema Road from Kalakaua Avenue towards the beach, - in that direction towards the beach early that Sunday morning after midnight, September 13th, 1931, were they Mr. and Mrs. McClellan?

A No.

Q And if they had been Mr. and Mrs. McClellan you would have recognized them?

A Yes.

MR. HEEN: No further questions.

CROSS EXAMINATION

QUESTIONS BY GRIFFITH WIGHT ESQUIRE:

Q Mrs. Goeas, when I saw you and your husband you remember that you thought he wore a sweater and he thought it was a coat?

A I don't remember.

Q To refresh your memory, didn't you say you thought he wore a sweater and your husband thought it was a coat?

A I thought he wore a sweater and my husband thought he didn't have any on.

Q Just a coat?

A Nothing at all.

Q Just thought he had a shirt on at that time?

A Yes.

Q Now, you remember also Mrs. Goetas that I asked you if that dress that this woman wore had fur on it and you said you didn't see any?

A I couldn't see the fur. It was dark.

Q They walked right by you, didn't they; in the light?

A Yes.

Q Isn't that brown pretty prominent?

A In the dark you wouldn't notice it right close to her arm. I didn't notice the fur at first.

Q I asked you if you saw any fur on this garment and you said you didn't see any?

A I didn't see any.

Q And you also, when I was at your house, you told me you didn't pay much attention to her hair; that you were looking at her dress; and you told me that was the color, didn't you?

A Yes.

Q And you also said that you thought that the dress the woman wore had a bow in the back?

A It looked like a bow in the back.

MR. WIGHT: That's all.

REDIRECT EXAMINATION

QUESTIONS BY W. H. HEEN ESQUIRE:

Q Just one more question, if I may be permitted. Did that man whom you saw that night walking down John Ems Road, as

you already described, have a sweater that looked like this on? With a large roll collar. (Indicating Exhibit "N").

A No.

MR. HEEN: That is all.

RECROSS EXAMINATION

QUESTIONS BY GRIFFITH WIGHT ESQUIRE:

Q What kind of a sweater was it this man wore?

A It was a sweater with no collar with buttons running down the front.

MR. WIGHT: That is all.

MR. HEEN: That's all. Call Miss Aramaki.

ALICE ARAMAKI, recalled as a witness for the defense, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY W. H. HEEN ESQUIRE:

Q Miss Aramaki, your name is Alice Aramaki?

A Yes.

Q And you have already been sworn as a witness in this case. Miss Aramaki, you remember looking at this lady at Tripler General Hospital at Fort Shafter a little while ago?

A Yes.

Q She was sitting in a wheel-chair?

A Yes.

Q Now, you already told us that on the night or early in the morning of Sunday, September 13th this year you saw a lady and a man pass by your store while you were standing

in front of your store. Now, that lady that you saw walking down John Ena Road at that time, how does she compare in size with this lady you saw this morning?

A Different.

Q She was a larger one, - this lady you saw this morning or the lady you saw Sunday morning?

A The one I seen down John Ena Road.

Q Was larger?

A Yes.

MR. HEEN: No further questions.

CROSS EXAMINATION

QUESTIONS BY GRIFFITH WIGHT ESQUIRE:

Q How tall was the woman that was there this morning?

A I don't know.

Q Why do you say the other woman was larger than the one you saw this morning?

A The woman I saw was close to five feet.

Q You mean about five feet eleven? Five feet ten or eleven?

A Yes.

Q You sure of that?

A Yes.

Q You positive?

A Yes.

Q You absolutely certain of that?

A Yes.

Q Five feet ten or eleven?

A Yes.

Q There is no mistake about that, is there?

A No.

Q Did you see that woman's face that walked by you out there?

A No.

Q You didn't see her face at all?

A No.

Q You can't say whether this is the same woman or not?

A No.

Q All you saw then was her back as she walked by?

A Yes.

Q Now, was this man that walked behind her a tall man or not?

A White man.

Q Didn't you say that you thought he was a haole when you talked to us? You were not sure?

A Yes, I thought it was.

Q You are not sure?

A Not sure.

Q How tall was that man that followed her?

A He was shorter than her.

Q How tall was he?

A I can't tell you.

Q Well, about five foot six you think?

A No.

Q Not that tall?

A No.

Q About five feet four?

A I guess so.

Q. He was about five inches shorter than she was?

A. I think so.

Q. They pointed Mrs. Massie out to you in the hall before the trial started?

A. Yes.

Q. You couldn't identify her as being the woman?

MR. HEEN: That has already been asked and answered.

Q. The man walking behind the woman had a white shirt on and no coat?

A. No coat; white shirt.

Q. You know what color the man's hair was?

A. I don't know.

Q. If you don't know, say you don't know.

A. I don't know.

MR. WIGHT: That is all.

REDIRECT EXAMINATION

QUESTIONS BY W. H. HEEN ESQUIRE:

Q. Now, you noticed the hair this lady had on this morning?

A. Yes.

Q. Was the hair of this lady you saw this morning similar to the hair of the lady you saw that night?

A. No.

Q. Not the same?

A. No; not the same.

Q. I think you told us that the lady you saw the other night was a shorter bob?

A. Yes.

Q What kind of a bob do you call this that this lady had on? You are a barber?

A I didn't see the back.

MR. HEEN: That is all.

MR. WIGHT: No further questions.

MR. HEEN: We had another witness, if the court please, but he is not here now.

MR. WIGHT: I thought we stipulated last night that there would be no more?

MR. HEEN: In connection with newly discovered evidence.

Mr. Harold Godfrey was here a while ago but now we are informed he has gone out.

THE COURT: Is there any possibility of stipulating as to what he would testify to?

MR. HEEN: May I confer with counsel?

THE COURT: Yes.

COURT BAILIFF: Mr. Godfrey is out.

THE COURT: Do they know where he is?

COURT BAILIFF: They do not.

THE COURT: Do they know when he is expected to return?

(Bailiff leaves courtroom)

MR. HEEN: We got our information through a third party but we have no reason for disbelieving the information that came to us. Upon receiving it, - that is, on our return from Fort Shafter we looked for him and we were informed that he had just gone out. May we take a five minute recess? If we can't find him, we will go ahead.

THE COURT: All right.

(RECESS)

HAROLD GODFREY, recalled as a witness by the defense, testified as follows:

DIRECT EXAMINATION

QUESTIONS BY W. H. HEEN ESQUIRE:

Q Your name is Harold Godfrey?

A Yes.

THE COURT: You have already been sworn in this case.

Q You know Mr. McClellan? (Asks Mr. McClellan to stand up). Do you know Mr. McClellan, indicating Mr. George McClellan.

A Yes.

Q You know his wife?

A Yes.

Q How long have you known them?

A Personally about ten months.

Q About ten months to talk to them?

A Sure.

Q On this night of September 12th this year, - you have already testified that you were out at the Waikiki Park at that dance, - did you see Mrs. McClellan there at that dance?

A Yes.

Q Did you talk to her that evening?

A Yes, sir.

Q Do you remember what color dress or clothes she had on that night?

A Yes, light.

Q When you say light, what color do you mean by that?

A She had a silk waist on, I know; and white dress.

Q What color was the waist?

A Well, light silk.

Q I mean the color.

A Well, creamish.

Q Creamish color?

A Just like any silk shirt.

Q And the skirt, what sort of material was that if you remember?

A Something like flannel. I mean flannel, white.

Q How many times did you talk to her that night, do you remember?

A Not more than twice.

Q How do you remember talking to her that night?

A She and her husband had been having some domestic troubles and I always kidded the both of them how they were getting along and this and that and in fact she told me that night they were getting along pretty good. I asked her if she had gone back to him and she said "yes", she had gone back.

MR. HEEN: No further questions.

CROSS EXAMINATION

QUESTIONS BY GRIFFITH WIGHT ESQUIRE:

Q You have seen them out at the dance quite a few times?

A Yes.

Q The week after that did you see them there?

A No. I think I saw them Regatta Day night again.

Q You have seen them quite a few times?

A Sure.

Q She always wear the same dress?

A No.

Q Will you describe the dress, ---Might this not be the dress she wore that night (indicating Exhibit M)?

Might that not be it?

A No.

Q How do you place this dress as being worn on the 12th?

A I remember talking to her twice that evening.

Q What did she wear Regatta Day night?

A She might have worn that dress.

Q How about the week after?

A I'm almost sure it was a brown dress.

Q How many times you seen them there?

A I seen them there about six times.

Q Describe the clothes she wore the first, second, third, fourth, fifth and sixth times.

A I can say---

Q I'll ask you what she wore the first time. What did she wear the first time?

A I didn't pay attention.

Q What did she wear the second time?

A The second time? Light.

Q Light what.

A Light clothing all the way down.

Q Light what?

A Light clothing.

Q What do you mean by "light"?

A Silk.

Q What color?

A Creamish.

Q The blouse was creamish and the dress creamish?

A Yes.

Q What did she wear the third time?

A She might have had the brown dress on the third time.

Q Do you know what she wore that night, the third time?

A Among the six times, she wore the brown dress one night.

Q Do you know what time that was?

A No.

Q What did she wear the fourth time?

A I don't know.

Q What did she wear the fifth time?

A That was about the 12th.

Q You are not positive about that?

A No; that was about the fifth time.

Q What did she wear the fifth time?

A Light clothing.

Q But do you know what color?

A Silk.

Q Silk? A different white from the second time?

A No, about the same.

Q Was it a flannel skirt or do you know?

A Right, I know.

Q But you don't know whether it was flannel or not?

A No.

Q What did she wear the sixth time?

A She probably wore this that time.

Q What was the date of the first time?

A The first time was about---

Q (Int) The exact date.

A That's hard to say.

Q What is the exact date of the second time?

A The exact date of the second time? I'm not sure.

Q What was the exact date of the third time?

A I'm not positive.

Q What is the exact date of the fourth time?

A The fourth time was Labor day.

Q At that time what did she wear?

A I'm not sure.

Q What was the date of the 5th time?

A The fifth time was about September 12th.

Q You are not positive about that though. About that time?

A Yes.

Q What was the date of the last time, - the sixth time?

A Regatta Day, September the 20th or 21st.

Q Which was it?

A It was Regatta Day, whatever that fell on.

Q Was it on Saturday?

A Sure.

Q Saturday?

A Sure.

MR. WIGHT: That's all.

MR. HEEN: That's all. If the court please, that's all in the way of evidence.

MR. HEEN: May I ask the other side to have Mr. Benton here Monday morning. I would like to cross examine a little further to identify the pictures on here.

THE COURT: Officer Benton will be present Monday morning at nine o'clock.

(Adjourned.)