

1

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

TERRITORY OF HAWAII

Vs.

BEN AHAKUELO et als.

Defendants.

RAPE

Witness MRS. THALIA HUBBARD MASSIE sworn

9/20. 18/31

Direct examination by MR. WIGHT:

Q Your name is Thalia Hubbard Massie:
A Yes

Q You are married:
A Yes.

Q You live with your husband?
A Yes.

Q Where do you live?
A I live at 2850 Kahawai St.

Q In what section of Honolulu is that?
A In Manoa Valley.

Q What is your age?
A 20.

Q How long have you been married?
A Four years Thansgiving day.

Q Mrs. Massie, where were you shortly after 11:30 P.M. the evening of Sept. 12th?

A I was at a dance at the Alawai Inn, and I left shortly after 11:30.

Q Why did you leave?
A Because I was bored and tired of the party.

Q Did you leave alone or was someone with you?
A Alone.

Q What did you do?
A I walked down Kalakaua Ave. towards Waikiki and came to the corner of John Ena Rd., I turned down John Ena Rd. because it was better lighted than Kalakaua Ave.

Q This Kalakaua Ave. you speak of is in the town of Honolulu, City & County of Honolulu, Territory of Hawaii?

A Yes.

Q How far did you walk?

A I walked to a spot within 20 feet from where the road turns to go to De Russy. (Indic. in plan drawn on board.

Q Were there any houses around?

A No (Witness indic. spot where ended walk)

Q How far had you intended walking down?

A I intended walking a way on the road then turn and walk back. - back to the Alawai Inn.

Q Now, when you got to that point what happened -- that point making - no withdraw the question. Which side of the street did you walk on?

A On the town side, the right hand side.

On the side walk or the street?

A The sidewalk until it ended, then I walked on the side of the street.

Q Now, when you got to the point here, (indic.) what happened?

A A car drove up beside me and stopped and two men jumped out; one struck me on the side of the jaw and put his hand on my mouth and he and the other man pulled me in the car.

Q Do you know what men got out of the car?

A Yes.

Q Who?

A Chang and Kahawai.

Q Do you see them here?

A Yes. That's Chang the 2nd from the end and the next one is Kahahawai (indic. defts.)

Q Do you know which one hit you in the jaw?

A Yes. It was Kahahawai.

Q Did you do anything?

A I screamed and tried to get away from them; they dragged me in the car and two held me down. My back was away down further than this (indic) so I couldn't be seen from outside the car.

Q As they dragged you in the car, which seat was that?

A The back seat.

Q What was your position relative to the men in the back seat?

A Kahahawai was on the right holding me and Chang was on my left.

Q Do you know whether anyone else was in the back seat?

A I think so, but I couldn't be sure.

MR. HEEN: Objection. Argument. Objections apply to all defts.

Q After they dragged you into the car as you have described, what happened next?

A I tried to talk to them but every time I did Kahahawai hit me. I offered them money if they would let me go.

Q Was the car still or in motion at that time?

A In motion. As soon as they dragged me into the car they started immediately. They were holding me in the back and I begged them to let me go. Whenever I spoke he would hit me.

Q Who?

A Kahahawai. Chang hit me too. I offered them money; I told them my husband would give them money if they would let me go. I said I had some money with me they could have. When I said that he turned around and said "take the pocket book" and one of them took it from me.

Q Now, Mrs. Massie, what was the condition as to light or lack of light where these men grabbed you on John Ena Rd.?

A It was not very dark.

Q Why not?

A There were some street lamps nearby.

Q You said Ahakuelo said "take the purse" -- how did you recognize him?

A He turned around several times and grinned and I saw his face; I also saw he had a gold tooth.

Q Where?

A A gold filling about here (indic.)

Q You saw this gold filling?

A Yes. When he turned around the first time -- I think it was when he said that about taking the pocket book.

Q Do you know what caused him to turn around?

A He wanted to see what was going on.

Q Did you say anything?

A Yes. I struggled and asked them to let me go.

Q This talked you had the, when you begged them to let you go -- did

A Well, he turned around several times.

Q What did he do when he turned around?

A Just grinned. Once he told Kahahawai to hit me again.

Q After you told them you had a purse what did they do?

A They took the purse away from me.

Q Did you ever see that purse again?

A I saw it in the Grand Jury.

Q Is that the purse to which you refer (indic)?

A Yes, it is.

(Introduced as Evidence)

MR. PITTMAN: Objection. Not properly identified. Exception.

Q Where in the front seat was Ahakuelo sitting?

A On the right side of the front seat.

Q Do you know who was on the left side, the driver's side?

A Yes.

Q Who?

A Ida.

Q Which one is he?

A In the brown suit there (indic).

Q Did you notice anything peculiar about him?

A I noticed he was wearing a brown leather jacket.

(Intro. leather coat. Identified. Marked as Ex. B for iden.)

Q Did you or did you not see Ida's face while you were in the automobile?

A He turned half way round once.

Q Did this happen on the way down John Ena Rd.?

Z They turned off John Ena Rd. on the Ala Moana.

Q Which place was that when you saw Ida's face?

A On the Ala Moana.

Q What was the condition of the light there?

A It wasn't as well lighted as the other streets -- it was light enough for me to see his coat and face when he turned.

Q Of the street lamps?

A Yes.

Q Could you approximate how many times you were struck while in the automobile?

A No. I was struck in the car many times.

Q What were you struck with?

A Across the face; here (indic.) my nose; around the face.

Q What did you say to them when they struck you?

A I cried out and asked them not to hit me.

Q Did you do anything else?

A They were all holding me.

Q You were unable to struggle?

A Yes. I tried but they were holding me. When I did try to struggle they hit me again.

Q What in your opinion was the speed the auto was driven down John Ena Rd. --

MR. HEEN: Objection.

Q Mrs. Massie have you driven an automobile?

A For five or six years.

Q You are a licensed driver?

A Yes.

Q What was the speed of the automobile?

A About 40 miles an hour.

Q How do you gauge that?

A By the way we passed things, the trees --

Q Do you know where the automobile stopped?

A They turned off the Ala Moana on the right and drove into some trees and bushes.

Q Away from the sea?

A Away from the sea.

Q Do you know how far in they drove?

A Not very far in.

Q Where did they stop, on the road or after they drove in, I mean.

A I don't know exactly.

Q Was it on the Ala Moana or in the trees?

A No. In the bushes and trees.

Q When they stopped what happened?

A They stopped the car and jumped out; they dragged me out of the car.

Q Who dragged you out?

A The two holding me in the car.

Q By that you mean Chang --

A And Kahahawai.

Q After they dragged you out did they drag you some distance?

A Some distance from the car.

Q Do you know how far?

A About from here to where the court room ends (indic. approx. 30 ft.)

Q When they dragged you to that spot what did they do?

RECESS

Q When they dragged you to that spot what did they do?

MR. PITTMAN: Requestion election as to which deft. to be tried.
Motion denied, exception noted.

A Chang assaulted me.

Q When you say assaulted you mean he had sexual intercourse with you?
A Yes.

MR. HEEN: Objection.

Q How do you know it was Chang?
A Because he was holding me in the car and he dragged me over there; he helped the others drag me over then; he never let go of me

Q Did you consent to this act?
A Certainly not. I tried to get away but I couldn't. I couldn't imagine what was happening. He just hit me; the others were holding me -- holding my arms.

Q And when Chang completed this act what happened next?
A Then, one of the others did it -- I don't know which one.

MR. HEEN: Motion to strike answer, ground only one. Objection overruled. Exception.

Q When you say did it, do you mean have sexual intercourse with you?
A Yes.

Q Now, what happened after that?
A After that Kahahawai assaulted me.

Q By that you mean have ssexual intercourse with you?
A Yes.

Q How do you know it was Kahahawai?
A Because he had been sitting besides me in the car and I recognized his face; he had a short sleeved shirt on; he knocked me in the jaw; I started to pray and that made him angry and he hit me very hard; I cried out "you've knocked my teeth out" and he told me to shut up. I asked him please not to hit me any more.

Q He hit you when you started to pray?
A Yes.

Q You say your jaw was broken?
A Yes.

Q Was that the hardest blow struck?
A Yes.

Q During the short time you were in these woods with these men do you know how many times you were assaulted?

OBJECTION TO LINE OF EXAMINATION. Exception.

A From 4 to 6 times. I think Chang assaulted me twice because he was standing near me and he said he wanted to go again. The others said all right and a little later he assaulted me.

Q Mrs. Massie, do you know any other individual besides these two men assaulted you?
A Ida.

Q How do you know that?
A I felt his coat against my arm.

Q Is that what you meant a while back that you could tell from the

feel of his coat?

A Yes.

Q Do you know how many men had leather coats on that night?

A Only one.

Q What was your physical condition when this was going on as to strength?

A They hit me so much that I was sort of dazed.

Q Had you any strength left?

A Not then. I had struggled as hard as I could.

Q Did you or did you not hear any remarks -- any language from these defendants?

A Yes. The others talked to each other in some foreign language. They spoke in English -- they said a lot of filthy things to me.

Q You mean obscene things?

A Yes. They called each other by name.

Q What names were they?

A I heard the name "Bull" used, and I heard the name "Joe". I heard another name, it might have been "Billy" or "Benny", and I heard the name "Shorty". Then I heard one of them say "hurry up, we have to go back out Kalihi way".

Q Now, when these acts were completed, what happened then?

A One helped me to sit up; he pointed to the something and said "the road's over there", then they all ran off and got away, and I turned around and saw the car -- the back of the car was towards me -- and I saw Ida get in the front seat of the car.

Q How did you recognize him?

A Someone had turned on the head lights and I saw his leather coat.

Q Did you notice anything at that time?

A I noticed the number.

Q What was the number.

A I thought the number was 58-805.

Q When they left, were they driving fast or slow?

A They drove off very fast.

Q You said the rear light of the car was on?

A Yes.

Q How were you dressed that evening?

A I had on a green afternoon dress with fur at the sleeves.

(Dress identified and place in evidence. Exhibit)

Q Were those blood stains on that dress before you were beat up?

A No. I'd just gotten it back from the cleaners.

Q Now, Mrs. Massie, were you wearing a hair ornament that night?

A I had on a barrette.

Q What was the purpose of this barrette?

A I put it around my hair, roll my hair up over it and pin it.

Q Your hair was done up in the back?

A Yes.

Q When these men picked you up was your hair up or hanging down?

A Up, over the barrette.

Q When you went home later on that evening did you find your barrette?

A No, I did not.

Q But it was on when you were picked up at that point?

A Yes.

Q Mrs. Massie, what were you carrying in that purse -- anything?

A A powder puff and lip stick, package of Lucky Strikes, matches, handkerchief and a little mirror that fitted in that purse.

(Exhibits entered and marked)

Q Do you know what kind of matches you had that night?

A No, I don't exactly.

Q Were you wearing any other ornaments?

A A string of green beads.

(Exhibit entered and marked)

Q How did you find these beads?

A The string got caught on the dress.

(Remainder beads marked and entered)

Q Now, when you left the scene of this attack, what did you do -- where did you go, do you know.

A I was very much dazed; I wandered around in the bushes and finally came to the Ala Moana; I saw a car coming from Waikiki and ran towards the car, waving my arms; the car stopped; I ran to the car and asked the people in it if they were white; they said yes, then I asked them if they would drive me home. They said they would, and I got on the front seat.

Q What took place in the car?

A They asked what happened to me and of course, they were strangers and I couldn't tell them; I just said some Hawaiians beat me up and left me in the woods. They asked if I hadn't better report it to the police but I didn't want to report it to the police.

Q Why not?

A And go through all this?

Q Who did report it?

A My husband.

Q Was anything else said?

A One of the women asked me if the men hurt me any other way and I said no because I couldn't tell anyone; I was so ashamed.

Q Was anything else said?

A They suggested I got to the hospital.

Q What did you say to that?

A I said I wanted to go home.

Q What did they do with you?

A They took me home.

Q That's up Manoa Valley?

A Yes.

Q Now, when you got home what did you do?

A I took off my clothes and took a douche.

Q You mean medical protection?

A Yes.

Q Were you successful?

A No.

Q What happened?

A A couple of weeks later I found I was pregnant.

Q What did you do about that?

A I went down to the Kapiolani Maternity Home and had an operation performed by a doctor.

Q You are a married woman -- how do you account for the fact that you husband was not responsible for your condition?

A Because I had my period shortly before the 12th --

Q How much before do you think?

A Well, I stopped about 2 days before and my husband and I had not had intimate relations between that time nor have we have since.

Q So your pregnancy resulted from this attack?

A Yes.

Q What was your physical condition?

A Well, my jaw was broken in two places and my lips were swollen and my face was all swollen and bruised.

Q Were you able to eat?

A I wasn't able to eat for 6 weeks.

Q What did you eat?

A I drank liquids thru a tube.

Q I see some scars on your face -- is that a result of this attack?

A Yes.

Q Did you make a report of this attack?

A When my husband came home I told him about it and he called the police.

Q When did you next see anyone of these 5 men?

A I saw Ida down at the police station that night.

Q When after that did you see any of them?

A The day afterwards they brought 3 of them to my house.

Q You mean Sunday or Monday?

A I mean Sunday.

Q Were you able to identify any of them at that time?

A I absolutely identified 2 of them.

Q Which 2?

A Chang and Kahahawai.

Q Have any trouble at all identifying them?

A No.

Q Did you tell them at that time that you identified them?

A No.

Q Why?

A The officer told me not to say.

Q Where did you first see Ben Ahakuelo?

A I saw him later that day I think at the hospital.

Q Who was present?

A My husband and my friend Mrs. Rainier and Com. Bates and one of the detectives.

Q How many times was Mrs. Rainier with you when the deft. Ahakuelo was brought in?

A That was the only time.

Q When did you identify the deft. Ida?

A He was brought in when I was at the hospital too and they brought up his coat and put his coat on and put him in the same position as he was that night --

Q When was that, do you know?

A I don't remember. I had had a lot of drugs.

Q Later that day?

A Yes.

Q Did you think clearly?

A Yes. Later I could think more clearly about it all.

Q But you identified these two men within two hours after the rape?

A Yes.

Q By what means did you identify Ben Ahakuelo besides his face?

A With that gold filling on his tooth, and when they brought him to see me he was dressed as he was dressed on the night of the 12th.

Q Are any of them dressed today as they were dress the night of the 12

A No.

Q Can you tell us how they dressed that night?

A Kahahawai had on a short sleeved polo shirt, blue trousers; Ahakuelo, blue trousers, blue shirt; Ida, dark trousers, leather coat; and Chang -- I think Chang had on dark trousers.

Q That time when Mrs. Rainier, Com. Bates and deft. Ahakuelo were present, do you remember what you said yourself?

A No. I had had these drugs, I remember talking to them, that's all.

Q How many defts. were present at that time?

A Three

Q Did you report this car number to anyone?

A Yes. I told Mr. McIntosh.

Q When was that?

A The night of the 12th.

Q You mean the morning of the 13th?

A Yes.

Q How long after this rape?

A It was around 3 in the morning -- I don't remember what time it was.

Q Who else were in the room when you talked to Mr. McIntosh?

A No one.

Q Where was that?

A At the police station.

Q Mrs. Massie, you state that some 2 weeks later you found yourself pregnant -- you mean your next menstrual period?

A Yes.

Q And everything you stated took place in the City & County of Honolulu, Mrs. Massie?

A Yes.

Q Mrs. Massie, what make of car and what type of car was it they had?

A It was a touring car. I haven't any idea of the make; either a

Fort or a Dodge.

Q Was the top up or down?

A The top was up.

CROSS-EXAMINATION BY MR. HEEN:

Q Mrs. Massie, you were at a party at the Alawai Inn during the first part of the evening?

A Yes.

A About what time was it you went to this party?

A We went about 9 or 9:30

Q About 9?

A 9 or 9:30?

Q 9 or 9:30?

A Yes.

Q It might have been beyond 9:30?

A Yes. I didn't remember the exact time.

Q How many people in this party at the Alawai Inn?

A In our party there were 6 of us.

Q Was there another party that joined your party?

A No one joined our party.

Q Your party at that time was 6?

A Yes.

Q Consisting of men and women?

A Yes.

Q 3 men?

A Yes.

Q 3 women?

A Yes.

Q Was it a dinner party?

A No.

Q you already had your dinner before you went there, is that correct?

A Yes.

Q Did you have a dinner party before going there?

A No.

Q What kind of a party was this at the Alawai Inn?

A A dancing party.

Q Did you have any refreshments at any time?

A At the dance?

Q At the party at the Alawai Inn?

A Yes.

Q Was any liquor served at that time?

A Yes.

Q And this dance that occurred on that night, was that in the main hall downstairs of the Inn or was it outside on some open floor?

A It was downstairs on the floor they have there

Q That's a somewhat open place?

A Yes.

Q Opening towards the canal?

A Yes.

Q Were there many other people there at that time?

A Yes, quite a few.

Q When you say it was 9 or 9:30, or perhaps later than 9:30 that you went to the party at the Alawai Inn, how do you recall it was about that time?

A I don't think it was any later than 9:30. We were at my house and we have a clock; I looked at it and said it was about time we left.

Q Who were?

A Lt. and Mrs. Branson and Lt. and Mrs. Brown.

Q And Lt. Massie and yourself?

A Yes.

Q When you looked at the clock and said it was about time to go, what time was it according to the clock?

A Shortly after 9, as I remember.

Q About how many minutes would that be according to your best judgment?

A I don't know -- between 9 and 9:30.

Q But you said shortly after 9.

A I mean between 9 and 9:30

Q Did you and your friends at your house have any liquor before going to the Alawai Inn?

A Yes. We each had one drink

Q Did you take your own liquor to the Alawai Inn?

A No.

Q You got liquor there?

A Someone gave me a drink when there -- I drank half of it.

Q Did you dance yourself?

A Yes.

Q And your dancing was confined to your own party?

A No, I danced with others there -- some I knew.

Q There were other people there you knew?

A Yes.

Q Did you dance all the dances as they came along?

A No.

Q What some of them out?

A Yes.

Q About what time was it that you left the Alawai Inn?

A It was about 11:35

Q How do you recall that time?

A Because some friends of mine left the dance at 11:30 and I left the party a few minutes after they did.

Q Did you look at any clock or look at a timepiece so as to know your friends left at 11:30?

A No.

Q How did you happen to know it was 11:30?

A My friends told me later that she had looked at her watch and it had been 11:30.

Q Several days later?

A I don't remember.

Q What is your best recollection as to that?

A I don't remember.

Q You don't know whether it was the next day or a week after?

A No, I don't remember when it was.

Q Did you tell your husband that you were going out from the Inn at that time when you left the Inn?

A No.

Q Did you tell any other member of your party you were going?

A No.

Q And your purpose for leaving the Inn was because you were bored and tired?

A Yes. I always leave parties if I am bored or tired.

Q Did you go down to this party on an automobile?

A Yes.

Q Whose automobile?

A My husbands.

Q Was it parked in the Alawai Inn premises?

A Yes.

Q Did you tell him before leaving the Inn that you wanted to go home?

A No.

Q Did your friends have any of their cars there that night?

A Yes.

Q How many cars did your party have there that evening?

A Lt. Brown had his car -- 4 of them went together. I am not sure if they went in the Browns car or the Branson's.

Q What kind of a car have you?

A Fort coupe.

Q With a front seat and back seat?

A No, a front seat and rumble seat.

Q How did you walk out of the Inn, through the front or through the side?

A Through the front.

Q Did you have a coat on that night?

A No.

Q Only had this dress?

A Yes.

Q Have any hat on that night?

A No.

Q And you said that you had your hair fixed up that night -- held up by a barrette?

A Yes.

Q How many barrettes did you have on that night?

A I only wore one.

Q After you came out of the Inn did you meet anybody coming in or out?

A No.

Q You walked right out, did you, on the sidewalk?

A Yes.

Q You turned and walked towards Diamond Head way?

A Yes.

Q And you were all alone that that time?

A Yes.

Q Then you turned down John Ena Rd.

A Yes.

Q As you passed these stores on John Ena Rd. did you notice whether they were open?

A No, I didn't pay much attention to my surroundings.

Q Did you notice whether there were any cars driving on Ena Rd. at that time?

A I didn't notice any.

Q Did you notice whether or not there was a dance going on at the Waikiki dance hall?

A At that time I didn't know the exact location of Waikiki Park and I didn't know it had an entrance on John Ena Rd.

Q So you walked right on down to near this junction of Ena Rd. and the road that goes to the Fort?

A Yes.

RECESS

Cross0examination continued, 2:00 P.M.

Q As you were walking along John Ena Rd. were you walking on the side walk?

A Yes. Until the sidewalk stopped.

Q The sidewalk on the town side of John Ena Rd.?

A Yes.

Q Have you a distinct recollection of having passed these stores on John Ena Rd.?

A Yes, I continued to beyond the stores.

Q Did you have to cross any street as you passed the stores?

A No, I don't think so.

Q And you don't recollect whether or not these stores were open at that time?

A No. I think some of them were closed at that time. I remember seeing lights in one of them as I went by, but I didn't notice whether they were open or not.

Q Do you remember passing an automobile stand going down John Ena Rd.?

A I was walking quite slowly, with my head down; I wasn't paying much attention.

Q Do you remember about how many stores you passed on your way down?

A No.

Q Was that the first time you had ever walked down that road?

A Yes.

And sometime after the police investigated this matter did you go down to see that road again?

A No.

Q Did you go down with the police officers or one of the members of the City & County Attorney's office?

A No.

Q Are you familiar with that location?

A Slightly. I had gone to Fort DeRussy; I'd gone in an automobile down that road.

Q How far did you go beyond the end of the sidewalk?

A Not very far.

Q About how far?

A Well, about as far as here to the railing. I think so, I am not sure.

Q Is that your best recollection

A Yes.

Counsel: Stipulate about 20 feet.

Q About how far were you from the edge of the street when this car came up and stopped alongside of you?

A Right near the edge of the street.

Q Did the car come right alongside of you and stop?

A Yes, and stopped so that the back seat was parallel with where I was standing.

Q When it stopped did you stop?

A As it stopped two men jumped out of it at me and I stopped and Kahahawai came behind me and struck me on the jaw.

Q When the two men jumped out did they jump out before the car stopped?

A No, I think the car had stopped.

Q And as it stopped these two men jumped out?

A Yes.

Q And you say Kahahawai got behind you and struck you?

A Yes.

Q With his closed fist?

A Yes.

Q Where did he hit you that time?

A Here (indic.)

Q He struck hard, did he?

A Yes.

Q Did it stun you at that time?

A Well, I was startled very much and surprised; it was all so unexplainable and sudden.

Q Besides being startled were you afraid at that time?

A Yes. I tried to get away from them.

Q Were you nervous?

A I was frightened.

Q Frightened and nervous?

A Well, what do you mean by nervous.

Q Did what happened there at that time unnerve you?

A No, it frightened me.

Q I ask you again, did the blows stun you?

A Not to any appreciable extent.

Q After Kahahawai struck you on the jaw, what happened?

A He put his hand over my mouth and he and Chang dragged me into the car.

Q Was Kahahawai behind you when he put his hand on your mouth?

A Yes. On the right, right behind me.

Q On your right, a little behind you?

A Yes.

Q Where was Chang?

A In front of me, on the running board of the car.

Q Then they pushed you into the car?

A Yes.

Q Who pushed you onto the car?

A Chang was pulling me into the car and Kahahawai was pushing me into the car.

Q Did you scream before you were struck by Kahahawai?

A I screamed at the time he struck me.

Q How many times did you scream?

A Only once before he put his hand over my mouth.

Q Then, after Chang dragged you into the car, did he get into the car himself?

A Yes.

Q Ahead of you?

A Yes.

Q Then Kahahawai pushed you in from behind?

A Yes.

Q And while he was pushing you did he get your hand off your mouth?

A No. They pushed me down into the car while he held it still on my mouth.

Q Were you facing the car or was your back towards the car as you got into the car?

A I was facing the car.

Q Did you climb on to the running board?

A No, they pulled me on.

Q Then, when you got into the car where were you?

A Well, they pulled me down so that my back was on the seat and my head was below the level of the side of the car.

Q Was your back completely on the seat?

A What do you mean?

Q From your waist up -- was that part of you on the seat?

A No. There isn't room on the seat; I was farther down than that.

Q I believe you stated on examination that Kahahawai then sat on your right?

A Yes.

Q Holding you?

A Yes.

Q And Chang on your left?

A Yes.

Q Sitting, was he?

A Yes.

Q And there was another boy in the car at that time, in the back?

A Yes.

Q Was he sitting also?

A Yes. I couldn't see him very well.

Q You couldn't see him very well?

A No.

Q Was there a street light at the place where the car stopped?

A I think there was a street light near there. I am not sure.

Q You are not sure?

A No.

Q Was there light enough there at that time for you to see?

A Yes, it was quite light because there was another lamp nearby.

Q Did you notice what Kahahawai had on at that time?

A Yes.

Q What kind of clothes did he have on?

A He had on blue trousers and a short sleeved blue polo shirt.

Q Blue trousers?

A Yes.

Q Blue short sleeved polo shirt?

A Yes.

Q Did you notice that before or after you --

A As he jumped from the car and when he got me in the car; I guess I noticed it more after.

Q What kind of shoes did he have on?

A I haven't the faintest idea.

Q What kind of hat did he have on that time?

A He wore no hat.

Q Not hat?

A No.

Q Did you notice that he had black hair at that time?

A Yes.

Q He had nothing on his head at all?

A No.

Q What kind of clothes did Chang have on at that time?

A He had on dark trousers and I think a white shirt or blue shirt. He wore no coat and no hat.

Q Did you notice that before you were struck by Kahahawai?

A No. I noticed it when he was pulling me into the car.

Q Was the shirt that Chang had on at that time short sleeved or long sleeved?

A He had long sleeves, but I think they were rolled up.

Q You are not sure about that?

A Yes, they were rolled up.

Q Was it unbuttoned at the collar?

A Yes.

Q This other boy that was in the back seat, what kind of clothes did he have on?

A I don't know. I couldn't see.

Q You couldn't see him?

A No. Chang was sitting like this (indic.) and this boy was over here. All I could see was his general figure.

Q You said Ida was in front driving the car at that time?

A Yes.

Q Who was the other boy alongside of him?

A Ahakuelo.

Q What kind of clothes did Ahakuelo have on at that time?

A He had on a blue shirt.

Q What kind of trousers?

A Since he was sitting in the front seat I couldn't see his trousers.

Q Did you later on notice what kind of trousers he had?

A I think he had on blue trousers.

Q At what point of time was it that you think you noticed that he had on blue trousers?

A It must have been later.

Q While you were still in the car?

A No, I couldn't see his trousers. It must have been after I got out. I am not sure about his trousers -- that's just my impression.

Q Then what kind of clothes did Ida have on?

A He had on a brown leather coat, then later I saw he had on dark trousers.

Q When you say later, what time would that have been?

A When he assaulted me.

Q When he assaulted you?

A Yes.

Q When they got you into the car did you try to scream again?

A I spoke to them and he struck me. I said "let me go" and he hit me again. He said "shut up" and he kept on hitting me just for no reason at all.

Q What else was said at that time?

A I offered them money if they would let me go.

Q You had your purse at that time?

A Yes.

Q Then what happened to that purse?

A They took it away from me.

Q Do you remember who it was took the purse away from you?

A It was Chang, I thin; he was on my left and I had my purse there.

Q After they took the purse away from you what did they do with it?

A I don't know

Q Now, you stated that you saw Ida's face that one time or later -- half his face?

A Yes.

Q When was that you saw part of his face.

A While driving the car he turned to see what was going on.

Q Was that the only time you got a glimpse of his face?

A No, I saw his face later.

Q When?

A When he assaulted me.

Q When he assaulted you?

A Yes.

Q Did you see enough of Ida's facial characteristics at that time to enable you to identify him later one?

A Well, I saw his -- yes. I saw his trunk and part of his face. Of course, his face is not unusual. I suppose if he had a brother that looked like him I -- may be I would get mixed up.

Q How long have you been living in Honolulu, Mrs. Massie?

A About a year and a half.

Q Prior to that time where did you live?

A New London, Conn.

Q Ever lived in the Orient?

A No.

Q And at that time you saw what little you did see of Ida's face, did you recognize him as being Japanese?

A Yes. Well, I didn't exactly. I knew he wasn't Hawaiian.

Q You knew he wasn't Hawaiian?

A No, because he had straight hair.

Q What did you think he was at that time?

A I didn't sit and wonder what he was.

Q You said that you heard the boys talking in a foreign language?

A Yes.

Q When was that you heard them speak in a foreign language?

A At the time of the assault.

Q Was it in Hawaiian, Chinese, Japanese, if you know the distinction between these languages?

A I don't very well, but I remember at that time I thought it was Hawaiian, but I don't know very much about the language.

Q Do you remember who talked at that time in this foreign language?

A No.

Q You stated, I believe, it was at one point that Ahakuelo turned around and laughed?

A Yes.

Q Do you recall that?

A Yes.

Q Did you see his facial characteristics at that time?

A Yes.

Q And you also saw a gold tooth or gold filling at that time?

A Yes.

Q Did you see the gold filling more than once?

A I only remember seeing it once.

Q Then you saw him again. Did you see his face later on?

A While in the car he turned several times. I got several good looks at his face.

Q And from what you saw of his face that night you are able to identify him?

A I am now able.

Q How many times were you struck by these boys while you were in the auto?

A I was struck repeatedly.

Q Where were you struck?

A I don't know. They just kept hitting me around the face.

Q On the face all the time?

A Yes.

Q Did you at any time lose consciousness?

A I don't remember so.

Q You don't remember that?

A To the best of my knowledge I didn't lose consciousness.

Q Was this night a rainy night or clear night?

A Clear night.

Q About how long did it take you to go from the Alawai Inn to the point where you were picked up by these boys?

A I was walking quite slowly. I suppose five or ten minutes.

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

A No.

Q Mrs. Massie, is your hair bobbed or do you let it curl?

A My hair is long.

Q About to your shoulders?

A Yes.

Q Would you call that a shoulder bob?

A No, longer than that.

Q Do you generally wear it the way you did that night?

A Yes.

Q Would you mind taking your hat off? (Witness takes off hat and shows hair)

Q Were you wearing your hair in that manner that night?

A Yes.

Q Have you a barrette on now?

A Yes.

Q Do you ever wear your hair without a barrette?

A I wore it that way this morning, but I don't usually.

Q When you wear it without a barrette what do you use to keep your hair up?

A Hair pins.

Q Is the barrette you are using now the same size as the barrette identified this morning?

A No, longer than that.

Q You stated that these boys repeatedly struck you with their fists while driving you from the spot where they picked you up down along the Ala Moana Rd. Were you still conscious at the time they turned off Ala Moana Rd. up to the place where the bushes were?

A Yes.

Q But at that time you were still frightened?

A Of course I was frightened.

Q And excited?

A Yes.

Q Then as they got into this place where the trees were they stopped the car and took you out of the car?

A Yes.

Q When they stopped this car was it facing towards the mountains or towards the sea or towards town or Waikiki.

A Turned so that it faced towards the sea.

Q Could you see?

A At least I think it was towards the sea; it must have been.

Q Then they dragged you out of the car, did they?

A Yes.

Q And when they took you to this spot 30 feet away, they dragged you in a straight line, did they?

A I don't know.

Q Do you know about how long it took the boys to take you from the spot where they picked you up to the place where they stopped?

A I couldn't have taken more than 2 or 3 minutes.

Q About how long, do you remember, did it take -- in this place where the trees were and where you were assaulted?

A I don't know.

Q What in your judgment was the time?

A I don't know. I was so dazed after a while and I expect I lost all track of time.

Q You were quite dazed from the start, weren't you? After they dragged you to this spot?

A No.

Q Could you still notice everything clearly?

A Yes.

Q Did they drag you along the ground or hold on to you and force you to walk with them?

A They were holding me and dragging me. I didn't exactly walk; they pulled me along.

Q Were your feet dragging on the ground as they took you there?

A Yes.

Q Now, I believe you stated that Kahahawai was holding you by one arm and Chang holding you by the other as they dragged you to the spot?

A Yes.

Q Chang was on your left side?

A Yes.

Q And then as you got to the spot Chang was the first one to assault you?

A Yes.

RECESS

Cross-examination continued:

Q Did any of the boys say anything at that time while you were being assaulted?

A To me you mean?

Q Either to you or anybody.

A Well, the others were talking to each other.

Q What did you hear them say?

A I heard them talking in this foreign language as I said.

Q Did they at any time talk in English or broken English?

A Yes.

Q What did they say?

A They said things I wouldn't care to repeat.

Q You mean used some very obscene language?

A Yes.

Q Well, did they say anything at all that wasn't obscene?

A Yes, because I heard one of them say "hurry up, we have to go back out Kalihi way".

Q Do you know who said that?

A No.

Q What names did you hear called?

A I heard the name "Bull" used a lot, and I also heard the name "Joe" and another name which might have been "Billy" or "Benny" and the name "Shorty".

Q Do you know who called out "Bull"?

A I don't know who they called Bull.

Q You said, I think, that Kahahawai, at the time he assaulted you struck you once more in the jaw?

A Yes.

Q That stunned you, didn't it?

A No. It hurt very badly and I thought he had knocked all my teeth out and I said "look out, you have knocked one of my teeth out" and I begged him not to hit me.

Q Did you scream when he struck you on the jaw?

A Well, I had been crying out.

Q At the time he struck the hardest blow, were you attempting to scream?

A No. I started to pray and it made him angry, so he hit me.

Q Then, after the boys got through assaulting you they left you lying there, did they?

A Yes. One helped me to sit up.

Q Who was it helped you sit up?

A I am not sure but I think it was Ahakuelo.

Q Did he say anything to you at that time?

A Yes, he pointed and said "the road is over there".

Q And he pointed towards the sea, did he?

A I don't know just where he pointed, I was so confused.

Q Were you still dazed at that time?

A I was very much upset, but I could see him and hear what he said.

I could sit up and when they left me I could stand up alone.

Q About how long were you down at this spot altogether?

A I don't know.

Q You have no idea at all?

A Well, perhaps it was 20 minutes.

Q Then, after the boys left in this auto, did you come right out of that place?

A I wandered around through the bushes and trees and finally came to the road.

Q About how long were you wandering around in the bushes and trees?

A I don't know.

Q A matter of a few minutes?

A I don't know. I was just beginning to realize what had happened to me and wasn't thinking about the time.

Q Just what do you mean by saying you just happened to realize what had happened to you?

A It was all so unbelievable.

Q Didn't you know what was happening to you all the time?

A But I couldn't believe people actually did things like that.

Q When you got out on Ala Moana Rd., Mrs. Massie, you walked along Ala Moana and saw a car coming and you ran towards it. You hailed the car, did you?

A Yes.

Q What did you say?

A I asked the people if they were white because I didn't want to get in the hands of another group like them.

Q You asked them if they were white and they said yes?

A Yes.

Q You asked them to take you in their car?

A Yes.

Q And they asked you what happened?

A Yes.

Q What did you tell them?

A I told them some Hawaiians beat me up and left me in the road, and

Q And when you told them that you realized at that time that they were Hawaiian?

A Some of them are Hawaiian. I knew Ida wasn't Hawaiian.

Q You recognized Chang naturally, at that time?

A He is Hawaiian, though it's not a Hawaiian name -- his hair and face looked Hawaiian.

Q Did you at any time see this boy here, Takai?

A No, I am unable to identify him.

Q You cannot identify him?

A No.

Q You cannot say, then, that he assaulted you?

A No.

Q Then these people who took you into their car asked you if you wanted to go to the Emergency hospital?

A I think they did.

Q You said no, you wanted to be taken to your home in Manoa Valley,

A and they took you right straight from the Ala Moana Rd.?

A Yes.

Q When you got back home there was Lot. Massie at home?

A No.

Q He came later, did he?

A Yes.

Q How long had you been home before he came?

A I'd been there 2 or 4 minutes when he telephoned and I told him to come home at once and he came right away.

Q Did he tell you at that time he was phoning from Branson's home?

A He wasn't at Branson's home.

Q Did he tell you from where he was phoning.

A I think he did.

Q He came right home, did he?

A Yes.

Q Did you notice what time it was when you got home?

A No.

Q Do you know how long it took you from the place where they picked you up on the Ala Moana Rd. to your home?

A It took quite a long time because the people didn't know the way and they drove quite slowly.

Q When was your husband the first one to come to your home after you arrived there?

A Yes.

Q The people who brought you there at that time, did they remain or go on their way?

A They went on.

Q Did they ask you if you wanted to report the matter to the police?

A Yes, they asked if I wanted to go to the police station but I didn't want to report it because I didn't want to have everybody talk about it for the rest of my life.

Q Was there anyone with your husband when you arrived home?

A No.

Q Did anyone come there soon after?

A The police came.

Q Do you know what time that was?

A No.

Q How many police officers came there?

A I don't know. A whole lot of them.

Q Did all come at the same time or some came ahead and some later?

A I don't know much about, I was crying; I was hysterical; they rushed in and out -- I don't remember much about it.

Q Where were you at the time the police officers arrived?

A I was in the living room.

Q Did the police ask you any questions?

A I don't remember.

Q Is it not a fact, Mrs. Massie, that you were asked by one or more of the police officers who arrived soon after your husband arrived at home as to what had happened to you that night?

A My husband told them I think.

Q Were you asked by them what had happened?

A Mr. McIntosh asked me later all about it.

Q Before Mr. McIntosh appeared on the scene were you asked by some of the other officers as to what happened that night?

A I don't remember much. They took me to the hospital.

Q Do you recall being asked by either Mr. Furtado or Mr. Harbottle what happened that night?

A No, my husband explained it all.

Q Do you remember whether or not you told the officers about that night?

A I don't remember. I wasn't think of the boys or the police; only about myself.

Q Do you remember telling the police officers who first arrived at you home that night that these boys had grabbed and pulled you into the car and that one boy held your mouth and beat you while in the car -- do you remember telling the officers that?

A No. I remember telling Mr. McIntosh that.

Q And you don't remember any police officers -- telling them the same thing prior to telling Mr. McIntosh?

A They came in, a whole lot of them. My husband explained to them. Someone said take her to the hospital and they took me out and we went to the hospital.

Q Do you recall saying to the police officers on this night when you returned to your home that you thought these boys who assaulted you were Hawaiian?

A I remember telling the people who brought me home that. I don't remember what I said to the police.

Q Do you remember saying on that same occasion something to this effect -- that you didn't hear any names called except the name "Bull"?

A No, that wasn't so.

Q Do you remember making a statement to this effect, on that same occasion to some one, that you were unable to identify any of the boys because it was dark?

A No, I don't remember making any such statement.

Q Do you remember making a statement to this effect on that same occasion, that you thought you could identify these boys if you heard their voices?

A I don't remember what I said. A whole lot of them ran in and out; there was so much confusion and I wasn't in a condition to answer questions at the time.

Q Do you remember stating, upon being questioned, that you couldn't identify the car -- that you weren't sure what kind of a car it was?

A I didn't think about the car; Mr. McIntosh asked about it.

Q Have you seen this car since that night?

A Yes.

Q It was pointed out to you lately?

A Yes. The next day it was they brought the car up.

Q Now, I ask you whether or not you remember making a statement to this effect on that night when the police officers arrived there that you thought it was a Ford or Dodge touring? And old car?

A I don't remember saying anything as to the age of the car.

Q Do you remember making a statement that it was an old touring car to the officers?

A I don't remember what they said or what I said to them.

Q Do you remember saying to these officers before you say Mr. McIntosh that the top in the back of this car was loose?

A No.

MR. WIGHT: Objection. Overruled.

Q Now, do you recall upon being asked whether you knew the number of the car and you said no?

A Nobody asked me until Mr. McIntosh did. I didn't think of the number until Mr. McIntosh asked me.

Q Do you remember whether or not on this same occasion upon being asked why you went down John Ena Rd. you stated that you went out to get some fresh air, or get some air?

A I told somebody that -- I think it was Mr. McIntosh.

Q That was later on?

A Yes.

Q At his office?

A Yes.

Q But you didn't say anything like that at your home?

A I don't remember what I said or what they said or anything.

Q You don't remember?

A No, I don't remember anything said.

Q About what time was it that you went down to the police station?

A I don't know. It was still dark.

Q It was still dark, or in the morning?

A It was still dark.

A About how long had you been home when you left home and they took you to the police station.

Q I went from my home to the hospital.

Q Emergency Hospital?

A Yes.

Q Who took you there?

A I don't know. One of the policemen in one of their cars.

Q Were you examined there at the hospital?

A Yes.

Q When how long did you stay at the hospital?

A A long time; there were lots of lights and the nurse and we waited and waited and the doctor didn't come; then after a while he came.

Q Do you know about what time you left the hospital?

A No.

Q Was your husband there with you at that time?

A He wasn't in the room with me, no

Q How did you go down to the police station?

A Someone took me in a car.

Q Your husband?

A I think he was with me but I don't think it was our car, but I don't remember.

MRS. MASSIE,

resumed the stand as a witness for the Territory,
and testified as follows:

CROSS EXAMINATION (Continued)

By WILLIAM H. HEEN, Esq.

Q When was it that you saw the automobile that Ida
was supposed to have driven on the night of September
12th?

A You mean when did I see it?

Q After the assault?

A I saw it Sunday afternoon.

Q About what time Sunday afternoon?

A About two or three o'clock, I think.

Q Where did you see the automobile?

A At my home.

Q It was brought to your home, was it?

A Yes.

Q And do you know who brought it to your home?

A One of the police officers.

Q Was it brought to your home at the same time the
boys were brought to your home?

A I think so.

Q Did you see the automobile first or did you see the
boys first?

A I saw the boys first.

Q And the police officer, what did he say to you at
the time the car was shown to you?

A He asked me if I thought I had caught hold of the car anywhere, because they wanted to look for fingerprints.

Q What did you say?

A I said I didn't think I had caught hold of the car, because these boys were holding my arm.

Q What did the police officer say to that?

A He didn't say anything.

Q Did the police officer ask you whether or not you recognized the car?

A Yes, I think so.

Q And did you recognize the car, Mrs. Massie, at that time?

A It was just like the car that I had seen the night before, - just like it.

Q Did you see that car again later?

A No, I don't think so.

Q Did you look at the number at that time when it was brought to your home, Sunday afternoon?

A Yes, I noticed the number.

Q What was the color of that car?

A It was sort of a brown.

Q What was the color of the top of your car?

A Black.

Q I will ask you whether or not you noticed this car in front of the police station early Sunday morning when you went down there and talked with Mr. McIntosh?

A No, I don't know it was there.

Q You went down to the police station early Sunday morning and talked to Mr. McIntosh. From there you went home, did you not?

A Yes.

Q Did you go down to the police station again?

A No.

Q That was the first and last time that you had gone there?

A Yes.

Q Now you told us yesterday that you were asked questions by Mr. McIntosh and you answered these questions early Sunday morning, that he was taking down your answers in shorthand?

A I think he was; he was writing something

Q When was it that they gave you a statement in writing which you said yesterday you read and found to be accurate and signed; when was it that they gave you that statement?

A On Sunday.

Q At about what time?

A Well, it was at my home; it was, I suppose, about one or two o'clock; I don't remember just what time.

Q Was that before or after the boys were brought to you?

A I think it was before.

Q Was Mr. White, the Assisting Prosecuting attorney, there at the time when you signed that statement?

A No.

Q Did you sign another statement later on?

A I don't remember signing any.

Q You stated yesterday that you saw the statement that you signed, that you testified to yesterday, sometime later. Do you recall whether or not you saw some other statement signed by you later?

A No.

Q Going back to the time when these boys were brought to you to identify on Sunday afternoon at your home, I will ask you whether or not you had a table lamp in the living room at the time, and lit?

A No, I don't think there were any lamps lit.

A You don't think it was lit?

A No, I am pretty sure it was not.

Q At that time when you saw these boys at your home, Mrs. Massie, were you asked by the police officer or by somebody else to ask these boys their names?

A No, I was just told to speak to them, as I remember.

Q Do you recall asking David Takai his name?

A I don't remember much about him.

Q Do you deny that you asked him his name?

M.R WITE: Objected to as already asked and answered.

THE COURT: Objection overruled.

A I may have asked him his name and I may not have asked him his name.

Q Do you recall saying to him at that time "Are you an Hawaiian?"

A No, I don't recall saying it.

Q You might have said it?

A I don't recall very much about Takai.

Q Do you deny having said that to him?

A I don't know what I said to him. I only know I didn't recognize the man.

Q Do you deny asking the other boys there who were present at that time their names?

A I don't know whether I asked them their names or not.

Q How did you find out their names?

A I don't remember.

Q You gave us the name of Kahahawai yesterday correctly, and also the name of Ahakuelo correctly, but you don't recall now how you found out their names?

A Evidently somebody told me their names.

Q And they told you their names repeatedly?

A I don't know who told me; these boys names have been in the paper, I am quite familiar with their names now; I have heard them several times.

Q On Sunday after you were removed to the hospital you said three boys were brought to you there?

A Yes.

Q And those three boys were Ahakuelo, - and who were the other two?

A I don't remember much about that episode. I sort of think Kahahawai was there.

Q And who else?

A I don't remember.

Q Was Ida there?

A He was in the hospital at the same time, but I don't know just when.

Q At the time Ida was there they made him sit at the foot of the bed?

A No, they made him stand at the foot of the bed.

Q And they made him turn around so you could get a glimpse of half of his face?

A Yes.

Q And they made him put on this leather jacket?

A I think he came into the room wearing it, but he did have the jacket on.

Q I believe you stated yesterday that when these boys were brought to the hospital you were told by the police officer not to mention the fact that you were able to identify, if you identified them, and not to say anything about it?

A I was told that once in the hospital. I don't know whether it was on that occasion or later.

Q You remember you were told once at the hospital?

A Yes.

Q And you don't know whether it was on that occasion or some other occasion?

A Yes.

Q Were you told that more than once at the hospital?

A I don't remember.

Q When you recognized Ida at the hospital you did not mention that fact to anybody at the hospital?

7

A Yes, I told someone.

Q Did you tell the police officer?

A Somebody, Mr. Wite or the police officer; I have forgotten who.

Q When you identified Ahakuelo did you mention that to anybody?

A I saw him twice. I saw him a second time, and I think that was when I told someone about it.

Q The first time you did not tell anybody that you identified him?

A The first time I saw him, as I told you yesterday, I don't remember much about it. I had had a good many drugs and I don't know just what happened.

Q The first time was at the hospital, wasn't it?

A Yes.

Q And the second time was at the hospital?

A Yes.

Q Was it on the same day or different days?

A Different days.

Q The first day you saw Ahakuelo did they darken the room?

A Yes.

Q And on the second day did they darken the room?

A I don't remember; I think so.

Q Do you remember any other boys being brought to the hospital?

A I think they brought some other boys that I didn't

know; I don't remember.

Q What were their names?

A They were other boys, I think.

Q How many other boys outside of these five boys?

A I don't know. They brought these five to see me several times, and I think they brought others. I don't remember.

Q You don't remember the names of these other boys?

A No.

Q Were their names mentioned to you?

A They were boys I didn't know. I don't remember much about it.

Q Do you remember a boy by the name of Shakey" being brought to you for identification?

A No.

Q Do you remember a boy by the name of Kaliiona being brought to you for identification?

A No.

Q At the hospital were the boys brought into you for identification together or were they brought into you separately?

A That first time I think they brought three together and later they brought some one at a time.

Q And those two together that were brought the first time were who?

A I don't remember much about those three; one of them was Kahawai, I think, and one was Ahakuelo; I don't remember the third.

Q Those other boys who were brought to you and whose names you do not recall now, do you remember when they were brought to you?

A No.

Q Were they brought to you alone?

A I don't remember. I didn't recognize them so I didn't pay any attention to them.

Q At the time these other boys were brought to you did you recognize any of the other boys who happened to be there at that time?

A What do you mean?

Q Were there any other boys with these boys, not included among these five?

MR. WITE: Objected to as ambiguous.

(Question withdrawn)

Q Were any of these boys not with these boys, not included with them?

A I don't remember.

Q At the time the boys left this place down at Ala Moana where you were assaulted you saw the car leaving the place?

A Yes.

Q Could you see the red light of the car, the rear?

A The tail-light was on.

Q Did you see which way that car went, whether it turned towards town or towards Waikiki?

A My impression is that it turned towards town, but I don't remember; I don't think I saw it; they drove

right out very fast.

Q Do you remember hearing one of them say "Well, we have to go out to Kalihi"?

A Yes.

Q Do you know what direction Kalihi is?

A Yes.

Q That is over towards Ewa way?

A Yes.

Q So your impression is they turned in that direction?

A My impression might have been due to that remark.

REDIRECT EXAMINATION

By Griffith Wight, Esq.

Q You stated that when you went in and gave this number to McIntosh a policeman came in. Did he come in before or after you gave that car number to McIntosh?

A Afterwards.

JOHN E. PORTER,

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

DIRECT EXAMINATION

By Griffith Wight, Esq.

Q What is your name?

A John E. Porter, Lieutenant-Commander, Medical Corps,
United States Navy.

Q And you are a duly licensed physician in the United

States Navy?

A Yes.

Q How long have you practiced in the Navy?

A Since 1915.

MR. WIGHT: Will you admit the doctor's qualifications?

M.R HEEN: Yes, we will.

Q Do you know Thalia Hubbard Massie?

A Yes, I do.

Q Sometime shortly after the 12th day of September this year did you have occasion to treat Mrs. Massie?

A I did, sir.

Q Did you examine her person, Doctor?

A I did, sir.

Q Will you tell us the result of your examination in regard to any bruises or anything of that nature you found?

A May I refer to a chart that I made out here to study?
(Witness produces a chart)

MR. WIGHT: Do you wish to see the chart?

MR. HEEN: Yes. (Paper handed to counsel)

Q Will you describe these injuries and point on your own body what you mean, because some of these medical terms are difficult for us to understand?

A She had a fracture of the lower jaw at an angle on the right side and a fracture through the left side about here (indicating). This was also confirmed by X-ray pictures at Queens Hospital. The right eye and the right cheek,- the right eye was practically closed;

the right cheek was one mass of bruises where she had been hit, and the nose, there was considerable swelling of the nose and the pleading from the nostrils, both right and left sides. She had a bruise one inch in diameter about here (indicating right breast). This was one and one-half inches beyond the right breast, and on the left arm, on the deltoit, she had a bruise about one inch in diameter. She had a contusion about half an inch long where something rough had torn the flesh in front of her right wrist. She had a bruise one inch in diameter at the middle of the right thigh and she had an abraision, by some rough object, about one-half inches long on the right inside the left thigh and she had a bruise about one inches in diameter in front of her left thigh, about here, and on the outer side of the left thigh a bruise about one and one half inch in diamter below the right knee. About here she had a bruise two inches in diameter and on the inner side a bruise about one inch in diameter, and she had an abraision where something rough had rubbed along about six inches long from here to here (indicating left ankle), and on the inner side she had a bruise about one-half inch in diameter about here (indicating inner side of left calf), and another one just below it one and a half inches in diameter, and on the other side back here she had a bruise about one and a half

inches long, (indicating right side of left thigh); they were the extent of her injuries.

Q Did you make a vaginal examination?

A Yes.

Q What did you find the size of her vaginal opening?

A Mrs. Masee has had a baby and it seems she was torn at that time, and the vaginal opening is unusually large.

Q Could four to six men have sexual intercourse with her without showing any result?

A It may or may not. It would be perfectly possible to be done without physical showing.

Q Do you know her condition on Sunday afternoon the 13th in all regards?

A Well, I saw her Sunday the 13th about 10 A.M. and her physical condition was such that I decided the best place for her to be would be in the hospital, rather than home. She was suffering pain and I gave her several opiates and sent her to the hospital, where she was kept under opiates for several days, and I would say her condition was highly nervous, and, being under opiates, she probably didn't know just exactly what she was doing at the time.

Q What were the after effects on her physical condition in regard to weakness or lack of strength?

A For several weeks her condition has been very weak. At the right jaw there was a wisdom tooth in the line of fracture, and we had to give

her an anaesthetic to remove this tooth, and usually in such cases you have infection, and Mrs. Massie developed infection and ran a temperature from 101 to 104 for a couple of weeks.

Q A very dangerous condition?

A Very bad condition.

Q What is her condition today?

A Still rather nervous, and although her jaw is healing fairly well, and the splints have been removed, I think her condition will be fair,- never as it was before.

Q Never?

A I don't think so.

Q She will never get back to normal?

A I don't think it will be absolutely normal. I think she will probably always have a little lump on that side.

CROSS EXAMINATION

By William H. Heen, Esq.

Q When did you see Mrs. Massie the first time after this alleged affair?

A Sunday morning at or about 10 a.m., sir.

Q At her home?

A At her home.

Q Did you make a note of that in your records?

A Yes, sir.

Q You knew Mrs. Massie before that time, did you?

A Yes, sir, I had attended her husband when he was

sick several weeks before, sir.

Q And you say that her right eye was practically closed at that time?

A Yes.

Q And it was black and blue?

A Yes, sir.

Q How about her left eye?

A No.

Q Nothing the matter with that?

A No.

Q When was it that you gave Mrs. Massie opiates?

A At her home.

Q When?

A A little after ten o'clock that morning, sir.

Q What was that for?

A That was for the nervousness and the pain, sir.

Q How many times did you give her opiates on that day?

A I can't say just how many times, sir. At the hospital I left an order every four hours.

Q Did you give the first opiates yourself?

A Yes, sir.

Q At her home?

A Yes.

Q How long did you stay there?

A I stayed there about half an hour. I went out and got another doctor and had him come down and look at her too. I had another doctor come down and have a

look at Mrs. Massie's jaw to see if my diagnosis was correct, and, in his opinion, he didn't think she ought to go to the hospital.

Q Do you remember what time she was taken to the hospital?

A Sometime that afternoon.

Q Were you at the hospital when she was brought there?

A I was not.

Q When was the next time that you saw Mrs. Massie?

A That afternoon around 3 o'clock. I would say that Dr. Askin, a dentist whom I had retained to repair the jaw --

Q At that time was she given some more opiates that you know?

A I can't say, because I left the orders for her that morning when I was at the hospital when I made arrangements for her, when they brought her in.

Q Did it appear to you that she had been given some more opiates after the first treatment you gave her?

A Yes.

Q How long did you stay there on that occasion?

A I should say 15 or 20 minutes.

Q Who was there at that time besides yourself and the dentist?

A The nurses were there, and also I think it was Mr. Wight. I am not sure. I know some men were there

and I told them not to bother her too much. She was highly nervous, and I thought they had better let her go.

Q She was highly nervous at that time?

A Yes, she was highly nervous at that time, even though under the opiates.

Q When was the next time you saw Mrs. Massie?

A That night about seven or eight o'clock when I made my night rounds at the hospital.

Q At that time was there anyone there besides yourself and Mrs. Massie?

A The nurses.

Q Any police officers there?

A I don't remember.

Q And did she appear at that time that she had taken her opiates according to the orders given by you?

A Yes, sir.

Q Did you continue your order that Mrs. Massie be given opiates every four hours?

A As needed.

Q When did you change your order to "as needed", from four hours to "as needed"?

A Every four hours as needed. That was my order.

Q Did you ascertain at that time whether she had been given opiates every four hours?

A I looked at the chart and saw she got them when she needed them. It wasn't necessary to give them every four hours unless she needed them.

Q Did you ascertain whether she did need them every four hours according to the chart?

A She got them frequently. I cannot say every four hours.

Q When you say "frequently", what do you mean?

A Maybe sometimes she would go six hours and maybe eight hours before she should need them.

Q So she didn't get them every four hours?

A I would not say every four hours.

Q It was more than four hours?

A At times.

Q At times did she get opiates less than four hours?

A No, not less than four hours.

Q Did you see Mrs. Massie on Monday?

A Yes, sir.

Q About what time?

A Well, as a rule I get to the hospital around 8 o'clock in the morning; at or about eight o'clock each morning.

Q Did you see her at that time?

A Yes.

Q He was in the same condition?

A Practically the same condition, sir.

Q Did it appear to you that she had taken some more opiates that night or the night before?

A I can't say just about that, sir. He really didn't have enough opiates to get very much action;

just a small dose to quiet her.

Q Did she have any more opiates on Monday?

A Yes, sir.

Q Throughout that day as needed?

A For the first week as needed she had opiates; she certainly did.

Q And you said you had to give her these opiates on account of her condition and that as you said on your direct examination being under opiates she did not know exactly what she was doing at that time?

A From the time I saw her, from her nervous condition and so forth, she appeared dazed, sir, for four or five days.

Q And she appeared to you, as you stated on your direct examination, that she didn't know what she was doing?

A Well, she didn't know what she was doing for the first four or five days, with the shock and so forth, and with the pain and with the opiates. I really don't believe she knew exactly what she was doing, I don't. I still stick to it.

REDIRECT EXAMINATION

By Griffith Wight, Esq.

Q As time passed were the opiates given more frequently the first day than the second?

A Yes.

Q Gradually went down?

A Gradually went down.

Q And the condition she was in gradually got better in those five days?

A Yes.

Q In other words, she was clearer on Monday than on Sunday, and on Tuesday more than on Monday?

A Yes, but for the first three weeks I would say she required something to make her sleep.

(Recess)

JAMES A. CRABBE

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

DIRECT EXAMINATION

By Griffith Wight, Esq.

Q What is your name?

A James A. Crabbe.

Q Where do you live?

A Waiialua Plantation.

Q For whom do you work?

A Waiialua Plantation Company.

Q Do you know who owns car Number 58-005?

A Yes, Waiialua Plantation

Q What kind of car is it?

A little Ford converted into a truck.

Q Is it an old model or new model?

A An old "T" model.

Q And it is a truck?

A Yes.

Q Do you know where it was left the night of December 12, 1931?

A Right in my yard, under a big tree.

Q Was anything in the truck?

A Tools, a spare tire, and everything.

Q Any gardening tools?

A A couple of hoes.

Q Do you know where that car was that night?

A As far as I know it was at my house all night.

Q When did you see it last?

A At 8 o'clock at night I put the car in my yard, and at 8 o'clock the next morning I went and took the car to go to work.

(Cross-examination waived.)

GEORGE W. CLARK

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

DIRECT EXAMINATION

By Griffith Wight, Esq.

Q What is your name?

A George W. Clark.

Q Where do you work?

A Honolulu Construction & Draying Company.

Q Are you married?

A I am.

Q On the night of September 12th, that is midnight, between September 12th and 13th, this year, around a

quarter to one, --

MR. PITTMAN: Objected to as leading.

MR. WIGHT; It is merely preliminary.

THE COURT: Proceed.

Q (Continuing) Who were you with and where were you?

MR. PITTMAN: Objected to as leading and suggestive as far as time is concerned.

THE COURT: Objection overruled.

MR. PITTMAN: Exception.

A About a quarter to one.

Q Recite what you did and who you were with?

A During that space of time?

Q Around that time?

A We left our place in Kaimuki about 12:30 and we started over towards Waikiki.

Q When you say "we", whom do you mean?

A Mr. and Mrs. Bellinger, and my wife and my oldest boy and myself. There were five of us in the party. We had been playing cards during the evening at Mr. Bellinger's house and after we got through somebody suggested to go and have sandwiches at Waikiki, and we started over there and when we got to the Barbecue Inn we found it was quite filled up and we then proceeded towards the Kewalo Inn.

Q Where is that Inn?

A On Ala Moana Road, and just as we got to the intersection of John Ena Road Mr. Bellinger said he needed some gas, and we went to Kalakaua Avenue and King Street

where that gas station is and we filled up with gas and we turned around and came back to John Ena road and drove down John Ena road into Ala Moana. We had gone quite a distance along the road until about the town side of the old rubbish dumps when we espied a lady in the street waving her hands, and Mr. Bellinger stopped his car, and when the lady came up to the side of the car she asked us if we were white, and we told her "yes". She said "Thank God! Please take me home." So Mr. Bellinger opened the right front door of his car and she came in and then we proceeded along the road and we asked her where she lived.

Q Which way did you proceed?

A Toward town way. And she said she lived up Kahawai street, and nobody in the party seemed to know where Kahawai street was except myself. I knew it was in Manoa somewhere. She gave us the number, but we didn't quite catch the number, and we started to take her home.

Q About what time did you pick this woman up?

A I judge about one o'clock.

Q Have you seen this woman since?

A Yes.

Q When?

A The first time I saw her afterwards was when she came to give her testimony before the Grand Jury, and I saw her yesterday and also this morning.

Q Do you know her name?

A I know her name now; Mrs. Massie. And while we went along the road we asked her what had happened and she said he had been beaten up by a gang of young hoodlums and left in the woods, as she called it, to get home the best way she could, and we asked her a few questions, if she knew where they had gone, and she said she heard one of the party make a remark they were going in the direction of Kalihi. Then we asked her if she knew what kind of car it was and she said she thought it was either a Ford or Chevrolet, she wasn't sure which, and we suggested taking her to the police station to put in a report, and she said she didn't want to put in a report, but to take her home and her husband would take care of her; and we drove along and turned up Coral Street. We should have turned up the other street, Ward Street, but Mr. Bellinger, not being familiar with that locality, he got a little bit too far in. When we got into Queen street we turned up into _____ and towards Punahou street and up into Manoa and we go to Kahawai street. She told us to stop. She said she was all right and we left her at the house and came to town.

Q Did you notice her face?

A Her face was all puffed at the mouth, as though someone had beaten her up.

Q Did she make any remarks about that?

A She said she had been beaten up and when these boys

A I know her name now; Mrs. Massie. And while we went along the road we asked her what had happened and she said he had been beaten up by a gang of young hoodlums and left in the woods, as she called it, to get home the best way she could, and we asked her a few questions, if she knew where they had gone, and she said she heard one of the party make a remark they were going in the direction of Kalihi. Then we asked her if she knew what kind of car it was and she said she thought it was either a Ford or Chevrolet, she wasn't sure which, and we suggested taking her to the police station to put in a report, and she said she didn't want to put in a report, but to take her home and her husband would take care of her; and we drove along and turned up Coral Street. We should have turned up the other street, Ward Street, but Mr. Dellinger, not being familiar with that locality, he got a little bit too far in. When we got into Queen street we turned up into _____ and towards Punahou street and up into Manoa and we go to Kahawai street. She told us to stop. She said she was all right and we left her at the house and came to town.

Q Did you notice her face?

A Her face was all puffed at the mouth, as though someone had beaten her up.

Q Did she make any remarks about that?

A She said she had been beaten up and when these boys

D. Dellinger
Q. 10/1/54

picked her up in the street they hit her over the mouth and held their hands over her mouth to stifle her cries.

Q Did she make any remarks about the pain?

A She begged us not to question her very much, as her jaw hurt her very much, and she thought a couple of teeth had been knocked out.

CROSS EXAMINATION

By William H. Heen, Esq.

Q You say you left Kaimuki about half-past twelve?

A About that time.

Q Whereabouts at Kaimuki were you at that time?

A Mahina street.

Q Where would that be?

A Just beyond Lilioukalani school; the first road to your left as you come from Waiialae.

Q What is between Harding and Waiialae?

A Yes, between Harding and Waiialae.

Q And runs only a short distance?

A Runs from Koko Head to 15th.

Q Did you come along Waiialae road to Waikiki?

A No, we went over the hill by way of 12th Avenue, through those side streets.

Q And up Kapahulu Road?

A No, we cut down that street where the bus generally comes up, Kinahina street, I think it is. We went down 12th Avenue, turned there either by Ahi or Wela, - I am not sure which, and then we went down that street

into Hinahina and we turned into that street by the fire station and we went in by way of the Ala Wai Boulevard, and turned down that road just this side of the Barbecue Inn there. We went to get in front.

Q And you found the place was too full and decided to go on?

A Yes.

Q And when you got to John Ena Road you ran short of gas?

A No, not ran short. Mr. Bellinger suddenly remembered he needed some gas.

Q And you went to Kalakaua Avenue and King street and got some gas there and came back?

A Yew.

Q And then you came back through John Ena and Kalakaua Avenue, turned down John Ena and down Ala Moana road?

A Yes.

Q And you say it was about one o'clock when you met Mrs. Massie?

A About that time. I would not say five minutes one way or the other. It may have been before one or it may have been a little after one.

Q How do you figure that out?

A While we were going along the road my boy looked at his watch and it was ten minutes past one then on our way out of Ala Moana road up towards Manoa.

Q Where was that?

A I don't know exactly, but he told us when he looked at his watch it was ten minutes past one then.

Q That was after you picked up Mrs. Massie?

A Yes.

Q And were you still on Ala Moana Road?

A No, I think we were somewhere around Ward street.

Q Coming down Ala Moana road towards town did you pass Ward street?

A We did. Coral street is only a short distance beyond Ward street.

Q As a matter of fact from where you picked up Mrs. Massie down to Ward street is a short distance?

A Not a very short distance. I should judge about half a mile, something like that; maybe a little longer.

Q From the time you picked up Mrs. Massie up to the time your boy pulled his watch out and said it was ten minutes past one, about how much time had elapsed, had passed?

A I would not say, maybe ten or fifteen minutes, maybe less. I say it was about one o'clock when we picked her up.

Q How far beyond Ward street did you get before you realized you had gone beyond Ward street?

A When we got to Coral street I said "you had better turn up here, you have passed Ward."

Q Coral street is how far from Ward street?

A About three or four hundred yards I should judge,

something like that. I didn't measure it. I don't know.

Q Did you notice any car coming along Ala Moana Road towards Waikiki as you came towards town on that same road?

A Not until we got way down near the Kewalo Inn. There was a car going in that direction. I didn't pay any attention to it. We just saw it going past.

Q You said that this Mrs. Massie hailed you and you stopped and she asked if you people were white?

A She did.

Q And somebody in the party said "yes" and she came on to the car. Then did you ask her what had happened?

A Yes, I asked her what had happened.

Q And what did she say?

A She first told us she had left the party at Waikiki, at Ala Wai Inn, and went out to take a walk, and she said she walked along the road and this gang of boys picked her up and brought her down this street.

Q Did she say what kind of boys they were?

A She didn't say exactly, but from the way she spoke we judged they were of dark color.

Q What did she say to make you think that?

A She said one of the boys was part-Hawaiian. She wasn't sure. We didn't question her very much, and she didn't want to talk.

Q Did she say hoe many boys?

A At that time she said she thought there were about five.

Q Did she mention what nationality they were?

A She said she thought they were part-Hawaiian; they were dark complected anyway.

Q Did anybody ask her if she could identify those boys?

A We didn't ask her about identifying the boys.

Q Did you ask her what kind of clothes they had on?

A No.

Q Did you or anyone in your party inquire where those boys had gone to?

A We asked her if she knew, and she said she thought in the direction of Kalihi on account of hearing somebody mention that word "Kalihi".

Q She said she thought that the car these boys had was a Ford or Chevrolet?

A Either a Ford or Chevrolet, she wasn't certain.

Q Did she say what kind of a car it was?

A If I remember rightly she said it was an open car; I would not say for sure.

Q Did she say whether it was an old car or new car?

A She said she didn't know what model it was; whether it was old or new.

Q When you said that the car you were in drove up Ward street, when you went up to what street before turning?

A After we came out of Queen street we went up Ward to King and along King to Punahou street and up Punahou street to Manoa.

Q And about what time was that you got to Manoa?

A Nobody looked at their watch when we got to Manoa.

Q About what time did it take to get up there after your boy took out his watch?

A About fifteen minutes. We didn't drive very fast. I should judge it took about fifteen minutes; in that neighborhood.

Q What kind of dress did she have on, do you remember?

A Very pale green dress, and it looked blue as the light shown on it, as the light shown on it, but when we got up to her I noticed it was a pale green dress.

Q Did she have a hat?

A Not hat.

Q How was her hair?

A All hanging down to one side.

REDIRECT EXAMINATION

By Griffith Wight, Esq.

Q Look at that please, (Handing witness Prosecution's Exhibit A). Have you ever seen that before?

A We picked that purse up that night

Q Where?

A Just about where we picked the lady up.

Q What part of the road?

A It was lying about the middle of the road.

RE-CROSS EXAMINATION

By William H. Heen, Esq.

Q Did you pick the purse up before you saw the lady?

A No.

Q You stopped, did you, and after you stopped you saw the purse on the road?

A I didn't pick it up at the time. We picked it up afterwards.

Q After you picked up the lady you went on?

A Yes.

Q For how long a distance?

A We didn't pick it up at that time. We picked it up after we came back from Manoa on our way to Kewalo Inn.

Q You went back to get your sandwiches then?

A Yes.

Q About where in relation to the place you picked up Mrs. Massie was it where you picked up that purse?

A Around that neighborhood. I would not say it was the exact place we picked the lady up, because she was walking towards Waikiki when we picked her up. We picked this up right in that neighborhood.

Q Do you think it was on the town side of where you picked her up or Waikiki side of where you picked her up?

A I would not say it was beyond where we picked her up or this side of where we picked her up.

Q Do you know where that animal quarantine station

is on Ala Moana Road?

A I do.

Q Was it on the town side of that place that you picked up Mrs. Massie?

A No, it was on the Waikiki side.

Q Was it on the Waikiki side of the old animal quarantine station that you picked the purse up?

A Just the same direction.

Q What did you do with the purse after you picked it up?

A Took it along with us and took it home. At least Mr. Dellinger took it home.

Q Did you people look into the purse?

A I didn't myself. They looked into it. The purse was empty, lying on the road with a powder puff and lip-stick laying alongside of it; they were all laying there in the road as if it had been thrown out and the things fell out of it.

Q You say there was a lip-stick and powder puff?

A One of those powder puffs.

A Lying on the road?

A Alongside of the purse.

Q Was the purse open?

A I didn't see it, when it was picked up. My boy got out and picked it up. He happened to see thing thing on the road.

Q Did you happen to see the li-stick and powder-puff?

A They were laying on the road. My boy said he found them on the road in that condition; the purse with these things alongside of it.

Q Did the boy pick up a package of cigarettes?

A No.

Q Did your boy pick up a comb at that time?

A No.

Q Did you see a comb after the bag was brought into the car?

A I didn't see any comb.

Q Was there a little mirror in the purse?

A No.

Q You didn't see that?

A No. There may have been one in, but I didn't see it.

Q Did you see the li-stick after your boy brought the lip-stick in the car?

A I just glanced at it and saw it was a lip-stick.

Q And you also saw the powder puff?

A The little powder puff.

REREDIRECT EXAMINATION

By Griffith Wight, Esq.

Q You don't know exactly where you picked that purse up?

A Not the exact site.

RERECROSS EXAMINATION

By William H. Heen, Esq.

Q About how far from the animal quarantine station

Partial

X

was it where you picked Mrs. Massie up?

X
A I should judge maybe 100 yards or maybe less;
I wouldn't say because after we picked her up we came
right close to that section of bushes right there.

Q Did you go in there?

A No, I did not.

REREREDIRECT EXAMINATION

By Griffith Wight, Esq.

Q You mean when you say the quarantine station, you
mean the old quarantine station?

A The old animal quarantine station on the upper
side of the road.

- - - -

AGNES PEEPLES

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

DIRECT EXAMINATION

By Griffith Wight, Esq.

Q What is your name?

A Mrs. Agnes Peoples.

Q You are married?

A Yes.

Q Live with your husband?

A Yes.

Q Where?

A 1049 Middle street.

Q On Saturday night or Sunday morning September 12th
or 13th, this year, where had you and your

husband been?

A We had gone up to Mrs. Gertz' house looking for her and we didn't find her there and so we came down to Robinson's and stayed there.

Q What did you do then?

A My husband and I proceeded to town by way of Middle street, - by way of King street.

Q You went down King street to town?

A Yes.

Q Do you know about what time you got to King street and middle?

A Between 12:35 and 12:40

THE COURT: What time was it?

A Between 12:35 and 12:40.

Q What if anything happened when you got to that point?

A When we got to that point there were three cars proceeding to Kalihi on King street. My husband blew the horn. One turned into Dillingham Boulevard and the other proceeded to Kalihi, and when he got to the intersection of King and Liliha street the car coming down almost collided with us.

Q Did that car stop?

A It did not.

Q How fast was it going?

A About forty-five miles.

Q Forty-five miles per hour?

A Forty-five miles an hour, and it almost hit

our car, and my husband to avoid the collision stopped in the middle of the street, and these boys stopped on the right-hand of our car, not parallel with ours but behind our car, and so I says "Why don't you look where you are driving?" and one of the boys swore at me, and my husband stopped the car again to see who those boys were and the big Hawaiian fellow said "Get the god damn haole out of the car and I will give him what he is looking for."

Q What boy was that?

A That boy there with the black coat. (Indicating Kahahawai)

Q What did he say?

A "Get that god damn haole out of the car and I will give him what he is looking for" and he proceeded to my car and I got out and pushed him away and when I did that he was going to my husband's car, and I got hold of him and in the meantime this boy got out and this Hawaiian boy hit me on my left ear.

Q Who was the other that got out?

A That Japanese boy.

Q Which one?

A With the brown suit and hands folded. (Indicating defendant Ida)

Q You say the defendant hit you. What did you do?

A I staggered back and came back to my feet again and chocked him and hit him, and someone in the road

said "Get in your car" and I got in my car and pushed up.

Q How many times did he hit you?

A Once.

Q What did he hit you with?

A Clenched fist.

Q What did they do?

A They got in and pushed off.

Q Slow or fast?

A Fast. They proceeded down King street to Iwilei and we followed them and my husband went down to the police station.

Q Here is King, here is the road to Iwilei and here is Queen. (Drawing on blackboard)

A Yes.

Q And here is Liliha street. You went down like this and to the police station?

A Yes.

Q Whom did you report to at the police station?

A I reported to the sergeant at the desk and then detective Ricket came out and I knew him and told him.

Q From the time this happened to the time you reported to Ricket how long did that take?

A It never took longer than five minutes.

Q Did you get the number of that car these boys were in?

A Yes.

Q What was it?

A 58-895.

CROSS EXAMINATION

By William H. Heen, Esq.

Q Had you been drinking some liquor before you came down to Liliha street and King?

A Yes.

Q You said that your husband stopped his car in about the middle of the road?

A Yes.

Q Middle of King street?

A Yes.

Q And about the middle of the intersection?

A No.

Q Did he stop before he got into Liliha street?

A He stopped just past Liliha street.

Q Just after he passed Liliha street?

A Yes.

Q It was on the Waikiki side of Liliha street?

A Yes.

Q Did the car in which these boys were pass in front of your car?

A No, they came straight across and almost hit our car and my husband speeded up and stopped in the middle and they cut in on the right-hand of us.

Q You mean they went makai of you?

A Yes, makai side of us.

Q Around in front or in back of you?

A Around our back.

Q How do you know it was between 12:35 and 12:40 at that time?

A Because we were talking about the time and we left Robinson's at 12:30.

Q Where is Robinson's?

A Up on Meyers and Notley street.

Q That would be out to Kalihi?

A Yes, next to Shafter.

Q Did you notice the time,- that is did you look at the clock at that time?

A We asked the fellow what time it was and he said it was almost 12:30.

Q You think that from the time you left until the time you got to Liliha street you would have gotten there by 12:35 or 12:40?

A Yes.

Q When this car in which these boys were stopped did they stop on the makai side of the road?

A The car stopped on the right hand side of our car, but not parallel with ours.

Q A little farther back?

A A little farther back, next to the curb.

Q And your car was in the middle of the road?

A Middle of the road.

Q Of King street?

A Yes.

Q What did your husband do after the car in which you were in stopped?

A My husband didn't do anything. All I said was "Why don't you look where you are driving?" and we proceeded on and one of the boys swore at us and my husband stopped the car again, and when he stopped this time it was a little farther down.

Q And the big Hawaiian boy immediately jumped out?

A Yes, he jumped out.

Q And said something to your husband?

A He come to my car and he said "Get that damned haole out of that car and I will give him what he is looking for" and I got out of my car and slammed the door shut and pushed him away.

Q And he slapped you?

A No.

Q He struck you?

A He struck you.

Q With his fist or open hand?

A With his fist.

Q And you got the number of their car?

A Yes.

Q And you came down to the police station?

A Yes.

Q And between the time you first saw these boys and the time you got to the police station how many minutes elapsed or passed?

A About five minutes.

Q And you got to the police station about what time?

A About 12:50.

Q How many boys were there in the car?

A Four.

Q And you saw this Hawaiian boy and this boy in the brown suit?

A Yes.

Q And who were the other boys?

A I didn't see their faces.

Q Were they still in the car?

A They were sitting in the car.

Q What part of the car?

A When I reported the case I said it was a Chevrolet touring and a Japanese driving, but when Mr. Cluney came up and asked me again and said "Are you sure it is a Chevrolet?" I said it looks like a Chevrolet, and he asked me the color.

Q And what color did you tell him?

A I told him it was a light tan or brown I think, and I said I thought it was a Chevrolet, but I gave him the number.

Q These two boys who remained in the car, where were they sitting in the car?

A Both in the rear end, back seat.

Q Do you know from what part of the car this big Hawaiian boy came from?

A From the front, right-hand side.

Q Did you recognize the nationality of the two boys sitting in the back of the car?

A I couldn't see them and I don't know them.

Q Were there no street-lights there?

A Yes, but their car was parked so far away from us that I couldn't see.

- - - -

JOHN C. CLUNEY

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

DIRECT EXAMINATION

By Griffith Wight, Esq.

Q What is your name?

A John C. Cluney.

Q You are detective in the Honolulu Police Department?

A I am.

Q And you were such on September 12th and 13th, this year?

A Yes.

Q On that night did you receive a report of a certain car number?

A I did.

Q What was that car number?

A To the best of my knowledge it was 58-895.

Q What did you do when you got that report?

A I got that report and checked up and I rang back to police headquarters and had Mr. Ricket check up and give me the name, owner and location of that car.

Q Did you receive that information?

A I did.

Q As a result of that information where did you go?

A I went directly to Cunha Lane, Number 4.

Q Whose home?

A Ida's house.

Q About what time was that?

A I received that call probably pretty close to two o'clock in the morning.

Q Was it in the nature of an accident report?

A It was a radio call. I was driving one of the radio cars.

Q At that time did you know what these people were suspected of?

A We had a call that one of the boys in this car assaulted a woman by the name of Mrs. Peeples.

Q What time did you get to the house?

A I got to the house a few minutes before two o'clock.

Q When you got there what did you see?

A I got there and saw this car parked in the garage and I put my hand on the radiator and the car was still warm. I went to the house and wrapped at the door and a woman came to the door and she asked who was there and I said --- ---, which means a detective in Japanese, and she opened the door and there were two girls came, and I said I wanted to see the boy who operated this car, and she said "It is kind of light, three o'clock in the morning" and I said it didn't make any difference, I wanted to see the boy, and then

Ida came out and I asked him if he operated the car and he said "No, he loaned it to a Hawaiian boy" and I asked if he knew him, and he said he didn't know his name, and I said "Who were in the car" and he said "Four other boys" but he didn't know them, and I said if that is the case I will place you under arrest, and his sister said to me "He is the only boy in the family and it will break the old lady up if she finds there is anything wrong with the boy." I told her I couldn't help it. I would take him to the police station, and I told the sisters you can drive the car down, this 58,895, and I said I will take Ida along with me.

Q You mean this Ida here?

A The Japanese boy with brown suit, and so I got to the police headquarters and going to the detective department, going into the assembly room, where the detectives sit down, a big room, in the office up there, Ida said he admitted that one of the boys in his car struck Mrs. Peeples, but as far as the striking of this white woman he said he didn't know anything about it.

Q At that time had you mentioned to him that a white woman had been struck?

A I had not.

Q Did you know it at that time?

A I knew.

Q Did you mention it to him?

A I did not. He admitted he struck a Hawaiian woman in the car on Liliha street, on King street, but he denied at the time of hitting any white woman.

Q Had you mentioned that to him too?

A No.

Q Had anybody else said it to him?

A No.

Q Was this last remark made before you got in the presence of Black and Richards?

A Black was in my presence; he was my partner. We both brought him down?

CROSS EXAMINATION

By William H. Heen, Esq.

Q What time did you get up to Ida's place?

A It was just a few minutes before three o'clock.

Q Did you make a record of that?

A I believe I have a report on file in the office.

Q Where is that report?

A I haven't got it with me.

MR. HEEN: I would like to have that report brought here.

THE WITNESS: Every time we make an arrest we are supposed to make a report of the nature of the arrest.

MR. WITE: I have no objection to Mr. Cluney getting it.

(Recess)

(Relieved by Linn)

46 (Linn relieved Jordan)

(Witness Cluney temporarily excused.)

CLAUDE F. BENTON,

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

DIRECT EXAMINATION

By Griffith Wight, Esq.

Q What is your name?

A Claude F. Benton.

Q What is your occupation?

A Police officer, City and County of Honolulu.

Q What work did you do at the police department?

A Radio patrol.

Q Were you on duty the night of September the 12th or in the morning of September the 13th, 1931?

A I was.

Q At that time did you receive a report that a woman had been raped?

A I did.

Q Did you receive any information as to where it had happened?

A I did.

Q What was that information?

A The information was furnished to me by Captain McIntosh.

Q Was anything said about where it occurred?

A Mrs. Massie explained to us that it happened somewhere on Ala Moana road in a clump of bushes.

Q At the said of the road?

A We suspicioning it being the old quaratine station, and upon investigation we found---

Q What did you do when you suspicioned that?

A After we inspected the scene and found what we did we then reported our findings to Captain McIntosh.

Q Well you made a reply that you suspected where it was. When you suspicioned where it was what did you do?

A We went to the scene of the old quarantine station, on Ala Moana road.

Q When you say "we", whom do you mean?

A Officer Bond and myself.

Q What did you do when you got inside?

A We parked our automobile outside of the entrance of this particular spot and walked in to see if any clues could be found.

Q What did you discover?

A We discovered automobile tire tracks which had gone in there at a fast rate of speed.

Q What made you think that?

A By the dirt being torn up.

Q Where?

A Just off the Ala Moana in the entrance of this die road, the dirt was turn up where automobile tires had made tracks going in there at a fast rate of speed.

Q You mean on a turn?

A Yes.

Q Have you had much experience in observing automobile tire tracks like that?

A Yes.

Q You were a traffic officer before that, were you?

A Yes.

Q Did you follow the tire tracks up?

A I did.

Q What did you discover when you followed the tire tracks up?

A We noticed this particular track in the road leading into that road some fifty feet off the entrance and there was a mud-puddle there. In the very center of this puddle there was a little water, but in the edges the mud was quite thick, these particular tracks running astraddle of the main puddle, that leading the tire marks very plainly there.

Q Could you see what kind of tires made these marks?

A I could.

Q What tire marks were they?

MR. PITTMAN: I object to that.

Q What type of tire marks?

MR. PITTMAN: I object to the question on the ground it calls for a conclusion of the witness, until he can qualify as an expert; he cannot testify as to what type they were. It is up to the jury to determine what type they were, unless he is such an expert he can testify as an expert, and there has been no

foundation laid for the question, and it is objected to as calling for the conclusion of the witness; it is in the province of the jury to determine that.

THE COURT: Objection overruled.

MR. PITTMAN: We note an exception.

Q Have you examined tire marks before?

A I have.

Q What type of tire marks were they?

A There were three Goodrich Silvertown cords and one Goodyear All-Weather.

Q Could you tell from the marks which wheel had the Goodyear on?

A I could.

Q Which wheel had the Goodyear on?

A The left rear.

MR. PITTMAN: May we have the same objection and exception to all of this.

THE COURT; Yes.

Q The left rear tire had a Goodyear. Will you describe these tire marks better; describe what they looked like, the degree of wear and so forth?

A These tires were slightly worn; the center of the tire would leave a flat surface in the mud on the edges it would leave the knobs off the Goodrich Silvertown and the other.

Q You know the difference between the marks of the two types of tires?

A I do.

Q You have had a great deal of experience with that, have you?

A Quite a bit.

Q There were three Goodrich Silvertowns?

A Yes, sir.

Q And one Goodyear?

A Goodyear All-Weather.

Q And that was on the left rear, I believe you say?

A Yes, sir.

Q Could you see whether or not this car turned around?

A At the scene of this particular spot the men had either backed around or headed in and backed the other direction, tearing up the dirt as it started towards the Ala Moana again.

Q What would that indicate?

A That would indicate that they started off at a fast rate of speed, tearing the dirt up.

Q I will show you a sketch there, and ask you to show approximately where you saw this; this is very rough,- where you saw this turn, where you saw these marks. If this is not correct you may redraw it.

(Referring to sketch on blackboard)

A (Witness steps down to blackboard)

Q This is going away towards town, in the direction you said. (Indicating)

MR. HEEN: We are going to object to this witness using a diagram made by somebody else. Mr. Wight has not been sworn in as a witness.

(Argument)

MR. HEEN: "e are going to object.

THE COURT: I think the objection is well taken. The witness is purporting to use a diagram not made by himself. Will you kindly erase that and let the witness draw a diagram of his own.

(Witness draws a diagram on the blackboard)

A This is the Ala Moana, and this is the Ewa direction. (Indicating) Over here is where I first saw the loose gravel torn up, and entering this old quarantine station from the Ala Moana Road was here (indicating), this being very loose gravel, and this being a mud-puddle here, very little water in the center; outside the mud was quite hard. Here is a cement slap up where we found articles.

Q We will get to that in a monent. Just go over the route of the car.

A At this particular spot there had been an automobile parked there. (Indicating)

THE COURT: Will you explain that diagram a little bit, Officer, please. What are the rectangles inside of the area?

A This is a road into the old quarantine station, and this is the road that leads around directly back into Ala Moana, this here being a cross road in there. This is all grass and a clumpf trees in both places. (Indicating all along)

THE COURT: All right, proceed.

A At this particular spot there had been an automobile parked here, and it had backed around to here and started off (indicating), throwing up the sand and conifer that had fallen from the trees. It had evidently started out at a fast rate of speed, retacing the tracks on back, crossing over the tracks that had come in- these tracks had come in from this direction,- crossing over the tracks in heading back out. It had come something like this (indicating), practically Ewa on Ala Moana, crossing over these loose dirt tracks showing where the car had been.

Q How could you tell the left rear tire was a Good-year?

MR. PITTMAN: May I have the same objection and exception.

THE COURT: Yes.

A On the way out it showed very palinly in the mud, in the mud hole.

Q You mean overlapping the former tracks?

A Yes, sir.

Q About what time was it you first made this inspection?

A About three a.m.

Q What kind of a light did you have?

A A very strong flash-light and the headlights of our automobile.

Q Did you discover anything else there besides these tire marks?

A At this particular spot we did.

Q What particular spot?

A By the cement slab, where the grass was torn up and the ground torn up.

Q The grass was torn up and the ground?

A Yes.

Q What did you find there?

A Two boxes of matches, one being the Parrot brand and the other Lancer brand, and one pack of Lucky Striek cigarettes, one ladies pocket book mirror, orange color, and one ginger ale bottle.

Q What was in the ginger ale bottle?

A Nothing at the time. It had fumes of intoxicating alcoholic liquor in it.

Q Do you know what kind of alcoholic liquor?

A Intoxicating liquor.

Q Do you know what kind?

A I do not.

Q I will show you a mirror. Have you seen that before?

A I have.

Q Is this the mirror to which you have reference?

A Yes, sir.

Q What you found at this point by this slab?

A Yes.

Q Inside of the old animal quarantine station?

A Yes.

MR. WIGHT: May I offer this in evidence, your Honor, as an exhibit for the prosecution.

THE COURT: It will be received in evidence and marked as Prosecution's Exhibit "E".

(Mirror offered in evidence received and marked: "Prosecution's Exhibit E.")

Q Now, Mr. Denton, you have had experience in the various traits of the various makes of tires?

A I have.

Q You can identify them when you see them on a car?

A I can.

Q Can you identify their marks from the ground when well-defined?

A Yes.

Q Were these well-defined in this case?

A In the mud, very plainly.

Q Did you later go back to this same scene?

A I stayed at this scene until the break of day, and then we reported our findings to Chief McIntosh.

Q Then what did you do?

A We turned everything over to him, making our report, and then quit for the day.

Q Didn't you do something else?

A The following morning, yes.

Q That is what I mean, that morning, the Sunday morning?

A Yes, later in the morning.

Q What time in the morning?

A About eight.

Q What did you do?

Handwritten note:
this is
a separate
report.

A Officer Lau, myself and Ida, the owner of this particular Ford car,-

Q Anyone else?

A That is all.

Q Was Bond with you?

A No, sir. Drove this car to this scene.

Q What car?

A Automobile Number 58-895, a Ford touring, to this scene, tracing these tracks within about one foot of the other tracks which were made.

Q You mean the tracks formerly recorded?

A Yes.

Q Approximately a foot away from them?

A Yes.

Q Over the ground?

A Yes.

Q What did you do then?

A And as far as we could tell they were identical, the same as the first tracks we had seen there before.

Q What do you mean by the same as the first tracks you had seen there before?

A The same, the knobs on the edge, and the appearance on the bottom, they were the same thing.

Q Do you know what kind of tires this car had, this Number 58-895?

A I do.

Q. What did it have?

A It was equipped with three Silvertown cords and

one Goodyear All-Weather.

Q Where was the Goodyear All-Weather tire on this car Number 58-896?

A Left rear tire.

Q You say the marks of this car, left by car 58-895, and the former marks you had seen on the ground, were identical?

A Identically the same.

Q Did any other marks obliterate the marks between the interval the re?

A I didn't hear what the question was.

Q Had any other car gone over these marks?

A None over these particular marks.

Q No other car had gone over these marks then?

A None over these particular marks.

Q Did Ida say anything when you made this examination?

A He was very quiet.

Q Did he deny that they were the same marks?

A He denied that he had been in there.

Q Did he deny that they were the same marks?

A He did not deny that, no, sir.

MR. WIGHT: Your Honor, I should like to take this jury out to show them this location. Later on I have another witness who will testify about these things around there. I would like to have him show them the spot. I don't like to lose control of this witness now.

MR. HEEN: Are you through with cross-examination at this moment,- or direct, rather?

MR. WIGHT: I am except for that point.

(Discussion with regard to the report of Mr. Cluney.)

MR. HEEN: How about the report of this witness?

MR. WIGHT: Q Did you make a report? You did not make any report of that case because you arrested no one, is that it?

A I made a report of my findings and the location also, drawing a diagram of this particular spot.

Q You mean a police report?

A Yes.

Q Do you know where that police report is?

A I do not

MR. HEEN: How about the report of Mr. Furtado and Mr. Harbottle?

MR. WIGHT: I don't know; I have not seen them.

MR. HEEN: I would like to give notice to counsel at this time I am going to call for these reports, and to save time, if they are at the Advertiser, I would like to get them out of the Advertiser, the reports of Mr. Furtado and Mr. Harbottle, as to what they did on the night of September 12th and early in the morning of the 13th,- Mr. Harbottle and Mr. Machado, Naaka, and Archie Hoapili; also Mr. Benton's.

THE COURT: Do you wish to go out to the scene?

You can proceed with the examination, Mr. Heen.

MR. HEEN: I would prefer to get that report in order to cross-examine this witness, this police officer.

(Discussion)

THE COURT: What have you gentlemen to say with reference to the proposal of the City and County Attorney's office to visit the locus in quo?

MR. HEEN: Yes, we would like to go out there, if the Court please, but when we go out there we would like to go out to Waikiki Park and to John Ena Road at the same time and make that all one job.

(Discussion)

MR. PITTMAN: If the Court please, I have had a lot of experience with going out and investigating the premises, and I would respectfully suggest that no evidence be taken whatsoever out there, and that the only thing to be done is to point out the location and say look around here, but don't make any definite pointing or any definite statements calling attention to any definite, specific things and taking any testimony out there.

MR. WIGHT: I think the witness should point out the spot where he found the marks, and the point where he found the mirror.

MR. PITTMAN: If the Court please, absolutely not. He can show the entire spot, but he is not to show spots where he found the tracks or where he found these other things. Let them look at this. The only object

of letting the jury visit the premises is in order that it may aid them in understanding the testimony, but not that the testimony shall be taken out there. It is highly improper. There should be absolutely no testimony taken.

THE COURT: Is that a fairly accurate diagram?

MR. WIGHT: No, it is very inaccurate.

MR. PITTMAN: It looks something like it. I have been out there. The point is not to allow them to take testimony of this and that, or say this is the thing, or we think this thing happened. It is so the jury can understand the testimony, but it is not for them to go to work and point out, - point out and say "This is where I found these tracks, this track and that".

MR. WIGHT: That is trying to hide from the jury the scene where the rape actually occurred. I don't think we should hide anything from them in anyway.

MR. PITTMAN: I object to counsel's remarks, and I assign them as error, and that they are made to prejudice the jury, and we are not assuming to hide anything from them. We are not trying to hide anything, but we insist this case be tried along legal lines, and the only object ever in visiting the premises with the jury is merely visiting the premises in order that they may follow the Court intelligently, and the testimony as testified to on the stand. We have nothing to hide as you will find before this case is over.

THE COURT: The Court will ask the jury to kindly disregard the comments of counsel for both sides; the comments of counsel are not evidence, and there is merely a question of law presented here. I am inclined to think that under the circumstances we will simply go out and drive around that road, perhaps, if driveable, or we will stop outside of the Ala Moana road and walk through that area.

Now, gentlemen of the jury, in going out to visit the scene,--any scene, it is a rather important matter that it be done in an orderly fashion. I don't know whether anybody else will be going or not. We have no control over that. You gentlemen will kindly stay together. You will be taken out in two automobiles, and my observation over a period of years is that there are always some helpful individuals standing around who desire to make statements and comments whenever any scene is visited. That we will have none of so far as we can avoid it. In other words, it is a continuation of the Court. You go out to see through your eyes and your other senses and please stay together, and if any comments are made of any character try earnestly to disregard them, and I will try desperately to avoid having you hear anything except such remarks as may be made by counsel and the Court. Now the question is, is there any doubt as to where that area is, that is in question, or do we need a witness to go out there to

point it out?

MR. PITTMAN: No.

MR. WIGHT: No, your Honor.

(Witness excused.)

(The Court and Jury leave the court room to go and visit the premises.)

- - -

(Jordan relieves Linn)

(At 11:30 the Court and Jury, with counsel, clerk and official reporter, met at the site of the alleged crime at the old animal quarantine station on Ala Moana road.)

MR. WITE: Will you waive any irregularity in regard to the defendants not being present?

MR. HEEN: We waive their presence.

MR. PITTMAN: Sure, we don't want them out here.

(Court, jury, counsel, clerk and official reporter then proceeded to the place where the complaining witness stated the defendants picked her up on John Ena Road; and then they proceeded to and entered Waikiki Park and the jurors were told to look around.)

(Recess until 2 o'clock p.m.)

- - -

NOVEMBER 19, 1931.

2 o'clock P.M.

CLAUDE F. BENTON resumed the stand for further direct examination:

MR. WIGHT: Your Honor, I would like to ask Mr. Benton one or two more questions.

THE COURT: Alright, proceed.

QUESTIONS BY MR. WIGHT:

Q Mr. Benton, have you had any experience in the automobile tire business?

A I have.

Q In what capacity?

A Four years ago I was in charge of a tire department.

Q Where?

A The Graystone corporation.

Q Four years ago you were in charge of their tire department?

A Yes.

Q Did you have a lot to do with tires?

A Yes.

Q That was your sole occupation at that time?

A That and other duties.

Q Did you have other duties besides that?

A Most of my life I have had experience with automobiles.

Q In the tire business?

A Yes.

MR. WIGHT: That's all.

MR. PITTMAN: On behalf of the defendants I move at this time that the evidence of this witness be stricken and that the jury be instructed to disregard the same upon the grounds that this witness has practically testified as a so-called expert and has drawn his conclusions as to the similarity of the tracks he investigated and those of the car number 58895; that in cases of this character expert witnesses are not allowed for the reason that so many conditions enter into the causing of tracks. For instance, the character of the tire after its deflation, as to whether or not it is hard and whether or not the tire is low; the character of the ground at the time the tires passes over it and the various tires in existance; therefor it is of such an uncertain nature that it cannot be determined by experts; that this witness has not shown any qualifications whatsoever to testify upon this matter.

THE COURT: The motion is denied.

(Exception noted)

MR. PITTMAN: And now we move, if Your Honor please, on behalf of the defendants that that portion of the testimony wherein the witness has given his conclusions be stricken and the jury instructed to disregard the same for the reason that no proper foundation has been laid showing that he is an expert or capable of determining the similarity of the tire tracks with those of the car 58895; and I would like to add a further objection to both motions: that there

has not been sufficient identification at the present time to show that the tire tracks where they were examined by this witness was the same place that the complaining witness, Mrs. Masee, were assaulted.

THE COURT: The motion is denied.

CROSS EXAMINATION

QUESTIONS BY W. H. HEEN ESQUIRE:

Q Mr. Benton, on the night of September 12th this year you were out on radio patrol duty?

A I was.

Q What time did you go on duty?

A At eight P.M.

Q And what time were you supposed to go off duty?

A Four A.M.

Q While you were out on patrol you got a call from headquarters did you?

A I did. Several.

Q With reference to this alleged offense in which Mrs. Masee was involved?

A Not this particular one.

Q You didn't get a call at all?

A I got a call that a certain car had been picked up. I was informed of this alleged case by the detective bureau.

Q While you were still on patrol?

A Yes.

Q Your information came over the radio?

A My information of this particular occurrence came from the detective department, Chief McIntosh.

Q You went back to headquarters?

A Yes.

Q When, what time did you get the information from headquarters?

A Approximately two-thirty when I was notified of this particular case.

Q How do you remember it was two-thirty?

A I say approximately two-thirty because at one-thirty-five I got a radio call from Jack Lane and that is how I missed this particular call. I was interviewing the party up there at Jack Lane and made my report of this burglary case and I was informed of this Ala Moana case.

Q Did you make an entry at that time that it was about two-thirty when you returned to headquarters?

A No, I didn't; but judging the time.

Q Did you go right up to McIntoch's office when you returned at two-thirty?

A Yes.

Q Was there anyone there with Mr. McIntosh at that time?

A No, sir; there weren't.

Q While you were still out on radio patrol duty that night did you hear over the radio this complaint in which this car was involved.- 58895?

A I did. I received one call to that effect.

Q Were you ordered to look for that car?

A I was.

Q Did you go to look for that car?

A During our patrols we kept our eyes open for this particular car, yes.

Q Did they give you the address as to where the owner of that car lives over the radio?

A No, sir.

Q Did they give you the name of the owner over the radio?

A No, sir.

Q At that time did you know what kind of car it was, or rather, did you have information of the kind of car it was?

A At twelve-fifty they broadcasted to be on the lookout for this 58895,- a Ford touring.

Q Did they give you the name of the people who was complaining?

A No sir.

Q Now, whenever you make an arrest, do you file a report at Police Headquarters?

A I do.

Q In this report you set forth the main points of your investigation?

A Yes, sir.

Q That is under instructions from your superior?

A Yes, sir.

Q Now, will you please draw on the blackboard the tread of a Seiberling tire.

A (Stepping to the blackboard) I'll do my best.

MR. HEEN: We expect you to do that.

A I'm not a very good artist. (Proceeds with illustration)

MR. WIGHT: Do you mind if I give him this wet rag?

MR. HEEN: No.

MR. WIGHT: Mr. Denton, you probably could do better with this (handing witness wet cloth).

A That's the best I can make. That's one side of the Seiberling.

Q What do these two lines toward the center indicate?

A That is a cut-groove.

Q And how far apart are those two grooves?

A That I could not tell. There are two in the very center.

Q Not in the very center, is it? Little off center,

A Well, judging from side to side they are about equal.

This would be the very center here (indicating), each side of the very center.

Q Each side of the very center would be two grooves?

A Yes.

Q How deep are those grooves?

A About an eighth of an inch deep.

Q And do those grooves go right around, clear?

A Yes.

Q And on the side, how would you describe these markings on the side?

A Well, it is not diamond-shaped. It is not round-shaped.

It is more or less - kind of like a four-leaf clover.

Q More like a four-leaf clover?

A Approximately. Similar.

Q How many types of Seiberling tires are there?

A That I can't tell you.

Q Now, without rubbing that off, will you please make a diagram of a Double-Eagle Goodyear tire, - a Double-Eagle.

(Witness illustrates on board)

Q Are there any grooves in a Double-Eagle?

A There is.

Q How many grooves?

A Two.

Q Towards the center?

A Yes.

Q Similar to the Seiberling?

A Yes.

Q How about the De Luxe Goodyear?

A A De Luxe Goodyear is practically the same only a heavier duty tire.

Q Than the Double-Eagle?

A The Double-Eagle is an extra-heavy duty and the De Luxe is the one just under that.

Q Then what comes after that?

A The All-Weather.

Q Then after that?

A The Pathfinder.

Q What is the difference in tread between the De Luxe and the All-Weather?

A The De Luxe and the All-Weather? The All-Weather hasn't perhaps the same markings as the tires today have, but formerly they didn't have the center strip in them. Before, they had the diamonds running all the way across.

Q And you say that they have no grooves?

A None in my experience in tires.

o

Q None according to your experience?

A No, sir.

Q How far does your experience go with reference to All-Weather Goodyear?

A My dealings with tires were up until four years ago.

Q And from four years ago until now?

A I have had quite a bit of experience on the road as a motor-cycle officer in various makes of tires and so forth.

Q So that if there are no grooves in an All-Weather Goodyear tire, it would be very similar, would it not, to a Goodyear tire that has no grooves?

A I beg pardon-

MR. HEEN: I withdraw the question.

Q What is the difference between an All-weather tire and a Pathfinder Goodyear?

A The Pathfinder is a very cheap grade of Goodyear.

MR. HEEN: I mean the tread.

A The tread of the Pathfinder are cut in more or less moon-shape.

Q Moon-shape? New Moon or full moon?

A I would call it a quarter-moon.

Q Any channels in the center of the tire?

A Not in the Pathfinder.

Q No lines or grooves at all in the Pathfinder?

A There are lines something similar to this (indicating an illustration) but there's no diamond in the Pathfinder, with one center line.

Q One center line?

A Not two.

Q Please draw on this side here the tread of a pathfinder.
Just roughly.

(Witness draws illustration)

Q On the outer edge of the tire with reference to the tread
how does that tread appear,- is it rounded at the edge?

A This? (Indicating)

MR. HEEN: Yes.

A At the very edge,- We will call this the very edge,- it
is quite thick and as it goes up around the tire it gets
very thin towards the rim.

Q How about the other side of the tire? How do those
marks run?

A Same way. Down.

Q They run straight down, then?

A No, sir; on an angle shape.

Q Has there been any change in the type of tread in the
Pathfinder tire, Goodyear tire, during the past four years?

A Yes. I would say every ninety days they make a change
in the type of tire.

Q Has there been any change in the type of Pathfinder tire
lately?

A I wouldn't swear; but during my experience in tires, they
make changes.

Q Whendid you last see a Pathfinder tire like that?

A To the best of my knowledge, the last time I had any dealings
with a Pathfinder tire was four years ago.

Q How about a Pathfinder tire now-a-days?

A That I can't tell you but I know the difference between a
Goodyear and a Pathfinder.

Q The Pathfinder is made by the Goodyear people are they not?

A Yes.

Q You mean you know the difference between a Pathfinder and an All-weather?

A Yes, or the Double-Eagle.

Q Now, will you please draw on the blackboard a diagram of the tread of a Silvertown Goodrich.

A New or used?

MR. HEEN: Give us a brand new one, first.

THE COURT: (To witness) It is not necessary to continue that down. All you want, Mr. Heen, is enough to show a design?

MR. HEEN: Yes.

A Something similar to that. (Indicating illustration made).

Q How about the other side,- the other side of the center line?

(Witness completes illustration)

Q How would you describe those markings there? (Indicating)

A Those markings are cut-grooves in the rubber the same as this center one, (Indicating another illustration), leaving the surface that rides on the pavement something to this effect,- here, between.

Q There's a sort of double area that goes,-- those spots there that ride on the surface of the road.

A In a new tire?

Q Each side of the center line.

A Yes.

Q How deep is that groove in the center?

A Approximately an eighth of an inch.

11

Q And how wide is that groove?

A That groove is approximately an eighth of an inch.

Q Are all Silvertowns built the same way?

A I wouldn't say that they were.

Q You don't know?

A No, sir.

Q That is the only kind of Silvertown that you are familiar with?

A At present, yes.

Q And was the only kind you were familiar with in the month of September 1931?

A I am familiar with certain makes of tires; but knowing how many different makes they have got, that I don't know,- at present.

Q What other brand does the Goodrich people manufacture?

A I couldn't tell you that.

Q So, you only know of the Silvertown?

A The Silvertown Cord, yes.

Q I believe you told us that in the Pathfinder there are no grooves along the tire.

A During my experience with them there wasn't.

Q And in the Double-Eagle there are two grooves?

A Yes.

Q And in the All-weather, I don't know whether you told us whether there are any grooves.

A No grooves in the All-weather. It has the diamonds all the way across.

Q Diamond-shaped markings.

A Yes.

Q What ride on the surface of the road?

A Yes.

Q How many grooves in the Silvertown Goodrich?

A One at present, if I'm not mistaken.

Q Were there more some time ago,- more grooves than one?

A That I can't tell you.

Q The only experience you had with Goodrich Silvertowns are those with one groove in the center?

A Yes.

Q Those markings on the side of the Silvertown Goodrich tire: are those at right angles to that center line or off on an angle?

A They are on an angle something similar to this (indicating). From the line,--well, there would be a right side and a left side to the tire.

Q That first series of marks right next to the center line on the same angle as the outer series?

A No, sir; little different.

Q Is there any line that marks--that is, between the two series of those markings?

A The Goodrich tires that I have seen have the groove.

Q On the opposite side--- On the other side of that center line, are those markings in the same direction as the markings on the other side?

A They both point from the center to the edge in the same direction.

Q They are in the same direction. Is that right?

A Yes. This (indicating) would be a right-hand point and this (indicating) would be a left-hand point.

Q If this is the center line, they both point that way?

A Yes, sir.

Q That it (indicating)?

A Only yours is the opposite of mine, considering the line.

Q You say mine are just the opposite of yours?

A If you consider this line as a curve.

Q That is what I mean. The general curve would be in this direction? (Indicating)

A Yes.

Q And the curve on the other side would be in the same general direction?

A Yes.

Q How does it finish at the edge on the tire? Is it rounded and come to a point?

A No, sir. It comes to a ball like. Just like you see here (indicating). Something to that effect.

Q Now, if you put a tire like that on a car, those lines may point backwards?

A According to how you put the tire on.

Q And if you turn it the other way, it would point frontwards?

A I don't mean the direction in the marks would be a slant quite as you have it here. They are more or less straighter out. So, if you put a tire on the other way it wouldn't cause any dirt,--- it wouldn't skid one way or the other.

Q I'm not talking about that. You said they were not at right angles to the center line. You said they were at an angle.

A They are.

Q If you turn that tire right around, those lines may face toward the front?

A Yes.

Q Depends on the way you put the tire on?

A To the rim, yes.

Q I show you what appears to be a silvertown tire, Goodrich, where the markings are not similar to this. One side runs one way and the other side is pointing the other way. You ever seen a Goodrich Silvertown tire like that before? (Exhibiting newspaper advertisement to witness).

A Similar to that. This is the very latest tire out.

Q Similar to this?

A Yes.

Q What you drew on there is similar to this?

A Yes.

Q What you drew on there is similar to this?

A Similar. That's the best that I can draw. I'm no artist.

Q You will notice in this picture, on one side of the center line the marks run in one direction and on the other side of the center line they run in another direction. Seeing that, you say that that is similar to your drawing on the blackboard? You see that is different, is it not, from this picture?

A It is similar to it.

Lt. Massie was told by his wife:

- (1) That some of the defendants in the rape case had police records. (He also obtained this information from other sources)
- (2) That the police records showed that some of the four defendants had venereal diseases. (He also had this information from other sources)
- (3) Mr. Beebe had told him that a confession was absolutely necessary in order to secure a conviction in the second trial of the rape case.
- (4) He had heard from several sources that Kahahawai would "crack" if an attempt were made to get a confession.
- (5) He had heard from numerous sources that his wife had not been raped at all and that for that reason he, Lt. Massie, was keeping out of the entire matter and not even attending the sessions of court at the rape trial.
- (6) He knew that it was testified to at the rape trial that Kahahawai on the same night had struck Mrs. Peoples in the face, which indicated that he was willing to strike a woman in the face.
- (7) He had heard it reported that he was getting a divorce from Mrs. Massie because of this affair and that the reason was that there had been no rape at all.
- (8) He had heard it said that he, Lt. Massie, was the one who broke Mrs. Massie's jaws.
- (9) He had heard it said that he had broken his wife's

jaws when he had found her in a compromising position that night with another navy man.

(10) During the week following the night that his wife had been raped he was on duty at the navy yard and was also up practically every night chasing noises, because his wife woke up at every little sound and had frequent nightmares every night, screaming out, fearing that someone was going to get her.

(11) He knew that the police had told her immediately following the rape words to the effect, "You can't give us this line; you know the navy man did it".

(12) He knew that he had been with the supposed navy men all evening himself and in fact was with him when he received the first news over the telephone that something terrible had happened to his wife.

(13) He observed that he was being shunned by his friends in the navy and that the enlisted men crossed the street to avoid speaking to him.

(14) He heard it rumored from the navy personnel that he was a disgrace to the service for sitting by and doing nothing when his wife had been treated in this way.

(15) He knew that the car tracks of the car driven by Ida with the other three defendants had been identified at the scene of the rape by a police officer or detective.

(16) He knew that one police officer had said that when he first placed Ida under arrest, Ida had said, "I know about

the Peeples woman, but I don't know anything about the other haole woman." This was before the rape case had even been mentioned to Ida.

(17) He knew that his wife had positively identified Kahahawai as being the man who had struck her in the face and also criminally assaulted her.

(18) He knew that at the trial of the rape case it had been made to appear that his wife was under the influence of drugs when she identified the men who assaulted her, whereas in fact she had not taken any opiates of any kind until after the identification.

(19) He knew that the four defendants had all been drinking at the Waikiki Dance Hall before they assaulted his wife.

(20) After the first trial of the rape case, he had frequently seen faces lurking at his windows at his home at night.

(21) He knew that his wife had taken the number of the car as the men drove away after the rape and that police officers had taken the stand in the rape case and said that they told Mrs. Massie the number.

(22) He had been told by the prosecuting attorney not to attend the rape trial and he heard himself severely criticized for not attending on the ground that he knew that there had been no rape and for that reason he did not attend the trial.

(23) He knew that his wife's two lower jaws had to be

wired together for a period of six weeks and that one tooth which was in the fracture had to be removed.

(24) He knew that it was necessary for his wife to have an abortion performed as a result of the rape.

(25) He was told that the second trial would not proceed until they procured further evidence, although,

(a) He had found his wife beaten and bruised with her jaws broken.

(b) The tire marks of the defendants' car had been identified at the scene of the rape.

(c) His wife's beads had been found at the scene of the rape.

(d) Ida had made an incriminating statement about the other haole woman.

(e) His wife had taken the actual number of the car and it subsequently appeared that these four defendants were in the car on the evening in question.

(f) He knew that Kahahawai had struck another woman in the face on the same evening.

Q Then you said that there is one groove in a Silvertown tire and here it is three. Is that similar?

A In a way it is similar. They could add the other two.

MR. HEEN: We offer this in evidence.

MR. WIGHT: I would like to ask some questions first.

MR. HEEN: I'm not through with the witness.

MR. WIGHT: No, I want to ask him concerning this type.

THE COURT: Proceed.

MR. WIGHT: (To witness) Do they change the lines in tires as the tires become of newer types?

MR. HEEN: I want to object to that. That has nothing to do with the exhibit at present.

THE COURT: Is there any objection to this exhibit? What evidence have we that that is a Goodrich tire?

MR. HEEN: He said it was a Goodrich Silvertown.

THE COURT: He didn't say so. You showed him the picture and asked him for comparisons.

Q Is that a Silvertown Goodrich tire?

A That print is similar to a tire like that.

MR. HEEN: We offer that in evidence.

MR. WIGHT: No objection.

THE COURT: Alright, mark it as an exhibit. Defendant's Exhibit one.

Q Mr. Benton, you testified this morning that when you went down to this place on the Ala Moana Road you saw, at the entrance to the old animal quarantine property, tire marks; and you stated that according to those tire marks at that point you thought that car that had--you thought

that the car that was operated with those tire-marks was going at the rate of forty miles an hour.

A If I'm not mistaken I said thirty miles an hour.

Q Thirty miles an hour?

A Yes.

Q If you said forty miles an hour, that was a mistake? Is that right?

MR. WIGHT: I object to that. I don't think there is any evidence that he testified to the speed. I think he said "very fast".

MR. HEEN: No, no. He gave the mileage.

MR. WIGHT: I don't remember anything about that.

Q Well, you said thirty miles an hour?

A I'll say thirty, yes.

Q And you judge,--Your judgment is based simply on the markings of the tire at that time,-- when you examined the marks?

A My judgment is based simply that I have had experience with quite a lot of automobiles; and travelling on this loose dirt, it would kick it up to that effect.

Q Based on your experience?

A Yes.

Q What kind of dirt did you see there at that time?

A Loose wet gravel.

Q Number four gravel or number three gravel?

A I am not familiar with the numbers of gravel. It is just loose gravel.

Q When you say "gravel", you mean the fine gravel that they throw on the road?

A I mean gravel. Dirt and sand mixed,- whatever it might be.

Q You saw by the appearance of loose dirt, sand and gravel, the way it appeared, that in your opinion or judgment it was going thirty miles an hour?

A Yes.

Q Explain to the jury how that marking appeared. How that gravel appeared.

Q It was all torn up. Entering from the Waikiki side and it started in and made a right turn over this place here over by the mudhole, tearing up this wet dirt all the way.

Q Which way did the gravel seem to have been spread by the tire?

A From the track it was spread everyway.

Q Could you measure the distance that spread was at that time from the center of the tire?

A I didn't measure it, no; but on the other side it was piled up and scattered.

Q If that had been only sand, how far would that sand have spread going thirty miles an hour?

A According to how deep it was.

Q How deep was that?

A Spread about the same as gravel did.

Q Supposing it was mud, how far would that spread going thirty miles an hour?

A Mud wouldn't spread so far. Your car would skid.

q As a matter of fact, there was no gravel down there.
There was nothing but sand.

A It is the same as it is now; mud, dirt, gravel and sand.
It was wet at this particular time. I don't mean soaking
wet but ordinary wet.

q Did you have a ruler with you at that time?

a No, sir.

q Did you have a tape measure?

a No, sir.

q I show you now what appears to be a Goodyear Allweather
tire (handing witness newspaper advertisement). From your
knowledge of Goodyear tires, would you say that this picture
here in the newspaper clipping is a Goodyear All-weather tire?
That is marked "Goodyear All-weather.

a Perhaps that is the very latest one they have had.

q You don't know how long that has been out?

a No.

q You notice according to this picture here there are four
grooves and that this criss-cross marks don't extend over the
whole tire?

a Yes.

q So that is different from the picture you drew on the
blackboard?

a Yes, it is different.

q You have seen the All-weather tire like this Goodyear?

a I have seen heavy-duty like that but I have not seen
All-weather like that yet.

q Is it different between the double-eagle and the All-weather?

a They are different, yes.

q I show you what purports to be a Double-Eagle Goodyear. Will you look at that and look at the other side: All-weather.

a Some of the markings are the same. The others are quite different.

q I mean on that sheet of paper there. There is no difference between the Double-Eagle and the All-weather?

a There's a difference.

q Where's the difference?

a On your side there's an extra row of diamonds.

q In the--

a (Int) Double-Eagle

q Double-Eagle. How many rows of diamonds are there on the side?

a One extra row on the other side. This row here that your Goodyear tires haven't got. This is not on the bottom in going round a curve or rounding a corner. This is on the other side.

q According to the picture here, there are two full rows and a half-row?

a Yes.

q According to the All-weather, on this side you have one and a half?

a Yes.

q That is the only difference?

a Yes.

MR. HEEN: We offer it.

MR. WIGHT: I want to show that this thing says "New style Goodyear Pathfinder". It may be the first out. This tire he testified to is an old, old tire. I'll object to that.

q Now, Mr. Benton, what time in the morning,- early in the morning was it when you went down to this place on Ala Moana road?

a Three A.M.

q How do you remember that?

a I remember looking at my watch at the scene.

q At the scene?

a Yes, sir.

q Did you make a note of that?

a I did not.

q What time did you leave there.

a I left there about ten to four.

q And went back to headquarters?

a Yes, sir; to report my findings to Chief McIntosh

q And you wrote out a report?

a Yes, sir.

q Giving him all your findings?

a Yes, sir.

q What time did you write out the report?

a Approximately at four o'clock A.M.

q Did you make a note of that?

a I did not.

q How do you remember it?

a I remember. I glanced over my report a couple of days ago.

q Why did you glance over your report a couple of days ago?

a From general habit, I glance over the report. In reading it over, I read that.

q Didn't you read it over to refresh your recollection, knowing you were going to be called as a witness here?

a In one way, yes.

q Now, what did you find down at this place?

a I found a ginger-ale bottle, muddy yet, with the odor of intoxicating liquor in it; I found two boxes of matches; one parrot brand and one lancer brand; a package of Lucky Strikes cigarettes - may be two or three had been used; and a ladies' pocket mirror, orange color.

q Anything else?

a That's all.

q Did you find some money there?

a No, sir.

q How many packages of Luck Strikes did you find?

a One.

q Find any cigarette stubs there?

a No, sir.

q Didn't you find two packs of cigarettes there?

a I only found the Lucky Strikes.

q Only one package of Lucky Strikes?

a Yes, sir.

q Are you sure of that?

a I'm sure.

q Didn't you find a scarf there?

a I did not.

q Did you find a handkerchief there?

a No, sir.

q You sure of that?

a I'm sure.

q How do you remember that those two boxes one was a Parrot Brand and one was Lancer brand?

a I just remember it.

q You just remember that?

a Yes, sir.

q You thought it was worth while to remember that?

a Absolutely.

q Did you put that down in your report?

a I did not. I simply put it down as evidence.

q Did you find an empty package of Lucky Strikes there?

a I found a package of Lucky Strikes, perhaps two or three had been used.

q Did you find an empty package of Lucky Strikes?

a No, sir.

q Did you find an empty package of Camels?

a No, sir.

q Did you find an empty package of Chesterfields?

a No, sir.

q You sure of that?

a I'm sure.

q This your handwriting at the bottom of this report?

a It is.

q Is that your signature?

a Yes.

q You made that report, did you?

a I dictated it to the clerk.

q And you read it over before you signed it?

a Yes, sir.

q Now, you said you examined the tire tracks that early morning when you went down there, and you had your flashlight?

a Yes, sir.

q And you found those various makes of tire tracks, did you?

a Yes, sir; I did.

q Three of the same kind, that is: Silvertown, and one Goodyear?

a Yes.

q And you made a very close examination of that, did you?

a I did.

q And you thought at that time that that was very important evidence?

a Absolutely.

q And you reported that to Mr. McIntosh, did you?

a Yes, after finding those articles Officer Bond stayed on the scene and I taking those articles and reported my findings to Chief McIntosh.

q Did he commend you on the discovery you made on those tire tracks?

MR. WIGHT: I object to that. What difference does it make.

MR. HEEN: I want to know whether he considered this important and became more important if he was commended for it.

THE COURT: The objection is sustained. I see no relevancy there.

(Exception noted)

q Did you make any report of your examination down there?

a I reported to Chief McIntosh my findings. At the detectives' office he notified me that car number so-and-so had been picked up.

q Did you make another written report outside of this one?

a Nos, sir.

MR. HEEN: This report reads as follows: I wish to offer this in evidence.

MR. WIGHT: No objection.

THE COURT: Received and marked Defendant's Exhibit 2.

MR. HEEN: This report reads as follows: (Reads)

q Now, Mr. Benton, if you thought at the time you discovered these tire marks on those premises on Ala Moana Road that they were important evidence, why didn't you include that in your written statement?

a I simply reported my findings to Chief McIntosh and I take orders from him. If he would despatch me to that effect, then I would.

q He told you not to put it in this report?

a He didn't tell me not to put in in the report.

q He didn't tell you not to put it in?

a No, sir.

q Then, why did you leave it out?

a Because I merely reported my findings to him. When this automobile came up. Upon investigation of these particular tracks and the tires that was on this particular car, it was followed through by other detectives.

q Is that the best explanation that you can give?

a The best of my knowledge.

q What time in the morning did you make that report?

a About four A.M.

q Four A.M.?

a Yes, sir.

q When did you see Mrs. Masee?

a I seen Mrs. Masee around three A.M.

q Is that the only time you saw her?

a That's the only time.

q You sure of that?

a I beg your pardon---

q You mean that morning?

a I saw her at three o'clock. I was dispatched to the scene to try and locate it and on my return at four I saw her again.

q Where was she?

a She was in the detectives department.

q You talked to her?

a No, sir; I simply turned my findings over to McIntosh and they were identified by her.

q Mr. Benton, how were you able to tell from the tire marks whether the car was going out?

a Very easily. The marks going Ewa out of this spot traced over the ones that had gone in towards Waikiki.

q Then, how fast was the car going out from your examination of the ground at the corner there?

a To the best of my knowledge, I would say twenty miles an hour. Not as fast as they went in.

MR. HEEN: That is all.

RE-DIRECT EXAMINATION

QUESTIONS BY GRIFFITH WIGHT ESQUIRE:

q When you made this report out, had you at that time taken out car number 58895 and compared the tracks or had you made this report before that?

a I made that report before that.

q When did you realize the great significance of those tracks?

a After I made my report.

q You mean after you took the car out and compared the tracks?

a No, sir. I was ignorant of the fact that this supposed car was used in this Ala Moana case.

q You mean you learned that after you made this report?

a Yes.

q When did you take that car down for a comparison of the tracks?

*verbal
response to
9/10/68 - report
day*

a About eight o'clock.

q And this report was from four to four and a half hours before that?

a Yes.

q The report says you picked up two packages of Lucky Strikes a package of Chesterfields, some matches and a handkerchief--

a (Int) I can't recall that.

q You mean you have forgotten whether you found those there or not?

a It could be possible. I only remember a full package of Lucky Strikes.

q Now, Mr. Denton, isn't it true that the tire treads are changed quite constantly?

a Yes, changed very frequently.

q Were those new tires or old tires, - from the wear?

a They were almost worn out/

q You could just see the edges of the tread?

a Just the notches of the edge.

q Did the center ridges show at all?

a Very flat in the center.

q When you said you saw some loose gravel and you said they were going thirty miles an hour, will you show where you mean on that sketch?

a The loose gravel was piled up. Say this is your right tire mark. It was pushed over this way (indicating).

q What's that?

a The loose gravel was pushed from where the tire was cut into that. It was pushed over Ewa.

q You mean like---

a (Int) Just it came from the asphalt road into this dirt road.

MR. WIGHT: That's all.

MR. HEEN: That's all.

THE COURT: We'll take a recess now.

(RECESS)

O. D. CONGER, 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?

MR. HEEN: If the court please, Mr. Cluney was on the stand this morning and I want to cross--

MR. WIGHT: (Int) I'll put him on next. This gentleman is in charge of the lights and he is on duty and I want to get through with him so he can get back to work.

THE COURT: Alright, proceed.

q What is your name?

a O.D. Conger.

q What are you doing?

a Powerhouse operator.

q As such you turn on and off the lights in the city?

a At twelve o'clock when I go up there, they are on.

q On the night of Saturday September 12, 1931,--- On the night of September 12, 1931, were the lights on or turned on in John Ena Road and Ala Moana?

a They were on when I went on, to the best of my knowledge.

q What do you mean? You mean that the lights had been turned on by someone else so that when you went on duty those lights were already on?

a Yes. There's a man that goes around and if there's any lights not on he reports it. And if there's somebody that comes along there and parks his car and spoons, he takes a rock and throws it at them and kicks them out.

q Have you a man who is responsible for the lights being on?

a We have.

q Have you any record of any lights being out that night?

a No, sir.

q Do you know what time you turned them off?

a At five twenty-three, I think.

q Somewhere around five o'clock next morning.

a Yes, we have a schedule to go by.

MR. WIGHT: That's all.

CROSS EXAMINATION

QUESTIONS BY W. H. HEEN ESQUIRE:

Q Was the moon out that night?

a I don't remember.

MR. HEEN: That is all.

MR. WIGHT: That's all.

JOHN C. CLUNEY resumes the stand for further

CROSS EXAMINATION

QUESTIONS BY W. H. HEEN ESQUIRE:

MR. HEEN: Have you Mr. Cluney's statement, Mr. Wight?

MR. WIGHT: He didn't make a statement. I checked it up at the Police Station and at the Advertiser Office and didn't find any. I found a report made by another officer, which evidence is not admissible at this time, with ink notes here and here (indicating) which is in Mr. Cluney's handwriting. The filing of the report I cannot admit.

q Mr. Cluney, you told us this morning that in making arrests you always file a written statement or written report of your activities in connection with the arrest.

a That is the custom down there at the Police Station.

q Did you file a report that you made up yourself in connection with the arrest of Iida?

a I made a notation on that report you have in your possession now.

q Did you make any other report besides on this one?

a I made a statement, that's all.

q A written statement?

a Statement to Mr. McIntosh.

q A verbal statement?

a He took it down on the typewriter.

q Have you seen that statement recently?

a Saw it about eight days ago.

q Where is that statement?

a In the possession of the City & County Attorney's Department.

MR. HEEN I call upon the County Attorney for the statement.

MR. WIGHT: This is a statement made in my preparation for this trial. It is the same as if I had talked the testimony over with him and wrote it down. There is nothing official about it,- merely my preparation for the trial.

Q When did you make that statement?

MR. HEEN: May I withdraw that request for the time being, Your Honor?

THE COURT: Proceed.

Q When did you make that statement?

A To the best of my knowledge it was the following day.

Q About what time the following day?

A I was just going on watch,- between half-past seven and eight o'clock in the evening.

Q And was Mr. Wight there at the time you made that statement?

A I am not sure.

Q Did you sign that statement?

A I did.

Q Now, what time was it that you arrested Iida at his house?

A Either five minutes to three or three o'clock. Pretty close to three o'clock in the morning.

Q Did you make a note of that in your report?

A I did.

Q Do you recall what you put on the report?

A I put his name and address and probably his age but I'm not sure.

q Put down the time?

a I put down the time I arrested him.

q What time did you put down?

a I can recall by looking at my report.

q After arresting Horace Iida, arrested at nine thirteen thirty-one by Cluney and Black. Is that your handwriting: the ink portion of it?

a Yes.

q All of it?

a Yes, sir.

q What time did you put the notation on this report?

a Before going off duty that morning.

q What time did you go off duty that morning?

a I left on, at that time, close to five o'clock. We generally knock off at four but I stayed around there and left at five o'clock

q As a rule do you put that down on the report at the time you make the report?

a I don't exactly know what you mean.

q The time that the report is made,- that the report is made, itself,- date and time of report.

a The police officer makes out his report and puts it on the report.

q This "nine thirteen thirty-one"?

a That's not mine.

MR. WIGHT: I object to that. This is the report of another police officer.

THE COURT: The objection is well taken.

q You remember the time you put this notation on this:
three o'clock?

a Just before going off duty,- after I had Iida in the
office.

q Did you look at your time when you arrested him to know
that it was three o'clock?

a When I got back to the Police Station it was three or
four minutes after three.

q You looked at the time?

a The time I entered the stairway coming in.

q And it was three or four minutes after three?

a Yes.

q And you figure it took you three or four minutes to
come from Iida's place?

a Yes.

q And so you fixed it at three o'clock?

a Yes. And in fact his sister said it was kind of late
in the morning,- three o'clock.

q Is this your notation in your handwriting at the bottom
of the page?

a Yes.

q All of it?

a Yes.

q Arrested at 1409 Kunawai Lane at two fifty A.M. by
Cluney and Black.

a That is my handwriting.

q Which one did you put on there first,- the one saying
two fifty? Or the one that said three o'clock?

a If I can look at the report, please.

(Clerk hands document to witness)

a (Cont'g) Both made practically at the same time,- same pen.

q "hey did you put one down as two-fifty and one at three o'clock?

a I thought a few minutes wouldn't make any difference.

MR. HEEN: I offer this statement in evidence, as to the time.

MR. WIGHT: I move that these extracts be not put in.

THE COURT: The part of this document in the handwriting of the witness has already been read, has it not, in its entirety?

MR. HEEN: I think so, yes.

THE COURT: It might therefore be misleading to the jury at the conclusion of this case, thus limited. As long as it is in the record; everything that refers to this witness' report.

MR. WIGHT: I have no objection to a copy being made of it.

MR. HEEN: No, it is alright; so long as it is understood it is in evidence in the record.

THE COURT: Proceed.

MR. HEEN: Now, I call on counsel to produce that report made by this witness.

MR. WIGHT: I don't think I am called upon to produce statements growing out of preparation of my case.

(Argument)

THE COURT: There is no requirement that those written reports be produced. The request for an order is denied.

(Exception noted)

MR. WIGHT: I didn't find a statement made by this witness at the time. If it was made, I have lost it.

THE COURT: That is immaterial. The witness is here for full cross-examination.

q Now, when you got to the Police Station at three o'clock who did you see there,- little after three?

a Jardine was at the desk, myself and Black and I'm not sure whether Mr. Richard came in. I'm not sure of Richard. Myself and Black and Horace Iida, and Jardine was at the desk.

q How far is your office from Mr. McIntosh's office?

a Two doors.

q Did you go over into Mr. McIntosh's office?

a No, sir.

q What time was it that you got the call over the radio to look for this car 58895?

a I got that call,- I'm not exactly sure, but I know it was after one o'clock. I had to ring in. I was driving a patrol car and I had to ring in every half hour and I rang in at one o'clock,- little after one.

q Did you have a radio receiver at that time?

a Not at that time. I was driving a patrol car but not a radio patrol car.

q Where did you ring in from when you got information about this car?

a I rang in from the Waikiki Tavern.

q And they gave you the number of the car?

a They gave me the number of the car.

q Give you the name of the owner?

a They did not.

q They give you any address at all?

a Not at that time.

q Did you get information of the address later on?

a Yes.

q What time?

a On my way in I stopped at the Barbecue Inn and rang in to the radio department and told him if he wouldn't be kind enough to give me some information, to give me the location and description of the car and the name of the owner.

q And when you got that, you went to this address?

a I went there direct.

q And Black was with you?

a Yes, Black was with me.

q Then you took Ida down to the Police Station?

a I did.

q Then what did you do with Ida as soon as you got down to the Police Station?

a I didn't say a word to him.

q What did you do?

a I was waiting to turn him over to Mr. Jardine or Mr. McIntosh.

q How long did you wait.

a Just a few minutes.

q And then you turned him over?

a Yes, I turned him over in a few minutes.

q To whom?

a To Mr. McIntosh. When Mr. McIntosh came in, he came in

with a young lady; and a few minutes after that, called me in.

q Came in with a young lady to the office where you were at that time?

a No, to his own office. In the back office. What they call the Detective Department

q Mr. McIntosh come into that big office with this young lady?

a He did not. He went direct to his office.

q How did you happen to see him?

a I could see him from the office there.

q Down the hallway, what are those offices?

a There's the assembly room and then the inspectors department and then the Deputy Sheriff's office. Mr. McIntosh was using the Deputy Sheriff's office.

q In order to get to his office he had to go through this large room?

a No, in between there there's the Inspectors department.

q Where was Mr. McIntosh at the time you saw him with this young lady?

a I saw him come through the inspectors room into the Deputy Sheriff's office.

q And that young lady turned out to be Mrs. Massee?

a The same woman that appeared here this morning.

q About what time was that?

a About ten to twelve minutes after three. Very shortly after I got in there.

q Then did you turn Ida over to McIntosh at that time?

a Yes, Mr. McIntosh called me.

q Did Ida talk to him?

a I took Ida in there.

q Before you took him in there, you had no talk at all with Ida?

a I did. I had a talk with Ida.

q What did you ask him?

a I told him it looks pretty tough. I believe that is all I did say.

q What were you alluding to?

a I was referring to Mrs. Peoples and this assault case.

q When did you hear about the other assault case?

a At two twenty or two thirty.

q Where did you hear of it?

a From the beach when I rang in.

q Who did you talk to?

a Mr. Richard.

q And he told you there was a rape case?

a He told me to try to pick up this car because this car might have something to do with this rape case. The people in this machine or this car that assaulted Mrs. Peoples would probably be the same people that occupied the car in this rape case.

q What did Ida say to you?

a He says "I'll admit" he says "one of the boys struck this Hawaiian woman but I don't know anything about the white woman".

q Did you tell him he was suspected of having assaulted a white woman?

a I did not.

q He just said that voluntarily?

a Yes.

q Did you put that down in your written report?

a I did not.

q Didn't you think it was important at that time,- that that evidence was important at that time?

a I knew it was important evidence.

q And you didn't put it into your report?

a I did not. I was instructed to keep that under cover.

q Who instructed you to keep that under cover?

a I had a conversation with Mr. Wight.

q Did you put it into that report you made to Mr. McIntosh?

a I did not.

q Did Mr. Wight tell you why you should keep that under cover.

a He said it was good stuff.

q To hide?

a I don't know what his intentions were.

q Now how long,- What else did Ida tell you at that time?

a From that time on I had no further conversation with Ida.

q Did you have any conversation with Ida afterwards?

a I did not.

q Did Ida come out into the big detective room after he had been in McIntosh's room?

a If he did, I don't know. I waited there until pretty close to five o'clock in the morning.

q Were you there all the time?

a Yes.

q Did he come in there before you left?

a He probably did. I don't recall.

q Did Mrs. Masseur come in there at any time?

a What do you mean?

q In the Detectives' room?

a She did not.

q Did you talk to her at all at that time?

a I did not talk to her at all

q Did you hear any conversation between her and anybody else there at that time?

a I didn't hear any conversation.

q What time did you make that written report that you signed and which they refuse to produce at this time?

MR. WIGHT: I object to that remark. It is absolutely unfair. They asked me to produce my evidence so that they could rebut it. I think it is unfair. I request that the jury be instructed to disregard it.

THE COURT: The jury has been instructed, has heard the court rule that there is no duty on your part to produce that report and I assume, of course, that the jury will understand the law on the subject and will not draw any improper conclusions or deductions from the questions.

a What was the question?

(Question read by the reporter)

a The following night between half past seven and eight o'clock; just before going on duty.

q Did you tell Mr. McIntosh before you went home that morning of the 13th,- before you went home at about five o'clock,- about what Ida had said to you before Ida went into his office?

A I did not. They were investigating that case. I left.

q You knew at that time, didn't you,- you just stated that they were investigating this assault case and the Peoples case?

a Yes, sir.

q And you knew at that time that this car was suspected of being involved in this assault case on Ala Moana Road?

a Yes.

q And you knew at that time that that was very important evidence when Ida told you he didn't assault this white woman? You knew that?

a Yes.

q Knowing that, why didn't you report that that evening to Mr. McIntosh while they were making this investigation?

a While Mr. McIntosh made the investigation, I left.

I was to leave at four o'clock but I left at five.

q You knew at that time that they were investigation this assault case?

a Yes.

q And you knew that Mrs. Massee was in there?

a Yes.

q Why didn't you, having good evidence involving Ida, why didn't you do it at that time?

a I didn't do it, that's all.

q And when you made that written report on the following night, do you recall now that Mr. Wight was there?

a I don't recall.

q You said a little while ago that the evidence with reference to the statement made to you by Ida was good stuff; who was it that said that to you - Mr. Wight or Mr. McIntosh?

a Mr. Wight. He said to keep it under cover.

q Did he tell you at that time or any other time not to put it in your report?

a He did not.

q Did Mr. McIntosh tell you not to put it in your report?

a He did not.

Q Did you tell him at that time what Ida said to you on the morning of the 13th?

a Tell who?

q Did you tell Mr. McIntosh the following night when you made out the written report, did you tell him at that time what Ida told you in the morning?

a No, sir.

q Knowing that to be important evidence, why didn't you on that night tell Mr. McIntosh or tell him while you were giving him your written report?

a I was called in there and I was asked several questions

and I answered them. They are in the possession of the County Attorney's Department.

q You limited those answers to answering the questions put to you?

a I just answered the questions.

q They didn't ask you whether or not you had a talk with Ma and you didn't volunteer to tell them?

a I didn't volunteer.

MR. HEEN: That's all.

RE-DIRECT EXAMINATION

QUESTIONS BY GRIFFITH WIGHT ESQUIRE:

q Isn't it a fact that the only question you were asked when you were called in to Mr. McIntosh's office and Mrs. Massee was there you gave him the number of the automobile, 58895, on a piece of paper?

a Yes, and I went out.

q Was or was not Mr. McIntosh busy from that instant until you left?

a He was busy.

q You know with what people?

a He had several people there: Mr. Massee was there and I think Mrs. Massee. Mrs. Massee and possibly other people.

q Would you or wouldn't you say he was very busy?

a He was very busy.

q Isn't it a fact that I was in that office from four P.M. to two P.M. the next night?

MR. HEEN: "e object to that as leading.

MR. WIGHT: Withdraw it.

q Do you know what hours, if at all, I was present down in the Police Station in Mr. McIntosh's room Sunday afternoon and evening?

a I think I recall of seeing you there in the early part of the evening, about half past seven.

q What time did you get down there?

a I generally get down there between half past seven and quarter to eight but I was a quarter of an hour early.

q Were you at the Police Station that evening or out on patrol?

a Just as soon as I gzeve my testimony there I went out.

q And, then, you saw me that Sunday evening?

a I think so.

q You remember what room you saw me in?

a In the Deputy Sheriff's office.

q Who was present in that room besides me? Any police officials besides me?

a Yes.

q Who?

a Mr. McIntosh.

q Any others?

a As I said, I don't recall now.

q Isn't it a fact that if you put anything in the nature of a partial report down there it leaks out?

MR. HEEN: Oh, we object to that as leading.

THE COURT: He may answer it.

(Exception noted)

q Isn't it a fact that when you put in a special report it leaks out and gets in the newspapers?

a We make three copies; one goes to the reporters' file, one to the Deputy Sheriff and one for our file.

MR. WIGHT: That's all.

RE-CROSS EXAMINATION

QUESTIONS BY W. H. HEEN ESQUIRE:

q And because one goes to the reporters' table, is that the reason why you didn't put in that report of yours this conversation with Ida.

a That's not the idea.

q Now, when was it you had your talk with Mr. Wight about this conversation with Ida?

a About a month ago, I believe.

q How long time after this --- About how long after September 12th?

a I would say about a month ago.

q That would be about the 19th of October?

a About that time.

Q Did he ask you about it?

a No, I volunteered. I told him about it.

q You volunteered that.. Why didn't you volunteer that to Mr. McIntosh before you volunteered it to Mr. Wight?

a Well, we just happened to be talking about this case and I remembered the exact statement Mr. Ida made to me that night.

Q Alright. Now, you said that on this night or early in the morning when Mr. McIntosh was there in his office with Mrs. Massee, you walked in with the number of the car?

a On a piece of paper.

q You gave that to Mr. McIntosh?

a I did not. I showed it to him.

q Did he take it down in writing?

a I walked in there. I took Ida along with me. Mrs. Massee was sitting down by the desk. He said "What's the number of the car". I had it on a piece of paper and I showed it to him like this (indicating) and he pointed to the number he had on his blotter.

q Did he ask you to bring that number in at that time?

a He asked me what was the number of Ida's car.

q What's when you took Ida in there?

a Yew.

MR. HEEN: That is all.

MR. WIGHT: That is all.

THE COURT; We will recess until tomorrow morning at nine o'clock.

(ADJOURNED)