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

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TERRITORY OF HAWAII,

vs.

BEN AHAKUELO, HENRY CHANG, JOSEPH
KAHAWAI, JR., HORACE SHIMITSU IDA
and DAVID TAKAI,

Defendants.

No. 11.782

.....
The above entitled matter came duly on for hearing
on Monday, November 23, 1931, at 9 o'clock a.m.,
all parties to the action being present in Court,
and the following further proceedings were had and
testimony taken:

(Stipulated defendants and jury all present)

CLAUDE F. BENTON

a witness for the Territory, was recalled for further
cross examination and testified as follows:

CROSS EXAMINATION (Continued)

By William H. Heen, Esq.

Q This diagram of the tread of tire that you first
drew on this blackboard, the largest, what was that one?

A A Seiberling.

Q What was that one? (Indicating another drawing.)

A Goodyear.

Q Goodyear what?

A Goodyear heavy duty.

Q Is that the Double Eagle?

A No, sir.

BENTON

Q I think this was the third one. Which was this?

A If I am not mistaken I drew this one.

Q Which was that?

Q Pathfinder.

Q That is a Goodyear tire, is it?

A Built by Goodyear Rubber Company.

Q And this one was a Silvertown?

A Yes, sir.

Q You said that the next morning after you first examined the tire marks on these premises, the old animal quarantine station off Ala Moana road, you went down there again to make comparison of the tire marks with the tires that were on the car that Ida had?

A I did.

Q When you said the next morning, do you mean the same Sunday morning or Monday morning?

A It was the following morning. If this case had taken place early Sunday morning, this was Monday morning that we went.

Q It was early Sunday morning when you first went there, about three or half past three in the morning?

A Yes, sir.

Q Did you make a report of what you did on that second trip down there?

A I did not, not in writing, only by words.

Q Was there a stenographer present when you made that

Q You reported to Mr. McIntosh?

A Yes.

Q Wasn't it about ten o'clock Monday morning you went down there?

A No sir; between 8 and 9.

Q That is when you went with Mr. Lau?

A Yes.

Q And Ida?

A Yes, sir.

Q Did you go down there between the first time and that time you went down there with Mr. Lau and Ida?

A No, my first time was there three a. m. Sunday morning. I went to the station to file my report at four and returned and stayed until daylight.

Q Didn't you go down there again before you went there with Lau and Ida?

A That was the next time I was there, when Lau and Ida went.

Q The second time?

A The third time.

Q I asked you if you went down there a second time?

A I was there the second time at 4 a.m. Sunday. This would be the third time I was there.

Q So you did go down there once about three o'clock?

A Yes, sir.

Q ... about

A I did.

Q You made a report that I think is in evidence. This report which is marked Defendant's Exhibit 2, that is the first report of your investigation at 3:30 a.m.?

A Yes, sir.

Q On that date, September 13, 1931?

A Yes, sir.

Q Then you went down again at about 4:15 in the morning?

A After I made this report; yes, sir.

Q About 4:15?

A Yes.

Q And Officer Bond was still there?

A Yes, he remained there.

Q You had a radio patrol car at that time?

A I did.

Q And you came back with that car?

A Yes.

Q What kind of tires have you on the radio patrol car?

A I think U. S. Royal cord.

Q All?

A Yes.

Q How did you go back there at 4:15?

A I went back on my radio car.

Q Did you make a further investigation at 4:15?

if we could find any other articles that might be left around in the woods or brush but daylight came and we were unable to find any other articles or anything like that.

Q Did you make a report of that?

A No, sir; not in writing; only by words.

Q Did you at the time you examined the tire marks, between 3 and 4 in the morning, of that Sunday morning, place any marks on the tire marks that you examined?

A You mean the prints that was left in the mud?

Q Yes? Did you make any marks to identify those marks later on?

A I did not.

Q On Monday morning when you took Mr. Lau down there you took Mr. Lau to observe the comparisons, did you not?

A Yes.

Q And you asked Mr. Lau to take his camera?

A I didn't ask him.

Q He took his camera down there with him?

A He did.

Q And he took white powder with him?

A That I can't say.

Q Then you showed him the tire mark that appeared to be a Silvertown tire mark?

A Yes.

Q On what side of the puddle was that, the right or

A It was on the right side as you go in, near the brush?

Q There was nothing on the opposite side?

A The opposite side was in soft mud and made no impression.

Q There was no tire mark on the opposite side?

A Not at that particular spot?

Q Did you tell Mr. Lau at that time to take a photograph of the tire mark?

A I asked him if he was going to photograph it. I didn't tell him to take a photograph.

Q Was that before or after Ida's car was run alongside of that mark?

A That was on our way down that I asked him that.

Q Did you run Ida's car alongside of the other mark at that time?

A I did.

Q Then did you again ask Lau to take the photograph?

A I did not.

Q Did he take a photograph?

A Not in my presence.

Q You were there all the time together?

A Yes.

Q And you left there together?

A Yes.

Q So all the time you and he were there he didn't take a photograph of those prints?

Q And at that time did you not tell Mr. Lau that that mark you saw there was a different mark from the mark you saw in the morning at 3 o'clock?

A I did not.

Q Did you have a conversation with him at that time that he would not take those marks because you told him that was not the same mark you saw at three o'clock in the morning?

A No, sir. I have no jurisdiction over him to tell him what to do. I merely showed him the two marks in comparison.

Q Did he tell you at that time why he didn't photograph those marks?

A He did not.

Q Did he later on come to your house in the evening and talk to you about those marks?

A How much later?

Q A few days or sometime later?

A The only time he was at my house was the other evening.

Q Friday evening?

A I don't recall the evening, for I have been sick in bed for two weeks.

Q And when he called you had a discussion about those marks?

A About the day it was, and time.

Q When you found the ginger ale bottle down there you handled that ginger ale bottle very carefully,

did you not, to see, whether or not there might be any finger prints on the bottle?

A I did.

Q And you likewise handled the mirror very carefully for the same purpose?

A Yes.

Q And when you returned to the police station you turned over the ginger ale bottle and mirror to Mr. McIntosh?

A All findings I turned over.

Q Do you know if the bottle and the mirror were examined for finger prints?

A Outside of myself examining them I don't know, but the ginger ale bottle was so dirty and wet it was impossible to see a print.

Q Did you try to see if there was a print yourself?

A Yes.

Q With your naked eye?

A Yes.

Q Not with a microscope or magnifying glass?

A No.

Q So as far as you know there have been no finger prints identified as being identical with the finger prints of these defendants?

A So far as I know, I don't know.

Q Where is the ginger ale bottle?

A That I can't tell you.

Q Where is the handkerchief?

A That I can't tell you.

Q Where are the two packages of cigarettes, the Chesterfield and Lucky Strike?

A My answer is the same.

MR. HEEN: That's all, if the Court please.

JOHN McINTOSH

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 McIntosh.

Q What is your occupation?

A Captain of detectives.

Q City and County of Honolulu police force?

A Yes.

Q Were you such on the 12th and 13th of September? 1913?

A I was special investigator at that time on the police force.

Q On that date did you see a man by the name of Ida?

A I did.

Q Can you point him out?

A The man with the brown suit - brown coat, and green shirt (Indicating the defendant Ida.)

MR. HEEN: May I inquire if this is your last witness?

MR. WIGHT: I believe so.

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MR. HEEN: At this time I would like to have Mrs. Massie recalled for further cross examination on account of discovering certain evidence after she left the stand, and we have to lay a foundation for that evidence.

MR. WIGHT: They have the right to recall her as their own witness.

MR. HEEN: No, it is further cross examination. I am addressing this to the discretion of the Court.

THE COURT: I think it would be proper.

MR. WIGHT: That poor woman went through a two days' examination. I think she went through a merciless cross examination.

THE COURT: Is there just one point you wish to take up with Mrs. Massie?

MR. HEEN: Yes, we have what we consider impeaching testimony and we have to lay the foundation for it and this evidence was discovered by us yesterday morning.

THE COURT: You will have Mrs. Massie recalled.

MR. WIGHT: I don't know what time I can get her here, your Honor.

Q When you first saw this man that evening, about what time was it?

A It was in the morning, Sunday morning a little before 3 o'clock, a few minutes before 3.

Q Did you have any conversation with him?

A A short conversation at that time.

Q What was said at that time, if you remember?

A I asked him who was in his car that night. He said he was not in his car; he had loaned his car to some Hawaiian boys.

Q What else was said?

A I asked him who they were and he said he didn't know; he had been away for about five years and knew the boys but didn't know their names. I asked him if he was in the habit of lending his car to unknown men. He said he knew them but didn't know their names.

Q Did you have any later conversation in regards to the occupants of the car that evening?

A Yes, ich later.

Q What did he say at that time?

A He ~~said~~ said he loaned the car to the boys he knew as Benny and Joe.

Q Did he say whether or not he was in it at the time?

A He denied he had been in the car.

Q Did you have any further conversation with him about the occupants of that car?

A I did much later.

Q What did he say at that time?

A He said that this car had been in a collision and he was in the car and didn't want to give ~~names~~ the names of the boys - pardon me - a near collision, I should say, and didn't want to give the names of the boys

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as he didn't want to get them in trouble.

Q Did you comment on that to him?

A I did. I asked him why he had lied about it.

Q What did he say?

A Well, he said his reasons for lying about it was he didn't want to see the boys get in trouble.

Q Did he say what boys would get in trouble?

A That was after he had been arrested he said the boys were riding with him in the car.

Q I want you to look this coat over. Whose signature is that?

A That's my signature.

Q Whose signature?

A It is Ida's.

Q Did you see him write it?

A I did.

Q Where did you get that from Ida?

A At the police station.

MR. WIGHT: I offer the coat in evidence.

(Coat offered in evidence received and marked:

"Prosecution's Exhibit B")

Q Did you or didn't you have any discussion relative to that coat with Ida in connection with the night of September 12th or morning of September 13th?

A I did.

Q What did he say about that coat?

A I asked him if he had worn that coat Saturday night and he said he had not.

Q Anything else?

A He said that he had it in the car, but didn't wear it.

Q Did he say anything else prior to that?

A I don't remember.

Q Didn't he say in my presence and your presence that he didn't have the coat with him at all that night?

A That's true. That is what I said, and then he admitted he had it in the car.

Q I was present during this conversation?

A Yes.

Q And then he said he didn't wear it that night but had it in the car?

A Had it in the car.

Q Did he say why he had it in the car?

A He didn't say.

Q Did you happen to examine any part of the person of Joe Kahahawai?

A Yes. One of his hands, the right hand, I believe.

Q What did you notice on that hand?

A There was a scab on the right knuckle of that hand, and it had been recently split across the scab.

Q Did it show anything?

A It showed blood.

Q An old scab with a new break in it?

A Yes.

Q Did he say anything about that mark?

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A I asked him how he came by that cut and he said he was a boxer and had been punching the bag at the National Guard Armory.

Q Did he say anything about the cut in the scab?

A I asked him how the cut came to be in that state and he gave no excuse for it.

Q Who was present when you discovered that scab and cut?

A You were present yourself, and I believe Mr. Silva of your office was present.

Q Do you know who discovered that cut in his hand?

A Furtado, I believe - no, I wouldn't be sure. I don't know.

Q You would not know if it was I or not?

A No, I don't know.

MR. PITTMAN: We will give you the credit for it, Mr. Wight.

MR. WIGHT: Thanks.

Q About what time did you see Mrs. Thalia Hubbard Massie that night?

A She was brought to me a few minutes after 3 o'clock Sunday morning.

Q Where did you take her?

A To the office that David Hao, deputy sheriff, was using.

Q Who was using that office at that time?

A I was.

Q Who else was in that office at that time besides

you and Mrs. Massie?

A No one.

Q Did she make a report to you.

A She told me she had been criminally assaulted.

Q Where?

A On the Ala Moana Road.

Q Did she say anything else?

A I got Mrs. Massie in a chair and asked her to tell me the story, which she did. I will relate the story to you if you wish.

Q You may.

MR. HEEN: Did you make notes?

A I have the original notes made here at the time.

MR. HEEN: In shorthand?

A No, in longhand.

MR. HEEN: Did you go through that this morning to refresh your recollection?

A Not this morning, no.

MR. HEEN: A few days ago?

A I did.

MR. HEEN: May I look at that, please.

(Note book handed to counsel)

Q To the best of your memory what did she say that night?

A Mrs. Massie told me she was the wife of a Navy officer living at Manoa. She and her husband and two other couples left the Massie home about 9 o'clock that evening to go to the Ala Wai Inn. She said

along about midnight she left the Inn to go for a walk in the fresh air and proceeded along Kalakaua Avenue, across the bridge, turned to the right down John Ena road. She proceeded down John Ena road about two blocks when a car came up behind her and stopped. Two men jumped off the car and dragged her into it. She struggled. One of them put his hand over her mouth. She struggled and they fought her and drove the car along Ala Moana for some blocks, turned into the trees on the right hand side of the road, dragged her out of the car and there criminally assaulted her. I asked her if she meant they had raped her and she said "Yes." I asked her if she knew what nationality they were. She said she should say Hawaiians. I asked her how many assaulted her and she said five or six.

I also asked her how many were in the car. She said at least four. I asked her what kind of car it was and she said she thought it was a Ford. I also asked her if she got the number of the car. She said as far as her memory could serve her she thought the number was 58-805. That she said she got as the car sped away, just got a fleeting glimpse of it. I asked her if she would know the car again. She said she might if she got a rear view of the car and could see and feel the back seat. I asked her if she would know the boys. She wasn't sure.

Q While you were in there with Mrs. Massie did anybody come in or did you send for anyone?

A I sent for Benton. I told Benton that Mrs. Massie had been criminally assaulted on the Ala Moana road and listening to her story that she had been picked up at John Ena and driven Along the Ala Moana toward town. Benton said that he thought the most likely spot would be the old animal quarantine station.

MR. HEEN: Objected to.

THE COURT: Yes, the jury will disregard that.

A (Continuing) I instructed Benton to go down to that place to the old quarantine station and make an examination and search the place and see if he could find any traces of an assault being committed there. He wasn't there very long before he came back with a small pocket mirror. At that time I was taking Mrs. Massie's statement in writing - a couple of boxes of matches, an old handkerchief, a man's handkerchief which was mildewed and in a filthy condition, an empty bottle which had been in the weather for some time.

Q And any cigarettes?

A And he found a package of Lucky Strike cigarettes, some of which had been used. This he found near an old slab in the Quarantine Station. These Mrs. Massie identified as hers.

Q Did you call anybody else in the office?

A Not to my knowledge.

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Q Did you see Officer Cluney that night in your office?

A Yes.

Q When she gave you this number of 58-805, what did you do?

A I wrote it on my blotting pad on my desk.

Q Was this before or after Cluney came in?

A That was before.

Q What happened when Cluney came in?

A I asked Cluney what was the number of the car that they had been searching for, and he pulled a piece of paper out of his jumper - he was wearing a jumper that night - and he showed me that paper and the number on that was 58-895.

Q When was the first time you had heard that number 58-895?

A Not until I called Cluney in.

Q And that was after you had written the number Mrs. Massie had given you?

A Yes.

Q Did you notice Mrs. Massie's appearance as to clothes?

A One eye was partially closed, her mouth was swollen and cut and there were iron wood pine needles in her hair, and her hair was hanging down.

Q I show you a package. Have you seen that before?

(Handing witness Exhibit G)

A Those beads were handed to me by deputy sheriff Hoopai the following Sunday morning, before noon.

Q Have you seen that before?

A Yes, that is the mirror handed over by Benton.

Q Have you seen that before?

A Yes, this was turned over by Hoopai Sunday forenoon.

Q Have you seen that? (Indicating Exhibit A)

A That was turned over to me on Monday night, the 14th, by Mr. Bellinger.

Q Can you name these defendants?

A Ben Akueli, Henry Chang, David Kahahawai, Ida and Takai.

Q Do you mean "Ahakuelo" when you said "Akueli"?

A I am very poor in pronouncing Hawaiian names.

Q When you spoke the names do you go from your left to your right?

A Yes.

Q Did you have any talk with these men with reference to their routes?

A I did.

Q What route do you refer to when you said that?

A They said they had been to Waikiki Park dance on Saturday night and the ride they took from there to come to town.

Q Would you give each one's individual statement as to his route that he took in that car?

A Well, Ben said when they left the park they

turned from John Ena road into Kalakaua, along Kalakaua Avenue up to Kalakaua Extension to Beretania Street and along Beretania Street to Fort and from Fort to School Street, - Correas' place, and from there down to Liliha and King.

Q Who said about going from Correas' to Liliha and King?

A Ida and the others.

Q Did Ben say that?

A No, he didn't say that. Ben said he got off at Correas and stayed there.

MR. WIGHT: I ask that we have another blackboard.

(Another blackboard was brought into the court room)

MR. HEEN: We object to any writing of the testimony on the blackboard. That is highly improper. It would be the same as a juror taking notes.

MR. PITTMAN: We object to Mr. Wight drawing.

Q Well, will you draw here a picture of the routes the various men say they took that night?

A (Witness draws on board) Here is the park, John Ena Road, Kalakaua and Kalakaua Extension, Beretania Street here, Fort and School.

Q What is that mark in the center?

A This is ^{the}ing. Ben said when they left the park, up to John Ena road and Kalakaua, and Chang covered the same route.

Q The same as Ahakuelo?

A Yes. Chang and Takai all said they followed that route.

MR. HEEN: We object to that, this making notes of the testimony, and it is highly improper. They can put down the diagram, but they can't put on there who made these various statements.

Q All right. Make three diagrams on that board.

A (Witness draws on blackboard) This is the route Ida said they took - (Drawing on board) Park, Kalakaua, King Street to Keeaumoku and Beretania.

MR. HEEN: You mean King Street?

A This is King Street here.

Q And the rest of the route the same?

A Keeaumoku here, Beretania Street here, over to School.

Q Put crosses across all.

A This is Ida's route, the park, John Ena road, down Kalakaua to King, up Beretania Street to Fort and over to School Street.

Q Where would Kalakaua Avenue extension go on that map?

A Here (Indicating)

Q Did you talk to the defendant Kahahawai about his route?

A Kahahawai said John Ena road, Kalakaua, King, Fort, - this is part - John Ena road, Kalakaua. He said they came up Kalakaua to King Street and along King to Fort Street and up Fort to school.

Q In other words, not on Beretania Street at all?

A Not on Beretania Street at all.

Q Did they state what car they were in that night?

A They were all in Ida's car.

Q All stated that?

A All stated that.

CROSS EXAMINATION

By William H. Heen, Esq.

Q King Street runs more or less parallel to Kalakaua Avenue, does it not, before Kalakaua Avenue makes the turn into King Street, before Kalakaua turns into King Street (Counsel draws on blackboard) - would that not appear to be more accurate than your diagram?

Ena road runs mauka?

A Yes, that's more accurate than mine.

Q What time were you on duty Saturday night, September 12, 1931?

A I was on duty all that day with the exception of dinner hour and I was on duty right up until daylight Sunday morning. I was doing special work all night.

Q What time did you go on duty?

A I went on duty Saturday morning at 8 o'clock and stayed until 5 o'clock Saturday afternoon, went home to dinner and came back to work all that night.

Q Did you have a preliminary talk with Mrs. Massie before you started to write a statement down?

A I did.

Q How long a talk did you have with her at that time before you started to write?

A It would not be much more than ten or fifteen minutes.

Q On your direct examination you stated that she told you it was about midnight when she left the Ala Wai Inn to take a walk for fresh air?

A That is what she told me in her statement - "around about midnight" + think are the words she used.

Q Now it appears in your written statement that you took at that time, on page 4 of this book, you have this "Around 12:30 or 1 a.m. I decided to go for a walk and some air".

A If that is there, that is what she said.

Q Between 12:30 and 1 a.m.?

A I don't dispute that; if that is there that is what she said.

Q I want you to see it. Probably you might disbelieve my statement?

A No, I don't disbelieve. That statement is as she made it.

Q And she told you at that time, did she, that she thought there were only four men in the car?

A I think she said at least four.

Q Do you remember whether or not she told you "There were two in the back seat; they were Hawaiians." I

am reading this with Mr. Wight checking me.

A Yes.

Q There were two in the back seat, they were Hawaiians. Do you remember her saying that?

A Yes.

Q In this written statement of yours taken at that time she said many other things and as written by you "I told them in the pocket book - " "I begged and pleaded with them to let me go and offered them money to do so. They asked me where the money was and I told them in the pocket book. They grabbed the pocket book. There was no money in it." If that is written by you in this book that is correct? She told you there was no money in the book?

A That's correct.

Q On your direct examination you said she was assaulted five or six times. I think that is correct, is it, Mr. Wight?

MR. WIGHT: Yes.

Q Did you make that statement on direct examination that she told you she was assaulted five or six times?

A I did.

Q It appears in this written statement made by you at that time she said "I was assaulted six or seven times." This is correct, is it, as against your statement on direct?

A That statement is absolutely correct.

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Q Did she tell you what nationality these men were in that car that picked her up?

A She should say Hawaiians.

Q Did she say "I think they were Hawaiians" or "I should say they were Hawaiians"?

A I think she said "I should say they were Hawaiians."

Q If it appears here, "What nationality were they?"

"A. Hawaiian" - If she said that you are mistaken, are you not, when you say she stated "I suppose they were Hawaiians"?

A I think I repeated that question. I think later on you will find she said "I should say they were Hawaiians."

Q And in reference to this car number, you have it written down here as her answer "I think it was 58-805; I would not swear to it. I must have just got a fleeting glimpse of it." That is correct?

A Those are her words.

(Recess)

Q Now, Mr. McIntosh, at the time you had this conversation with Mrs. Massie early Sunday morning September 13, 1931, did she say at that time she heard the name "Bull" mentioned several times while she was being assaulted?

A She did.

Q Did she give any other name?

A "Joe" or some such name.

Q And she said "Some common name like Joe or something like that?"

A Yes.

Q She wasn't sure about that?

A No.

Q She was sure about the name "Bull?"

A She said she heard the name "Bull" and some such name as Joe.

Q Did she say she heard the name Shorty?

A I don't think so.

Q If she had, you would have put that in your written statement?

A Certainly.

Q And, not appearing in this statement, she didn't mention the name Shorty?

A She couldn't have.

Q Did she tell you at that time that she heard the name "Benny" or "Billy" mentioned?

A I don't think so. I think she just mentioned two names, "Bull" and "Joe".

Q "Bull" and one that sounded like "Joe"?

A Yes.

Q Who brought her down to the police station?

A To the best of my knowledge I think it was Jardine. I wouldn't be positive of that.

Q Have you any note as to what time she arrived at your office?

A No. I should say approximately three or a little

after perhaps. I have no note.

Q It appears in your written statement, page 2 of this book, that this statement was made at 3:30 a.m.?

A That is correct. That is when I started writing her statement.

Q That is when you started to write?

A Yes.

Q So she was there? --

A Prior to 3:30.

Q Sometime before that?

A Yes.

Q About half an hour or a little less than half an hour?

A Any time within half an hour.

Q You made a very searching investigation about this case, haven't you?

A To the best of my ability.

Q Mrs. Massie told you that if she saw the back of this car and the back seat of this car she might recognize it?

A She did.

Q Did you show her the back seat of the car?

A I did.

Q Were there any distinguishing marks in the back seat of the car?

A Not in that particular car.

Q Did you show her the Ida car, 58-895?

A I did.

Q Was she unable to point out anything in that car?

A She wasn't able to identify the car.

Q Did you show her the back of the car?

A I did.

Q Were there any distinguishing things about the back of the car aside from the number?

A Not from which she could identify it.

Q You made a thorough examination of that car?

A I did.

Q Did you find any beads in that car?

A I did not.

Q Did you find any blood spots in that car?

A I did not.

Q Did you look for finger prints?

A I did.

Q Did you find any finger prints that compared with the finger prints of Mrs. Massie?

A There was nothing on the car that could be used for purpose of comparison.

Q You took finger prints of Mrs. Massie?

A I did not. There was a conglomeration of finger-prints on the car and they couldn't be used for examination.

Q Who took the finger prints?

A Mr. Lau.

Q When was that?

A I don't know whether it was the following morning, Monday.

Q It was very important to make that examination as soon as possible?

A Exactly.

Q Did you turn the ginger ale bottle over for examination to see if there were finger prints?

A I did, but that bottle had been in the weather for some considerable time. I could tell that, and his examination was negative.

Q Did you give him the mirror for examination for finger prints?

A No, I did not.

Q Did it strike you at that time that a piece of glass might show finger prints?

A Well, Mrs. Massie had handled it and I may have handled it, and it was handled by Benton.

Q Mr. Benton told us he handled that very carefully so they might perhaps find finger prints on it?

A It was not examined for finger prints anyhow.

Q Did you smell liquor in the ginger ale bottle?

A Faint, yes. It had had alcohol of some kind in it.

Q Where is that ginger ale bottle?

A That I can't say; as it was negative I didn't keep it, as I saw it had been in the weather for some considerable time. It was one of the innumerable bottles you might find down there.

Q Where is the handkerchief?

A It was also out in the weather. It was filthy and in a mildewed condition and it had also been lying so for considerable length of time.

Q Did you look for a laundry mark on that handkerchief?

A I did.

Q Did you find any?

A None.

Q Did you ask the boys if they could identify that handkerchief?

A They were not asked.

Q Where are the empty cigarette packages?

A I don't know if I received any.

Q Mr. Benton testified he turned over to you his findings down there, which included two empty cigarette packages?

A I don't remember them. I remember a package of Lucky Strikes.

Q When Mrs. Massie told you that she thought she might be able to identify this car by looking at the back seat and looking at the back of the car do you recall whether or not at that time she told you the back of this car was loose and was flopping?

A No, she didn't.

Q Did she tell you why she would be able to identify the car by looking at the back seat and the back of the car?

A She did not.

Q You stated that you spoke to Ida early that morning, Sunday, September 13th, at your office?

A I did.

Q Did you speak to Ida before you spoke to Mrs. Massie?

A I did.

Q About what time was that?

A I should say it would be about from very close on to 3 o'clock.

Q Did you make a note of his statement?

A I did not.

Q No memorandum of any kind?

A None at all. At that time I didn't know there was any likelihood of a link-up of Ida in this particular case.

Q Where did you talk to Ida?

A In my old office.

Q In your own office or deputy Sheriff Hao's office?

A I was using Deputy Sheriff Hao's office at that time, and I spoke to him in Finnegan's office.

Q Was he there?

A He may have been there. Finnegan may have been there, I don't know, what others may have been there.

Q See if you can recall whether Cluney was there?

A I would not say for sure.

Q Cluney brought him there, didn't he?

A Cluney brought him in, Cluney and Black.

Q Did Cluney at that time have this leather jacket on?

A He did.

Q What kind of trousers did he have on at that time?

A If I am not mistaken + think he had on light trousers. They may have been flannels.

Q Like you are wearing?

A Somewhat like I am wearing.

Q You may be mistaken about that, may you not?

A I may.

Q As a matter of fact he had on dark trousers?

A I would not be sure, but if I am not mistaken they were light.

Q How long did you talk to Ida before Mrs. Massie appeared?

A A very, very short time.

Q So he told you he didn't know the boys who were driving that car?

A He said he loaned the car to some boys.

Q And didn't know their names?

A Didn't know their names.

Q Didn't you ask him that night whether or not he was wearing that leather jacket coat and he said that --

A Not that night. Sunday night, yes.

Q And he told you he had been wearing it that night?

A He told me on Sunday night he had not worn it.

Later he said he had it in the car.

Q When Mrs. Massie appeared did you tell Mrs. Massie to look at Ida?

A I did not.

Q Did you observe Mrs. Massie looking at Ida?

A Ida wasn't in the office when she was with me.

Q Outside of your office?

A I don't know whether she saw him or not.

Q Don't you know that Mrs. Massie went up to Ida and said to Ida "Where are the other boys?"

A No, no.

Q You didn't hear that?

A She did not.

Q Mrs. Massie did not tell you at any time that morning that Ida was one of the boys?

A She did not.

Q She didn't tell you at that time, did she, when she was making her statement to you, that one of the men who grabbed her wore a leather coat?

A She did not.

Q Did you ask her whether or not she would be able to identify these boys?

A She said she was not sure. I asked her.

Q Did you ask her what kind of clothes they were wearing at that time?

A I did not.

Q Did she tell you what kind of clothes they were wearing at that time?

A No.

Q Did you ask her by what means she thought she

could identify these boys?

A I did the following morning when I brought the car up to her house.

Q I mean at that time?

A I didn't.

Q You have said you made a very searching investigation, one to the best of your ability. Did you interview the officers who went up there to her home?

A I did.

Q Have you their reports?

A I got statements.

Q Where are they?

A In the hands of the County Attorney.

MR. HEEN: I ask for Mr. Furtado's statement.

MR. WIGHT: I think that is not right. We have given him about everything he wants. The absolute world put in his hands. I will not give it to them.

THE COURT: There is no legal duty to produce it.

Q You interviewed Mr. Furtado, didn't you?

A I did.

Q A detective in your department?

A I did.

Q You interviewed Mr. Simerson?

A I did.

Q You interviewed Mr. Nakea?

A I did.

Q Mr. Harbottle?

A I did.

Q And you interviewed Mr. Bettencourt?

A I did.

Q Who made the report as to what took place in the Manoa home of Mrs. Massie before you saw Mrs. Massie?

A Before I saw Mrs. Massie, as I said before, Finnegan and I had been on special duty, and when we got to the station we heard there had been a rape committed.

Q I mean who made the report as to what took place at Mrs. Massie's home?

A Benton made the report.

Q At Mrs. Massie's home?

A Not at her home.

Q I am talking about the report made at the home?

A There was no written report made by any officer.

Q Wasn't there a report made by Mr. Furtado?

A I took a statement from him.

Q Did you reduce that statement to writing?

A I did.

Q And that is in the hands of the City and County Attorney?

A It is.

MR. HEEN: May I have that report?

MR. WIGHT: You have already asked for it.

MR. HEEN: I thought it was a police report.

MR. WIGHT: It is a statement we make for the purpose of trial.

THE COURT: There is no legal duty to produce it. I have already ruled on the subject.

Q When you talked to Ida the first time you asked him whether or not he was involved in this assault case of Mrs. Massie?

A I did not.

Q When did you first speak to him about that case?

A Not until after I had taken Mrs. Massie's statement.

Q You spoke to him about it that same morning?

A I did.

Q And he denied being implicated?

A He denied being implicated, denied being in the car.

Q Denied being in the car, so far as that car was concerned with the Peeples' case?

A He denied being out in his car that night. He said he loaned his car.

Q At that time didn't you know they had him arrested in connection with the Peeples' case?

A Exactly, I did.

Q And Mr. Cluney made a report on that?

A He reported in reference to the Peeples' case that he had arrested him.

Q And he told you at that time the reason why he didn't tell you the truth about this car and about those boys was because he didn't want to implicate those boys in the Peeples' case?

A That was later. He told me that the following night, Sunday night.

Q How many times did you talk to +da about whether or not he was implicated in this assault upon Mrs. Massie?

A I couldn't say. When I started our investigation properly about four o'clock on Sunday I may have spoken to him several times. I took a statement from him as from the others.

Q And that was reduced to writing?

A Yes.

Q Did you write it down the same way as you wrote Mrs. Massie's statement?

A I had a stenographer there.

Q Did you look over that statement before coming here to testify in order to refresh your recollection?

A I did not.

Q You tried, did you not, several times to get Ida to confess?

A I did.

Q And at one time didn't you do this - you told Ida that "We have found some beads in your car which are the same kind of beads Mrs. Massie was wearing that night?"

A I did.

Q And he told you at that time that "If you found those beads in that car they were planted there?"

A He didn't. He said if there were any beads found

in the car they may have belonged to his sister.

Q Did you tell him what kind of beads they were?

A I showed him the beads.

Q And didn't he also tell you that they might have been planted there, must have been planted there?

A He did not.

Q Did you at any time tell him that some of the other boys had confessed?

A I did not.

Q Whom did you talk to next?

A It is hard to remember. I don't know who was the next in turn, after Ida.

Q On the night or early morning of September 13, 1931, after Cluney brought Ida to your office, did Cluney at any time before he went off duty that morning tell you that Ida had said to him words to this effect: That "We admit one of the boys assaulted Mrs. Peeples, but we deny having assaulted this white lady?"

A I don't remember Cluney ever telling me anything like that; not to me.

Q Did he tell you anything like that later on?

A No.

Q Did he tell you anything like that at all?

A Not at all.

Q And you were Mr. Cluney's superior officer at that time?

A I was.

Q And not Mr. Wight. Did you take Mr. Cluney's statement down with reference to what he did in connection with the Massie assault case on Monday night?

A I believe I have a statement from Cluney. I believe I have, but I would not swear to that. I think I got a statement from every police officer who had anything to do with the case at all, but I am not positive about Cluney.

Q Haven't you heard prior to the taking of the stand here that Mr. Cluney had the information to the effect that Ida had told him that they did not assault this white woman, without being asked about it?

MR. WIGHT: Objected to as immaterial and hearsay.

THE COURT: Objection overruled.

A I did hear that said, and I tried to think if Cluney ever did say that to me at any time, and I have no recollection of his ever having said it; not to me.

Q Did you get the dress that Mrs. Massie was supposed to have had on on the early morning of September 13th and the night of September 12th?

A I did.

Q I show you what is included in Exhibit C in this case for the prosecution (green dress); is that the dress you got from Mrs. Massie?

A That is the dress.

Q Did you examine the clothes of these boys to see whether or not they had any blood spots on their clothes?

A No, I did not.

Q Showing this slip which is included in Exhibit "C", how do you account for that piece being cut out of there?

A That was cut out by one of the doctors for an analysis.

Q For analysis to determine whether or not there was any semen on it?

A Yes.

Q Did you get a favorable or negative report on it?

A Negative.

Q In connection with this investigation made by you did you send Mr. Finnegan with these boys to the Emergency Hospital to be examined as to their private parts, as to whether or not there might be traces of semen on their private parts?

A I did.

Q Did you get a negative report about that?

A Negative.

Q And your instructions were in connection with that, were that the underwear which the boys were wearing at that time should also be examined to determine whether or not they showed traces of semen?

A I believe so.

Q Don't you know so?

A I think that was included in my instructions.

Q You only think so, or don't you know?

A I know there was one pair of trousers or under-drawers returned to me from the Emergency Hospital that were negative, and I don't know whom they belonged to.

Q You first found out from these boys, didn't you, in order to make a thorough investigation, that the underwear they were wearing that day was the same underwear they were wearing that night of September 12th?

A I don't remember.

Q You didn't propose to send them up there with underwear that you didn't know they had that night, did you?

A I am not quite sure as to the instructions as to the underwear. It was to have their persons examined, mostly.

Q Don't you remember that so far as Ida was concerned he told you he didn't have his underwear at that time and he had to send home for his underwear - that is the lower part of his underwear?

A Yes, and I believe it was his under-pants returned from the hospital.

Q And with a negative report?

A Negative report.

Q You don't remember now, having recalled that to

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your mind, that these other boys told you they were wearing the same underwear they had that Saturday night?

A I don't remember that.

Q And you haven't received, have you, any report adverse to these boys in connection with the examination of their underwear?

A Nothing adverse.

Q Did you interview Mr. Liu as to what Mrs. Massie told Dr. Liu of the Emergency Hospital?

A He was interviewed.

Q Have you a report of his?

A I haven't got a report, no.

Q Did you interview Miss Forsythe, the nurse who was at the Emergency Hospital when Mrs. Massie was examined?

A I did not.

Q Can you tell from the written report or the written statements that were made by these defendants just who made the second statement to you?

A I would not care to say that.

Q Would the date of the statements indicate the time?

A They would, but possibly the times they made the statements on the statements they made.

Q Were those shorthand notes put in this note book Number 1836, which contain your own writing of Mrs. Massie's statement?

A They were. Those are notes taken by Mrs. Rosario.

Q When you first talked to these various defendants you didn't take their statements down or have them dictated to the stenographer at first, did you?

A No, we had preliminary talks with them.

Q And finally when you thought you had exhausted them as to what they knew about this matter you dictated or had them dictate their statements to the stenographer?

A Yes, we couldn't get the stenographer until late Sunday evening.

Q But that was in the nature of questions and answers?

A Yes.

Q When did you first see Chang, Henry Chang?

A Sometime in the afternoon of Sunday.

Q How do you recall that?

A I know I had been to Mrs. Massie's house around noon with the car and to get her to read over and sign her statement, and when I came back from there I don't think any of the defendants had been brought in up to that time. I think it was around between 1 and 2 o'clock, I should imagine, that the first of them was brought in.

Q You said you took the car to Mrs. Massie about noon?

A About noon.

Q That is Ida's car?

A Ida's car.

Q When I speak of Ida's car I mean car number

58-895?

A Yes.

Q What was the purpose in taking the car up there?

A The purpose in taking the car up there was to have her look at it and see if she could identify it.

Q Was that the sole purpose?

A Not the sole purpose. I had statements which + transcribed and I wanted them read and signed and wanted to show her the beads Hoopai had turned over to me.

Q Was that the sole purpose in taking the car up there, for her to try and identify it?

A Exactly.

Q You think it was after that that you saw these other boys?

A It was after that.

Q At the police station?

A At the police station.

Q What talk did you have with Henry Chang?

A I didn't have any talk with him until a good deal later in the afternoon. I sent these men with Finnegan, the four men, with the exception of Benny, to Mrs. Massie's home for identification, and it was not until after they were brought back from the Massie home that I had a talk with them.

Q Why didn't you send Benny along?

A He wasn't in custody at that time.

Q He was at football at that time?

A I don't know where he was.

MR. WIGHT: Objected to, just put in to prejudice the jury.

THE COURT: Proceed.

Q About what time was it that you gave Mr. Finnegan instructions to take these four boys up to Mrs. Massie's for identification?

A About two o'clock.

Q Was that the only instruction you gave him?

A Instructions were for him to take them up and let Mrs. Massie see them and see if she could identify any of them.

Q Did you tell Mr. Finnegan to tell Mrs. Massie that if she were able to identify these boys she was not to say so in front of the boys?

A I didn't tell Finnegan that, I am sure. Finnegan is a pretty intelligent man himself and I don't have to instruct him very much along those lines.

Q You didn't tell him that?

A I don't think so.

Q They were brought back to the office?

A They were brought back to the office.

Q And that is when you examined these boys?

A Started talking with them then.

Q At that time there was no stenographer around?

A No stenographer. I notified the County Attorney, Mr. Wight, and Mr. Silva, and they came on the scene sometime around 4:30 or 5 o'clock.

Q Do you remember having a conversation at that time with Henry Chang?

A No doubt I had.

Q You asked him if he had participated in this assault, or words to that effect, upon Mrs. Massie?

A I am sure I did.

Q And he denied it?

A He denied it.

Q And he kept on denying it right along?

A Yes.

Q Did you tell him that you had found beads in Ida's car that appeared to be the same kind of beads that Mrs. Massie had that night?

A I didn't. I don't think I said such a thing to Chang. I know I found Ida lying and tried to bluff him by making that allegation, ~~and~~ that the beads were found in the car. I don't remember saying it to any of the others.

Q Did you try to bluff any of the others?

A No, I did not try any bluff.

Q Did you tell any of these boys to turn States' evidence against the others?

A I did not.

Q Did you instruct some of your officers to say that to the boys?

A I did not.

Q Do you remember having talked with David Takai?

A I spoke to that boy at different times, and at length.

Q Do you remember having a talk with him on that same Sunday afternoon?

A Sometime Sunday I spoke to them all.

Q And he denied being involved in this assault?

A He did.

Q And he continued to deny that right along?

A He did.

Q You repeatedly questioned these boys and accused them of being involved in that assault, didn't you?

A I did.

Q And they consistently denied their guilt, didn't they?

A They did.

Q When was Benny Ahakuelo or Akuli, as you called him, called in?

A I know he was called late in the afternoon; it was after three o'clock but what time I cannot say. It was awhile after three.

Q You accused him of this assault on Mrs. Massie?

A I did.

Q And he denied it?

A He denied it.

Q Then did you take these boys to Mrs. Massie at the hospital late that afternoon on Sunday?

A No, I did not.

Q Somebody else took them there?

A Akuelo and two other suspects were brought up there to the hospital after she had been removed from her home to the Queens Hospital.

Q Did you go with Ben at that time?

A I did not.

Q He was brought there?

A Brought there.

Q Was Joe Kahahawai there at that time?

A No, he had already been up to the Massie home.

Q Was Ida there at the hospital that Sunday afternoon?

A I don't think so.

Q When Benny was brought to the hospital that Sunday afternoon before Mrs. Massie, who else was present in the room?

A I don't know. I didn't go to the hospital. I sent Ben and these other men up.

Q I thought you went to the hospital?

A No, I wasn't there.

Q Were you at the hospital?

A Not Sunday.

Q On Monday, then?

A Yes, Monday I believe I was there.

Q About what time?

A It was in the forenoon, I think.

Q Any of the boys there at that time?

A I really can't say truthfully whether they were

on Monday.

Q Were you at the hospital at any time while Mrs. Massie was there when some of these boys were brought there?

A I was there Tuesday I know.

Q What time Tuesday?

A That would be also in the forenoon.

Q Who were these boys who were brought there?

A I think they were all brought up there.

Q All of the five defendants?

A I think so.

Q They were brought up there to be identified, were they?

A Yes, brought up for identification.

Q Including Benny?

A They were all there, brought in individually.

Q They were brought there under your instructions?

A Yes.

Q Was Mr. Wight there?

A He was there.

Q Mr. Silva?

A No.

Q Nahea?

A Yes.

Q Mr. Stagbar?

A Stagbar was there.

Q Was that the time Ida ^{was} brought in with this leather jacket on?

A Yes.

Q He was made to stand at the foot of the bed, which was then occupied by Mrs. Massie?

A Yes.

Q And made to turn half way around?

A He sat in a chair at the foot of Mrs. Massie's bed with his back towards her, with his jacket on, and turned his profile around.

Q After that what did he do?

A She felt of the jacket. He was brought forward so she could feel of the texture of the coat and I remember she pulled back as though the thing was repulsive to her, and after that he was taken out.

Q Did she say anything to him?

A I remember she said to the boys "Look at your handiwork. Aren't you proud of it?" and she said to Ben and he denied he had assaulted her, and she said "You know you did" and he said "Oh, yeah!" and being her assailants and they denied it.

Q What else?

A I think that was about all.

Q Did she identify any of them at that time?

A They had already been identified.

Q Did she identify any of them at that time?

A At that time Ben was the one she spoke to most, and openly accused him. As an identification as I have already said, they had already been identified.

Q If they had already been identified why did you bring them up there? A To see if they would not

break down and tell the truth. Q Did they break down?

A They did not. (Recess - relieved by Linn)

11111
(Follows Jordan)
1 (McIntosh, Cross-Ex.)

BY MR. HEEN:

Q Mr. McIntosh, isn't it a fact that Mr. Takai was not taken to the hospital at all for identification?

A That I would not say; off-hand, if you asked me I would say yes, but I cannot really say if he were.

Q How many times were you at the hospital when some of these boys were there to be identified?

A I was there Monday and Tuesday.

Q Monday and Tuesday?

A I know I was there Tuesday. As for Monday, I am not positive about that.

Q Do you recall being there twice, when Benny was there, -twice?

A I don't recall.

Q You don't recall. Your best recollection is that he was there only once?

A No, he may possibly have been there, Mr. Heen; he may have been there twice, but I do not really recollect. I remember of his being there Tuesday, I am positive of that. There is a possibility of him being there Monday, and other boys too, might be there also.

Q How many times were there when Ida was there at the hospital?

A To the best of my recollection on Tuesday.

Q Only once then?

A I think so.

Q And Mrs. Massee did not say at that time, did she, that she could identify Ida?

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A Not to him, no.

Q At the time she was looking at Ida at the hospital were the shades pulled down?

A The room,--The shades were down, yes.

Q The room was darkened?

A Slightly darkened. They are light-colored shades. The room was slightly darkened.

Q The idea was to approximate the darkness of that night of September the 12th or early on September the 13th?

A Yes, that was one of the reasons.

Q Was there any electric light in that room?

A I don't think so.

Q The door was shut, was it?

A The door was closed, yes.

Q Was there any transome to that door so the light might come through a transom?

A I cannot say.

Q Now, after Ida was taken into that room to be identified by Mrs. Mausee, who was the next one taken into the room at the hospital?

A I don't know if he proceeded the others or in what order they were brought in; I can't say.

Q Take Joe Kahahawai?

A I remember Joe was in.

Q He was there alone, was he?

A He was there alone.

Q She looked at him, did she?

A She looked at him, yes.

Q Was he turned around and faced different directions in order that she might get different views of him?

A I don't remember that. I remember him standing at the foot of her bed and she talked with him.

Q What did she say to him?

A I told Joe, the same as I told the others, that Mrs. Massie had accused them. "What do you think of your handiwork?" and she spoke to them and she accused them, and he denied it.

Q Is that the word that you used, "What do you think of your handiwork?"

A That is the words I used, I remember.

Q What did she say to Joe Mahahawai?

A I remember her saying "You did do it, you can't deny it", she says, "You did do it" and he denied it.

Q What did he say?

A He denied it. He denied his guilt.

Q He said "I didn't do it?"

A "I didn't do it," he said.

Q And these boys were brought in separately, were they not?

A Separately.

Q When Henry Chang was brought in did she talk to Henry Chang?

A She did talk to Henry Chang.

Q By the way, did you make notes of what was said

at that time?

A I did not; no notes were made.

Q What, if anything, did she say:

A She also accused him of being one of her assaulters and he denied it.

Q He denied it. Do you remember the time Benny was brought in?

A Yes, I remember Benny because I remember his attitude at the time. I remember him; he was outstanding more than any of the others.

Q And when Benny was brought in I think you said Mr. Machado was there?

A Machado was with the group. He went to the hospital with them that morning.

Q Was he in that room?

A I suppose he was; no doubt he would be.

Q How did they,- Did you order Ben to turn around, to take different poses in front of Mrs. Masseur?

A I don't remember.

Q You don't remember that?

A No.

Q Where was he standing when Mrs. Masseur looked at him:

A At the foot of her bed.

Q What did Benny do while he was at the foot of the bed?

A Nothing that I remember; nothing out of the way.

Q Did you tell Mrs. Masseur that Ben was being brought

in?

A I did not say Ben was brought in; they were brought in one after the other. I don't think I mentioned to her who was being brought in.

Q You don't think you did?

A I don't think so.

Q And what did Mrs. Massee say to Ben at that time?

A She told him very, very forcibly that he was one who had assaulted her, and he said "Oh, yeah!" and he said "I don't know you. I don't know anything about it." He said it with a sneer and a leer.

Q Did you tell Benny to open his mouth in there at that time?

A I did not.

Q Did he open his mouth in there at that time at the request of Mrs. Massee?

A I don't remember.

Q You don't remember?

A I don't remember.

Q Did Mrs. Massee at that time tell you that she was able to identify Benny because of a gold filling in his tooth?

A Not at that time; not that I remember.

Q Not at that time. Did she, Mrs. Massee, tell you at the time you talked to her, early Sunday morning, that she would be able to identify one of the boys because she had seen this boy with a gold tooth, or, rather, a gold filling in the tooth?

A She did not.

Q She did not. And you are certain, Mr. McIntosh, that at that time on Tuesday when Ben was taken into that room he did not at any time open his mouth so that Mrs. Massee could look at the gold filling?

A Not while I was in that room. I was out of it once or twice, I know.

Q Mr. McIntosh, when Ben was taken to the hospital the first time you did not go there?

A I did not go.

Q Do you remember whom you sent to take Benny there?

A I believe it was Jardine and Stagbar.

Q And they came back with an unfavorable report, didn't they, that he could not be identified?

A They,- Yes, that's right.

Q And that was on Sunday,- late Sunday, wasn't it?

A Yes, late Sunday, about dark or dusk.

Q And he was taken up again Monday?

A Possibly so, yes. As I say, I am not sure of that point, whether he was or not. No doubt he was.

Q And don't you know that he was sent there Monday and it was reported to you again that she could not identify Ben?

A I don't remember, really.

Q You don't remember that. How were those boys taken up there again after Tuesday?

A No, they were charged on Tuesday afternoon, about 4:30 and never taken up again after that.

Q Do you remember.- I don't remember whether I asked you this before or not,-Do you remember what radio patrol car brought Mrs. Massee from the Emergency Hospital to the police station?

A No, I do not.

Q You don't remember that?

A I had been out. When I got back I heard there was a rape case up Manoa and I went up there, followed one of the radio cars and failed to find the location, and I reported back to the station, and I had not been very long back then Ida and Mrs. Massee were brought in, so I don't know who brought her in.

Q Were you out on one of the radio cars yourself?

A No, I was out in my own car.

Q You have no radio on your car?

A No.

Q How many radio patrol cars have you down there?

A Three.

Q That is, equipped with radio receivers?

A Three.

Q And the call was sent out that night,-I don't know whether you know this personally or not,-by Mr.

Seymore of the radio division?

A Which Call?

Q The call for this car, 58-895?

A I believe it was, after Mrs. Peeples had reported to the station.

Q I saw the report sometime later, that Mrs. Peeples had made.

Q I mean check up on the calls that were made over the radio as to whether or not they were made over the radio?

A No, I did not. At that time no nightly reports were made out. Officers reports of arrests were, yes. Now we have a report of all calls of accidents, - incidents that happen during the watch, made out in regular schedule form, which are submitted to me and then to the sheriff. At that time we didn't have that system.

Q Now in connection with your investigation, Mr. McIntosh, I will ask you whether or not you interviewed Harold Godfrey, probation officer?

A I did.

Q And you interviewed him at the time then as to the time the dance closed?

A Yes, I did.

Q And as to whether or not he saw Takai at the dance?

A I believe I did ask him that.

Q And as to whether or not he saw Ben Ahakuelo at the dance?

A I believe I did ask him that.

Q You have got a written report from him, have you?

A A short written report.

Q And that is in the possession of the City &

A Yes.

Q You also interviewed, did you not, a Japanese girl by the name of Aramaki, living on John Ena Road opposite Waikiki Park, who is connected with one of the stores there?

A I did not take any statement from her. The statement was taken by some member,- I don't remember whether Mr. Wight or Mr. Stagbar,- of the City and County Attorney's office. I happened to be present when that statement was made. I remember she made one.

Q You interviewed, did you not, Mr. and Mrs. Gorse--

MR. WIGHT: Objected to as improper cross-examination.

These are not witnesses and they cannot impeach them.

They cannot be brought to the stand.

THE COURT: I think you are getting beyond the scope of the examination here, Judge Deen. I don't quite see the propriety of this examination.

Q Mr. McIntosh, did Mrs. Massie tell you what kind of clothes these boys had on on the night of the alleged assault?

A No, she did not.

Q Did you ask her what kind of clothes these boys had on at any time during your investigation?

A I did.

Q I did.

Q When?

Q Did you make a report of that?

A No, I did not.

Q Did you take that down in writing?

A No, I did not.

Q Did not. And she told you the different kind of clothes, did she, at that time, what these boys had on?

A No, she did not.

Q You asked her about it?

A I asked her if one of the boys that was in that car had worn a leather coat that night. Sato, who brought the car up for me, was wearing one of these lumbermen's jackets, leather coats, and she said "Yes, one of them had been wearing a coat" and she closed her eyes and felt the texture of Sato's and she said the texture of his was different from the one worn by one of the boys.

Q Did she tell you the color at that time?

A She said a leather coat, and she could tell by the feel of it; she did not tell me the color.

Q She did not tell you the color of the coat.

Did she tell you the color of the trousers this boy had on that night, that had this coat on?

A No, she did not.

Q Did she tell you what Henry Chang had on that night?

A She described, -No, she did not.

he wore that night.

Q He said so, but was there any other proof that this was the same pair of drawers that he had worn that night?

A I had no proof that it was.

Q Was it the underwear that he went down to the police station in that day?

A I don't know whether he had it actually on that day or not.

Q Could it have been on him, though, at the time he was at the police station?

A No, he said, if I remember, I think, - I would not be sure, which officer it was, but somebody went to his house and got the underwear.

Q Was that a clean suit of underwear or a soiled suit of underwear?

A No, it had been soiled.

Q Now these various routes you told us these different boys gave you, was that given after they knew they were accused of this rape, or before? You said one said they went one way and one said they went another way.

A No, that was after they were accused.

Q That was after they were accused at the Massie rape?

A Yes.

Q Now you said that Mrs. Massie looked at the

what did she do or what did she say?

A I asked her if she remembered catching hold of the car in any particular part, and she stepped some distance off, and she viewed it sideways, and from the rear, some distance back, I suppose ten or fifteen feet back from the rear, and she also examined the inside, the back seat, and while we were there I told Sato --

Q Did she say anything about that?

A She did not; she could not identify the car.

Q What did she say?

A She said it was a car like that.

Q What did she say about Sato?

A I told Sato to make a thorough--

MR. HEEN: Objected to, any conversation with Sato at that time.

MR. WIGHT: I didn't ask for any conversation.

THE COURT: Don't give us anything that Sato said there.

MR. HEEN: No objection to describing what took place.

A It was not what Sato said. I instructed Sato to take the back seat out and make a thorough search of the car.

MR. HEEN: Objection withdrawn.

A To see if he could find any beads similar to the ones that were turned over to me by Hoopai and similar to the ones that were turned over to me by Massie.

Q That incident of the coat, -what kind of a coat was Sato's?

A He was wearing a coat similar in make to this one here, only it is the smooth side out, inside the rough side.

Q You mean Sato's is. He is a police officer?

A Yes.

Q The outside of his coat was glazed?

A Yes, the outside of the skin was out, and the inside of the skin here, of this coat, is out.

Q Who was the texture compared to this coat?

A It is smooth and glassy, or glazy.

Q What did she say when she felt that coat?

A She said a coat similar to that only of a different texture, rougher.

Q You said they didn't find any finger-prints on the car. Do you know why they did not?

A There was a conglomeration of all kinds of marks there. The car may have been handled even after it was brought in, before the finger-print man got at it. You know what a car is, people getting in and out, and there is a mixture of marks, - imprints.

Q Did Mrs. Massie say anything to you about how she was brought in the car, with reference to finger-prints?

A She said she had been dragged in the car.

Q She said she had been dragged in the car?

Q When did she say that?

A That was at the house that morning. She said she did not have a chance to grab anything, not that she remembered.

Q For how long a time did Ida insist that he had not been in that car that night at all, when you brought him up to talk to him?

A That was until he was brought in for investigation by you and I that evening.

Q That is after he was notified of the fact of the Massie rape case?

A Yes, after he was notified of that fact.

Q Even after that--

A It was not until when we took his statement, late Sunday evening, when he did admit he was driving the car.

Q You say Chang denied his guilt to you. Did he admit anything?

A He denied his guilt in this case. He admitted that he had been with them in the car.

(Whereupon a recess was taken
until 1:30 o'clock p.m. of this date.)

November 23, 1931, 1:30 o'clock p.m.

(Stipulated defendants and jury all present.)

JOHN McINTOSH,

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

REDIRECT EXAMINATION (Continued)

By Griffith Wight, Esq.

Q This rent, this cut in this slip you spoke of
as being torn off by one of the doctors, -what was
his statement about that exactly?

A His statement at the time was that had there
been any semen there it was too late at the time
he got it; that substance crystalizes very quickly
and he couldn't find any definite trace of semen,
either microscopical or otherwise.

Q What date was it we sent these defendants to
the hospital to be examined by the doctor?

A I believe that was Tuesday.

Q Three days after the rape?

A Two or three days later.

Q What time Tuesday?

A I couldn't say definitely.

Q You said that Mrs. Massie never said she never
identified Ida to Ida. Did she ever tell him at any
time or you in his presence?

A Yes. I don't know what time that was; either

Munday or Tuesday.

of that room,-do you know whether that door that is there leads out into an open court or does it lead to somewhere else, the door of Mrs. Massie's room?

A It leads into a corridor.

Q Is the corridor light or dark?

A No, on that floor where she was I know there are rooms on the left. There is a room or kitchenette or some such thing on the right-hand side and I believe farther down there are windows.

Q As far as Mrs. Massie's room are concerned, how is that?

A I think they open onto the veranda.

Q I am talking about the point outside Mrs. Massie's room. Were there any other rooms across the hallway?

A I can't say positively.

Q You say Ben never opened his mouth up at Mrs. Massie's. Didn't he open his mouth when he spoke?

A Sure, but I inferred from Mr. Heen's question whether he showed his tooth.

Q Well, like that, a sort of grin. At that time while they were being taken up one way one and one and Ida was being taken in, where were these other defendants?

A They were out in the passageway.

Q Who was out there with him?

A Rodrigues was there. He was driver of the car

time.

Q Wasn't Machado guarding the prisoners?

A I know he was in there at one time. He talked with Mrs. Massie alone for sometime.

Q Wasn't that after we all went out?

A He talked with Mrs. Massie alone for some time.

REGROSS EXAMINATION

By William H. Heen, Esq.

Q You say you think it was either Monday or Tuesday when Mrs. Massie told you she was sure of Ben Ahakuelo?

A That was Tuesday?

Q What is this little boy's name?

A Kahahawai.

Q When he made his statement to you in the presence of the stenographer did he at that time tell you that he was kind of groggy and sleepy when they left the park on Saturday night on their way home?

A He did.

Q Did you at that time tell him that the other boys had told you that the route that was taken by them when they left the park was along John Ena road, Kalakaua Avenue, up to Beretania street?

A I didn't mention anything to him about what route they had taken.

Q After Ida's car was brought down to the police station which was early Sunday morning was that

A The car was locked because I couldn't find the key the following day when I took it to Massie's. I had to have a man come from the Universal Motors to change the switch so I could drive it up there. I don't know who had the key.

Q Didn't you give the key to Ida?

A He gave the key to his sister. As a matter of fact he was out when I got the car.

Q Who drove the car?

A Police officer Sato.

REREDIRECT EXAMINATION

By Griffith Wight, Esq.

Q Was Kahahawai groggy when he made this statement stating they had driven down King street, in the police station that day?

A No, he was perfectly sober.

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THALIA HUBBARD MASSIE

a witness for the Territory, was recalled for further cross-examination and testified as follows:

CROSS EXAMINATION (Continued)

By William H. Heen, Esq.

Q Mrs. Massie, do you remember about what time it was you were taken to the Emergency Hospital on the morning of Sunday, September 13, 1931?

A No.

A Yes, I think so.

Q And you were taken there in a radio patrol car?

A In some car.

Q Now I will ask you whether or not while you were at the Emergency Hospital you had a conversation with one Miss Forsythe, who was the nurse in attendance at that time?

A Yes, I spoke to the nurse.

Q And did she ask you if you were able to identify the person who attacked you or who assaulted you?

A I don't remember her asking that.

Q Do you remember saying to Miss Forsythe at that time that you did not recognize the persons who assaulted her?

A No, I don't remember saying that.

Q That is, assaulted you?

A I don't remember. The only thing I remember saying to her was that the men who assaulted me seemed to be experienced in that sort of crime.

Q Did you tell her at that time that these men who assaulted you were Hawaiians?

A I don't know.

Q Do you recall Miss Forsythe saying to you at that time that some of them might, -that they might have been Filipinos, or some of them might have been Filipinos?

anything she said to me except she told me not to get upset.

Q Did you at that time tell Miss Forsythe that you knew the number of the car that these men had who assaulted you?

A I don't think so. I don't remember mentioning the number until Mr. McIntosh asked.

Q Did you not at that time say there were no Filipinos among these men who assaulted you, because you knew the difference between them and Hawaiians?

A I never heard the term "Filipinos" used in any connection with this case.

Q Did Miss Forsythe at that time ask you if you knew the car number and you stated at that time that you did not?

A I don't remember anyone asking me the car number until Mr. McIntosh did.

Q Did you have a conversation at that time with Dr. Liu?

A I didn't talk to him.

Q You didn't talk to him at all?

A I don't think so, or at least not about the case.

Q Do you recall Dr. Liu asking you who assaulted you?

A No.

Q Do you recall telling Dr. Liu that there were five or six men assaulted you and you couldn't

A No.

Q Do you remember if Dr. Liu asked you if you had been able to see the number of the car these men had who assaulted you?

A No.

Q Did you at that time tell Dr. Liu that you had seen the number of the car?

A I don't remember telling Dr. Liu anything.

MR. HEEN: May I ask this witness one question in connection with this dress that I didn't have in mind this morning?

THE COURT: Yes.

Q Mrs. Massie, will you please stand up and show us how far down this dresshangs?

A (Witness stands up and holds the green dress up to her shoulders, allowing it to hand down)

Q That is a longer dress then you have on?

A Yes.

Q It reaches near your ankles?

A Yes.

MR. HEEN: Referring to the green dress, the lower part of the green dress included in the group marked Exhibit C. Mrs. Massie, when you were first on the stand, I believe it was on direct examination, you stated that Ben Ahakuelo who was sitting in the front seat next to the drive on one occasion, after you had been grabbed and taken into the car, turned

Do you recall that?

A Yes.

Q Now which way did he turn when he turned around?

A He turned like this. (Illustrating)

Q That is towards his left?

A Towards the driver, and he turned around.

Q As the driver was on his left?

A Clear around.

Q The driver was on his left?

A Yes.

Q And he turned clear around, did he?

A Yes.

Q Where was the car at that moment when he turned around? Were you still on John Ena Road or had you gone over to Ala Moana Road?

A I believe we were still on John Ena Road, but I don't know.

Q How soon was that after you had been pulled into the car?

A It was quite soon after I have been pulled into the car.

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MR. WIGHT: I have another witness, but she is not here yet.

MR. HEEN: Well, we will proceed with our case.

(Mr. Heen makes a motion to state out of the

(Nov. 23, P. M. Linn relieves Jordan)

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MR. WIGHT: I don't intend to put on any more witnesses.
The prosecution rests.

MR. PITTMAN: In order to protect the record on behalf of the defendants, I shall now renew our motion that the Government be called upon and compelled to elect which one they rely on as having actually committed the rape and which ones they hold are accessories, and if your Honor overrules it I will make an exception upon the same grounds formerly stated at the opening of the trial.

THE COURT: The motion is denied and the exception will be noted.

MR. MURAKAMI: On behalf of the defendant David Takai I move for a direct verdict on the grounds the prosecution has utterly failed to prove its case against the defendant Takai beyond a reasonable doubt, and assuming all the evidence is true and assuming the jury does believe every bit of it, that there is not sufficient evidence in a case of rape, which crime requires corroboration. There is no case against this defendant, and there is no basic testimony upon which to put any corroboration, inasmuch as the prosecuting witness herself has denied, in her statement in open Court, and elsewhere, that she is able to identified this defendant, and that the Court would have to if there was a verdict

defendant Takai to set aside the judgment. So that at this time we move for a directed verdict on behalf of the defendant David Takai.

THE COURT: The motion is denied.

MR. MURAKAMI: Exception.

THE COURT: The exception will be noted.

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TATSUMI MATSUMOTO,

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

DIRECT EXAMINATION

By William H. Heen, Esq.

Q What is your name?

A Tatsumi Matsumoto.

Q Where do you live?

A 2728 South King Street.

Q How old are you?

A Twenty-four.

Q On the night of September the 12th 1921 do you recall being at Waikiki Park at a dance?

A Yes.

Q What time did you go there that night?

A I am not sure, I think it is about ten, or something of that kind.

Q Where is this Waikiki Park?

A It is over on-the main entrance is on Kalakaua

A On my car.

Q What kind of a car did you have that night?

A A Ford, old model, 1926 model, Ford. I am not sure of the year, but it is a Ford roadster.

Q Did you have a rumble seat to that Ford roadster?

A No.

Q You still have that roadster, have you?

A Yes.

Q When you went to this dance on that night did you have the top up or top down, on this roadster?

A Top down.

Q Who did you have with you when you went to the dance that night?

A There was Bob Vierra, George Silva, Matilda Silva, the sister of George Silva, and Alice,- I am not sure about the first name, Alves; her last name is Alves.

Q You said Bob Vierra. You mean Robert Vierra?

A Yes.

Q How long did you stay at that dance?

A We stayed until the dance closed.

Q Do you know Ben Ahakuelo, one of these defendants?

A Yes.

Q How long have you known him?

A I have known him since,-I am not sure just when,- I first knew him about 1924, met him on the beach

the Fleet came in. I think the Fleet came in 1925 or 1924; just about the time the Fleet came in.

Q And you have known him since then?

A Yes, known him, amateur boxing and football.

Q Did you see Ben Ahakuelo at the dance that night?

A Yes.

Q How do you recall that; how do you remember that?

A Well, we asked the same girl for a dance, and he was there asking her for a dance and I was asking her for a dance too.

Q Who won?

A Neither one of his won.

Q Well, did you see him on and off during the dance?

A Yes. I saw him going around the floor. I am ^{not} sure who he was dancing with. I saw him a couple of times, -well, about three or four times.

Q Do you know Ida? Did you know him that night?

A No.

Q Did you know David Takai?

A I knew him after this case came out. I saw his picture in the paper. I used to see him around town quite a lot.

Q You did not know him at that time?

A I did not know him at that time.

Q Do you know Joe Kahahawai?

A No.

Q Do you know Henry Chang?

Q What did you do after the dance was over?

A Well, after the dance was over we went out to the car there, and this Matilda Silva and Alice left with another party, they did not stay until the dance closed, and we met two other girls. One was sitting in the car, that is after the dance was over, but we were not sure if this other girl were going with us, so we waited for this other girl. Shall I go on with the story?

Q Yes.

A We waited for this other girl, as we were not sure whether she was going with us or not. Well, she finally came on the car there and sat on the car.

Q Where did they sit on the car, these two girls?

A Both of them sat on the seat right alongside of me.

Q You were driving?

A Yes.

Q And how about Rovert Vierra and George Silva?

A Well, I had my top down and they sat on the top facing the back. I had no rumble seat or anything, so I put my top down and they sat on the top facing back.

Q Do you remember how your car was parked at that time?

A Yes, I think it was parked facing towards, -a little towards Diamond Head way, kind of between

Diamond Head and Kaimuki, and I just drove right in and did not back my car in, as when I came in about 10 o'clock it was crowded there, all the cars were parked there, and I saw this space so I just drove right in, and I didn't back it again, just drove right in. The cars was facing about Diamond Head way.

Q Were you--Were there any lights there at that time?

A I don't quite remember. There is a light there but I didn't pay no particular notice to lights. I don't remember if the lights were on or not at the time.

Q Now after you came out of the dance did you see Ben Ahakuelo?

A No. I was sitting in the car talking to this girl there, one of these girls, sitting on the side of me, but when this other girl came in the car I heard her mention Benny's name, she said--she looked and said "Benny I think is over there".

Q Then did you turn?

A No, I did not look.

Q You did not look. You don't know where Bobby was at the time?

A I am not sure whether he was in the car or not; he was walking all over.

Q When you left the park there were there many cars

A Well, there were about three or four cars left there, I think; I am not sure how many. We were about the last. There were very few cars left there. I am not sure how many, but I think three or four cars.

Q Do you know about what time that dance closed?

A No, I don't know what time the dance closed. They usually close at 12 but I don't know if they close exactly right on the dot, but I know they usually close about 12. I don't know what time they closed that night.

Q All right. About how long after the dance closed was it when you left the grounds?

A I am not very sure, -about ten minutes I think. I don't know just how long we stayed there. We were waiting for this girl. I was not paying particular attention to what was going on. As soon as this girl came to the car, and we were sure she was going with us, then we left. I don't know how long we stayed there. Anyway there were about three or four cars left there.

Q And how did you leave the Waikiki Park?

A Oh, we came out through that entrance; there is only one entrance there for automobiles.

Q Where is that entrance?

A On John Ena Road.

A Well, came out to Kalakaua Avenue.

Q You went out John Ena Road?

A Yes.

Q All right! Did you go down John Ena Road or go up mauka?

A Towards Kalakaua Avenue.

Q When you got towards Kalakaua Avenue where did you go, in what direction?

A Towards town.

Q Then where did you go?

A Right up to King street. There is a stop-sign there. Then Kalakaua Avenue extension that goes right up to Beretania street,-went up to Beretania street.

Q Then when you got to Beretania street what direction did you go?

A towards town.

Q All right. As you were going towards town did you notice anything?

A What do you mean?

Q As you were going towards town there, along on Beretania street, did you notice any car come alongside of your car?

A No, I was driving and these two girls, - oh, I heard this other girl mention once,-she looked back, and she looked back and says "Benny and them is following us". I am not sure if that was,- I think

not paying any attention,- I am not sure,- I just heard this girl say,- she looked back,- "Benny and them following us" and I didn't pay no attention to that.

Q All right. Along Beretania street there--

MR. WIGHT: I move the last answer be stricken as hearsay, your Honor. "I heard one of the girls say to me Benny was following us".

(Argument)

THE COURT: The motion is granted. Gentlemen of the jury, that is hearsay, as to what was said by some person who is not present, who is not a witness, and you will disregard that part of this witness' testimony.

Q But one of these girls did make a statement to you at that time?

A Yes.

Q Now do you remember at any time, as you were going along Beretania street, Robert Vierra leaving your car?

A I was not really sure, I could not look back, I was driving this way (illustrating); he was sitting in the back, but when this car came alongside of our car Bobby jumped over to this other car, on my running board,- you see when he left my car I don't know how he left it; he was sitting in the back. Whether he got on this other car from my fender or

We were going slow and I know this car was following us; I remember hearing these girls say that, but when Bobby jumped on my car I was driving her and there is that windshield and, well, he got on my car, on the running board, holding the windshield there.

Q At that time did you notice who was in the other car?

A No, I did not. I took it for granted it was Benny, as the girls said.

Q You did not see?

A No, I did not see.

Q How far did you go?

A You mean?

Q Down Beretania street?

A We came on, going on Beretania street to Fort and King, we stopped there, but, before that, may I say this: When Bobby jumped on my car I asked him who it was, and Bobby--

MR. WIGHT: I object to that.

Q You spoke to Bobby when Bobby came back to your car?

A Yes.

Q And Bobby spoke to you?

MR. WIGHT: Objected to as being badly leading.

THE COURT: The jury has been instructed that this

just about there being a talk.

THE COURT: All right, proceed.

Q At about what point was it when you noticed Robert Vierra getting back to your car from the other car? on Beretania street?

A I am pretty sure it was around, well, on Thomas Square, around there some place, say about Thomas Square, I don't know how far we passed Thomas Square but close to Thomas Square.

Q Then you continued right along?

A Yes.

Q Did you stop at any point at all between Waikiki Park and Fort Street?

A No,-at the stop sign, though, the intersection.

Q Outside of that, I mean, did you stop at any place at all?

A No.

Q You did not?

A No.

Q This car from which Robert Vierra got onto your car was travelling in what direction?

A Towards town.

Q On what street?

A That was on Beretania street, near Thomas Square.

Q The same place?

A Yes.

Q At the time you talked to Robert Vierra, who talked

to you when he got back on your car, did you happen to look around to see who was on the other car?

A No. You see I tried to, but I am going this way, and Bobby standing on the running board here, when this car came right alongside of my car he jumped on my car. There wasn't much traffic at the time. We could have gone this way for quite a ways when Bobby jumped on my car and we kept on going. Once, -I am not sure whether it was this car or not, he passed us, and then we passed this car again; I am not sure whether it was their car or not. I was not, - I didn't think anything like this would happen. I was not paying any attention to every car that we passed or that passed us.

Q Then did you notice whether or not that car that was behind you, following, went up Fort street?

A We stopped at Fort and Beretania. I saw a crowd there. I don't know whether it was an accident or a fight or something, but we saw a crowd there right on the corner, close to the corner, so I stopped to see what all this crowd was doing there. That is when I looked back and I saw this other car turn for Fort street. I am not sure about the color of the car or anything. It was a crowd then; I could not look around or anything, I was driving, and we stopped there and I would look around but

Q So you didn't see Benny at all?

A No.

Q You read about this Ala Moana case the next morning, or the next day?

A I am not sure the next morning, but I read about the case shortly after that.

Q Now you were called down to the police station were you not?

A Yes.

Q About when was that?

A I know it was not the next day, the next day was Sunday, but Monday, I believe Monday. On Monday right on Bethel and Hotel there. Then Sam Kahanamoku and detective Machado, I think it was, picked us up on the corner there.

Q And you went down to the police station?

A Yes.

Q And you made a statement there at the police station?

A Yes.

Q Your statement was about the same as you told us here?

A Well, as close as I can remember.

Q As you can remember. Now, between the time you last saw Ben Ahakuelo at Waikiki Park on the night of September the 12th 1931 and the time you made your statement to the police, had you seen Ben

Ahakuelo at all?

A No, not between. I saw him at the police station that day, the day they took us down there; they were in this other room.

Q That is the first time you saw him since that night, Saturday?

A The day they took us to the police station.

Q Did you talk to him at all before you made your statement to the police?

A No, sir.

Q About how fast were you driving your car after you left Waikiki Park on that Saturday night?

A Well, about as,- I am not sure; there is no speedometer on my Ford roadster, but we were not going very fast.

Q You were not?

A About, I am not sure, I think it would be 25; 25 miles. I cannot go so very slow on my junk.

Q Because it bucks if you go too slow?

A Yes.

Q About how fast were you travelling at the time you noticed Rovert Vierra getting back onto your car from the other car, do you have any idea at all?

A No, I was driving about the same speed,- anyway, Beretania street, from the time I turned from Kalakaua Avenue, about the same speed, I think, not very faster or slower.

CROSS EXAMINATION

By Griffith Wight, Esq.

Q Now, Mr. Matsumoto, you did make a statement to me and Mr. McIntosh, did you not, down at the police station?

A Yes.

Q That was just a day or so after the affair?

A Well--

Q That was just a day or so after the rape. I am not trying to pin you down.

A Yes, that day they picked us up.

Q That was just a day or two after?

A Yes.

Q At that time everything was fresh in your memory wasn't it, being about two days before?

A Yes.

Q It was much fresher than it is now?

A Fresher, but I am not sure exactly about the time; I was not looking at my watch. I didn't think anything like this was going to happen. As near as I remembered I gave it to you, gave the statement.

Q Why did you mention the time just then?

A Because I had a talk with a party about how fast it takes from Waikiki to town; it takes 20 minutes on a street-car and I think it would take about 10 minutes on a machine, but before it was about five minutes. Up to then I was not interested; I

Time from
Park
to City

this case came up naturally I like to see just about how it was going in my time; there is no speedometer or anything.

Q Why did you bring up the time? Nobody asked you anything about the time or questioned you about time?

A Well, because--

Q Nobody asked you about it?

A When you called me down there I remember I gave the time, something about twenty minutes after 12 when I left the dance; then that is what I thought, but then, huh, from what I went through after that I kind of changed my mind. I don't think it was about 20 minutes after 12.

Q Two days after the offense why did you think it was 20 minutes after 12 you left the dance floor?

A About twenty,- I know now I am wrong. If two or three cars are left there I don't see how it was that time there when I left with the car.

Q Don't you know the electrician's car would be there and would be the last one to leave?

A No, I was not the last one to leave.

Q There were two or three cars left. Didn't you say you waited until the last cars left there and you left about 15 or 20 minutes after the last dance?

A When I said one of the last I didn't think that one or two cars would make much of a difference. I didn't know I was to be called in the case.

there to the police station; you knew they were accused of the crime?

A There? I wasn't sure.

Q Did you think we were up there then for fun?

A I didn't know who was in this case.

Q You just said you saw Benny there?

A I saw Benny.

Q Did you think you were taken up there to be questioned just for fun?

A No. There was another girl too there that day, the other girl we had asked for a dance,- a soldier got beaten up there and this girl was up there and the soldier was there too, and I remember the soldier who came in with the policeman looking to see if he could identify men; he came bleeding in the mouth and the girl was there. She was at the dance too, so Mr. Machado ought to know about that trouble.

Q We are not asking you for anything except what you know. You did not know we had you up there about Benny at all then, did you?

A No, I just saw Benny.

Q You didn't know at that time that we had you up there about him at all, when you made that statement?

A No.

Q How did you come to mention his name in your statement if you didn't know what you were up there

A You asked me if I saw him that night. Benny was the only one I knew while we were going side by side, coming down Beretania street, after Vierra moved onto the other car and then onto the running board.

Q You stated Benny was in the other car. How do you account for that? "Benny was the only one I knew".

A You asked me.

Q I will ask you if that is not your signature?
(Showing paper to witness)

A That is my signature.

*In statement
ontra to
testimony*

Q This is what it says: "Benny was the only one I knew. While we were going side by side coming down Beretania street, down by Thomas Square, we were side by side, and Bobby Vierra jumped on the running board of the car Benny was riding in."

A I took it for granted that was Benny. The girl said that it was. I didn't think the girl was going to--

Q You said you were down to the station and you didn't know why you were there when you volunteered that statement about Benny. I have shown you two places where you mentioned Benny in your statement. What have you to say about that?

A Naturally when you asked me about Benny that is to answer you.

Q You said a minute ago you didn't know that we were talkin about Benny or that Benny had any

A I didn't know there were any charges; I didn't know there was,- I didn't know what trouble. I saw Benny.

Q You said you didn't make any statement about Benny. Now I showed you where you did. How do you account for that?

A Well, when you asked me if you saw these boys that night I told you Benny,-this girl was mentioned,- she mentioned it,- the words she said "Benny--"

Q I wish you would answer the question. A few minutes ago I asked you if you knew why you were down there that night and you said you didn't know and I asked you if you knew you were there about Benny and I showed you where you mentioned his name twice in the statement. How do you account for that discrepancy, the fact you said you didn't know, and now I have shown you you did?

A Is that the statement the lady took down in shorthand where it is word for word, what you and Mr. Machado asked me.

Q Is that your signature? (Showing paper to witness)

A Yes

Q You read it over?

A I was not looking over every single word,-I had to confess,- I know better now; not much legal knowledge.

Q I want to know if you said this. You don't have to be a lawyer or have much legal knowledge for that

"Benny was the only one I knew"?

A Yes, I knew him. Bobby jumped back on the car.

Q You didn't see Bobby get off your car and get in the other car?

A No, I could not see very well, I just took it for granted it was Benny. When I asked Bobby I said "Who is that?" and he said "Benny--"

THE COURT: You can't tell us what he said.

Q Did you see Vierra get off of your car and get on to the other car?

A No.

Q The car that Benny was in?

A You mean from my car to Benny's car?

Q Yes.

A No, I did not see that. I did not see him get off, but when he jumped back on my car--

THE COURT: Just listen to the question and answer it.

Q Did you not say in your statement "While we were going down side by side down Beretania street, down by Thomas Square, we were side by side, and Bobby Vierra jumped on the running board of the car that Benny was riding in?" You didn't say that?

A Maybe I did, but when he jumped back,--let me explain this thing.

Q You may answer.

A We didn't stop. I didn't see it. How can he jump back on my car from their car when we didn't stop at

MR. WIGHT: The witness is apparently trying to evade the questions.

THE WITNESS: Well, if I said it I did not,- I just looked at the general, the whole meaning of the thing; I didn't know that every little word like that would make a difference in the case.

Q I asked you if you did say that or didn't say it, in this statement?

A Well, I said it in that statement, yes.

Q Then you lied to us, then?

A No, but I didn't lie.

Q Did you do that then?

A Yes.

Q Did you see him jump over?

A No.

Q But you said in this statement you did?

A Yes.

Q Then you lied in the police station, did you not?

MR. HEEN: Objected to as already answered.

Q How long was he on the running board of that car? How long was Vierra on Benny's running board, do you know?

A I don't know.

Q Did you not state there at the police station "Bobby Vierra jumped on the running board of the car Benny was riding in and he got back on my car after two minutes later"?

*is that
in the
statement*

Q I am using the words you used. I don't know.

A I must have said it, but I am not sure about the time or anything.

Q Why did you say it then if you were not sure. This is only two days after the rape. You must have known better than now, which is two months after?

A I didn't know I was going into court. I just read the whole thing, about my testimony.

Q You didn't read it carefully?

A I don't even remember the line I scratched out.

Q Did you read it carefully?

A Yes, I went over it with Bobby.

Q You read it so carefully you made a correction in it right above that?

A Yes, just in one line.

Q If you made a correction in it you did read it carefully, didn't you?

A Yes, only that line I think was wrong; I am pretty sure it was wrong.

Q At the time you made the statement you felt the statement was true?

A As near as I can remember I think it was true; not exactly two minutes.

Q But you said two minutes, didn't you?

A I must have, but I was not--

Q Your memory at that time, which was only two days after the rape was much clearer than it is two months

✓ A Yes.

Q You were more apt to be correct at that time than you were today?

A I won't say that, because I remember--

Q Your memory is better now?

A No; looking back onto that I realize I made a little mistake on the time.

Q But now you are correct?

A About, -oh, not exactly; I could not possibly have remembered everything exactly even if it was the very next day after. I wasn't looking at my watch. I didn't expect anything like this to come up. I was not paying any attention to any time or anything like that.

contrast to this part of testimony

Q You knew at that time, you knew that Benny was in trouble?

A When I saw him I think he must have been in trouble, but I was not sure just what trouble.

Q Now you didn't see Benny when you got to Thomas Square, did you, with your own eyes, - you did not see him when you got to Thomas Square, in the other car, did you? Who were in the car with you?

A Sybil Davis and Margaret Kanae were those two girls.

Q You gave us their names, didn't you?

A I think so.

Q

Q Sybil?

A Yes, Sybil Davis was the other one.

Q And Margaret?

A I didn't give you that name. I know her as Kanae. I don't remember Margaret. Bobby was there with me too. I don't know if he said that or not. Both of us signed the same paper.

Q Do you know what name Bobby went under that night?

A No, except at your office, you told me.

Q Was the name Bobby Carter ever his name?

A I don't think so. I know him only as Bobby Vierra.

Q Isn't his correct name Bobby Vierra?

A Yes, that is his name.

Q His name is not Bobby Carter, the name he told the Girls?

A I don't know what he told the girls. You asked me "Who is this fellow Bobby Carter" and I said there was no Bobby Carter with us.

Q When I questioned you didn't you hear Vierra tell me that he gave them a wrong name,- didn't you?

A No.

Q You didn't hear him tell me that?

A Not you. He wasn't in your office.

Q Down at the police station when I had you two men there, do you remember Bobby Carter telling he lied to these girls and gave another name?

A No. I found that out in the office. Sam Kahan...

asked me "Who is the fellow Bobby Carter" and I told you there was no Bobby Carter, and then I asked Sybil, who was there too, right after,- Sybil was there the same day I was there, and after we came out of the City Hall I asked Sybil who was this Bobby Carter, and she told me the fellow that was with me, Bobby, and then I said he gave the wrong name, he is married.

Q Isn't it true you didn't see Benny until you got to Thomas Square?

A I saw him at Waikiki Park.

Q I mean on the drive down?

A No, I am driving.

Q Isn't it true that these two girls also stated in your presence that they did not see him until you got to Thomas Square?

A Only once that I saw them in your presence you had them in the room; when Bobby and I was the only one that came in your room when you questioned us.

Q Isn't it true you remained out at Waikiki Park about 20 minutes after that last dance was finished?

A I might have said that.

Q It is not true?

A I don't think so.

Q Why did you say it?

A I am a better judge of time now, than at that time.

I told you that.

*Benny
Michael*

A Sure.

Q What way have you studied it?

A With driving.

Q I am talking about the time you waited at the Waikiki Park before you left the Park?

A Didn't I say "about 20 minutes"?

Q In the statement you say "About 15 or 20 minutes"?

A Yes, about 15 or 20 minutes.

Q Yes.

A You didn't say that, or ask me that. You said "20 minutes" and I know I didn't say "20 minutes".

Q That is correct then?

A Yes, about.

Q When you told Mr. Heen you left about ten minutes after that, that is incorrect?

A Well,-

Q You told Mr. Heen you left ten minutes after the last dance. Answer the question.

Q There is another--

Q You said you left ten minutes after the last dance. That is not correct then?

A About, yes; about ten minutes.

Q You said this is correct and this is correct?

A About ten, fifteen minutes, about twenty minutes time; can't be exact; I don't remember in--

Q Wasn't your memory better two days after this rape than it is today?

A Then When Bobby Vierra jumped from your car to their car you were not side by side?

A No, because it was in the back.

*How there
say
side by
side*

Q How do you account for this remark: "While we were going side by side going down Beretania street, down by Thomas Square, we were side by side and Bobby Vierra jumped on the running board of the car Benny was riding in", and he got back in my car two minutes later"? Side by side you say there?

A We were side by side when Bobby jumped on my car, like this, on my running board from the ir car.

Q "While we were going side by side coming down Beretania street, down by Thomas Square, we were side by side and Bobby Vierra jumped on the running board of the car Benny was riding in". How do you account for that. You say there you were side by side when Bobby jumped from your car to their car, while you were side by side. That is what you say in your statement. Are you changing that?

A I know Bobby jumped back in my car when we were side by side, but I don't remember anything about Bobby jumping on their car. Bobby was in the back and I was driving. I never looked in the back. I could not look in the back and drive at the same time.

Q Now why did you wait 15 or 20 minutes at the Park?

was going with us or not. One of them was on the car talking to me, but this other one we were not sure whether they were going, so we waited for this other girl.

Q Now when you went down, drove down, [Counsel goes to sketch on blackboard) say this is John Ena road and this is Kalakaua Avenue and this is King street and this is the Kalakaua Extension,- do you know what I mean by the Kalakaua Extension, that new cut-off through there?

A You mean--

MR. HEEN: We object to the use of that diagram because Mr. McIntosh admitted that he has the relative positions wrong so far as Kalakaua Avenue and John Ena Road are concerned.

THE COURT: This is an approximation of these well-known streets. The witness is familiar with them.

(Discussion)

Q This is Waikiki Park and this is John Ena Road Running up to Kalakaua Avenue, and this is Kalakaua Avenue, you know it curves more than this, and here you hit King street. You know where Kalakaua hits King?

A Yes

Q Then you know the new cut-off from here over to Beretania, that is where Kalakaua extends through?

A Yes. That is Beretania?

Q Here is Beretania. Did you go up John Ena road.

extension?

A No, right through to Beretania.

Q Right through to this new extension?

A Yes.

Q You did not by any chance go up and over to King street; all the way up King street to Fort?

A No, sir, we never touched King street.

Q You never touched King street?

A Only when we crossed it.

Q You didn't go down one block or any number of blocks?

A No.

Q Now you got to Fort and Beretania about 12;40 didn't you?

A I don't know; I am not sure.

Q About that?

A I am not sure.

(Recess)

Q Now did you not reach Fort and Beretania street that evening about 12:40 p.m.?

A I don't know what time. I told Mr. McIntosh that I saw this crowd there and that must be reported down to the police station, if it is a fight or accident, it must be reported down to the police station, and I said if it is you can find out exactly what time I got to Fort and Beretania because the crowd was there.

Q Did you not state in your statement, written

A Yes, but I am not sure.

Q What was it, - how fast did you say you were going when you said you were going slowly. What is that when you are driving slowly, what speed?

A As slow as my car can go. It cannot go very slow, it is an old Ford junk.

Q What speed do you mean when you say slowly?

A As slow as I can go, without having the car come to a jerk and stop.

Q When you use the word "slowly" in reference to automobile speed, what speed do you mean?

A I am not sure about that.

Q About what speed?

A Well, slow would be about 20 to 25 miles.

Q Twenty to 25 miles?

A Twenty to 25 miles, about.

Q Is that about the speed you drove down from Waikiki that night, 20 to 25?

A I think that is about it, as near as I can remember.

Q Then you were not going as fast as 35?

A No, Bobby could not have jumped on my car going 35 miles an hour from their car.

Q Now where was the first place you actually saw Benny on that trip?

A I am not sure. I just took it for granted when Bobby told me he was on the car, that is why I took his word.

Q (Question read by the reporter)

A No place.

Q Did you see any of the other defendants, any of these other men, on that car?

A Judge, Bobby, Vierra and I signed a paper and I took it for granted it was both of our statements. They questioned Bobby and they questioned me, and both signed the same paper. I took it it goes for what both of us said about the case; both of us read it. I remember I thought it was wrong on only one line, and it was altogether different from what I said, so that was where I scratched it out. Bobby put his initial and I put my initial on the same paper. Both of us signed the same paper. I took it for granted it was both of our statements. It was on one paper. Both of us signed the statement. If it was a separate statement I would have put down exactly what I saw as near as I can remember, but both of us signed the paper and I thought it went for the two of our statements.

Q The statement is correct, is it not, as near as you can remember it at that time, the statement you signed at that time is correct as near as you can remember at that time?

A As near as I can remember. Bobby signed that paper too. Both of us signed the same paper. When they asked Bobby and I "You think that is about correct?" and Bobby and I read it. "Well. it is about

REDIRECT EXAMINATION

By William H. Heen, Esq.

Q Now in this writing, in this written statement, it is stated "While we were going side by side coming down Beretania street, down by Thomas Square, we were side by side, and Bobby Vierra jumped on the running board of the car Benny was riding in and he got back on my car after two minutes later." Now when you were testifying here today you stated you did not see Bobby Vierra jump onto Benny's car?

A Yes.

Q That is correct, what you are saying here today?

A Yes.

Q How did you happen to make the one statement here today and this other statement which you signed?

A Well, both of us signed that paper, and it goes for Bobby as well as me. One statement, and both of us signed the same paper. I asked Bobby if you think that is about right, and he said "Yes, I think that is about right," and I signed my name and Bobby signed his name right there; both of us signed the same paper.

Q Did your conversation with the two girls or one of those girls have anything to do with your saying that, that Bobby Vierra stepped on the other car?

MR. WIGHT: Objected to as being highly leading.

(Question withdrawn)

MR. HEEN: If the Court please, I offer this statement in evidence.

MR. WIGHT: No objection.

THE COURT: It will be marked as an exhibit.

(Document offered in evidence received and marked: "Defendants 'Exhibit 3.")

RECROSS EXAMINATION

By Griffith Wight, Esq.

q Since you talked to me have you talked to anybody about this case?

a Yes.

q Who?

a To the Judge (Pointing toward Mr. Heen)

q Any of the defendants?

a Mr. Pittman.

q Any of the defendants?

a Not about the case, but I know Benny and all of them, and we talked about it, yes.

q But not about the case?

a Not outside of anything,- he asked me if I saw him that night,"sure,at the dance, we asked the same girl for a dance".

q Have you talked to him here in the hallway since the case began?

*Admitted
1/24/57
J.W.*

some of the witness that took the stand. I could not come in. Not long or anything; just talked about the case.

q Are you a pretty good friend of Benny's?

a Beeny, yes.

q Have you been out with Benny any evenings since this case came up?

a Since the case came up, no.

q Yes.

a I met him at football game- no, not Benny, - down at swimming tank once I met Benny, at Waikiki; we did not talk about the case much.

q Much?

a Just what I know about the case, that goint to the dance and I said "Well, we asked the same girl for a dance" and I asked him if he knew the name of the girl we asked for a dance, no, he did not know the name of the girl. That is about all.

q Have you talked to any of the other defendants?

a No.

q Didn't you talk to--

q Yes, say "Hello" is all.

q You know them too?

a Since the case I know them. I saw them in Judge Deen's office.

*deemed it
like a witness
at*

3-11-40

here?

a I think I did once or twice.

REDIRECT EXAMINATION

By William H. Heen, Esq.

q You go to the University of Hawaii?

a Yes. I have lost this last couple of weeks.

q Never mind about that.

HAROLD GODFREY,

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

DIRECT EXAMINATION

BY MR. HEEN:

q What is your name?

a Harold Godfren.

q And what is your official position?

a Probation officer, in Honolulu.

q In the Court of Domestic Relations under Judge
Watson?

a Yes, sir.

q I will ask you whether or not you were at the
Waikiki Park on the night of September the 12th, 1931?

a Yes, sir.

q Do you know Ben Ahakuelo?

a By sight.

q I will ask you whether or not you saw David

Takai at the park on that Saturday night?

A Yes, sir.

Q Where?

A In the dance hall.

Q About what time was that?

A Well, I saw him twice that night, once about ten o'clock, the second time I think between 11 and 11:30.

Q Did you make a statement to the City and County Attorney or to Mr. McIntosh about those facts?

A Yes, sir.

MR. HEEN: Mr. Wight, have you got that statement?

MR. WIGHT: Yes. Here it is if you want to read it.

Q Will you look at this statement, please, Mr. Godfrey? (Handing statement to witness)

A Yes.

Q So you did not make any statement about seeing David Takai that night?

A I made that statement on the night the boys were apprehended. This here is several days later.

Q When you made that statement about David Takai to whok did you make that statement?

A John McIntosh.

Q This statement here is dated September 16th.

Is it your recollection that you made a statement before that time?

A Yes, sir.

Q To whom?

Takai, seeing David Takai there that time?

A Yes, sir.

Q What time did the dance close on that night, Mr. Godfrey?

A About five to twelve.

Q How do you happen to recollect that?

A Well, because the chairman of the dance, - the Eagles were giving the dance that night, and a quarter to 12, the rule there is to stop the dance and it was about a quarter past 12 then when the dance was still on.

Q A quarter past 12?

A A quarter of twelve. I had asked them when they were going to quit and he said he had asked the musicians to quit at 12, so I went up and told them that would be their last tune, to make sure they would quit before 12.

Q You went and told them to stop, to make sure they would stop, and when was that; what time was that?

A Five minutes to 12.

Q And did they stop then?

A Yes.

Q Did -- Do you know Tatsumi Matsumoto?

A Yes, sir.

Q Did you see him out there at the dance that night?

A Yes, sir.

Q You saw him at the close of the dance?

A Yes.

Q Where?

A Coming out of the main entrance of the hall.

Q Did you see Benny Ahakuelo there that night?

A I don't remember; I don't recollect seeing him.

Q About how many people were out there at the dance that night?

A I would judge five hundred.

(Cross-examination waived.)

- - - - -

TOMOMI MURODA,

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

DIRECT EXAMINATION

BY MR. HEEN:

Q What is your name?

A Tomomi Muroda.

Q You are of Japanese descent?

A Yes.

Q You are known as Sammy Tommy, the boxer?

A Yes, sir.

Q Do you know Ben Ahakuelo?

A Yes, sir.

Q Were you out at the dance at Waikiki Park on the night of September the 12th 1931?

A Yes, sir.

A About 9:30 or 10.

Q Did you see Ben Ahakuelo at the dance?

A Yes, sir.

Q About what time did you see him?

A At first I seen him about, - he didn't talk to me but I seen him, had glimpses of him, about the early part of the dance, and then just before, about the close of the dance, I talked to him.

Q When you say about the early part of the dance what do you mean by that?

A He were dancing and I had a glimpse of him.

Q About what time was that?

A About 10:30.

Q But you didn't talk to him at that time, about 10:30?

A I didn't talk to him.

Q And the second time was about how long before the dance was pau, when you saw him?

A Well, about three or four dances, I think.

Q Three or four dances before the last--

A I was walking around and I saw him and I talked to him.

(Cross-examination waived.)

(Frank Bettencourt was called to the stand.)

MR. WIGHT: At this time I must object to Mr. Bettencourt testifying. I saw him in here during almost all of

Judge Heen's own motion. This man has listened to the evidence. Judge Heen insisted on that exclusion of witnesses, and I must object to this man testifying.

MR. HEEN: We didn't know until yesterday that we were going to call Mr. Bettencourt, and as soon as I saw him in here this morning I asked that he step aside. In any event it only goes to the weight of his evidence.

(Argument)

THE COURT: The rule is, Mr. Wight, the fact that the rule of exclusion has been followed is simply a consideration to which the jury is to attach such weight, if any, as they feel it may be entitled to. It is not a prohibition of the witness from testifying. Proceed, Judge Heen.

URT

FRANK BETTENCOURT

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

DIRECT EXAMINATION

BY MR. HEEN:

Q What is your name?

A Frank Bettencourt.

Q Are you connected with the City and County?

A I am.

Q What is your official position?

A Bailiff.

A Detailed by the sheriff, yes.

Q To the First Circuit Court, as bailiff?

A Yes.

Q As bailiff?

A Yes, sir.

Q You have seen Mrs. Massie, have you not, the complaining witness in this case?

A I did.

Q On the morning of September the 13th, Sunday morning, I will ask you whether or not you went to Mrs. Massie's home in Manoa?

A I don't remember whether it was the 13th or not, but I went to her house one Sunday morning.

Q Do you remember about the report that came in that there was a rape case down at the Ala Moana?

A I do.

Q You don't remember the date?

A No, sir.

Q Well, what day of the week was it?

A It was Sunday morning.

Q About what time?

A I think about one o'clock.

Q About one o'clock?

A Yes.

Q And how soon after you heard the report about this assault at Ala Moana was it that you went up there?

A A few minutes afterwards.

Q And who did you go up with?

A Detective Nakea.

Q Detective Nakea and who?

A That is all.

Q Your commission is a commission of a police officer?

A Yes, sir.

Q And when you got up there did you go into the home of Mrs. Massie?

A I did.

Q Were there many people there at that time?

A There were Mr. Furtado, Mr. Harbottle and Mr. Massie and Mrs. Massie.

Q This Mr. Furtado is William Furtado, a detective in the Honolulu police department?

A Yes.

Q Mr. Harbottle is George Harbottle, also a detective in the Honolulu police department?

A Yes, sir.

Q Did you hear anybody ask Mrs. Massie any question at that time?

A When I got there I heard Mr. Furtado, detective Furtado, ask Mrs. Massie about the car, and at that time I heard her say that it was an old black Ford or Dodge, but she wasn't sure.

Q Did you hear Mr. Furtado ask any other questions?

A I did not.

Q What did you ask her?

A I asked her if in event we should find these boys if she could identify them.

Q What did she say?

A She says no; she says all she knew they were Hawaiians. Then I asked her if she took the car number down. She says "No", "I didn't take any car number down."

Q Did you ask her any other questions?

A I asked her what was her reason for leaving the Ala Wai Inn, and she said she just went for a walk, she was kind of bored, she wanted to go out for a walk, for some air.

Q All right. Do you recall asking her any other questions?

A No, I do not.

Q Do you recall whether or not she made any other statement at that time?

A No, sir.

Q Do you recall whether at that time she mentioned the names of any boys?

A No, sir.

Q Did you ask her if she heard any names?

A No, I did not.

Q Did she at that time tell you she knew the car number of that car?

A No, sir.

*What
about
naked*

(Argument)

THE COURT: The question is already answered.

MR. WIGHT: I move it be stricken.

THE COURT: The question is leading, Judge Heen. I think it would be better if you refrained from asking leading questions.

MR. HEEN: Your Honor is going to leave that in?

THE COURT: Yes. Proceed.

Q Did you at that time question her about the car number, outside of what you have already told us?

A No, sir.

Q You did not. That is all.

CROSS EXAMINATION

BY MR. WIGHT:

Q Can you tell me, Mr. Bettencourt, how it is that Judge Heen learned you made a report in this case like that?

A I don't know how he learned I made a report in the case like that.

Q You as a police officer would not report to anyone outside of your immediate superior?

A No.

Q You mean you do not know how he got ahold of it?

A No.

Q You did not tell any newspaper?

A No.

Q Not the Hochi?

Q Positive?

A Positive.

Q Do you remember when Mrs. Massie was up in Mr. McIntosh's office?

A I remember.

Q You were outside with a couple of other officers, Hoapili and some other officers?

A Hoapili was not there.

Q Who were the other officers with you?

A Nakea, Simerson, myself and Deputy Sheriff Hoopai.

Q When they took Mrs. Massie out of there, when her husband carried her out, all of you, except Hoopai, you were laughing at her?

A No, we were not laughing at her; they laughed at us.

Q Mrs. Massie?

A No, the other navy officers laughed at us.

Q Where had you seen the other officers?

A They were up in the waiting room.

Q You of course never tried to oppose this case in any way whatsoever?

A No, sir.

Q Can you tell how the statement, of what you testified, came out in the Japanese papers here recently?

A I did not tell any paper.

Q You cannot tell how it got in that paper?

Q You say you cannot tell how it got in that paper?

A I do not know.

Q When did you first talk to Judge Heen about this case?

A Today.

Q When did you first talk to Pittman about this case?

A I have not talked to Mr. Pittman about the case.

Q When did you first mention the case to the defendants or anyone else?

A I never spoke of it.

Q Did you ever divulge any of the information you gave to Mr. McIntosh, myself or anyone else?

A In the police station we have talked.

Q Who to?

A Furtado, Simerson, Nakea, Harbottle, myself, the deputy sheriff.

Q And Machado?

A Machado afterwards talked to us.

Q Now what was Mrs. Massie's condition when you went up to that house, was she not hysterical?

A When I went up to the house Mrs. Massie was crying and talking.

Q Wasn't she hysterical?

A Well, I would not say she was hysterical. I could not. As far as I know the definition of "Hysterical", when they are screaming, but she was not

*Gangster
friends
talked it
over*

and talking.

Q Now who else was there?

A Officer Harbottle, Officer Nakea, Officer Furtado.

Q Harbottle, Nakea, Furtado and who else?

A Simerson was outside.

Q Simerson did not go in the room?

A I don't know whether he was in the room or not; I don't remember.

Q And who else was there?

A Mr. Massie.

Q Who else?

A Mrs. Massie.

Q Who else?

A And then later Inspector Jardine came up.

Q And who else?

A And Captain Kashiwabara, I believe.

Q Did they keep on questioning her then?

A They did not question us.

Q How long after you got there did Jardine get there?

A Approximately half an hour, I believe.

Q What time did you get there?

A Oh, a little after one, I believe.

Q A little after one?

A I think, - I don't remember the time, it has been so long. I even - I didn't bother about it; never even dreamed I was going to be called as a witness;

never thought to look at the time. As far as I can remember it was sometime after one, anyway.

Q It might have been two?

A Probably.

Q Didn't you discuss this case with these other officers with a view of testifying against the prosecution?

A Beg pardon?

Q Didn't you discuss the case with the other officers, Harbottle, Nakea and Simerson, with a view of testifying against the prosecution?

A I never said I would testify against the prosecution.

Q I didn't ask you that question. Didn't you discuss this case with Harbottle, Nakea, Simerson and so forth, with a view of testifying against the prosecution?

A None at all.

Q Did you tell any of these officers what took place up there that you knew of, that you testified to today?

A We were all there, the officers, - we were talking among ourselves. We were all there, and of course at times when other officers were around we usually listen in on the conversation.

Q You were all questioning her then?

A Who, Mrs. Massie?

Q Mrs. Massie?

A I questioned her myself. Mr. Harbottle, Nakea and Furtado they had gone in to her telephone to get a doctor and get Jardine at the same time.

Q Did they get a doctor?

A The doctor did not come, and Jardine got up there and he rushed her over to the hospital right away.

Q Did Jardine question her?

A I don't know. I was not near him when he was talking to her.

Q Where were you?

A I was outside.

Q Was Jardine there when you questioned her?

A No, he was not; he was down at the station.

Q How do you know that?

A Because he came up half an hour later.

Q Now exactly who was there then when you gave these questions?

A As far as I can remember--

Q Who?

A When I questioned the woman she was lying on the couch and I was questioning her myself, and George-- I mean officer Harbottle and Nakea was up by the 'phone, one looking for the doctor's number and one trying to get Jardine.

Q Then nobody heard you, they were at the telephone?

A They were.

Q That is in the next hall?

whether they heard or could hear or not. The telephone is not very far away, just a few feet away from the couch.

Q Isn't the couch in the corner of the room nearest--

A No.

Q Don't you have to go out of the living room to a hallway leading to the bedroom?

A The telephone is right in the corner as you come off the living room.

Q In the corner of the room?

A No, not in the corner of the room. There is a little hallway to the kitchen.

Q You go through a door?

A The door was open.

Q Leading to the kitchen?

A From that hallway you can go into the kitchen and go straight into the bedroom.

Q What was the address of that house? Do you know if they live at the same place now?

A I don't know.

Q Do you know the address of the place?

A I have forgot.

Q. But this telephone in there is in the hallway leading to the bedroom, is it not, it was not in the living room?

A Yes.

Q You say when you were talking to her that

A Three of them were back there, but I don't know if they heard any conversation, my conversation with her, or not.

Q They were telephoning?

A I think one of them was.

Q They were all listening to the telephone conversation?

A No, they were standing around.

Q Did you shout your answers or speak in a normal tone?

A I spoke in a normal way.

Q Did she speak in a normal way too, with her voice?

A Yes, she did.

Q Did she complain of any pain or anything?

A Sure, she was complaining about her mouth; her slip was sticking out.

Q Was it hard to hear her?

A She was talking clear. Her nose was bad. She spoke clear enough to hear. I could hear distinctly.

REDIRECT EXAMINATION

BY MR. HEEN:

Q Who took Mrs. Massie down to the Emergency Hospital?

A Inspector Jardine.

Q Did Inspector Jardine have a car?

A Yes, there was a car outside, a City and County car.

A I think he had 307 or 306, if I am not mistaken.

Q Was that a radio patrol car?

A I don't know which car he got into. There were about three cars outside there.

Q Now when did I first speak to you about whether or not you knew anything about this case?

A Today.

Q About what time today?

A Just after you folks got through, the forenoon.

Q Where?

A Right over here in the corridor.

Q You didn't volunteer the information to me at all, did you?

A No, sir.

WILLIAM U. ASING,

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

DIRECT EXAMINATION

BY MR. HEEN;

Q What is your name?

A William U. Asing.

Q Where are you employed?

A The Board of Health.

Q What is your position there?

A Clerk.

Q Are you the son of John Asing, chief clerk of the

Board of Health?

A Yes, I am.

Q How old are you?

A Twenty-two years old.

Q Do you know Ben Ahakuela?

A Yes.

Q Have you known him for a long time?

A Yes.

Q I will ask you whether or not you were out at Waikiki Park at a dance on the night of September the 12th 1931?

A I was out there.

Q About what time was it that you went out there?

A I went out there at 11:30.

Q You got out there about 11:30 you mean by that?

A Yes.

Q How do you remember that?

A I remember that because, - well, I came through down, passing between Aala and Beretania streets I looked at the watch, it was 11:20, and I figured it out by the time I reached Waikiki Park it would be 11:30.

Q About 11:30?

A Yes, about 11:30.

Q Did you go into the dance?

A I did not go into the dance.

Q Was there anyone with you at the time you went

A There were two girls and the boy.

Q Who were the girls?

A They were Agnes Kam and Alice Kam.

Q And who is the boy?

A Peter Kauahi, Junior.

Q Did you get off the car at all?

A I didn't get off the car.

Q While you were out there at Waikiki Park I will ask you whether or not you saw Benny Ahakuelo?

A I saw Benny out there.

Q About how long after you got there was it when you saw him?

A About 15 minutes after I got there, I saw Benny.

Q And where was he at the time you saw him?

A It was just opposite of the dance hall.

Q Was he on the steps or on the ground?

A He was on the ground.

Q And do you know what he was doing at that time?

A He had a brown hat, he just tinkering with it, up on the front.

Q You didn't talk to him at all?

A I didn't talk to him.

Q Did you see him later than that?

A I saw him later than that.

Q When?

A After the dance.

Q After the dance was pau?

Q Did you stay there until after the dance was over?

A I did not stay there.

Q I mean until the dance was over?

A I stayed there until the dance was over.

Q And when the dance was over you said you saw him again?

A I saw him again.

Q Where?

A Outside.

Q Outside of where?

A Outside of the dance hall.

Q At that time did he have a hat on?

A At that time he had no hat on.

Q Did you talk to him at that time?

A I did not talk to him.

Q When was the next time that you saw Benny?

A That is the last ~~time~~ I saw of Benny.

Q Out there?

A Out there.

Q Did you see him the following day?

A Yes, I did.

Q Where?

A At Atkinson Park.

Q About what time?

A A little after nine.

Q And did you speak to him at that time?

A Yes, I did.

Q What did you say to him?

CROSS EXAMINATION

By Griffith Wight, Esq.

Q When you saw Benny at the dance, outside, he was walking along outside?

A He was just walking around there.

Q Outside of the park?

A No, outside of the dance hall.

Q Right outside, - you mean inside of the grounds but not in the dance pavilion?

A Yes, inside of the park.

Q Who was with him?

A There was nobody with him at the time I saw him.

Q He was alone?

A Alone.

Q No girl with him?

A No girl with him.

Q Where were you?

A I was in the car.

Q About how far away was he from you?

A About 60 feet.

Q Did you talk to him at all that night?

A I didn't talk to him.

Q All you did was to see him in there?

A I saw him but I didn't speak to him.

Q Were these other people with you in the car when you saw him?

A Yes.

Where were the two girls, in the back?

A Yes, the two girls were in the back.

Q Did they mention seeing him?

A Yes.

Q They mentioned seeing Benny?

A They were with me at the time.

Q Did they mention seeing Benny?

A Yes.

Q Which one mentioned it?

A Both of the girls.

Q Both of the girls?

A Yes, Alice and Agnes.

Q What did they say?

A They were telling me about Benny, how they knew him when they were small.

Q What did Agnes say?

A She knew him when she was small; "we used to be next door neighbor".

Q That is all she said?

A Yes.

Q What did the other girl say? What did Alice say?

A Both of them said the same thing.

Q Did Alice say "Benny used to be next door neighbor" and Agnes say "Benny used to be next door neighbor"?

A No, not exactly that. They said they used to be next door neighbor and they used to play together.

Q What did Agnes say?

A I don't recall what Agnes said.

Q What did Alice say?

A Alice was the one that mentioned that they used to be next door neighbors.

Q Agnes didn't say anything then?

A Not Agnes; it was Alice.

Q Did you see anybody else out there you knew that night?

A I didn't see anybody else.

Q Not another soul in the whole crowd? What brought the subject of Benny up to cause you to speak about it?

A I don't know. I read it in the Monday morning's paper.

Q It was after you read this that Agnes said this?

A No, this was said while we were on the car.

Q What made Alice say that in the car that night?

A She happened to know Red too, - I mean Benny too.

Q Who do you mean by "Red"?

A I call him "Red", see. That is his nickname; used to call him "Red".

Q Did you ever call him "Bull"?

A No, don't call him Bull.

Q Are you sure. Who used to call him "Bull"?

MR. HEEN: That is objected to. There is no testimony thaty used to call him "Bull". He is assuming that there is testimony that he has been called "Bull".

Q Who, if anyone, have you heard call him "Bull"?

call him "Bull"?

A I don't know of anybody.

Q Didn't they call him "Bull" on account of his playing football?

A No.

Q You don't know?

MR. HEEN: He didn't say he didn't know; the answer was "No". He said "No".

Q You don't know?

A No, I don't know.

Q This was after the last dance you saw him going out?

A After?

Q I say this was after the last dance that you saw him going out?

A Yes, sir.

REDIRECT EXAMINATION

BY MR. HEEN:

Q How long have you known Benny?

A I have known Benny for a long time.

Q Played together with him?

A Played together with him.

Q And during all the time that you have known Benny and played with him did you ever hear anybody call him "Bull"?

A I didn't hear anybody call him Bull.

RECROSS EXAMINATION

BY MR. HEEN:

Q Do you know any of the other four boys there, (indicating the defendants), or men, rather, you could not call them boys, they are grown up; did you ever see any of them before?

A No.

Q You never heard of them before?

A No.

Q You have known Benny a long time and are good friends, close friends?

A Quite close.

Q How good a friend is he?

A Just football player with me.

Q He is a football player with you. For how long have you known him?

A Oh, I don't recall how many years; I have known him for a long time.

Q Many years?

A Yes, sir, many years.

- - - - -

(Whereupon an adjournment was taken until

8:30 o'clock a.m., Tuesday, November 24, 1931.)

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