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Clayton D. Becker, Judge

The Court instructs the jury that the criminal code of this state provides that drunkenness shall not be an excuse for any crime or misdemeanor, unless such drunkenness be occasioned by the fraud, contrivance or force of some other person or persons, for the purpose of causing the perpetration of an offense; still, if you believe from the evidence in this case that the prisoner at the time of the alleged perpetration of the crime charged in the information was drunk or intoxicated to such a degree that he did not know the nature or quality of the act or ~~XXXX~~ did not know what he was doing, or that what he was doing was wrong, or that he was utterly unable to form any intention at all, then you should acquit him.

James D. Linnay, Atty for deft.

Refusal to give exception to by deft. + James D. Linnay, Atty for deft.

Clayton D. Becker, Judge

The Court instructs the jury that the wrongful intent is the very essence or gist of a crime, without which it cannot exist, and if the jury believe from the evidence that at the time of the alleged perpetration of the crime charged in the information the prisoner was drunk or intoxicated to such a degree that he was unable or incapable of forming an intention, then you should acquit him.

James D. Linnay, Atty for deft.

Refusal to give exception to by deft. + James D. Linnay, Atty for deft.

State of Colorado,  
Sedgewick County, } Jas.

In the District Court,

The People vs.  
vs.  
Antonio Benedict,

John Gillman, of lawful age, being duly sworn on oath according to law, deposes and says: That he was one of the jurors on the trial of the above-entitled action, that from the evidence adduced on the trial of said case and from the appearance and demeanor of the defendant on the witness stand he, defendant believed and believes that the defendant is an idiot or verging or bordering on id-  
iocy, and defendant seriously doubted and doubts, from the evidence in the case and the appearance and demeanor of the de-  
fendant on the witness stand that the de-  
fendant at the time of the <sup>alleged</sup> commission of the crime of robbery knew what he was doing, or was capable of knowing right from wrong.

And for this defendant swears that,

John Gillman.

Subscribed & Sworn to before me this 30th  
day of June A. D. 1894.

H. A. Hicks, County Judge  
Sedgewick County, Colorado.

no. 9,  
Opposed  
Clayton H. Becker  
Judge.

The Court instructs the jury that there is only one criterion by which the guilt of men is to be tested, and that is whether the mind is criminal; that the essence of an offense is the wrongful or evil intent, without which it cannot exist; that there must be a union or joint operation of act and intention, and if under the evidence in this case either element was lacking then your verdict should be for the defendant.

J. M. D. Linney,  
Att'y for Def't +

Refusal to give accepted to  
by Def't + J. M. D. Linney,  
Att'y for Def't +

State of Colorado, }  
Siegoin County, } ss.

In the District Court,

The People of the State of Colorado, }

vs.

Antonio Benedict, }

Horatio Hazard, of lawful age, being duly sworn on oath according to law, deposes and says: That he was one of the jurors on the trial of the above-entitled action, that from the evidence adduced on the trial of said case and from the appearance and demeanor of the defendant on the witness stand defendant believes that the defendant is and was at the time of the commission of the alleged offense of ordering an idiot or morgan on idioy, and that the defendant at the time of the alleged commission of said crime of ordering did not know what he was doing and did not know the distinction between good and evil and was not accountable for what he did.

And further deponent swears not.

Horatio E. Hazard

Subscribed and sworn to before me  
this 29<sup>th</sup> day of June 1894

J. S. Updegraff  
County Clerk

State of Colorado } S.S.  
County of Gilpin }

The People of the State of Colorado, to  
all Sheriffs, Coroners, and Constables, within the said  
State, Greeting!!

Whereas, Martin, Jax has this day made  
complaint on oath before Alexander, H. Jones  
Esq. one of the Justices of the Peace of said County  
that on or about the 11<sup>th</sup> day of June A.D. 1894  
one Jory, Benedict did at said County  
unlawfully, feloniously and against the order  
of, nature, had a certain Personal affair with  
a certain cow, and did then and there  
feloniously commit the crime of ~~burglary~~

Contrary to the form of the Statute in such case  
made and provided, and against the peace and  
dignity of the People of the State of Colorado.  
We therefore command you forthwith to take  
the said Jory, Benedict and bring him  
forthwith, before the said Alexander, H. Jones Esq.  
or in case of his absence, before any other Justice  
of the Peace of said County, to be dealt with  
according to law. In case you fail not at your  
peril.

Given under my hand and Seal  
this 12<sup>th</sup> day of June A.D. 1894

Alexander, H. Jones, <sup>my</sup> Justic of the Peace. <sub>Deputy</sub>

STATE OF COLORADO,

COUNTY OF

*Gilpin*

} ss.

The Complaint and Information of *Martin Sax*  
made before *Alexander H. Jones* Esq., one of the Justices  
of the Peace in and for the said County, on the *12<sup>th</sup>* day of *June*  
A. D. 189*4*, being duly sworn on oath says that *Jury, Bernardis did*

on or about the *11<sup>th</sup>* day of *June* A. D. 189*4*

at, to wit, the said County of *Gilpin* in the State aforesaid *did*  
*unlawfully, feloniously, and* <sup>*(feloniously, Buggery?)*</sup> *against the order of*  
*Heaven, had a certain venereal, affair with a certain*  
*Woman and did then and there did feloniously commit*  
*the crime of Buggery.*

contrary to the form of the statute in such case made and approved, and against the peace and  
dignity of the people of the State of Colorado. He therefore prays that the said

may be arrested and dealt with according to law.

Subscribed and sworn to before me this

*12<sup>th</sup>* day of *June*

A. D. 189*4*.

*Alexander H. Jones.*

Justice of the Peace.

*Martin Sax*  
his  
*Sax*  
mark.

STATE OF COLORADO,

COUNTY OF Gilpin } ss.

THE PEOPLE OF THE STATE OF COLORADO TO THE SHERIFF OF Gilpin COUNTY, AND TO THE WARDEN OF THE PENITENTIARY OF THE STATE OF COLORADO, GREETING:

Pleas, before the Hon. Clayton F. Becker Judge of the First Judicial District of the State of Colorado, and sole presiding Judge of the District Court of Gilpin County, at a term thereof, begun and held at the Court House in said County, on the 7th day of July in the year of our Lord One Thousand Eight Hundred and ninety four and of the Independence of the United States the One Hundred and nineteen

PRESENT--Hon. Clayton F. Becker Judge aforesaid.  
A. D. Bullis District Attorney.  
Thomas Hooper Sheriff of said County.  
ATTEST: Richard Harvey Clerk of said Court.

BE IT REMEMBERED, That on, to-wit: on the 7th day of July A. D. 1894 it being one of the regular days of the June term of Court in the year aforesaid, the following among other proceedings were had and entered of record in said Court, which proceedings are in words and figures following, to-wit:

IN THE MATTER OF

THE PEOPLE OF THE STATE OF COLORADO.

No. 590 us.

Antonio Benedict

Indictment for Burgery

At this day comes A. D. Bullis Esquire, District Attorney, who appears herein prosecuting the Pleas of the People of the State of Colorado; and the said Defendant Antonio Benedict as well in his own proper person as by his Counsel J. M. D. Livesay Esquire, also comes; and now neither the said Defendant nor his Counsel for him saying anything further why the judgment of the Court should not now be pronounced against him on the Verdict of guilty heretofore entered in this cause; Therefore, it is ordered and adjudged by the Court, that the said Defendant Antonio Benedict be taken from the bar of this Court to the common jail of Gilpin County, from whence he came, and from thence by the Sheriff of said Gilpin County, with all convenient speed, to the penitentiary of this State at Canon City, there to be delivered to the Warden or Keeper of said Penitentiary; and the said Warden or Keeper is required and commanded to take the body of said Defendant Antonio Benedict and him confine in said Penitentiary in safe and secure custody for and during the term of one year from and after the delivery of the said Antonio Benedict at said Penitentiary, of said term in solitary confinement, and the residue of said term at hard labor, and that he be thereafter discharged.

WE THEREFORE COMMAND YOU, The Sheriff of said County of Gilpin that you take the body of the said Antonio Benedict and him safely convey to the common jail of Gilpin County, and there him safely keep and detain; and remove and convey him from there with all convenient speed to the Penitentiary of the State of Colorado, and there him safely deliver to the Warden of the said Penitentiary, together with this Warrant. AND DO YOU, THE SAID WARDEN, receive the body of the said Antonio Benedict and him confine in the said Penitentiary, and there him safely keep, according to the judgment of our said District Court as aforesaid.

STATE OF COLORADO,

COUNTY OF Gilpin } ss.

I, Thomas Hooper Clerk of the District Court of the County of Gilpin in the State aforesaid, do hereby certify that the above and foregoing is a true copy of the final judgment and sentence entered of record of said Court in the case of the People of the State of Colorado versus Antonio Benedict

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said Court, at my office in Central City in the County aforesaid, this 17th day of June A. D. 1897  
Thomas Hooper Clerk.  
By \_\_\_\_\_ Deputy.

Instructions asked for by the People

People No 1

The Court instructs the Jury, that if a male person has venereal disease, or a local knowledge of a venereal disease, it constitutes the infamous crime against nature usually termed sodomy.

Arthur D Bullis's  
District Attorney

excepted to.  
proposed in my  
copy for exhibit

People No 2

The Court instructs the Jury, that a disease is not necessary to be proven to constitute the crime against nature, and that the crime is complete in this case if the sexual organ of the defendant came in contact with the person's body of the one.

Arthur D Bullis's  
District Attorney

excepted to.  
proposed in my  
copy for exhibit

No 3

The Court instructs the Jury, that if you believe from the evidence, <sup>beyond a reasonable doubt</sup> that the defendant committed the infamous crime against nature, as defined in these instructions and charged in the information, that you should find the guilty as charged in the information.

Arthur D Bullis's  
District Attorney

excepted to.  
proposed in my  
copy for exhibit



No 4

The Court instructs the jury that the Criminal Code of this state provides that drunkenness shall not be an excuse for any crime or misdemeanor and you are instructed that in a charge of sodomy as set forth in the information in this case drunkenness is no excuse for the commission of the same

Arthur D Bullis  
District Attorney

Accepted to:

Geo. S. Linnay, atty for deft +

Exh. 5

The court instructs the jury, that in considering this case you should not go beyond the evidence to hunt for doubts, nor should you entertain such doubts as are merely whimsical or based upon groundless conjecture. A doubt, to justify an acquittal, must be reasonable, and arise from a candid and impartial consideration of all the evidence in the case; and then it must be such a doubt as would cause a reasonable, prudent, and considerate man to hesitate and pause before acting in the graver and more important affairs of life. If, after a careful and impartial consideration of all the evidence in the case, you can say and feel that you have an abiding conviction of the guilt of the defendant, and are fully satisfied of the truth of the charge, then you are satisfied beyond a reasonable doubt.

excepted to by defendant,  
for 2d. & 3d. jury. atty for deft +

Arthur D Buller's  
District Attorney