

STATE OF COLORADO,
COUNTY OF Gilpin } ss.

IN THE 1st DISTRICT COURT.

THE PEOPLE OF THE STATE OF COLORADO
VERSUS

Antonio Benedict

INFORMATION.

#6

Arthur W. Bullis

District Attorney within and for the

First Judicial District of the State of Colorado, in the County of
Gilpin in the name and by the Authority of the People of the State of Colorado
State aforesaid, informs the Court that

Antonio Benedict

on the Eleventh day of

June A. D. 1897 at the County of Gilpin did then and there

feloniously, wickedly, and against the order
of nature have venereal affair with a certain
cow, and then and there feloniously, wickedly
and against the order of nature did carnally
know the said cow, and did then and there
feloniously, wickedly, and against the order
of nature with the said cow, did commit and
perpetrate the abominable detestable and infamous
crime against nature of buggery

#7

Contrary to the form of the Statute in such case made and provided, and against the peace and dignity
of the said The People of the State of Colorado.

Arthur W. Bullis

District Attorney.

By

Deputy Dist. Atty.

Arthur W. Bullis

District Attorney, makes oath and says: That the facts stated in the foregoing Information are true
according to his best information and belief.

Arthur W. Bullis

#8

Subscribed and sworn to before me this 14th day of June A. D. 1897

Chase Withrow

Notary Public

Martin Sax

Makes oath and says: That the facts

stated in the foregoing Information are true, of his own personal knowledge.

Martin X X Sax

his
mark

Subscribed and sworn to before me this 14th day of June A. D. 1897

Chase Withrow

Notary Public

Commission expires Mar. 25, 1897.

And the said Information has endorsements thereon as follows to wit:

"Filed this 15th day of June A.W. 1894
Richard Harvey.

Clerk

And "Peoples Witnesses" Martin Sax,
Osala Sax, John Dollar, Humphrey
79. Vaughn, Joseph Shuinessman.

Record M. Page 235. June 20th / 1894.

590 The People etc. }
vs } Sodomy.
Antonio Benedict }

At this day comes
A.W. Bullis Esq., District Attorney,
who prosecutes the pleas of the People
in this behalf, and the said defendant
Antonio Benedict is brought into Court,
and by James M.W. Liveray Esq., his
Attorney also comes. And thereupon
comes the jury to wit:

John Eilmann, N.W. Owen, Matt Steadman,
H.E. Hazard, John Wimler, A.C. Reckling,
John Brohl, Patrick Woyle, John Bruhl,
Albert M. Thomas, Peter McFarlane, A.H.
Whitford. Twelve good and lawful men.

7. 10 And they are duly selected and tried, empan-
elled and sworn to well and truly try and true deliverance
make between the People of the State of Colorado
and Antonio Benedict the said defendant and
a true verdict give according to the evidence
And thereupon comes the evidence

Page 10

the hearing of which is continued until
the hour of adjournment.

590 The People etc }
vs } Sodomy.
Antonio Benedict }

At this day come
again the said parties by their Attorneys
respectively, the said Defendant in
his own proper person being present in
Court. And the said Jurors being now
11. all here present ^{and} in the "Jury Box", the
trial of the issues herein joined is resumed.

And the said Jurors having heard the
evidence produced herein as well on
the behalf of said defendant as of said
People, ^{and} the arguments of Counsel, ^{and}
being duly instructed by the Court, retire
to their room in charge of a sworn bailiff,
to consider of their verdict herein.

And thereupon comes the instructions
from the People ^{and} granted by the Court
which is in words ^{and} figures as follows
to wit:

12. No 1. "The Court instructs the Jury, that if
a male person has venereal affair with, or carnal
knowledge of a cow, it constitutes the infamous
crime against Nature usually termed buggery.

Excepted to.

A. D. Bullis, District Attorney

J. M. W. Linnan.

Atty for Deft.

.....
considering this case you should not go beyond the evidence to hunt for doubts, nor should you entertain such doubts as are merely chimerical or based upon groundless conjecture. A doubt, to justify an acquittal, must be reasonable, ^{and} arise from a candid and impartial consideration of all evidence in the case; and then it must
7. 13. be such a doubt as would cause a reasonable, prudent, and considerate man to hesitate ^{and} pause before acting in the grave ^{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 reasonable doubt.

Excepted to by defendant. Arthur W. Bullis
J. McW. Lincay Atty for Deft. District Attorney

7. 14. And the following instructions were prayed for by the prisoner ^{and} granted by the Court
" The People etc
vs In District Court
Antonio Benedict

~~Instructions prayed for by the~~

No. 2. The Court instructs the Jury, that emission 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 and penetrated those of the cow.

Arthur W. Bullis
District Attorney

Excepted to
J. M. W. Lincay
Atty. for Deft.

7. 15. No. 3. The Court instructs the Jury, that if you believe from the evidence, beyond a reasonable doubt, that the defendant committed the infamous crime against nature, as defined in these instructions and charged in the information, then you should find him guilty as charged in the information.

Excepted to
J. M. W. Lincay
Atty. for Deft.

Arthur W. Bullis
District Attorney

No. 4.

7. 16. 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 this information in this case drunkenness is no excuse for the commission of the same.

Excepted to
J. M. W. Lincay
Atty. for Deft.

Arthur W. Bullis
District Attorney

Instructions proposed for by defendant
and granted by the Court.

The Court instructs the jury that a crime
or misdemeanor consists in the violation
of a public law in the commission of which
there shall be a union or joint operation
of act, ^{and} intention or criminal negligence,
and that intention is manifested by the
circumstances connected with the perpetration
of the offense, ^{and} the sound mind ^{and} discretion
of the person accused.

J. W. O. Liversay
Atty. for defendant.

No 2.

The Court instructs the jury: that, in this
case, the law raises no presumption against
the prisoner, but every presumption of the
law is in favor of his innocence; that the
law presumes him innocent of the crime
with which he is charged until he is
proven guilty beyond a reasonable doubt
that a mere preponderance of evidence is
not sufficient; that nothing is to be pre-
sumed or taken by implication against
the prisoner; that it is incumbent upon
the prosecution to prove every material
allegation of the information beyond a
reasonable doubt; that in order to convict
the prisoner of the crime alleged in
the information every material fact
necessary to constitute such crime must
be proved beyond a reasonable doubt; ^{and}
if the jury entertain any reasonable doubt
upon any single fact or element necessary



give the prisoner the benefit of such doubt,
and acquit him.

J. M. W. Linsay
Atty for Deft.

No 3.

The Court instructs the jury, that the prisoner is entitled to every presumption of innocence compatible with the evidence in the case; and, if it is possible to account for the innocence of the prisoner upon any reasonable hypothesis other than his guilt, then it is your duty to so account for it, and find the defendant not guilty; that it is not enough that you firmly believe from the evidence that it is more probable the prisoner is guilty, but you must be satisfied, beyond a reasonable doubt, from all the evidence, that he is guilty as charged in the information, or else it is your sworn duty to find him not guilty; that if there is any other reasonable hypothesis arising out of the evidence given in this case, except that of the guilt of the prisoner, then the prisoner is entitled to the benefit of such hypothesis and he ought to be acquitted.

- 7. 20

J. M. W. Linsay
Atty. for Deft.

No 4.

The Court instructs the jury that they have no right to disregard the testimony of the prisoner on the ground alone that he is a prisoner or defendant & stands charged with the commission of a crime. The law presumes the prisoner &

Page 9.