#21

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If the proof shows that the mind of the accused was in a diseased and unsound state, the question will be whether the disease existed to so high a degree, that for the time being, it overwhelmed the reason, conscience and judgment; and whether the prisoner, in committing the homicide, acted from an irresistible and uncontrollable impulse; if so, then the act was not the act of a voluntary agent, but the involuntary act of the body without the concurrence of a mind directing it. and he was not answerable to the law and should be acquitted.

2

It must be borne in mind that a insane person may retain his intellectual faculties and be able to converse intelligently, to plan and design and carry into execution his schemes with sagacity and foresight, and yet his brain may be so disordered by disease as to deprive his mind of its controling and directing power or in other words he may be perfectly rational on all subjects except one and on that particular subject he may be insane and act from an irresistible and uncontrollable impulse. If you believe therefore that the reason, conscience and judgment of Maybridge as to the particular act in question was overwhelmed by mental disease and in committing the homocide he acted from an irresistible and uncontrollable impulse and not as a voluntary agent, he was not answerable to the law and should be acquitted.

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3 The Jury have the right, from their own knowledge of human nature, and the tendencies of the human mind, in addition to, and in confirmation of, the evidence of experts, to say how far the causes relied upon to establish irresponsibility on the part of the defendant at the time of the commission of his act were adequate or sufficient to produce insanity and did cause that result.

4 If it be proved to the satisfaction of the jury that the defendant was predisposed to insanity, possessing an insane temperment, it is a fact which should be duly considered in arriving at the mental state of defendant at the time when he committed the homocide. If it be further proved to the ~~defendant~~ satisfaction of the Jury, that the defendant had met with an accident by which his brain had been injured and a permanent disease contracted tending towards insanity it is another fact worthy to be considered and the Jury have the right from their own knowledge of human nature and the tendencies of the human mind to say how far the information of his wifes infidelity and the evidence of her improper intimacy with the deceased were adequate or sufficient to produce insanity with Maybridge and whether this information caused him such mental anguish and suffering as to deprive the mind of its controlling and directing power and cause him to act from an uncontrollable

5- If the defendant was deprived of his reason at the time the act alleged against him was committed resulting either from a settled and well established mental alienation or from the pressure and overpowering weight of the circumstances occurring at the time, he is not legally responsible for what he did.

6

Intense excitement, extreme grief, sorrow and mental suffering are well recognized causes tending to produce insanity, and if it be proved that Muybridge exhibited great excitement, was affected with great grief and sorrow they are circumstances tending toward establishing his insanity. and the testimony if believed of those who theretofore had been his intimate friends declaring their opinion that he was insane for years prior to this homicide and on the morning and afternoon of the day of the homicide, having given the reasons on which their opinions, as to his insanity were founded, is competent evidence of his insanity at those times.

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It is a presumption of law also that habitual or permanent insanity once proved to have existed is presumed to continue until the contrary is shown, and if the jury believe that for years preceding the homicide and also on the morning of the day of the homicide that Maybridge was insane and that he was also insane at the time when Rulofson, if believed, testified Maybridge was in his gallery, on the afternoon of the same day it is a presumption that his insanity continued from that time forward up to and including the time the act was committed unless it shall have been proved to the jury by satisfactory evidence that he was sane and of sound mind after that time or at the time of the homicide,

Refused
Mr. C. A.
8-9

8

A defendant in a criminal action is presumed to be innocent until the contrary is proved, and in case of a reasonable doubt whether his guilt is satisfactorily shown, he is entitled to an acquittal.

The testimony of a medical Expert as to its weight ~~on~~ reliability and character is to be considered and weighed by the jury precisely in the same manner as the testimony of other witnesses is weighed and considered by the jury in all instances being the sole judges of the facts.

Experts are generally but adroit advocates of the theory upon which the party calling them relies, rather than impartial experts upon whose superior judgment and learning the jury can rely. Even men of the highest character and integrity are apt to be prejudiced in favor of the party by whom they are employed. And as a matter of course, no expert is called until the party calling him is assured that his opinion will be favorable. Such evidence should be received with great caution by the jury, and is never allowed except upon subjects which require unusual scientific attainments, or peculiar skill -

Refused
Murdock

That the fact that defendant believed at the time of the homicide that he was morally justified under the circumstances in taking the life of the deceased such belief not being in consequence of insanity such fact did not render him irresponsible for the act

11

The duties of each are separate but equally important in the administration of justice. I instruct you that the reputation of deceased Sarky

The people
vs
E J Myhridge

Gentlemen

This is a prosecution instituted in the name of the people against the defd E. J. Myhridge for the alleged murderful killing of Harry Larkyns on or about the 17th day of October 1874 in Stanislaus County - defd pleads not guilty.

You are the sole judges of the facts of the case. The law of the case is for the Court.

You have no right to assume the functions of the Court nor has the Court any right to assume your functions.

The duties of each are separate but equally important in the administration of justice.

I instruct you that the reputation of deceased Larkyns is not in issue in this case.

p 2 I will ~~decide~~ you instructions in regard to the offense of which the accused is on trial upon the proposition or presumption of the sanity of the accused. I will then give instructions upon the question of insanity. That you may determine the question of the sanity or insanity of the accused as that question is involved in the plea of not guilty.
(Read pages instructions to 14-)
(Then Read opts instructions)
(The pages other instructions)

I wish to call your attention to this proposition. That is this that because many instructions on the same question are given, it is not my intention to emphasize it. To impress it upon

p 3 you any more than if given you six a single instruction.
Counsel have a right to present instructions varied in language so as to cover any phase of the question consistent with the evidence.

In determining the issues it is your duty ~~to require~~ to require proof before you ~~can~~ Convict. When the case made out by the prosecution, of the killing and the circumstances, & beyond a reasonable doubt upon the question of the insanity of the one the burden is upon the defendant and he is required to prove it by a preponderance of the proof.

p 4

If you find the defendant guilty it is your duty to state in your verdict whether he is guilty of murder in the first or second degree. If of the first degree you have the right to fix the punishment of either death or imprisonment in the state prison.

If you find the defendant guilty you should say guilty. If on account of insanity you should say so in your verdict.

In District Court
Napa County

The People
vs
E. J. Muybridge

Instructions

Filed February 5 1875
C. B. Seeley
Clerk

Property of
Napa County Historical Society

Tuesday Febry 2nd 1875

The People
vs
E. J. Muybridge } Indicted for Murder

The Defendant with his Counsel came into Court. The District Attorney appearing in behalf of the People. The Defendant pleaded to the Indictment herein and said he was not guilty of the offence charged therein. Whereupon his Cause was set for Trial tomorrow morning at 10 o'clock AM,

Wednesday Febry 3rd 1875

The People
vs
E. J. Muybridge } Indicted for Murder

This Cause came regularly on for trial, The Defendant appearing with his Counsel Pendegast, Johnston & King Dennis Spencer District Attorney & Thos D Stoney appearing on the part of the Prosecution, And now came the following named Jurors to wit, J. L. Grunwood

Henry Kruse, John Forrester, W. T. Commyn
S. Newcomer, C. E. Smith, J. A. Klaus
Thos. Robinson, George Hallett, J. W. Garfield
J. G. Platt and R. H. Sterling who were sworn to
answer questions as to their Competency and
duly examined accepted and sworn to try
this cause. And now came the following
named witnesses to wit; A. H. Connolly
and B. S. Prickett who were sworn and examined
on part of the Prosecution

Thursday, May 4th 1876

The People
vs
Edward J. Muybridge } Indicted for Murder

The Defendant with his
Counsel came into Court. The District Attorney
and his Associate Judge Thos. P. Storey appearing
for the People. And now came the following
named witnesses to wit; Geo. Wolfe, J. M.
McArthur, Chas. McCrory who were sworn
and examined on part of the prosecution
And now came the following named witnesses
to wit Mrs. Susan Smith, Miss L. Smith, H. H.
Rudgeon, John T. Wentworth, M. Gray and

Property of