

**History on Trial**  
**Episode 8**  
**California v. Edward Muybridge**  
**Researched and Written by Mira Hayward**

***PROLOGUE***

On May 4th, 1880, a crowd gathered at the Art Association on Pine Street in San Francisco. They dutifully paid the 50 cent admission fee, filed into the gallery room, and took their seats. They had been drawn in by a newspaper advertisement that promised a show unlike any other.<sup>1</sup> And it was true. The viewers there that night were about to witness history being made.

At the back of the room stood a man with a long, gray beard. He was Edward Muybridge, the noted photographer. People had always said Muybridge seemed older than his actual age - though he looked to be in his 60s now, he was only 49.<sup>2</sup> Muybridge was bent over a device, three feet tall and three feet wide, a wood & brass & glass contraption of his own invention.<sup>3</sup>

Once the crowd was settled, Muybridge dimmed the gaslights. He ignited the gas jet inside his device, directing the flame towards a brick of lime, which generated a bright light. The light illuminated a glass disc, projecting its images onto the screen as Muybridge spun the disc. And then the magic happened.

On the screen in front of them, the crowd watched in astonishment as the image of a horse appeared, and then, miraculously, began to run. For two seconds, the horse galloped across the screen, then did it again. It looked, said one reporter, like a “living, moving horse. Nothing was wanting but the clatter of the hoofs upon the turf and an occasional breath of steam from the nostrils, [to] make the spectator believe that he had before him genuine flesh-and-blood steeds.”<sup>4</sup> And the wonder did not end there. Muybridge switched the disc, and now came a horse leaping, then a bull charging, a greyhound racing, a bird soaring through the air. The audience was astonished. They had just seen something that almost no one alive in 1880 had ever seen before: real, living animals in motion, photographed and projected in front of them.

People were familiar with zoetropes, small toys with illustrated or photographic strips that you could spin, producing the illusion of motion. And they may have seen magic

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<sup>1</sup> *San Francisco Chronicle*, May 4th, 1880.

<sup>2</sup> Edward Ball, *The Inventor and the Tycoon* (New York: Knopf Doubleday, 2013), 24. N.B. The version used was an electronic book, and page numbers may vary by user settings.

<sup>3</sup> Ball, 36.

<sup>4</sup> *San Francisco Call*, May 5th, 1880, published in the *New York Times*, May 19, 1880.

lantern shows, in which early projectors cast images onto a screen. But Edward Muybridge's machine, which he would come to call the zoopraxiscope – or 'life-action-view' in Greek – was something new.<sup>5</sup> He had done something revolutionary. First, he had figured out how to photograph animals in motion, using an inventive series of tripwires and fast shutters. You might be familiar with some of these photos - the most famous is a black and white set of a man riding a horse. Then, he had worked out how to transfer these images to a glass disc and project them in sequence, playing back the moment in time he had captured, preserving and replicating it. He had set into motion a series of inventions and innovations that would lead, soon enough, to the birth of the movie.

But our story today is not about what happened on that May night in 1880. It's about a crime that happened six years earlier, in 1874, a crime that led to a dramatic trial that caught the nation's attention and sparked discussions on the role of the law. It's an incredible tale: one of love, betrayal, vengeance, and justice in the still somewhat Wild West. And at the heart of it all was the man you've just met. Because Edward Muybridge was not just the father of motion pictures – he was also a murderer.

Welcome to History on Trial. I'm your host, Mira Hayward. This week, *California v. Edward Muybridge*.

## ***ACT I***

Edward Muybridge was not always Edward Muybridge. Born April 9th, 1830, Muybridge was christened Edward James Muggeridge, the second of four sons. Throughout his life, Muybridge changed his name several times - for consistency's sake, I'll call him Edward Muybridge throughout, since this was the name he was known by at the time of the trial. As a child, friends and family called him Ted. A cousin described Ted as "an eccentric boy, rather mischievous, always doing something or saying something unusual or inventing a new toy or a fresh trick."<sup>6</sup> His family was lower-middle class, and life in Kingston-Upon-Thames, the small town fifteen miles southwest of London where Muybridge grew up, did not offer many opportunities. In 1850, aged 20, Muybridge decided to seek his fortune in America.<sup>7</sup>

He arranged with a London publisher to become their sales representative in New York and headed across the Atlantic. In Manhattan, Muybridge got his first taste of the photography business after befriending a man named Silas Selleck who worked in Matthew Brady's photography studio. Selleck and Muybridge became close, and when

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<sup>5</sup> "The Zoopraxiscope," Google Arts & Culture.

<sup>6</sup> Ball, 318.

<sup>7</sup> Ball, 333.

Selleck decided to move to California, Muybridge eventually followed him, heading west in the autumn of 1855.<sup>8</sup>

On arrival in San Francisco, Muybridge subtly changed his name, shortening his birth name of Muggeridge to Muggridge.<sup>9</sup> Less than a year later, he changed it again: this time, to Muygridge. It was under this name that he applied for US citizenship in November, 1856.<sup>10</sup>

Muybridge did well for himself as a publisher in San Francisco. He had a knack for knowing what would sell. He joined the board of the Mercantile Library, an oasis of culture in the rough-and-tumble town.<sup>11</sup> He made social connections. He prospered.

But then, in early 1859, Muybridge decided to return to England.<sup>12</sup> Why exactly he did so is unknown, but over the course of the year he sold off his remaining inventory and wrapped up his business in San Francisco. On July 2nd, 1860, he boarded the Butterfield Stage, bound for St. Louis.<sup>13</sup>

Traveling by stagecoach was miserable. The Butterfield Overland Mail Company, and other companies like it, contracted with the Post Office to carry mail across the country. Passengers could hitch a ride along the way, and the price was cheap - for a reason. The small horse drawn wagons took twenty-five days to complete the 2,800 mile route - three weeks of boneshaking travel across rocky roads, breathing in dust and your fellow passengers' stench. The ride was also dangerous – the coaches were attacked by bandits, vulnerable to bad weather, accident-prone.<sup>14</sup>

On July 22nd, three weeks into the journey, Muybridge's coach was traveling near what is now Fort Worth, Texas, when the horses panicked and broke into a wild run. The driver could not control the coach and it sped down the road, going faster and faster until it hit a stump and sent its passengers flying. Edward Muybridge was thrown from the coach and landed on his head. He would not regain consciousness for nine days.<sup>15</sup>

When Muybridge came to, he found that both his vision and his hearing had been impacted by the accident. After resting for several weeks in Arkansas, Muybridge

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<sup>8</sup> Ball, 398.

<sup>9</sup> Ball, 405.

<sup>10</sup> Ball, 413.

<sup>11</sup> Ball, 420.

<sup>12</sup> Ball, 423.

<sup>13</sup> Ball, 423.

<sup>14</sup> "Stagecoach History: Stage Lines to California," *California State Parks*.

<sup>15</sup> Ball, 423-430.

eventually made his way to New York where, after filing a suit against the Butterfield stage company, he boarded a ship for England.<sup>16</sup>

Upon his return to England, Muybridge gave up the publishing business, and tried his hand at inventing. When he failed to make money from his inventions, he turned to business, joining a relative in banking. But his time as a banker was a disaster - his investments evaporated.<sup>17</sup> The only souvenir that would remain from this time was a new name: Edward Muygridge, nee Muggeridge, had now become Edward Muybridge.<sup>18</sup>

But it was not as Edward Muybridge that he returned to San Francisco in 1866. It was as Helios. Helios was his new name, and his new persona – an artist, a photographer, to be exact. During his stint as an inventor, Muybridge had spent time in Paris, where he crossed paths with three French brothers, the Berthauds, who ran a photography studio called Maison Helios. For a time, Muybridge used Maison Helios as his mailing address in Paris. Edward Ball, in his book *The Inventor and the Tycoon*, theorizes that the Berthauds taught Muybridge their craft. The Englishman borrowed more than just the brothers' technique - he also borrowed their name, using the English pronunciation of Helios to become Helios.<sup>19</sup>

While working as a publisher, inventor, and banker, Muybridge had always appeared like a conventional man. He wore suits, trimmed his hair, and maintained a neat appearance. But now, as an artist, Muybridge changed. His beard grew long and unkempt, his hair sprouted in unruly waves. He wore ragged clothes, floppy hats, a hostile expression.<sup>20</sup> His appearance seemed to say that he cared for only one thing: his art. And his actions backed up this impression: Muybridge had become obsessed with photography. He even designed a portable darkroom in a wagon so that he could develop prints whenever he wanted.<sup>21</sup>

His breakthrough as an artist came with pictures he took of Yosemite. Muybridge's photos captured the splendor and scale of the valley, its awe-inspiring rock formations and waterfalls, and newspapers around the world printed the pictures.<sup>22</sup> He also gained recognition in San Francisco for his photographs of houses: California's rail barons, including Leland Stanford and Charles Crocker, built sprawling mansions in the city and commissioned Muybridge to document their opulence.<sup>23</sup>

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<sup>16</sup> Ball, 430.

<sup>17</sup> Ball, 471-487.

<sup>18</sup> Ball, 487.

<sup>19</sup> Ball, 72-73.

<sup>20</sup> Ball, 24, 73-74.

<sup>21</sup> Ball, 137.

<sup>22</sup> Ball, 150.

<sup>23</sup> Ball, 217-218.

Within three years of returning to California, Muybridge was likely the best known photographer in the state. In April 1869, he signed with one of San Francisco's most prestigious galleries, run by the Nahl brothers.<sup>24</sup>

It was at the Nahls' gallery that Edward Muybridge met Flora Downs.

Flora worked as a photo retoucher for the brothers – a job that in those days meant fixing scratches in photo negatives or using wax and paint to apply color to photographs.<sup>25</sup> Born in 1851, Flora had had a difficult childhood. Her mother had died young, and her stepmother had been uninterested in raising her. At twelve, Flora was sent to live with her aunt and uncle in Kentucky. Two years later, the family moved to California. Upon the family's arrival in Marysville, California, Flora's aunt and uncle left the girl with another aunt, and traveled to Oregon. Flora Downs, only fourteen years old, had now been left behind by two families.<sup>26</sup>

Some historians have claimed that Downs was next sent to Mills Seminary, a boarding school for girls, but there is no record of her attending the school.<sup>27</sup> There is, however, a record of Downs getting a job as a sales clerk at a store in San Francisco.<sup>28</sup> She would not work there for long: at some point, sixteen-year-old Flora met twenty-four year old Lucius Stone, scion of a wealthy saddle making family. Flora married Stone in July 1867, and went to live in his family home.<sup>29</sup>

But the marriage was not a happy one. Flora hated her mother in law, who she called "cruel" and "tyrannical," and less than two years after the wedding Flora moved out, possibly using a small settlement from the Stone family to pay for a rented room.<sup>30</sup> With little formal education and few family ties, Flora needed to learn to support herself. Somehow, she discovered a talent for photo retouching.

When Edward Muybridge and Flora Downs met, he was thirty-nine and she was eighteen. She was petite and pretty, with wavy brown hair and a doll's face. He was a committed artist with little interest in personal grooming. She liked the theater, nice dresses, nights on the town. He preferred the wilderness, his work, and solitude.

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<sup>24</sup> Ball, 165.

<sup>25</sup> George Eastman Museum, "Historic Process Demonstration: Nineteenth Century Retouching Techniques," YouTube video, December 2, 2020.

<sup>26</sup> Ball, 177-178.

<sup>27</sup> Rebecca Gowers, *The Scoundrel Harry Larkyns and his Pitiless Killing by the Photographer Eadweard Muybridge* (London: Weidenfeld & Nicolson, 2020), 169.

<sup>28</sup> Gowers, 169.

<sup>29</sup> Ball, 179.

<sup>30</sup> Ball, 179.

We don't know what drew the unlikely pair together. Perhaps Flora was lonely – her last family member in California died in September, 1870 and her divorce from Lucius Stone was finalized three months later.<sup>31</sup> Perhaps she was attracted to Muybridge's success. Or perhaps she didn't have much say in the matter – Flora would later claim that Muybridge paid for her divorce from Stone and coerced her into marrying him by threatening to get her fired from the gallery. Or maybe, against all odds, this was a love story. Okay, maybe not, but whatever the case, on May 20th, 1871, twenty-year-old Flora Downs and forty-one year old Edward Muybridge were married.<sup>32</sup>

Two months after the wedding, Muybridge began traveling for work. He was away from home for more than half of their first year of marriage.<sup>33</sup> Flora grew increasingly lonely – a pain that only compounded when she suffered two stillbirths in a row.<sup>34</sup>

In the spring of 1872, the Nahl brothers closed their gallery.<sup>35</sup> Muybridge moved to Bradley & Rulofson, a gallery and photography studio known for taking portraits of celebrities.<sup>36</sup> Flora got a job retouching photos for the studio. She enjoyed the work - she collected copies of the pictures of stage actors who Bradley & Rulofson photographed and made her own album, pasting the glamorous celebrity shots next to prints of Muybridge's nature pictures.<sup>37</sup>

The Muybridges may not have been a perfect couple, or even a particularly happy one, but things were fine. Fine, that is, until the arrival of Harry Larkyns. And then things would fall apart – with deadly consequences.

## ***ACT II***

Harry Larkyns was well-known in San Francisco, though few people knew his true background. They knew he was handsome, with a charming British accent and charisma to spare. They knew he dressed well, if flashily, sometimes wearing a peacock feather in his hat.<sup>38</sup> They knew he'd fought in some war, somewhere – or at least he told people to call him “Major” Larkyns. But just exactly who he was, and what life he'd lived before he'd arrived in San Francisco, was a bit of a mystery – and would remain a mystery until the present day. But we'll come back to that. In 1873, there were only two things San

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<sup>31</sup> Gowers, 177, and Ball, 195.

<sup>32</sup> The date may also have been May 30th; newspaper accounts vary. See Gowers, 180.

<sup>33</sup> Ball, 199.

<sup>34</sup> Ball, 201.

<sup>35</sup> Ball, 236.

<sup>36</sup> Ball, 243.

<sup>37</sup> Gowers, 226-227.

<sup>38</sup> Ball, 55.

Franciscans knew for sure about Harry Larkyns: he was excellent company, and he had trouble staying on the right side of the law.

In March, 1873 Larkyns was thrown in jail for charges of obtaining money under false pretenses. The charges had been brought by Larkyns' former friend, one Arthur Neil. The two men had first met in London, and reconnected by chance in Salt Lake City in mid-1872. They then decided to travel to San Francisco together. For months, they'd lived it up – Larkyns providing the entertainment and Neil providing the funds. Neil said that Larkyns claimed to have a wealthy family who would cover his expenses, eventually. But after five months without repayment, Neil grew impatient. He filed a report against Larkyns and then took his story to the newspaper.<sup>39</sup> The *San Francisco Chronicle* jumped on the juicy story, publishing Neil's tale of woe with the headline "Financial Genius. The Prince of Confidence Men in Limbo, Maj. Harry Larkyns arrested for swindling" and noted that Larkyns had racked up, quote, "Hotel bills that would make a millionaire shudder."<sup>40</sup>

The two men eventually settled their case out of court, and the charges against Larkyns were dismissed, but his reputation was ruined and he was broke. He began moving freight at the docks—hard labor, but at least it paid. Soon, though, his charm and intelligence earned him the opportunity to become the theater critic for the *San Francisco Evening Post*.<sup>41</sup> It was likely because of this role that he ended up at Bradley & Rulofson's gallery and photo studio, where all the theater stars got their pictures taken. This, in turn, is likely how he met Flora and Edward Muybridge, sometime in 1873.

Larkyns started out as a friend of both Muybridges. He got free theater tickets through his job, and offered to take the couple out one night. Flora enjoyed the outing, Edward did not. Larkyns invited them to another show, Edward declined – but Flora said yes.<sup>42</sup> Soon, Flora and Larkyns were spending lots of time together. The two found that they had quite a bit in common - similarly lonely childhoods, a shared love for theater. In May, 1873, Muybridge left on a photography assignment for the U.S. Army. Upon his return, he was troubled by reports of his wife's new friendship, and warned Larkyns off: "I want you to let her alone," he recalled he told Larkyns. "I do not request it of you, but I command you to keep away from her. You know my rights as a married man. So do I, and I shall defend them."<sup>43</sup> Larkyns agreed to stop seeing Flora, but the break didn't last long.

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<sup>39</sup> Gowers, 137-147.

<sup>40</sup> *San Francisco Chronicle*, March 14, 1873.

<sup>41</sup> Gowers, 151, 157.

<sup>42</sup> Ball, 244-245.

<sup>43</sup> Ball, 253.

In the summer of 1873, Flora learned she was pregnant again. The Muybridges hired a woman named Susan Smith to serve as Flora’s midwife and baby nurse, but Smith would later allege she had another role: that of go-between for Flora and Larkyns. Smith said she carried notes for the couple, who saw each other whenever Muybridge was out of town working.<sup>44</sup>

In April 1874, while Muybridge was yet again gone on assignment, Flora went into labor. Harry Larkyns was with her and summoned Smith. After a twelve-hour labor, Flora gave birth to a healthy baby boy.<sup>45</sup> Smith wrote to Muybridge and he returned to town, though he only stayed for a week or ten days, before leaving for work again. He does not seem to have particularly bonded with his son – Smith would later say that Muybridge refused to name the baby.<sup>46</sup> Flora eventually named the boy George Downs Muybridge.<sup>47</sup> George was the name of Muybridge’s deceased brother, but it also happened to be the name of Harry Larkyns’ deceased father.<sup>48</sup> Larkyns visited George and Flora frequently.

In May, Larkyns lost his newspaper job, possibly because his colleagues were tired of people showing up at the newsroom to demand that he pay them back for various debts.<sup>49</sup> Desperate for money, Larkyns took a job as a publicist for a traveling circus.<sup>50</sup> While he was away from Flora, he wrote her secret messages in the paper, using his middle initial, T. In June, he left a note in the *Chronicle*: “F. Do write to me. I am utterly miserable without you. Your devoted T.”<sup>51</sup> But by this time, Flora was no longer in San Francisco to see the message. In mid June, Muybridge had sent her and George to Oregon to stay with her relatives. He said it was so she would have company while he traveled on a multi-month job – but some people wondered whether it was an attempt to keep Flora and Larkyns apart.<sup>52</sup>

Absence, however, only made the heart grow fonder. Flora and Harry both wrote to Susan Smith and her daughter Sarah about how they missed one another.<sup>53</sup>

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<sup>44</sup> Ball, 254

<sup>45</sup> Gowers, 211-212

<sup>46</sup> Gowers, 212.

<sup>47</sup> Gowers, 301.

<sup>48</sup> As well as Larkyns’ deceased brother. See Gowers, 223, and Ball, 421.

<sup>49</sup> Ball, 215.

<sup>50</sup> Ball, 279.

<sup>51</sup> Gowers, 220-221, and *San Francisco Chronicle*, June 23, 1874.

<sup>52</sup> Ball, 277, and Gowers, 220-221.

<sup>53</sup> Gowers, 226. There is some ambiguity about the credibility of the extant letters between Flora, Harry, and the Smiths; Rebecca Gowers points out that, “The only two letters brought out in the trial, and then partially replicated in the press...were not the originals, but the transcripts made by Muybridge. He may have written out both letters word for word, though why he should do so there is no saying. But the fact is, he had every opportunity to alter their contents lightly, not only to aid his cause by making them come across as more concrete and damning, but also, quite possibly, to remove damaging reflections on himself.” (Gowers, 284). For this reason, I have refrained from quoting from the letters in this episode.

There are indications that Larkyns and Flora were planning to try to start a life together, but to do that, Larkyns would need money.<sup>54</sup> He took up a new job, writing about mining for a newspaper. His work took him into the mountains around California's Napa Valley, where he reported on the area's silver mines. He had high hopes for the future. But a dark cloud was looming.

In October, 1874, Edward Muybridge returned to San Francisco. He was quickly confronted by Susan Smith, Flora's midwife and baby nurse, who claimed that she had not received her pay. On October 13th, Smith went to court over the matter, and won a judgment of \$100 against Muybridge. Muybridge claimed that he had given Flora the money to pay Smith, but Smith produced a letter from Flora that claimed that Edward would pay the money. This letter, to Muybridge's consternation, contained a mention of Harry Larkyns. After the hearing, Muybridge asked Smith if she had any other letters from Flora. Smith, apparently trying to secure her payment, said she would give the letters to Muybridge. She gave him the letters on October 15th. The next day Muybridge showed up at her house, demanding more letters. The first batch of letters, he said, only showed a flirtation between Flora and Harry - he wanted letters that proved the affair he was certain existed. Smith gave him more letters. She also showed him a picture of his baby son, on which Flora had written either "Little Harry" or "Little George Harry."<sup>55</sup>

The next morning, October 17th, Muybridge went to the Arts Association, a social club. People who saw him there reported that he was, quote "perfectly cool and self-possessed."<sup>56</sup> He next went to Bradley & Rulofson's, where he ran into an acquaintance, and the two men discussed bugs. Muybridge mentioned that he, quote "had some business up country and intended to leave by the afternoon boat."<sup>57</sup> Then he went upstairs, and had a conversation with William Rulofson, the gallery owner. Muybridge gave Rulofson documents which he said would organize his business in case anything were to happen to him. When Muybridge said he was going to Napa to see Harry Larkyns, Rulofson tried to stop him. But Muybridge would not be deterred.<sup>58</sup>

He left Rulofson's office at 3:56pm and sprinted to the ferry docks, barely making the 4 o'clock steamboat. He disembarked at Vallejo at 6pm, then boarded the north bound train. Three hours later, he got off at the last stop, Calistoga. He stopped in at a saloon, then went to find a buggy. He told the stableman he wanted to find Harry Larkyns. Muybridge thought Larkyns was at Pine Flat mining camp - that's where Larkyns had written his last newspaper dispatch from. The stableman, however, knew that Larkyns was spending the night at a miner's cottage at the Yellow Jacket mine. The stableman

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<sup>54</sup> Ball, 255.

<sup>55</sup> Gowers, 236-238, 248, and Ball, 287.

<sup>56</sup> Gowers, 238.

<sup>57</sup> Gowers, 238.

<sup>58</sup> Gowers, 238, and Ball, 291-293.

tried to convince Muybridge to wait until morning, since Larkyns would be traveling into Calistoga, but Muybridge refused. The stableman relented, and told one of his drivers, George Wolfe, to take Muybridge up to Yellow Jacket Cottage.<sup>59</sup>

The drive up the slopes of Mount St. Helena took more than an hour. Muybridge, Wolfe would later say, appeared calm, though he did ask if he could fire his pistol to, he claimed, scare off robbers. When Wolfe asked what he wanted with Larkyns, Muybridge said he wanted to, quote, “give him an unexpected meeting.”<sup>60</sup> He would certainly do that.

Around 11PM, Muybridge arrived at the Yellow Jacket Cottage – so named because of a nest of yellow jackets that lived nearby. Inside, a group of men and women were playing cards and talking. Harry Larkyns was playing cribbage with one of the miners. Edward Muybridge got down from the buggy and greeted a group of men standing by the door. He asked for Harry Larkyns. One of the men invited him into the house, but Muybridge said he wanted to see Larkyns outside. The men leaned into the doorframe and called for Larkyns, who excused himself from the card game, and walked to the door. When he reached it, he peered out into the darkness.

Edward Muybridge stared back.

“I have a message from my wife,” Muybridge said. Larkyns stepped forward. Muybridge shot him in the chest.

Larkyns staggered and turned, stumbling back into the house, his hands clutched over his wound. Muybridge followed him, still holding the gun. Larkyns went back out the front door and collapsed. Muybridge raised his arm as if to shoot again but one of the other men stopped him. Two men carried Larkyns back inside, where he lay groaning for several minutes. Then, Harry Larkyns died.<sup>61</sup>

Muybridge offered no resistance when the miners surrounded him. He apologized for frightening the women present and explained that, quote, “Larkyns had destroyed his happiness.”<sup>62</sup> Then he asked for a glass of water and sat down to read the newspaper. The miners decided to take him to the sheriff’s office in Calistoga. Around 1 AM, a local constable took Muybridge into custody. The constable found Muybridge to be, quote “very cool for one who had just killed a man.” The photographer explained his placid mood to the constable: hiring a lawyer might cost a lot, Muybridge said, but, quote “I

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<sup>59</sup> Gowers, 239, and Ball, 57-59.

<sup>60</sup> Gowers, 239.

<sup>61</sup> Ball, 60-62, and Gowers, 240-41.

<sup>62</sup> Gowers, 241.

won't have any trouble to get clear.”<sup>63</sup> In other words, Edward Muybridge believed he could get away with murder.

### ***ACT III***

Despite Muybridge's initial confidence about being acquitted, his assurance seems to have wavered in the months he spent in jail before his trial. In December, he agreed to an interview with the San Francisco *Chronicle*. In the interview, Muybridge presented a new version of the murder. Facing criticism for having shot a man who had no chance to defend himself, Muybridge now claimed that Larkyns had tried to run. “I did not intend to shoot him so quickly but thought to [talk] with him and hear what he had to say in excuse[...], but he turned to run like a guilty craven when I pronounced my name...[so] I had to shoot him so or let him go unpunished.”<sup>64</sup> No other witness account of the murder had Larkyns running from Muybridge.<sup>65</sup>

Despite his attempt to reframe his actions, Muybridge still expressed no remorse: “The only thing I am sorry for in connection with the affair is that he died so quickly. I would have wished that he could have lived long enough at least to acknowledge the wrong he had done me, that his punishment was deserved, and that my act was a justifiable defense of my marital rights.”<sup>66</sup>

This last line was an especially important point for Muybridge to make: the idea that killing Larkyns was a “justifiable defense of [his] marital rights,” would be central to his legal defense.

In this defense, Muybridge would be assisted by able lawyers. Leading his defense was William Wirt Pendegast, a man in his thirties known for his luxuriant hair and his magnificent courtroom speeches, and Cameron H. King, another young, ambitious lawyer whose uncle had been governor of California. Pendegast and King each had an assistant attorney as well.<sup>67</sup>

The prosecution was led by Dennis Spencer, District Attorney for Napa. The thirty-year-old Spencer had trained under Pendegast, but was much less experienced. Spencer was deeply concerned about prosecuting such a high-profile case. He begged the county Board of Supervisors to provide him with an associate counsel, but they refused – until the day before the trial, that is.<sup>68</sup> On February 2nd, 1875, when the Board

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<sup>63</sup> Gowers, 242,

<sup>64</sup> *San Francisco Chronicle*, December 21, 1874.

<sup>65</sup> Gowers, 261.

<sup>66</sup> *San Francisco Chronicle*, December 21, 1874.

<sup>67</sup> Ball, 339, and Gowers, 272-273.

<sup>68</sup> Gowers, 272.

agreed to bring on Thomas P. Stoney, Pendegast's former law partner and a current county judge, to assist Spencer. Stoney had only hours to prepare for the case.<sup>69</sup> That afternoon, Muybridge pled "Not Guilty" to the charge of murder. After his plea, a reporter noted, Muybridge laughed quietly and muttered, "to kill a man and yet plead not guilty." The now-offended reporter described Muybridge as carrying himself, quote, "with the air of a man who had done a noble action."<sup>70</sup>

The next day, February 3rd, jury selection began. In choosing jurors, the defense mainly looked for married men, who might be sympathetic to their argument that Muybridge was defending his so-called "marital rights." The prosecution looked for men who would be comfortable sentencing someone to death. Selection didn't take long - twelve men, all either farmers and carpenters, all but one married, were soon seated.<sup>71</sup>

Stoney gave the opening statement for the defense that afternoon. He laid out the facts of the case: quote "There is no doubt that on the 17th day of October Harry Larkyns, who was unarmed, was shot down and murdered." Stoney reminded jurors that it did not matter what Harry Larkyns had done, it mattered what Edward Muybridge had done. "There is no question of the rights or wrongs of the two men with regard to their relations with one another. The question is this[:] has the defendant violated the law?" In this question, Stoney said, the answer was clear: quote, "The defendant is as guilty as possible." He ended by telling jurors that, in the eyes of the law, quote "nothing but actual self-defense authorizes a man to take the life of another—no other provocation justifies such an act."<sup>72</sup>

The prosecution's witnesses, including the doctor who attended to Larkyns' body, the man who had driven Muybridge to Yellow Jacket, and the miners who had seen the shooting, laid out a clear and consistent story of Muybridge's actions on the day of the murder.<sup>73</sup> The witnesses from the Yellow Jacket cottage all described the same scene: Muybridge's arrival, the summoning of Harry Larkyns, the shot. They only differed on one aspect: right before shooting, Muybridge had either said "I have brought you a message *from* my wife" or "I have brought you a message *about* my wife."<sup>74</sup>

James McArthur, the man who had disarmed Muybridge, described Muybridge's calm attitude following the murder. Muybridge, McArthur testified, had said that, quote, "he intended to kill Larkyns," and that, since, quote "miners were a pretty rough lot, and he did not know what the consequences would be...," he had ensured that all his business

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<sup>69</sup> Gowers, 273.

<sup>70</sup> Gowers, 273.

<sup>71</sup> Ball, 350-351.

<sup>72</sup> Ball, 351-352.

<sup>73</sup> Ball, 435-436

<sup>74</sup> Ball, 436.

affairs were settled, should he be killed after killing Larkyns. Muybridge had also, McArthur continued, described firing off his gun during the buggy ride because the pistol, quote “had been laying a long time unused,” and he wanted to test that it worked well.<sup>75</sup> It was a pretty picture of premeditation.

On cross examination, the defense lawyers began to raise the specter of justifiable homicide. “Did he say as one of his excuses, ‘This man has seduced my wife?’” Pendegast asked McArthur. McArthur said that this was what he understood Muybridge to mean.<sup>76</sup> Justifiable homicide was not a legal defense – no law permitted killing a man because he had slept with your wife – but it was a powerful emotional one. After the prosecution rested, Cameron King delivered the defense’s opening statement, and doubled down on the justifiable homicide argument.

Harry Larkyns, in King’s depiction, had practically asked to be killed. “We will prove that Harry Larkyns was a man of bad character,” King said, before detailing how Larkyns had, quote “slowly undermined [Flora’s] heart and attacked her citadel of virtue.”<sup>77</sup> Stoney and Spencer kept objecting to King’s speech - he was making claims that would not be allowed as evidence. Judge Wallace kept upholding their objections, but King would not be contained, relentlessly attacking Larkyns. Eventually moving on, King said, “We will also prove insanity.”<sup>78</sup>

Edward Muybridge had initially been resistant to the insanity defense. He did not believe himself insane, and he did not want to end up in an asylum if he were found insane in court. But as the trial approached, and his confidence in his acquittal seemed to falter, he agreed to allow his lawyers to pursue the insanity defense.

King’s explanation of Muybridge’s insanity was two-fold. First, the lawyer said, Muybridge had been sent into a kind of insane frenzy by the news of his wife’s infidelity. In this state, Muybridge was quote, “not himself. Slung up to the pitch of insanity, the defendant made up his mind that he must slay the destroyer of his happiness, the man who had debauched his home!” But Muybridge’s insanity went back further, King argued. Remember that stagecoach accident that Muybridge had suffered in 1860, the one that had left him comatose for 9 days? That accident, King now claimed, had fundamentally changed Muybridge, perhaps making him more susceptible to the killing mania that had led to his crime.<sup>79</sup> Having heard a day’s worth of testimony, it may have been hard for jurors to reconcile the idea of “mania” with the prosecution witnesses’s description of Muybridge’s level-headed premeditation.

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<sup>75</sup> Ball, 436-437.

<sup>76</sup> Gowers, 276.

<sup>77</sup> Gowers, 278-279.

<sup>78</sup> Ball, 354.

<sup>79</sup> Ball, 354.

But even if the jury did not believe Muybridge insane, King concluded, the jurors should understand his actions. “Who is the man,” King asked, “even though he be of the soundest mind, that can say he would have acted differently? I assert that he who would not shoot the seducer of his wife, even if he were to suffer ten thousand deaths, is a coward.”<sup>80</sup> In other words, the real crime would have been *not* murdering Larkyns.

With that, the defense called their first witness, Susan Smith. Smith is one of the most intriguing and ambiguous people in this story. She had begun as a - perhaps unwilling - accomplice of Flora’s, helping facilitate her affair with Harry. Then she had seemingly betrayed the pair by revealing the affair to Muybridge, maybe in order to get money. After the murder, the press had strongly criticized Smith, saying that she had doomed Harry Larkyns out of her own greed.<sup>81</sup> At the trial, Smith, perhaps to rehabilitate her reputation, now claimed that a deranged Muybridge had scared her into handing over the letters. “His appearance was that of a madman; he was haggard and pale, his eyes glassy...he trembled from head to foot,” Smith described. “I thought he was insane, and would kill me or himself if I did not...[tell] him all I knew.” Whereas Smith had previously told the press that she had last seen Muybridge on Friday night, she now alleged that he had also come by on Saturday morning, the day of the killing, and it was at this meeting that she had shown him the worst of the letters. Smith’s testimony, which contained both lurid descriptions of Flora and Larkyns’ affair, and shocking depictions of an unhinged Muybridge, went a long way towards supporting the defense’s case.<sup>82</sup>

On cross examination, Dennis Spencer could not shake Smith from her story. He also was unsuccessful in trying to attack Smith’s character: Judge Walter prohibited him from introducing evidence that Smith herself was engaged in an adulterous affair.<sup>83</sup>

The next defense witness was Smith’s daughter, Sarah, whose testimony aligned with her mother’s. She was followed by William Rulofson, partner at Bradley & Rulofson’s gallery, who had met with Muybridge on the day of the murder. Rulofson described Muybridge as “eccentric,” saying that the photographer was difficult to work with, forgetful, and, prone to, quote “strange freaks.”<sup>84</sup> On the day of the murder, Rulofson said, Muybridge seemed to be in a frenzy, leaving Rulofson, quote, “really afraid.”<sup>85</sup>

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<sup>80</sup> Gowers, 280.

<sup>81</sup> Gowers, 245-247, 280.

<sup>82</sup> Gowers, 281-283 and Ball, 441-442.

<sup>83</sup> Gowers, 284.

<sup>84</sup> Gowers, 285

<sup>85</sup> Gowers, 285.

After Rulofson, the defense introduced witnesses who could testify to Muybridge's changed behavior after his stagecoach accident. These witnesses said that whereas Muybridge had once been quote, "a genial, pleasant and quick business man" [(search for this quote in ca news database to see who said)], after the accident he had become, quote "very eccentric," "not as good a business man," and sometimes "very violent and excited in an uncalled for manner."<sup>86</sup> It should be noted that many of these witnesses did not see Muybridge immediately after his stagecoach accident - they all had known him in San Francisco in the late 1850s, and had only seen him again six years after the accident, so they could not truly say whether it was only the stagecoach accident, or the intervening years, or some combination, that had changed Muybridge.

On Friday, February 5, Muybridge himself took the stand. He did not discuss anything about the killing, or even about the affair. He talked only about the stagecoach accident and its effects on him.<sup>87</sup>

In response to all of this testimony about insanity, the prosecution called Dr. G.A. Shurtleff as a rebuttal witness. Shurtleff was the superintendent of the Stockton Insane Asylum. He had been allowed to review the testimony of the murder witnesses. Shurtleff contested the idea that the stagecoach accident had caused Muybridge's actions. He also testified that, given that "it was testified by the common observer that [Muybridge] was calm after the homicide...it would lead to the opinion that he was not insane."<sup>88</sup>

The prosecution now recalled several of the murder witnesses, who reiterated that Muybridge had indeed been calm both before and after the homicide.<sup>89</sup> They also called the *Chronicle* reporter, George W. Smith, who had interviewed Muybridge in jail. Smith stated that Muybridge had told him he opposed the insanity defense.<sup>90</sup> In response to this testimony, the defense brought back William Rulofson, who had visited Muybridge in jail, and now said that the photographer had not been calm, but had been excited and distraught. The prosecution then recalled Dr. Shurtleff, who reiterated his earlier conclusions. "It would seem to me that the act was premeditated...he understood the nature of the act and the consequences,..[he] was not irresistibly impelled, but was moved by passion...[and] had a motive, which goes against the idea of madness." In conclusion, Shurtleff said, he was, quote, "of the opinion that [Muybridge] was a sane man when he committed the act."<sup>91</sup> With that, testimony in the trial concluded.

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<sup>86</sup> Ball, 446, and Gowers, 285-286.

<sup>87</sup> Ball, 445.

<sup>88</sup> Gowers, 287

<sup>89</sup> Ball, 447.

<sup>90</sup> Ball, 450.

<sup>91</sup> Gowers, 288.

Thomas Stoney delivered the first closing argument for the prosecution. He responded to the defense's argument of justifiable homicide, saying that while he himself had sympathy for the prisoner, that did not negate the fact that Muybridge had broken the law. Though Harry Larkyns had done wrong, Stoney concluded, quote "an adulterer does not forfeit his life." Muybridge could not be allowed to be, quote, "the judge, the jury, and the executioner." Instead, Stoney finished, the jury "must decide upon the law and upon the evidence, even if it makes their hearts bleed to do it."<sup>92</sup>

Cameron King provided the first defense closing. In dramatic, flowery language, he acknowledged that though adultery was not technically a legal justification for homicide, it might be a moral one. After discussing Muybridge's insanity, and, for some reason, insulting prosecutor Dennis Spencer for needing Stoney's assistance, King asked the jury to, quote "consider all the circumstances surrounding this terrible case in the light of merciful consideration."<sup>93</sup>

William Wirt Pendegast elucidated those circumstances further in the final defense closing. Edward Muybridge, he said, had loved Flora quote "deeply, madly, with all the strong love of a strong, self-constrained man. And all at once, like a clap of thunder from a clear sky, came upon him the revelation that his whole life had been blasted." In such a situation, how could anyone expect Muybridge to act responsibly? Pendegast asked the jurors to put themselves in Muybridge's position: "You, gentlemen of the jury—you who have wives whom you love, daughters whom you cherish, and mothers whom you reverence, will not condone Larkyns's crime. I cannot ask you to send this man back to his happy home. The destroyer has been there...his wife's name has been smirched, his child bastardized, and his earthly happiness so utterly destroyed that no hope exists of its reconstruction. But let him go forth from here again—let him go once more among the wild and grand beauties of nature, in the pursuit of his loved profession. Let him go where he may perhaps pick up again a few of the broken threads of his life and attain such comparative peace as may be attained by one so cruelly stricken through the very excess of his love for his wife."<sup>94</sup> On this dramatic note, Pendegast sat down.

Dennis Spencer rose to give the final prosecution closing argument. He pushed back on the insanity argument, saying, quote, "there is no form of insanity that strikes a man like a flash of lightning, compelling him to commit an awful crime, and then passes away as in a dream, leaving no trace behind." The only witnesses that had testified to Muybridge's insanity, he continued, were Susan Smith and William Rulofson, two people who had business relationships with Muybridge, and vested interests in seeing him acquitted. Spencer concluded by rebutting the logic of the justifiable homicide

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<sup>92</sup> Gowers, 289 and Ball, 453-454.

<sup>93</sup> Gowers, 290.

<sup>94</sup> Ball, 458.

argument. If Harry Larkyns could be killed with no trial, why was Edward Muybridge entitled to one? “The very prisoner,” Spencer finished, “after his act, comes here and avails himself of all the legal safeguards which he denied his victim.” He told the jurors that they should find Muybridge guilty of deliberate murder. With that, the case was finished.<sup>95</sup>

Judge Wallace now instructed the jury. He explicitly disallowed them from rendering a verdict of not guilty with justifiable homicide, but told them they could choose from four other verdicts: guilty, with a sentence of death; guilty, with a sentence of life imprisonment; not guilty; or not guilty by reason of insanity.<sup>96</sup> At 9:30 pm, the jury left to deliberate.<sup>97</sup>

Many people expected a quick verdict, and hung around the courthouse waiting. But by 3:00am, the jurors had still not reached an answer. They decided to sleep on the matter, and resumed deliberations after breakfast the next morning. By noon, they had a verdict. Muybridge was brought back from his cell, though the public were kept out for the reading of the verdict.<sup>98</sup>

In the still, silent courtroom, the court clerk rose. On the charges of murdering Harry Larkyns, he said, the jury had found the defendant, Edward Muybridge, NOT GUILTY.<sup>99</sup>

#### ***ACT IV***

Edward Muybridge had a strange reaction to the verdict. He collapsed and began to shake, seeming almost to seize. He moaned and wept. His lawyer, Pendegast, tried to rein him in, telling Muybridge to get himself together and thank the jury. Muybridge could not compose himself and was carried out of the courtroom. For fifteen minutes, the fit seemed to wrack his body and mind, but finally, when one of Pendegast’s partners told him to stop, Muybridge fell silent. He walked unaided into the courtroom and the judge officially released him. He walked into the street, where the waiting crowd erupted in cheers.<sup>100</sup>

Back in San Francisco, Flora must have been shocked. She had filed for divorce from Muybridge six weeks before the trial and asked for alimony and child support. A judge had initially ruled in her favor, and then dismissed his order and postponed the case

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<sup>95</sup> Gowers, 294-295.

<sup>96</sup> Ball, 458.

<sup>97</sup> Ball, 458.

<sup>98</sup> Ball, 459-460.

<sup>99</sup> Ball, 492-493.

<sup>100</sup> Gowers, 296.

after pressure from William Pendegast.<sup>101</sup> After Muybridge's acquittal, Flora filed again. She claimed that she had been coerced into the marriage, that Muybridge had been neglectful and even adulterous himself, and that she now feared he would kill her. The judge ruled that Muybridge had to pay Flora \$50 a month in alimony.<sup>102</sup>

But by the time this ruling came down, Muybridge was long gone. Two weeks after the trial, he had boarded a ship for Central America, to take publicity photographs for the Pacific Mail Company. He stayed in Central America for eight months, now going by the name of Eduardo Santiago Muybridge.<sup>103</sup>

Flora meanwhile was living in a boarding house with her son, barely scraping by. Her divorce lawyer had been providing her with money until the alimony arrived from Muybridge. It would never come. In July, Flora fell ill. Her condition worsened quickly and she was admitted to St. Mary's Hospital, where she died on July 18th, 1875, nine months and a day after the murder of Harry Larkyns. She was twenty-four years old.<sup>104</sup>

Before the trial, the press had excoriated her as a disgusting, promiscuous woman, and even death could not grant Flora a reprieve from the public's criticism. "Death relieves Mrs. Flora Muybridge from a life of sin and shame," read one headline.<sup>105</sup>

With Flora dead, baby George was placed with a neighbor's family. In 1876, however, Edward Muybridge arrived back in the child's life, but did not take him in. He instead had the toddler moved to the Haight Street Protestant Orphan Asylum. Muybridge also renamed George, giving him the unusual name "Florado Helios Muybridge." Besides bestowing the boy with his artist's moniker, Muybridge also had the orphanage record Florado as a "half-orphan," meaning that he had one living parent. These both seem to be signs that Muybridge now believed he was indeed the boy's father. But that did not mean that he wished to be involved in Florado's life. The two would rarely see each other. When Florado was nine and a half, he left the orphanage in search of work. He spent the rest of his life as a farm laborer, gardener, and delivery man. The mystery of his actual paternity was never solved; and though we know that his mother was Flora Muybridge, Florado himself apparently did not - thanks to a mixup with the orphanage records, Florado spent his entire life believing that his mother was a French woman. He died in February, 1944, after being hit by a car in Sacramento.<sup>106</sup>

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<sup>101</sup> Ball, 496.

<sup>102</sup> Gowers, 299-302.

<sup>103</sup> Ball, 503, 507.

<sup>104</sup> Gowers, 303-304.

<sup>105</sup> Ball, 504.

<sup>106</sup> Gowers, 306-309, and Ball, 508-509, 680.

Edward Muybridge's outcome was much better than Flora or Florado's. In fact, for the most part, he was celebrated by the public after the trial. Some reporters had criticized the verdict, with one local paper writing that the jury had, quote, "outraged the law and the facts and violated their oaths to set the assassin free."<sup>107</sup> But the public largely seemed to be on Muybridge's side. This position might make more sense if we consider the relative frequency of men in this period murdering their wives' lovers and being acquitted by juries who found their actions justified. In his book, *Homicide, Race, and Justice in the American West, 1880-1920*, Clare V. McKanna records love triangles as being the cause of nearly 20% of all murders in three Western counties – and in many of these cases, the killers were acquitted.<sup>108</sup>

It's a stereotype of the West that the law was often taken into individual's hands, but studies of Western murder trials during the late 19th and early 20th century show that juries regularly acquitted murderers if they believed that the crime was justified. In 1890, the historian Hubert Bancroft recorded that, quote, "an average of 25 homicides have taken place yearly in [San Francisco] for the last decade...and that out of the 250 or more homicidal crimes, only four have been punished capitally and seventy-seven by imprisonment. In all other cases the juries probably agreed that the victim deserved to be killed."<sup>109</sup>

This attitude seems to have been a Western phenomenon, though not exclusively. The New York Times had sneeringly predicted Muybridge's acquittal, saying that Muybridge "now appeals to the fine sense of justice and chivalry which a California public has never been found to lack on such occasions."<sup>110</sup> This wasn't just an Easterner's stereotype of the west. A study by the historian Roger Lane found that conviction rates for murder increased over the course of the 20th century in Philadelphia.<sup>111</sup> In response, the historian Robert Tillman studied murder conviction rates in Sacramento County over the same period, and determined that the conviction rate did *not* increase, leading Tillman to conclude that, quote "the social reaction to murder, at least as expressed in the actions of the courts, did not change significantly. The "lower threshold for the tolerance of violence" found elsewhere toward the end of the century was not in evidence in Sacramento County."<sup>112</sup> One Nevada newspaper, reflecting on both the Muybridge trial, and the Beecher-Tilton case, which happened at the same time, and

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<sup>107</sup> Gowers, 298, citing the *Russian River Flag*.

<sup>108</sup> Clare V. McKanna, *Homicide, Race, and Justice in the American West, 1880-1920* (Tucson: University of Arizona Press, 1997), 43.

<sup>109</sup> Hubert Howe Bancroft, *The Works of Hubert Howe Bancroft, Vol. XXIV; The History of California, Vol. VII, 1860-1890*, 216.

<sup>110</sup> "A Man of the World," *The New York Times*, October 28, 1874.

<sup>111</sup> Roger Lane, *Violent Death in the City: Suicide, Accident and Murder in Nineteenth Century Philadelphia* (Cambridge, Mass.: Harvard University Press, 1979).

<sup>112</sup> Robert H. Tillman, "The Prosecution of Homicide in Sacramento County, California, 1853-1900," *Southern California Quarterly*, Vol. 68, No. 2 (Summer 1986), 179.

which was covered in Episode 2 of *History on Trial*, said that Beecher could have used a taste of Western justice, quote: “It would have been much better for the world had Tilton, a year ago, blown out Beecher’s brains, and then his own.”<sup>113</sup>

That isn’t to say that all Westerners were so comfortable with violence, of course: in 1880, the *Sacramento Daily Union* published a scathing editorial on what they called “sentimental murder,” saying that the regular acquittal of murderers of this type was a sign of social backwardness, and hoping that California would soon reach at point at which, quote, “the kind of crimes which have heretofore stained the annals of the State will cease, and no one will venture to scandalize society and outrage the law in that way, with any expectation or hope of being acquitted through the aid of popular sympathy.”<sup>114</sup>

On the very same day that this editorial was published, Edward Muybridge displayed his zoopraxiscope in San Francisco. His presentation received national attention – and none of the articles mentioned the murder.<sup>115</sup> In the years following the verdict, Muybridge had resumed his work as a photographer. He had had a particularly fruitful collaboration with Leland Stanford, the railroad magnate, former California governor, and future Stanford University founder. Stanford, who was obsessed with horses, had wanted to solve the age-old question of whether all four of a horse’s legs left the ground at once when it ran.<sup>116</sup> (The answer, by the way, we now know, is yes). This was a technical challenge: no photographer had figured out how to capture a horse in motion without getting a blurry blob. But Muybridge proved just the man for the job. Using a series of triplines and modified shutters, he did the formerly impossible. In 1873, before the murder, Muybridge had captured one of Stanford’s horses mid-trot.<sup>117</sup> By 1878, he had refined his method, and managed to take 12 consecutive photos of a horse running.<sup>118</sup> These photos made international news, and formed the basis for Muybridge’s zoopraxiscope show. He had an artist paint his photographs on a glass disc, and then inserted a shutter between each frame so that the images did not blur together when he spun the disc.<sup>119</sup>

After his successful first demonstrations in 1880, Muybridge took his show on the road. He traveled first to France. It was there, in 1882, that Edward Muybridge changed his name for a final time, modifying the spelling of his first name from the standard Edward to the archaic Anglo-Saxon “Eadweard.”<sup>120</sup> Sounds the same, but spelt

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<sup>113</sup> Gowers, 297, citing the *Territorial Enterprise*, Nevada.

<sup>114</sup> *Sacramento Daily Union*, May 4, 1880.

<sup>115</sup> Ball, 569.

<sup>116</sup> Ball, 30.

<sup>117</sup> Ball, 31.

<sup>118</sup> Ball, 32.

<sup>119</sup> Ball, 566.

<sup>120</sup> Ball, 586.

E-A-D-W-E-A-R-D. This is the name he is best known by today. In this same year, he fell out with Leland Stanford, who published a book of Muybridge's motion photos and took credit for the photographer's invention. Muybridge sued Stanford, but a judge dismissed the case.<sup>121</sup>

In 1884, Muybridge was hired by the University of Pennsylvania to take more motion pictures.<sup>122</sup> At Penn, he transitioned from photographing animals to photographing people and then to photographing naked people.<sup>123</sup> He gained a reputation for eccentricity at the university, eating lemons by the dozen as well as the maggots that spawned in cheese.<sup>124</sup> After he failed to sell the photos he'd taken at Penn, and in need of money, he took his zoopraxiscope on the road.<sup>125</sup>

In February 1888, Muybridge did a motion picture show in New Jersey. Two days later, he went to nearby Menlo Park to visit the famous laboratory of Thomas Edison. The two men discussed Muybridge's invention. Edison would go on to refine Muybridge's invention and create the kinetoscope box, which would in turn inspire the Lumiere brothers, some of history's first filmmakers.<sup>126</sup>

By the time the Lumieres projected their first motion pictures for an enraptured crowd in Paris in December 1895, Muybridge was old news. He had stopped taking photographs in 1886 and a zoopraxiscope show at the Chicago World's Fair in 1893 had been poorly attended.<sup>127</sup> In 1895, Muybridge moved back to Kingston, England, where he had been born. He died there in 1904, aged 74, while trying to dig a hole in his backyard in the shape of the Great Lakes.<sup>128</sup> Very normal.

Today, Eadweard Muybridge is best remembered for his photographic exploits and technological innovations. These should not be discounted. His work is beautiful, transformative, and revolutionary. He also killed a man. The justice system allowed Muybridge to go free, and the social mores of the time meant that Muybridge did not suffer professional or personal consequences either. Today, the murder is largely a footnote in his biography. Even his own son seems not to have held the crime against him, if he knew about it. Florado, who seems not to have known his own mother's name, and believed her to be French, apparently loved to tell new acquaintances that his father was a famous photographer.<sup>129</sup>

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<sup>121</sup> Ball, 585, 589-593.

<sup>122</sup> Ball, 595.

<sup>123</sup> Ball, 595-612.

<sup>124</sup> Ball, 595, 597, 615.

<sup>125</sup> Ball, 624.

<sup>126</sup> Ball, 627-637, 641, 657-664.

<sup>127</sup> Ball, 646-648, 673.

<sup>128</sup> Ball, 675-676.

<sup>129</sup> Ball, 508.

That's the story of California v. Edward Muybridge. Stay with me after the break for a fascinating story of historical research and discovery that illuminated the life of one of the trial's less well-known figures.

## ***EPILOGUE***

History has not been kind to Harry Larkyns. He's been called a "confidence man," a "rogue," and a "scoundrel." Up until recently, historians writing about the Muybridge case have relied on the judgments of Larkyn's American contemporaries, who all seemed to agree that the man was a loveable rogue who exaggerated his achievements and connections. His claims of being an army major and winning military awards seemed doubtful.<sup>130</sup>

But all of that changed thanks to the work of British author Rebecca Gowers. Gowers is the great-great-great-granddaughter of Emma Larkins, author of a famous letter written during the Indian Mutiny of 1857. While trying to track down the original copy of this letter, Gowers uncovered a theory that one of Emma's children, a boy named Harry Larkins - Larkins spelled with an "i" was the same man as Harry Larkyns, Larkyns with a "y" who was murdered by Edward Muybridge.<sup>131</sup> Digging into the archives, Gowers was able to prove the theory true. This discovery led her to uncover the true biography of Harry Larkyns. Her 2020 book, *The Scoundrel Harry Larkyns and His Pitiless Killing by the Photographer Edward Muybridge*, allows us, for the first time, to flesh out the life of man who has, for so long, been defined by his death. This is his story.

Henry Thomas Larkins was born on October 18th, 1843, in Meerut, India, a town northwest of modern day New Delhi. The city, like much of India at this time, was controlled by the British East India Company, an enormous corporation with its own private army, in which Harry's father was an officer.<sup>132</sup>

Four months after Harry's birth, his family returned to England due to his father's ill health. The Larkinses stayed for two years, but eventually Harry's parents returned to India, leaving Harry and his two sisters to be raised by relatives. The Larkinses would send their next daughter back to England too, but kept Harry's three youngest siblings with them in India.<sup>133</sup>

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<sup>130</sup> For example, see Ball, 55-60, 231-233.

<sup>131</sup> Rebecca Gowers, "Emma Ewart Larkins' last letter from Cawnpore," *British Library*, Untold Lives, December 12, 2019.

<sup>132</sup> Gowers, 9.

<sup>133</sup> Gowers, 10.

Not much is known about Harry's earliest years. His sisters ended up with their wealthy aunt, Henrietta, but Harry did not, at least not yet. We aren't sure where he was between the ages of three and thirteen.

Though the four elder Larkins children did not live with their parents, their parents' influence was certainly felt - especially that of their mother, Emma, who monitored their behavior via letter, using a point system to weigh their moral worth. Harry does not seem to have fared well in Emma's assessments.<sup>134</sup>

In the summer of 1857, rebellion broke out amongst the native Indian troops of the British East India Company. The Larkinses, now stationed in Kanpur, found themselves at the epicenter of the fighting. They and other Company families ended up besieged in the barracks. Death seemed certain, so Emma managed to write a final letter, which she had a servant smuggle out. In this extraordinary letter, she writes movingly to her daughters, telling them of her love. Her note to Harry is very different: she seems to blame him for his family's imminent death. "Henry dear boy," Emma writes, "my heart yearns over you, oh dear boy if you saw the position your little brother & sisters are in at this moment you would weep over ever having pleased your own desires seek your God & serve Him."<sup>135</sup> It was the last letter Harry would ever have from his mother. Sometime that summer, along with nearly all the British families in Kanpur, Emma and George Larkins and their three young children were killed.<sup>136</sup>

Thirteen-year-old Harry was now an orphan. His aunt Henrietta, who was raising his sisters, took charge of his care. She sent him to boarding school, first in Brussels and then in England.<sup>137</sup> In 1859, Henrietta secured Harry a position as a cadet in the army.<sup>138</sup> He sailed to India to join up in January 1860.<sup>139</sup> He bounced from position to position, alternately charming and infuriating those around him. By the end of his second year in India, Harry had somehow managed to rack up 2,000 pounds in debts.<sup>140</sup> His commanding officer wrote to Henrietta that if she did not pay off his debts, he would be sent to prison. His sister Alice wrote that, quote, "as [Harry] has been in the habit of stealing all his life [,prison] appears to be the best place for him, poor fellow."<sup>141</sup> Henrietta managed to pay the enormous sum, and Harry kept his place, but was eventually forced to leave the army five years later for disciplinary problems.<sup>142</sup>

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<sup>134</sup> Gowers, 14.

<sup>135</sup> Gowers, 37.

<sup>136</sup> Gowers, 32.

<sup>137</sup> Gowers, 32, 39.

<sup>138</sup> Gowers, 43.

<sup>139</sup> Gowers, 46.

<sup>140</sup> Gowers, 62.

<sup>141</sup> Gowers, 62.

<sup>142</sup> Gowers, 65.

In 1867, aged 23, Harry returned to England.<sup>143</sup> He did not lose his habit of spending. A cousin describing him at this time said “extravagance was evidently his weak point. Endowed by nature with an excellent physique, good looks and a ready wit, he was nevertheless generally in debt.”<sup>144</sup> Exhausting the generosity of his friends and family in England, Harry traveled to London, where he fell in love with a famous courtesan. Wanting to impress the woman, Harry scammed a jeweler into giving him diamonds, saying that he would pay the man back later. When he didn’t, he was arrested for fraud. On the stand, Harry lied smoothly, promising it was all a misunderstanding. His wealthy friends in Paris - for Harry always managed to make wealthy friends, who loved his stories and sense of fun – paid the jeweler back, and Harry was acquitted.<sup>145</sup>

Returning to England, Harry once again ran up debts and got into legal trouble. But as usual, he managed to charm everyone around him, and evade punishment. In 1870, perhaps searching for a greater purpose, Harry signed up to fight for France in the Franco-Prussian war. For some reason, he enlisted as Harry Larkyns with a y, instead of an i, which is the name he is now best known by.<sup>146</sup>

Harry fought valiantly for France, using his facility for languages - he spoke good French and German – and his charisma to execute daring spy missions. He was promoted to squadron leader, the equivalent rank of a major in the British Army, and though historians have long doubted his military credentials, calling his desire to be called Major Larkyns a vanity, he earned the title. He also earned the Legion of Honor, the highest French order of merit, which he was awarded in April 1871.<sup>147</sup>

After the war, Harry traveled to America, going first to New York before heading west to Nevada.<sup>148</sup> After Nevada, he went to Salt Lake City, where he met up with Arthur Neil, and traveled to San Francisco. Months later, he wound up as the theater critic for the San Francisco Evening Post, and walked into Bradley & Rulofson’s gallery, met Flora and Edward Muybridge and sealed his fate.

Harry Larkyns was a rogue, yes, and even a scoundrel. He scammed people. He lived beyond his means. He got by on charm and false promises and pretenses of sophistication. But despite his flaws, he did not lie about everything. He did come from a wealthy family. He *was* a military hero. And he did, truly, love Flora Muybridge. None of that stopped Edward Muybridge from killing him, or a jury from acquitting Muybridge.

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<sup>143</sup> Gowers, 66.

<sup>144</sup> Gowers, 67.

<sup>145</sup> Gowers, 73-84.

<sup>146</sup> Gowers, 113.

<sup>147</sup> Gowers, 113-128.

<sup>148</sup> Gowers, 134-137.

And none of that stopped the historical record from disparaging his character for decades - until a persistent and determined researcher unearthed the truth.

Thank you for listening to History on Trial. The main sources for this episode were Rebecca Gowers's book *The Scoundrel Harry Larkyns and His Pitiless Killing by the Photographer Eadward Muybridge* and Edward Ball's book *The Inventor and the Tycoon: A Gilded Age Murder and the Birth of Moving Pictures*. I am grateful to Rebecca Gowers for her help in resolving several questions I had about the case, and would highly recommend her book to learn more about the lives of both Harry and Flora. For a full bibliography as well as a transcript of this episode with citations, please visit our website [historyontrialpodcast.com](http://historyontrialpodcast.com).