"The Celebrated Kate Noonan Case"

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Oral Argument in Kate Noonan's Appeal to the
Minnesota Supreme Court on July 3, 1877.

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Followed by the Court's Ruling.

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And an Account of the Jury's Verdict in Her Retrial.

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Foreword

by

Douglas A. Hedin
Editor, MLHP

On the afternoon of July 3, 1877, two members of the Minnesota Supreme Court, Chief Justice James Gilfillan and Associate Justice Francis R. E. Cornell, heard over four hours of oral argument in an appeal by Kate Noonan from an order of the Hennepin County District Court denying her request for a writ of *habeas corpus* that would have freed her from jail and barred her from being retried for murder.

If he had known about Kate Noonan, Theodore Dreiser might have been inspired to write a novel about her. After her case was over, the *Pioneer Press* carried the following thumbnail sketch of its facts:

> The case may be briefly stated as follows, leaving out many side incidents, allegations, denials and rumors,

which are already quite familiar to the public. A criminal intimacy commenced between William H. Sidle and Kate Noonan in the month of October or November, 1874, which was continued with occasional and brief interruptions until May, 1876. At this time, a discontinuance was agreed upon, and the defendant states that in response to her appeals for means to enable her to go where her disgrace was not known, the deceased promised a favorable response in the ensuing fall. Negotiations of such a character were indicated in the testimony of other witnesses. The fall came but the payment of the sum demanded was declined, and the change in demeanor testified to by the Rich family, such as sleeplessness, excitability, and inattention in the discharge of her duties. The defendant called on the deceased at different times and places, without invitation or request on his part, until Saturday night, Nov. 25th, 1876, when Sidle or his friends procured her arrest on a charge of disorderly conduct. She was placed in the lock-up, and the incidents connected with her imprisonment are too well known to require reproduction in these columns. She was kept until Sunday evening, when she was released by Mayor Ames, because no complaint had been filed against her. On account of alleged exposure and maltreatment, she claimed that her health had been seriously impaired, and proceedings for damages were commenced by her attorneys, Messrs. Benton & Benton, on the 27th day of November. Negotiations for a settlement were proposed, but these failing, Benton & Benton instituted proceedings for the recovery of damages for false imprisonment and seduction, the papers in the latter case having been served on Mr. Sidle's attorneys on the 15th of February, 1877—the day before the shooting—but it is claimed without the knowledge of Sidle or the girl.

> Next came the shocking tragedy in front of the Nicollet House early on the evening of February 16th; the preliminary examination of Kate Noonan on the 17th, and the imprisonment to await the action of the grand jury. An indictment for murder was returned at the May term of the district court, and the first trial commenced on Wednesday the 30th day of May, and continued until the 9th of June, when the jury was charged by the court and retired for deliberation. It remained out until the 12th of June, when it was discharged, have failed to agree upon a verdict—the balloting toward the close standing 11 for acquittal, and one in favor of conviction. [1]

Being deadlocked, the judge dismissed the jurors, but at that moment Noonan was still in her jail cell. Seizing on her absence from the courtroom, her resourceful lawyers sought a writ of *habeas corpus* to have her freed, arguing that a retrial would constitute double jeopardy. This was the background of the appeal heard by the supreme court on July 3, 1877.

The prosecutor was William Lochren, who had been elected Minneapolis city attorney in 1876 for a two year term. Under the rules of the day, Lochren still practiced with his firm, Lochren, McNair & Gilfillan. [2] He was an Anglophile and in oral argument could not resist the temptation to display his knowledge of English common law, asserting that "the doctrine that a person cannot be put twice in jeopardy was a dictum of Lord Coke, unsustained by any authority adopted by Blackstone."

Kate Noonan was represented by David A. Secombe, who had the ignominious distinction of losing an appeal to the U. S. Supeme Court to overturn his disbarment by the territorial supreme court

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[1] *Pioneer Press*, December 25, 1877, at 6.

[2] The latter was John B. Gilfillan who joined the Lochren firm in 1871. See Isaac Atwater, I *History of the City of Minneapolis, Minnesota* 448 (New York: Munsell & Co., 1893).

in 1856.[3] But he recovered his professional stature, and practiced law in Minneapolis until his death in 1892. Secombe was second-chaired by Christopher D. O'Brien, the Ramsey County Attorney, a post he held from 1874 to 1878. [4]

There was one other lawyer sitting at the defense table—former Governor Cushman Kellogg Davis. He was governor from 1874 to 1876, and then returned to his firm, Davis, O'Brien & Wilson. At the time of the Noonan trial, he was one of the most prominent members of the state bar.

This was not the first time that William Lochren and David Secombe had locked horns. Five years earlier, they had squared off in the great case of *Cahill v. Eastman*, where the Minnesota Supreme Court adopted the strict liability principles of *Rylands v. Fletcher*.[5] Secombe and James Gilfillan, the former jurist now in private practice, represented the appellants while Lochren and William W. McNair representing the respondents.

Given the notoriety of the case, the supreme court commandeered the senate chamber to accommodate the large number of spectators. At the time of the appeal, Chief Justice Gilfillan was in the third year of his second tour of duty at the helm of the court. He first served as chief justice from 1869 to 1870, when his term expired; he later returned to serve from 1875 to 1894. In the newspaper account of the oral argument, a glimpse of Gilfillan's judicial manner can be seen—he cut to the core of the case. When the question arose as to whether an affidavit or live

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3 *Ex Parte Secombe*, 60 U.S. (19 How.) 9, 15 L.Ed. 565 (1856).

4 In his history of the O'Brien family lawyers, Thomas D. O'Brien credited the favorable result in the retrial in December to the skill of Christopher O'Brien, who delivered the summation. Thomas O'Brien wrote that "Chris won his reputation as a trial lawyer by securing the acquittal in Minneapolis of Kate Noonan, who was accused of killing her lover." Thomas D. O'Brien, *There Were Four of Us or, Was It Five* 19 (St. Paul: St. Paul Dispatch and Pioneer Press, 1936).

5 *Cahill v. Eastman*, 18 Minn. 324 (Gil. 292) (1872), citing *Fletcher v. Rylands*, 3 H. & C. 774 (Exch. 1865), *rev'd*, L. R. 1 Exch. 265 (Exch.Ch. 1866), *rev'd*, L. R. 3 H. L. 330 (1868). According to Dean Pound, Minnesota was the second state to follow *Rylands v. Fletcher*. Roscoe Pound, *Interpretations of Legal History* 108 (New York: The Macmillan Co., 1923). Massachusetts was the first.

testimony was appropriate to show that Kate Noonan was in her cell when the jury was discharged, Gilfillan ordered the affidavit read, and Secombe complied. Even in the 1870s it would have been unusual to have an affidavit read to an appellate court, but Gilfillan knew that this was the most expedient way to prove what everyone already knew. Later, when Lochren was making a rhetorical point about why defendants were sometimes absent from the courtroom when the jury was discharged, Gilfillan interrupted and stated in one sentence the two issues before his court. Lochren dutifully addressed them. For good reason, Gilfillan is considered the greatest of the court's chief justices in the nineteenth century.

To modern eyes, the length of the oral argument is striking: court was convened at noon; after some delay the indictment and sheriff's return were read to the justices; Secombe argued for three hours, followed by Lochren's one hour reply. Today many appellate lawyers, who are allotted a meager twenty minutes for oral argument, would be amused by Lochren's apology that "he had briefly set forth his views because he did not desire to weary the court."

It took the court three months to issue its opinion. The appeal was dismissed. Two months later Kate Noonan was tried a second time. This time the jury returned a verdict.

The following account of the oral argument before the supreme court appeared first on page 7 of the July 4, 1877, issue of the *Pioneer Press*. It is posted in Section I. It is complete. A few spelling errors have been corrected.

The Supreme Court's ruling in *State of Minnesota v. Kate Noonan*, 24 Minn. 174 (1877), is posted in Section II.

The atmosphere in the courtroom when the jury returned its verdict was described in an article published in the *Pioneer Press*

on December 25, 1877. It is posted in Section III, and is followed by an editorial in that newspaper that day.

This article concludes with a short description of the case written by Dr. J. E. Bowers of St. Peter for the Minnesota State Medical Society in 1878.

Aside from its sheer drama, the Kate Noonan case is interesting because it has given us one of few detailed accounts of an oral argument before the state supreme court in the late nineteenth century. It also suggests areas for future research—for instance, how seduction suits were used or misused to pry settlements and how expert witnesses were used to prove and counter the insanity defense in criminal trials in this state at this time.

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I. Oral argument before the Supreme Court, reported by the *Pioneer Press*.

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THE PIONEER PRESS

July 4, 1877 7

KATE NOONAN'S LIFE.

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The Question Raised Whether it Shall be Put in Jeopardy by a Second Trial.

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Arguments Before the Supreme Court in St. Paul Yesterday Upon that Interesting Point.

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The Court Takes the Matter Under Advisement and Will Render an Opinion Hereafter.

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The Kate Noonan *habeas corpus* case came up yesterday in the supreme court before Chief Justice Gilfillan and Justice Cornell.

OPENING COURT—APPEARANCE OF THINGS.

At 12 m. Justice Cornell opened the court, and stated that Chief Justice Gilfillan was detained by the attendance upon the funeral of the late George W. Armstrong, and that the court would take a recess of fifteen minutes. This time, however, was extended considerably more than the time mentioned. Finally, just before the court came in, the sheriff brought in the defendant, who was accompanied by her constant friend, Mrs. General Van Cleve. Both were escorted to the left hand of the judges, the court being held in the senate chamber. A little in front of her was her counsel, Mr. O'Brien of St. Paul, and Mr. Secombe of Minneapolis. Gov. Davis also sat among the defendant's counsel, and consulted with them. A little to the rear sat the sheriff, with several ladies, and still further in the rear sat several other ladies. All through the senate chamber were scattered a number of gentlemen, while the gallery was partially filled. Mm. Van Cleve watched the proceedings and listened to the remarks of the counsel with a great deal of attention and interest. Miss Noonan, on the contrary, did not appear to be interested in the proceedings, or really to understand then, and occupied herself as best she could during the tedious hours that were occupied in reading documents, and authorities, and by the attorneys in arguing the case, and much of the time she appeared to be absent and far away in thought.

THE PETITION.

The petitioner, Kate Noonan, sets forth that she is imprisoned and restrained of her liberty by the sheriff of the County of Hennepin, in the common jail of that county; that the petitioner is not committed or detained by virtue of any process, judgment, decree,

or execution, known to the laws of Minnesota; that the cause and pretense of said confinement and restraint is an indictment, of which the following is the substance:

THE INDICTMENT.

Kate Noonan is accused by the grand jury of the county of Hennepin of the crime of murder, committed as follows: The said Kate Noonan on the 16th day of February, A. D. 1877, at Minneapolis, wilfully and unlawfully and feloniously, without the authority of law and with malice aforethought, killed William H. Sidle by shooting him with a pistol.

THE FACTS OF THE CASE.

The petitioner then says that the alleged illegality of the imprisonment consists in the following facts, to wit: that at the last general May term of the district court in Hennepin county the trial of the petitioner, on the indictment alluded to, came on and was had in the district court, and that such proceedings were had in said trial, that, on the 9th day of June last, at 12 o'clock m., the action was submitted to the jury which retired for deliberation on the verdict, that on the 12th day of June last, at nine o'clock and forty-five minutes a. m., the jury was discharged by the court from further deliberation in said action without agreeing upon a verdict, as will be seen by the following which is a copy of the record and the whole of the record.

HOW THE JURY WAS DISCHARGED.

Tuesday, June 12, 1877. The State of Minnesota against Kate Noonan. The jury in this case, having up to this time failed to agree, were summoned into open

court, and having announced that they were unable to agree, were discharged from further consideration of the case by order of the court, and that, at the time when the said jury came into court, were in court and were discharged as aforesaid, and all of the said time the said petitioner, Kate Noonan, was absent from said court and was confined and restrained in the said jail of Hennepin county.

ORDER TO BRING HER IN AND SHERIFF'S ANSWER.

The order was accordingly issued directing the sheriff of Hennepin County to have Kate Noonan before the supreme court at noon yesterday. To this order the sheriff, N. B. Thompson, made a lengthy return, which was read by Mr. Lochren, setting forth that he held the said Kate Noonan by virtue of an indictment charging her with murder, and the orders of the district court made in connection with the trial and the proceedings on the indictment, and, in conclusion, stated that he had the body of Kate Noonan in court.

THE ANSWER OF KATE NOONAN.

As soon as Mr. Lochren finished reading the answer of the sheriff, Mr. Secombe read the following as Miss Noonan's reply:

And now comes Kate Noonan, the relator, and in answer to the return of the defendant (that is, the sheriff) to the writ at *habeas corpus*, alleges that she, the said Kate Noonan, has been once put in jeopardy of punishment of the offense charged in the indictment, mentioned in the said return, in this, to wit: that at the same term of the court at which the said indictment was found, the said Kate Noonan was tried upon the said indictment, and that the jury upon

the said trial, after the said cause had been submitted to them for deliberation upon their verdict, were discharged from further deliberation thereon, without agreeing upon their verdict, in the absence of the said Kate Noonan from court, and while she was confined in the jail, and without the existence of any legal cause for such discharge; and the relator denies that the said jury was discharged "as unable to agree."

D. A. SECOMBE,
Attorney for Relator.

REMARKS OF COUNSEL.

Mr. Lochren objected to this answer as not relevant or pertinent to the matters on the record. This court has only to inquire into the reason why the sheriff holds the defendant. The matter referred to in the answer should be brought up on a writ of error. He then cited a number of authorities from Indiana and Pennsylvania, to show that courts will not seek to review the proceedings in the court below on a writ of *habeas corpus*. The answer, he claimed, was not at all responsive, but, on the contrary, it seeks to review the action of the court below and correct errors there committed, if any.

Mr. Secombe in reply, stated that whatever the law might be in Indiana and Pennsylvania, the court would be governed by the law of Minnesota in relation to *habeas corpus*. The return alleged that the jury was discharged without being able to agree. This the answer objected to denies. Mr. Secombe then proceeded to argue that the defendant could proceed as she had under the writ of *habeas corpus*. The relator is not limited to a writ of error. The statute gives her the other remedy. He then claimed that the defence would

take the position that the discharge of the jury was a verdict of acquittal, and it was on this basis or theory that her discharge will be asked for. They claim that they have the right to continue this imprisonment, because the jury did not agree. This the relator denies. He said the defense had an abundance of authorities to show that this was the right way to proceed by *habeas corpus*, and that Miss Noonan could not be discharged under a writ of error.

Mr. Lochren was about to reply when Gov. Davis asked him to wait a moment, and Mr. Secombe stated that this court had passed upon a similar case, and that the counsel had sent for this opinion, winch was the opinion in the Henry Warfield case. Mr. Lochren waited a few minutes, when the opinion alluded to was brought in, but finally he proceeded, arguing that the answer was not admissible, and reaffirming what he had previously said in regard to resorting to a writ of error and not to *habeas corpus*. He insisted that the court acquired jurisdiction of Miss Noonan properly and still had jurisdiction, and insisted that matters that properly came up under a writ of error cannot be taken advantage of under a writ of *habeas corpus*. Had this defendant been acquitted and afterwards indicted again for the same offense, there can be no doubt that a writ of error would be the proper way to bring the matter before the court.

Mr. Secombe in reply said that counsel sought to make this case analogous to a case when a party has been acquitted once and is sought to be held again for the same offence. This he denied, and was about to proceed, when Chief Justice Gilfillan interrupted him and said the court would allow the answer to be filed.

Mr. Secombe then offered an affidavit showing that the defendant was not present in court when the jury was discharged.

Mr. Lochren objected to this upon the ground that this court cannot inquire into what transpired in the court below in a writ of *habeas corpus*. It must be done if at all by a writ of error. On a *habeas corpus* the record of the court must be taken as it stands. An effort was made to have the court below to change the record and make these facts appear, viz: that the defendant was not present when the jury was discharged, but the court declined to make the change. The only way to make these facts appear to this court is on a writ of error. Mr. Lochren objected to the attempt to prove these facts, if they could be proved at all, on *ex parte* affidavits.

Mr. Secombe—I suppose the question is now narrowed down to whether these facts shall be proved by affidavits or by oral evidence?

Chief Justice Gilfillan—What facts do you allude to?

Mr. Secombe—The fact that when the jury was discharged the relator, Miss Noonan was not in court but at that time was locked up in jail and under the restraint of the sheriff.

After a little consultation with Justice Cornell Chief Justice Gilfillan stated that the court would hear the affidavit. Mr. Secombe then read an affidavit from the deputy sheriff of Hennepin county, George H. Johnson, in which he stated that when the jury was discharged Miss Noonan was not in court but on the contrary was locked up in the Hennepin county jail. Mr. Secombe then offered to show the same facts by the sheriff

himself, but the court decided it was not necessary to receive his statement.

Mr. Secombe then stated that the defendant in the indictment made the point that she had once been put in jeopardy of life, the case tried and the jury illegally discharged, that defendant was not in court when the jury was discharged, and could not now be tried again. In arguing this he referred to that part of the constitution relating to this matter and claimed that the principle enunciated went back to the foundation and beginning of all criminal jurisprudence. The statute makes provision for the discharge of a jury where one of the jurymen is sick and unable to act, and for another trial of the defendant. Now if this fact was made clear and determined by the court the discharge would be legal and proper. In this case there was no such determination. The law says the defendant shall be present in court during the trial. The most important part of the trial is when the defendant is brought in to learn the verdict of the jury, and the law says the defendant shall be present during the trial. In this case the defendant was not present. It is not sufficient to say the counsel for the defendant was in court. The defendant himself must be there, for the defendant cannot even in writing, under seal, do away with any part of the statute, but must be present himself or herself. Mr. Secombe read from a very large number of authorities not only from this State but from various other States, to maintain these points, all tending to show that the presence of the defendant is absolutely necessary in criminal proceedings during the whole trial. After finishing his reading of the great number of authorities that he had collected Mr. Secombe stated that he had in all his research, found but one case and that in Iowa, where the court held a contrary doctrine, and that court held as it did, because it did not appear

that the defendant was prejudiced. He thought the large number of authorities he had cited was conclusive. He closed by urging the great hardship it would be to the relator to be compelled to wait for a writ of error. Mr. Secombe occupied about three hours in what he said.

Mr. Lochren in reply said that Mr. Secombe might consider it a hardship that persons who imbue their hands in human blood may be put to some trouble. He was of the opinion that before such persons commit crime they should reflect upon the consequences. Mr. Secombe says the court below committed an irregularity in discharging the jury in the absence of the defendant, Miss Noonan. This is his position, and he has cited a large number of authorities, but these cases in his (Lochren's) opinion, do not sustain the theory announced. In regard to the doctrine that a defendant cannot be twice put in jeopardy of his life, he took issue with Mr. Secombe and argued and cited numerous cases to show that persons can be put on trial twice for the same offense, where the jury has been discharged by the court without agreeing upon a verdict. One of the strongest authorities cited was from the United States court reports, where the opinion was rendered by Chief Justice Story. Mr. Lochren claimed that the doctrine that a person cannot be put twice in jeopardy was a dictum of Lord Coke, unsustained by any authority adopted by Blackstone, and quoted sometimes by judges of a later day. He further argued that this matter of discharging juries was in the sound discretion of the court, and that it was not necessary that the record should show the fact. If the jury should become exhausted, or if the court should be satisfied that the jury could not agree, the court in its discretion is authorized to discharge it. Juries have been discharged after being out only ha1f

an hour. They have also been discharged by the officer in charge of the jury, and in the absence of the court and defendant, but by the order of the court.

Chief Justice Gilflllan—Mr Lochren, I do not think it necessary to follow that line of argument. The questions here are: First, is the writ of *habeas corpus* a proper mode to reach the matter; and second, what is the effect of the enforced absence of the defendant in this case?

Mr. Lochren then followed the point suggested by the court, and read authorities to show that courts had discharged juries in the absence of defendants, and argued as a matter of fact it might be absolutely necessary to discharge a jury in the absence of the defendant. He supposed the case of a defendant becoming so sick as to be unable to be removed to the presence of the court, and asked if the court would be compelled to hold a jury, perhaps for several months, to wait the recovery of the defendant? He claimed that in this case, the real fact is, that the court acted upon the humane idea that it would be harsh and inhuman to insist upon her coming into court in the presence of the large audience there gathered just to satisfy an empty and very dry formality that could have no effect whatever upon the result. Her presence would have made no difference in the discharge of the jury. The jurymen had been out four days, and were exhausted. The discretion of the court was well and judiciously exercised and justice was done. At any rate the most that can be said about it is that it is a mistrial, and cannot operate as a release of the prisoner. The doctrine of twice in jeopardy does not enter into this matter at all. Mr. Lochren occupied about an hour in his reply, and stated that he had briefly set forth his views because he did not desire to weary the court.

Mr. C. D. O'Brien followed briefly, and argued that the writ of *habeas corpus* would apply to the district court as well as to a justice of the peace court, and that the enforced absence of the defendant was a vital error, and irregularity and one that is fatal. She cannot be again put in jeopardy of her life.

After a brief consultation with Justice Cornell, Chief Justice Gilfillan said the court would take time to consider on the matter. Upon this announcement having been made the audience began to retire, and the sheriff with the prisoner had reached the door and was about to go out when the two were quickly called back so that the defendant should be present when the formal order was made out. The court evidently did not want any more questions raised as to her presence. After waiting a few minutes the order was formally written out and the sheriff left the senate chamber with her. The substance of the order is that Miss Noonan was remanded to the custody of the sheriff of Hennepin county till the further order of the court.

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II. *State of Minnesota vs. Kate Noonan*
24 Minn. 174 (1877)

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STATE OF MINNESOTA vs. KATE NOONAN.

October 4, 1877.

Appeals in Criminal Cases.—The statutes give the defendant an appeal in a criminal case only from a final judgment or an order denying a new trial.

Same—What Reviewable.—All other decisions, directions or judgments must be incorporated in a bill of exceptions, and reviewed on such appeal, or a writ of error.

Motion to dismiss an appeal from an order made by the district court for Hennepin county, Vanderburgh and Young, JJ., presiding.

D. A. Secombe, for appellant.

George P. Wilson, Attorney General, and *William Lochren*, for respondent.

GILFILLAN, C. J. Appeal from an order refusing a motion by the defendant in an indictment to be discharged, made on the ground that, as claimed, the court below improperly discharged the jury without a verdict. The state moves here to dismiss the appeal on the ground that no appeal will lie from such an order.

We held in the case of *State* v. *Weston,* 23 Minn. 366, that chapter 117, Gen. St., as amended by chapter 743, Laws of 1870, provides the only mode of removing a criminal case to the supreme court for review, and this ruling was followed when this case was before us upon *certiorari.*

Section 1 of *c.* 117, as amended by section 2 of the act of 1870, provides: "Criminal cases may be removed by the defendant to the supreme court by appeal or writ of error, at any time after judgment, or after the decision of a motion denying a new trial."

It is insisted, for the defendant, that this does not mean a final judgment which determines the case in the court below, but that whenever any application is made by a defendant to the court below which, if, granted, would put an end to the case there, the

decision of it, if refused, is a judgment from which an appeal may, under the statute, be taken.

Sections 2 and 4 of *c.* 117 clearly show the character of judgment intended by section 1. "Section 2. When an appeal is taken, it shall not stay the execution of the judgment, unless an order to that effect is made," etc.; and by section 4 writs of error "shall not stay or delay the execution of the judgment or sentence, unless allowed by one of the judges of the supreme court, with an express order thereon for a stay of proceedings on the judgment or sentence." These sections contemplate a judgment as the subject of appeal or writ of error, which is to be executed or enforce against the defendant, which, unless stayed, is to be followed by the punishment of the defendant—a judgment of conviction. How other decisions, rulings, or judgments of the court below are to be reviewed appears from section 6, as amended by the act of 1870, which provides for exceptions to any "such opinion, direction, or judgment," to be allowed and signed by the judge, and which "may be used on a motion for a new trial, and when judgment is rendered shall be attached to and become a part of the judgment roll." Such opinions, directions, or intermediate judgments, when incorporated in a bill of exceptions, come before us for review upon the appeal or writ of error given by section 1 of the statute. The legislature did not intend that each opinion, direction, or judgment, before verdict, of the court below, claimed to be erroneous, should separately be brought here; but that they should all be brought to this court at one time, so that we may determine their effect upon the final result of the case in the court below.

Though there may be cases of hardship arising from the inability of a defendant to have the decision of this court upon questions decided by the court below, until after a conviction in that court, we think, on the whole, that in the interest of justice the mode provided by the statute is the best that could be adopted.

The appeal is dismissed.

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III. Retrial

The retrial in December was packed with spectators who wanted a glimpse of the defendant. Midway through the proceedings, the *Pioneer Press* reported, "The Kate Noonan case continues to draw like a circus and the court room was fairly crammed with people and unsavory smells." [6] The jury returned its verdict on the morning of December 24th. It was announced in the *Pioneer Press* the next day:

THE PIONEER PRESS

December 25, 1877 6

"NOT GUILTY."

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The Verdict Rendered in the Case of the
State vs. Kate Noonan at 10:20
O'Clock Yesterday Morning.

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How the Verdict Was Received by the
Spectators in the Court
Room.

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Effect Produced on the Prisoner and Her
Aged Father.

[6] *Pioneer Press*, December 13, 1877, at 6.

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A Brief Review of the Case From its Beginning to the Close Yesterday Morning.

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Very unexpectedly, the case of the State of Minnesota against Kate Noonan, for the shooting of William H. Sidle on the evening of February 16th, 1877, came to its termination in the district court at 10:20 o'clock yesterday morning. There were many important points involved, affecting the public welfare, or having a bearing upon the personal rights of, the parties in the case or those nearly related to them. There was a great public sentiment favoring the presumption that women are not adequately protected in law against the wolves of society—and the sympathy based thereon whether well-founded or otherwise—is largely responsible for the character of the verdict rendered yesterday morning. This sentiment was strong enough to outweigh the peculiar fact that an alleged original outrage was apparently condoned by the act of the defendant, and further criminal intimacy was permitted upon a promise that she should never know want, on account of what had occurred. Then, again, there was the proper regard for the sanctity of human life, which should never be sacrificed on trivial or hollow pretexts, and the surprising differences of opinion entertained by the respectable corps of medical witnesses summoned to decide on the mental condition of the defendant at the time of the shooting. The weight of testimony on this point was about equally divided, and because of this, predictions of present and future disagreements were heard on every hand, indicating an ultimate possibility that the

court alone would be called upon to affix the penalty upon Kate Noonan, or assume the responsibility of admitting her to bail—which would have been a virtual acquittal.

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THE SECOND TRIAL

commenced on Friday evening, December 7th, and two jurors were unexpectedly secured from the regular panel. On Saturday a Special venire was issued for 75 jurors, returnable on Monday morning. After calling 61 names, the other ten jurors were secured, and the panel completed as follows: A. O. Haugan, Horatio Stillman, R. E. Whitmore, J. M. Lane, J. B. Ferrin, E. R. Norris, A. Hoff, J. M. Durnam, J. A. Sanborin, James I. Dean, U. R. Wilson and L. Tilleny.

The State was again ably represented by County Attorney James M. Lawrence, and Messrs. McNair & Lochren while the defense was conduced with equal ability by Messrs. Benton & Benton, D. A. Secombe and Ed. J. Davenport, of Minneapolis, and C. D. O'Brien, of Saint Paul. The second trial proper was commenced on Tuesday morning, the 11th day of December, and continued almost without interruption until Friday evening, Dec. 21, when the jury retired to deliberate at 7 o'clock. The prosecution was opened by Mr. Lochren and closed by Mr. McNair, while the defense was opened by D. A. Secornbe and closed by C. D. O'Brien; Col. Benton, conducting the examination of witnesses.

HOW THE JURORS STOOD.

After retiring to the apartment assigned them by the court officers on Friday evening, the jurors began

their deliberations as soon as possible. According to a well authenticated report, the first formal ballot stood seven for acquittal outright, to five for guilty, or milder grades of crime. On the sixth ballot the vote was nine to three, followed by ten to two in favor of acquittal where it remained until yesterday morning, when the other two agreed upon a verdict of acquittal on the ground that the defendant was insane at the time of the shooting.

THE COST OF THE TRIALS.

According to rumors current in regard to the expense to Hennepin county, a heavy bill of costs has been connected with the case. The expenses of the first trial exceeded $6,OOO, and the second, according to the most moderate estimates, will exceed $8,000, making a total of between $14,000 and $15,000 which Hennepin county will be compelled to pay on account of an illicit relation and the pistol shot fired on the evening of February 16th, 1877.

THE CLOSING SCENES.

Shortly after 9 o'clock yesterday morning a report of probable agreement came up from the Court House, which assumed definite form when a court officer was observed in search of the county attorney, and the respective counsel engaged in the case. Then the defendant, accompanied by her steadfast friend, Mrs. Charlotte O. Van Cleve, entered the court room and occupied the seats reserved for them during both trials. A few who had heard the rumor, hastened to the Court House, and by 10 o'clock, the room assigned to spectators was about one-fourth filled. Up to this time the only indication of an agreement was found in the report, and the court and attorneys were

busily engaged on the civil calendar. Precisely at 10:20 o'clock, John M. Durnam opened the door of the jury room, and came some distance before his movement was detected by Sheriff Thompson. Mr. Durnam halted a moment, then other jurors appeared, and all were conducted to the seats at right of the bench. After a moments silence, Clerk Wolverton asked the question:

"Gentlemen of the jury, have you agreed upon your verdict"?

Mr. Durnam bowed slightly and replied: "We have."

During these proceedings, the prisoner watched them with a sad expression, but sat back in her chair, and exchanged an occasional remark with Mrs. Van Cleve, her aged father being seated some distance from her. Mr. Durnam stepped forward and handed the sealed verdict to the clerk, who in turn passed it to Judge Vanderburgh. The latter opened it, and after examining it a moment handed it back to Clerk Wolverton, who read it as follows; the reading being listened to with wrapped attention by all present:

THE VERDICT.

To the Hon. Charles P. Vauderburgh and Austin H. Young, Judges of the District court, Fourth Judicial District of Minnesota:

State of Minnesota, Plaintiff,
vs.
Kate Noonan, Defendant.

In the above named case, we, the jury, find a verdict of not guilty, on the ground of insanity.

John N. Durnam, Foreman.

At the conclusion of the reading, the prisoner and her father bowed their heads and gave way to their emotions, while the court thanked the jurors for their patient discharge of an arduous duty and pronounced them discharged. The announcement of the verdict did not elicit the least applause in the audience, and the proceedings were orderly and without any perceptible excitement or feeling. Kate Noonan remained with her head bent down to the table until Sheriff Thompson walked to her and escorted her to the rear exit, followed by Mrs. Van Cleve. The trio reached the court-yard before any manifestation of applause was observed—the clapping of hands by a few citizens who had gathered in the hallway on the lower floor of the court house. This was followed by several "hurrahs" from the prisoners confined within the county jail, supplemented by a laughing remark from a citizen: "'That shows how the popular sentiment is."

Mrs. VanCleve and Kate Noonan were escorted to the family apartments of Sheriff Thompson, while a small group of people followed to the front of the jail building,—and thus ended the case of the State against Kate Noonan.

HER FUTURE.

It is stated on good authority that Mrs. Van Cleve has determined to maintain Kate Noonan during her lifetime, and the friendship which has been so conspicuous in the past will continue as a safeguard and protection in the future.

HOW THE VERDICT IS RECEIVED.

Differences of opinion exist in regard to the propriety of the verdict—a strong element in the community

> believing that it is not warranted by the facts, and liable to produce results disastrous to the public good. These think that some punishment should have been imposed as a wholesome example, while another and probably stronger numerical division of society defends the verdict, because it is claimed to be fairly sustained by the evidence of insanity, or justified by a series of wrongs for which human law provides no just penalty or compensation.[7]

In an editorial on December 25th, the *Pioneer Press* left little doubt where it stood:

> The second trial of Kate Noonan for the murder of William H. Sidle, terminated yesterday, in a verdict by the jury of "not guilty on the ground of insanity." The history of this remarkable case is given at some length in our Minneapolis department and those of our readers who have read the testimony in the case will probably not be greatly surprised at the verdict, though they will, perhaps, find it difficult to reconcile with the facts of the case as interpreted by the pitiless logic of the law, instead of by those principles of natural justice and the sympathies allied with them by which jurors are apt to be swayed whatever the law may say. There is no doubt that Kate Noonan was the victim of aggravated wrongs; and public opinion in this country is apt to be lenient to the vengeance which a betrayed woman wreaks upon her seducer. But having condoned the original cruel offense, lived for over a year and a half in relations of criminal intimacy with her seducer, and when he finally abandoned her, the

[7] *Pioneer Press*, December 25, 1877, at 6. The following item appears below this story:

> The jury in the Kate Noonan case made the following expression of thanks after being restored to citizenship: "We, the undersigned, jurors in the case of State against Kate Noonan, tender our thanks to Sheriff Thompson and his assistants for the courteous and efficient discharge of their duties toward us while in their care."

> quarrel between them having arisen, it appears, chiefly from his refusal or neglect to provide for her as she demanded, it can hardly be contended that, if sane, she was justified in killing him by the provocation of the original wrong, and if not by that, then certainly not by the lesser wrongs that followed, though these were of a nature which would naturally excite a woman deserted by her paramour to a pitch of desperate fury. And this, we judge, was the only insanity in the case, a kind of insanity which, if it justified acquittal in this case, would justify it in the great majority of cases. Under the circumstances, then, while giving full weight to the cruel wrongs of which Kate Noonan appears to have been the victim, and to the intense excitement under which she was doubtless laboring when she shot young Sidle, we cannot believe that the ends of public justice were served by a verdict equivalent to one of absolute acquittal. The case was one which demanded some punishment at the hands of the law, at least for manslaughter, unless it is to be understood that loose young women who have been deserted by their paramours are privileged to shoot them at sight wherever they can find them.

The following year, the "celebrated Kate Noonan case" was described by Dr. J. E. Bowers of St Peter in a report published in *The Transactions of the Minnesota State Medical Society*:

> Dr. Bowers also reports the celebrated Kate Noonan case. Kate Noonan was arraigned for trial in the city of Minneapolis, in December, 1877, on the charge of murdering W. Sidle, on the streets of said city, by shooting him with a pistol. It appeared in evidence that Sidle, some months prior to the shooting, had seduced the prisoner while she was stupefied by, and under the influence of intoxicating drinks, and with a promise of marriage; that she had subsequently been

kept by him as a mistress until, becoming tired of her, he had cast her off and refused to have anything more to do with her, and had even refused to speak to her. She had brooded over and keenly felt the wrongs inflicted, and, under the excitement and frenzy produced by such cruel treatment, had shot to death the author of her grievances as above stated. Sidle had wealthy parents and influential friends, with all the surroundings and indulgences that wealth could give, while the girl was poor, but had, prior to her debauchment by Sidle, borne a good character. She was indicted for murder, and, after lying in jail for nearly a year, was brought to trial—pursued by the vengeance of Sidle's friends, and prosecuted by the best legal talent of the State, with a persistence that large fees always secure in a case, whether for or against justice. The plea of impulsive insanity, or insanitas transitoria, was set up by the defense, and the best medical evidence in the State introduced both for the prosecution and the prisoner. As usual, very positive differences of opinion were expressed by the expert witnesses on the stand, for and against the theory of insanity. The jury brought in a verdict of acquittal.[8] ■

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Posted MLHP: September 24, 2009.

8 *Transactions of the Minnesota State Medical Society* 56-7 (St. Paul: H. M. Smyth & Co., 1878). This publication is available online.