

The Criminal Libel Trial of Rebecca J. Taylor (1896)

To appreciate the following story, viewers should first read “Leila W. Roller v. The Minneapolis Journal” (MLHP, 2021) in which Special Municipal Court Judge James Schoonmaker of St. Paul made a memorable appearance as a witness in an 1890 libel trial.

Six years later, in November 1896, the Judge filed a complaint of criminal libel against Rebecca J. (“Bee”) Taylor, the publisher of *Truth*, a weekly newspaper in St. Paul.¹ The libelous article, which appeared in the September 24, 1896 issue, described the Judge’s arrest during a police raid of Madam Leppla’s whore house in Minneapolis on June 7, 1889. Much to the Judge’s consternation Miss Taylor distributed her paper to public officials.

Before filing the criminal complaint, Judge Schoonmaker must have known that barring a settlement he would be required to testify at the trial about his presence at Mme. Leppla’s. It seems he filed the criminal charges to bludgeon Miss Taylor into publishing a retraction. In fact during the trial he proposed that he would drop the criminal complaint if she acknowledged that the article in question was not true. He did not grasp her dedication to weeding out and exposing corruption in city government. She would not settle—Period.

Nor did the Judge foresee that the trial would draw standing-room - only crowds who came to see and hear another retelling of the famous raid on the Leppla home in 1889—to his humiliation.²

¹ For the strong spiritual reasons that motivated Miss Taylor to start the newspaper in the first place, see her manifesto printed on the first page of the first issue of *Truth*, May 30, 1896, posted in the Appendix, at 23-25.

² These embarrassments and escapades were forgotten over time, permitting the Judge to publish a flattering self-portrait in the third volume of Henry Anson Castle’s *History of St. Paul and Vicinity* (1912), posted in the Appendix, at 29.

While many types of cases in the courts of Minnesota in the 1870s, 1880s, 1890s and early 1900s can be adequately told through summaries and footnotes, libel trials are best told through contemporary articles in local newspapers.³ Through the local press we follow the criminal libel trial of “Bee” Taylor in St. Paul’s Municipal Court in December 1892.

We begin with the front page article in the September 24, 1896, issue of *Truth*, the first two paragraphs of which triggered the Judge’s criminal complaint, then proceed to her arraignment, jury selection, trial and verdict.



³ The case was noted in the national press. See *The Fourth Estate: A Newspaper for the Makers of Newspapers*, November 19, 1896, at 5:

A warrant has been issued for Miss Rebecca J. Taylor of St. Paul, Minn., at the insistence of Judge James Schoonmaker, charging criminal libel. The publication upon which the charge is made appeared in *Truth*, a weekly paper edited and published by Miss Taylor.

One
(the libelous article)

LAST POLITICAL RITES

PERFORMED FOR JUDGE JAMES
SCHOONMAKER BY
TRUTH.

HIS DEMISE WAS CAUSED

By a Race at 3 O'Clock a. m. in the
Mill City—His Last Words, "Let
Me Blow"—Genuine Politicians
of Every Stripe Mourn His Loss.

James Schoonmaker seeks a judgeship at the hands of the republican party. Will it resent the insult? Surely it will not sully its fair name by the nomination of a man who, while on the bench, was arrested and escaped trial only by forfeiting his bail. Can we expect such a man to interpret the law and pass judgment in the interests of justice and decency? Will not his natural instincts and sympathies be with the criminal, and will not his verdicts be biased in their favor?

The record of a judge fleeing from justice (and disreputable quarters), pursued by an officer of the law and all the small dogs in the neighborhood, at 3 o'clock in the morning, should go down in the annals of jurisprudence as the one exception to the judicial rule. His words, when captured, "Let me blow," probably denote wherein lies his greatest ability.

For farther particulars in the case see Minneapolis Journal and Pioneer Press.

But there is one art in which Judge Schoonmaker is pre-eminently gifted, and that is in sitting on both sides of the fence. We had a striking illustration of his powers in this direction in the campaign last spring. While he represented in the republican camp that he was a loyal Doran man, he was impressing upon us the idea that the election of O. O. Cullen was the only solution of the school difficulties. If only he could be elected, the business was done.

Another illustration, even more striking, is in relation to one Juliette Pulver. We first heard of this celebrated character from the judge, and when the West Superior scandal appeared in our papers, at our urgent request Judge Schoonmaker went to West Superior upon his representation that he felt positive that the woman would give him an affidavit incriminating Supt. Gilbert, as he claimed she had made a confession to that effect on another occasion. If he found that there was any scheme, as reported, to consign her to an insane asylum, he was to warn her of her danger.

On his return he represented to us that he procured no evidence, but we are told by the editor of the Herald that Judge Schoonmaker said he had "right in that safe" what would settle matters.

Just before Mr. Gilbert's election, when it became necessary to publish evidence in the hope of preventing his re-election, we called, with another, upon Judge Schoonmaker. He utterly refused to give what he had claimed was in the safe or to make any statement in regard to the confession which Miss Pulver had made to him while in St. Paul. He said that he was going to run for office in the fall and he would not sacrifice his personal interests. On a later occasion, he again refused, when we asked him if he expected the public to confer this high office upon him if he could not be trusted to defend the public schools. He then sought an opportunity before witnesses to declare that he knew nothing whatever concerning the Pulver-Gilbert case; that he never went to West Superior at our request, making a full denial of every point.

In the meantime, as the report published in another page of this paper will show, Judge Schoonmaker had met with the investigating committee and had given the damaging testimony against C. B. Gilbert recorded there, which information he had had in his possession for over two years.

He also claimed that he had facts which incriminated a present official of the Pioneer Press with Miss Pulver, and we inferred that this information would be used as political capital to keep the Pioneer Press in line.

For the republican party to nominate James Schoonmaker, would be to renounce its claim to honor, law and order.

Two
(Arraignment)

MISS TAYLOR'S CASE.

It Will Be Heard by Judge Orr
Nov. 30.

Miss Rebecca Taylor was arraigned before Judge Orr yesterday morning on a charge of criminal libel made by James Schoonmaker.⁴

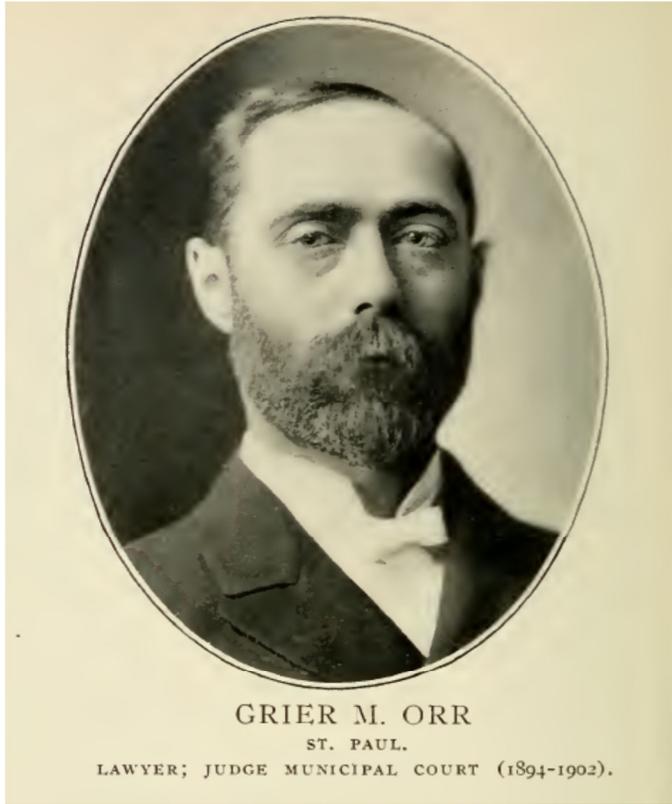
Miss Taylor on Monday requested a continuance of the case until Dec. 1, but the court at that time said it would be hardly possible to grant so long a continuance. Yesterday John E. Hearne, the attorney for the defendant, stated to the court that he would be unable to appear in court until the last of the month and requested a continuance to Nov. 30. Assistant County Attorney Donnelly offered no objection and the case was set for that date.

The offense with which Miss Taylor stands charged is under the code of misdemeanor and can be disposed of by the police court judge. Miss Taylor, through her attorney, has demanded a jury trial and this was so ordered by the court.⁵



⁴ The statute on the crime of criminal libel is posted in the Appendix, at 16-17.

⁵ *St. Paul Globe*, November 19, 1896, at 8.



Three
(jury selection)

REBECCA TAYLOR'S TRIAL.

Case Was Opened In the Municipal
Court Yesterday.

The trial of Rebecca Taylor, who was arrested a few days ago on a complaint sworn out by Judge Schoonmaker, charging her with criminal libel, was opened in the criminal branch of the municipal court yesterday morning.

County Attorney Pierce Butler is acting as counsel for the plaintiff and prosecutor for the state, and Edwin S. Durment is looking after the interests of Miss Taylor, assisted by John E. Hearn.

The morning session was occupied in selecting jury men. At noon the following men had been accepted: R. S. White T. S. White Jr., O. P. Williams, W. D. Woodich, George T. Whitwell, William G. Whitehead, Paul H. Zimmerman and Charles R. Zschau.

The list of twenty-eight citizens summoned before the court to act as jurymen was exhausted. Judge Orr adjourned the proceedings until next Thursday. A new list will be summoned, and it is thought that the four jurymen needed will be secured.

At one point of the trial yesterday morning a smoke-out occurred, due to an attempt of the janitor to start a fire in the grate. The draft being up, the whole courtroom was

filled with dense black smoke and a general exit was necessary.⁶



Four
(jury selection completed)

TAYLOR LIBEL SUIT.

Jury Secured and Judge Schoonmaker
Gives Testimony.

The remaining jurors in the Rebecca Taylor libel case were selected yesterday morning, being Albert Wentink, George W. Weber, Phillip Walker, A. S. Weller and John J. Watson.

Judge Schoonmaker, the complainant, took the stand and stated that he has known Miss Taylor since October, 1895, and that on the 13th day of October, 1896, he was in the office of the secretary of the board of education when Miss Taylor handed J. C. Justus a copy of her paper dated Sept. 24, which contained the article, a part of which is made the basis of the charge against Miss Taylor.

Mr. Butler took up a large book which he said was a record of the municipal court of Minneapolis. He turned to a case against P. J. Jones, in which there were three other male defendants and two female. In answer to

⁶ *St. Paul Globe*, December 1, 1896, at 3, 5 (this story was printed twice).

questions, Judge Schoonmaker admitted that P. J. Jones meant him.

They were all arrested for frequenting a house of ill fame, and he deposited \$25 for his appearance in court. According to the record when the case was called P. J. Jones failed to appear and his bond was declared forfeited.

This occurred June 7, 1889, but Judge Schoonmaker, as P. J. Jones, appeared later, moved that the forfeit of his bail be declared off and that he be granted a trial upon the charge. The record proceeds to show that Judge Schoonmaker, alias P. J. Jones, appeared in court for trial, the case was heard, and he was discharged.

At this point Mr. Butler announced that the direct examination was concluded.

Court was then adjourned until 2 o'clock.

In the afternoon there was little of interest developed. County Attorney Butler had so limited the field of examination that Mr. Durment was not able to get in many questions he would like to have asked.

On cross-examination the attorneys' disputed as to the date of the publication in which the alleged libel appeared, it having been printed or circulated twice. They disputed over other questions and finally Mr. Durment wanted to know if Judge Schoonmaker had any prejudice against the defendant.

Judge Schoonmaker said his prejudice would not affect the truthfulness of his testimony.

Mr. Durment endeavored to prove by Judge Schoonmaker that he failed to appear at the court at the proper time and subsequently had a private trial.

Mr. Butler objected and was sustained. The prosecuting attorney objected to Mr. Durment's line of examination.

Mr. Durment produced a volume of a Minneapolis paper for 1889 and referred to an article on the front page of the issue of June 8th.⁷ Mr. Butler objected to any reference to the book as not cross-examination. The article referred to gave an account of Judge Schoonmaker's arrest.

The case was adjourned until 10 o'clock this morning, Judge Orr instructing the jury not to converse with any one on the subject.⁸



Five
(settlement offers)

TAYLOR LIBEL SUIT.

Yesterday Spent in Arguing Technical
Points of Law.

Judge Schoonmaker attempted to bring about a legal reconciliation with Miss Rebecca Taylor yesterday during the libel trial in the municipal court.

The plaintiff stated to Mr. Durment, counsel for the defendant, that if Miss Taylor would make a written statement saying she published the article referred to in

⁷ This refers to the article on the front page of the *Minneapolis Tribune*, June 8, 1889 (“Very Sensational Arrests”), which is reproduced on the first page of “Leila W. Roller v. The Minneapolis Journal” (MLHP, 2021).

⁸ *St. Paul Globe*, December 4, 1896, at 8.

good faith, believing it to be true, and subsequently discovered that it was not true, he would withdraw his case against her.

After considerable deliberation Miss Taylor refused to do so.

Upon the opening of the morning session Mr. Durment resumed his argument for the dismissal of the case, and Judge Orr excused the jury and witnesses until 1 o'clock in the afternoon.

The counsel for the defense made a lengthy argument, quoting numerous authorities. Court was adjourned until 1 o'clock, when State's Attorney Butler asked that Judge Schoonmaker himself argue against the dismissal. He contended that the substitution of the name "judge" for "James" was not material.

At 2:30 o'clock an adjournment was taken, when Judge Schoonmaker made the proposition to counsel for the defense, asking for a retraction of the libel and promising in return withdrawal of the case.

Miss Taylor refused.

Mr. Butler then proceeded to argue against a dismissal, when he was interrupted by Miss Taylor, who against the wishes of her attorneys, made a personal and private application to Judge Orr to have the case continued until today. The court decided to hear Mr. Butler's argument first and then act on the application for a continuance.

Mr. Butler said he was free to confess that he was satisfied the motion for dismissal should be denied. He said:

"This is not a crime punishable by death, transportation or imprisonment in a dungeon. It is a misdemeanor punishable by a small fine, or a short imprisonment."

Mr. Durment replied by stating that the state was trying to prejudice the jury.⁹ He spoke of the deviation of the charge, which, he claimed, is fatal to the plaintiff's case.

At 4 o'clock Mr. Durment closed and Judge Orr said that there were but two objections made that required comment.

"I am inclined to regard the complaint as sufficient," said he. "The only questions are ones relative to the allegation of libel and proof of it. What may be termed the headlines of the newspaper article are included in the complaint, but not in the proof. The allegation cites 'Judge' Schoonmaker, while the article in proof gives 'James' Schoonmaker. I admit that there is some doubt as to the correctness of the position, still I feel that it is my duty to deny the motion."

At this point Miss Taylor and her counsel, Mr. Durment, had a heated argument in which the latter refused to enter an application for an adjournment, telling the defendant to speak for herself. Miss Taylor spoke to Judge Orr and Mr. Butler. After considerable talking, in which each juror had some stated time when he would be unable to appear, and the plaintiff, defendant and attorneys also made it hard for the court to decide upon a date for the continuance, finally 9 o'clock this morning was set upon by Judge Orr.¹⁰



⁹ It seems that the jury was present during these arguments by counsel.

¹⁰ *St. Paul Globe*, December 5, 1896, at 5.

Six
(the trial continues)

NOT ALLOWED TO TELL.

Rebecca Taylor's Witnesses Making
Very Little Headway.

According to the statement of Attorney Durment, the trial of Miss Rebecca Taylor will be finished on Monday. At least the attorney so stated to Judge Orr yesterday afternoon, when the court adjourned for the day. The attendance at the trial yesterday was so large that had there been a standing-room-only sign about the place, it would have been hung on the door.

The official stenographer occupied most of his time during both the morning and afternoon sessions in making marks which, when translated in English, read as follows: "Objected to as incompetent, irrelevant and immaterial."

This was about all County Attorney Butler had to do yesterday, the defense having placed on the stand several witnesses, and to almost every question asked by Mr. Durment the county attorney objected.

Sometimes there were short arguments by the attorneys for the defense, and the prosecution, and then the judge would announce in a very judicial tone "objection sustained," and one or the other of the attorneys would advise the stenographer to "note an exception."

It owing to so much time being taken up with this style of legal fireworks that practically little headway was made in the case.

The witnesses for the defense were Messrs. Krumweide, Gustafson, Johnson and Schwabe, who were connected with the Minneapolis police force in June, 1889, at which time the complaining witness in the case was arrested.

The attorney for the defense tried to get the witnesses to describe the details of the arrest, but Judge Orr and the county attorney wouldn't hear them, and the evidence was confined to what occurred in the court room on the morning of June 8, at which time the case was called and the parties arrested the night before arraigned.

The witnesses testified that Schoonmaker did not appear when the cases were called and that the bail was declared forfeited. N. S. Beardsley was on the stand when the court adjourned and the attorneys were engaged in an argument as to whether he be allowed to testify as to what he had gathered about the arrest of the complaining witness under instructions of the defendant.

The jury was cautioned not to read the reports of the case in the paper and not to discuss the matter during the time they were out of court and an adjournment was ordered until 10 o'clock Monday.¹¹



¹¹ *St. Paul Globe*, December 6, 1896, at 3.

Seven

(the verdict from the *Pioneer Press*)

MISS TAYLOR
IS ACQUITTED

SHE DID NOT CRIMINALLY LIBEL
JUDGE SCHOOMAKER.

The Jury Deliberated for Four Hours Over Its Verdict and Did Not Reach a Decision Until 1030 O’Clock Last Night— Miss Taylor Declined to Take the Usual Oath Administered to Witnesses —Judge Orr’s Charge to the Jury.

“We the jury in the case of state versus Rebecca Taylor, charged with criminal libel, find the defendant not guilty as charged in the complaint.”

The jury in the above entitled action, after spending three days in listening to evidence and the arguments of counsel and after deliberating four hours, returned a verdict at 1030 o’clock last night, acquitting Miss Taylor of having libeled Judge James Schoonmaker, when she published in her paper that he was arrested in Minneapolis in 1880 (sic) and forfeited bail.

Mr. Taylor was not in the room when the verdict was returned. Neither was the county attorney, nor any representative of the prosecution, Judge Schoonmaker being also absent. In the absence of the prosecuting attorney Judge Orr dismissed the charge against the defendant without the usual motion having been made.

The question that kept the one or two members of the jury who failed to vote in favor of an immediate acquittal, was whether the alleged publication of the libel on the day of the Republican county convention was privileged. At 10 o'clock the jury asked Judge Orr for further instructions on that point. He re-read the statute relative to privileged communications and then informed the jury again that it must be the judge of such matters as to the law and fact.

Miss Taylor waited until 7:30 o'clock for the jury to report and then acted upon the advice of her attorney to go home and wait for the information that would be contained in the morning papers. Edwin S. Durment, counsel for the defense, was pleased with the verdict and said it was one of the hardest fought cases in which he had ever been engaged.

Judge Orr, in dismissing the jury, thanked them for their attention to the case and their fortitude under the wearisome detail of the trial. There were present when the jury verdict was returned Judge Orr, Mr. Durment, Mr. Cormican, Prof. Beardsley, Clerk Conroy, Court Officers Blodgett and McMahan and the reporters of the morning papers

Judge Schoonmaker was done an unintentional injustice in Saturday's report of the proceedings where it was stated in the Pioneer Press that a witness testified that he was arrested at 8 o'clock in the morning. That question was asked by counsel for the defense, but was ruled out. The facts appear to be that the arrest was made about 11 o'clock in the evening.

Ms. Taylor Testifies.

The legal battle between the county attorney and counsel for the defense was continued throughout yesterday. Miss Taylor, when called to the witness stand, declined to take the prescribed oath and took the form of oath employed in the case of infidels or any person not a believer in any religion, and is as follows: "You do honestly and sincerely promise and declare that the testimony you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth, and this under the pains and penalties of perjury."

The prosecuting attorney objected to the majority of the questions asked in direct examination and the time of the court was taken up with long legal arguments between counsel as to the admission of the evidence. After answering the usual preliminary questions Ms. Taylor stated in substance that she was the publisher of an editor of Truth, the publication in which Judge Schoonmaker alleges he was libeled; that she did not call the attention of Messrs. Justus and Murray, to whom it is alleged she published the libel on October 13, to the alleged libelous publication, but to a set of resolutions adopted at a meeting of citizens and which related to certain acts of the

school board; that she had no malice toward the complaining witness, Judge Schoonmaker, and did not have him in mind when she delivered the publication to Justus and Murray. She admitted that she composed and published the paragraph alleged to be libelous; that it was prior to Sept. 25, and that she caused the statement to be published in the interest of public affairs and that she believed it to be true, upon a careful investigation. On cross-examination by Mr. Butler Miss Taylor was very calm under running fire of subtle questioning.

Following Ms. Taylor Messrs. Justus and Murray were called in behalf of the plaintiff. They testified as to the publication of the paper to them and both asserted that their attention was not called by Miss Taylor to the alleged libel. At 4:20 in the afternoon Mr. Durment began his closing argument to the jury. He spoke until 5:45 when Mr. Butler began and continued until 6:20. At the conclusion of Mr. Butler's remarks Judge Orr charged the jury, and said in part:

Judge Orr's Charge.

"In all criminal prosecutions for libel the truth may be given in evidence that the matter charge as libelous is true and was published with good motives and justifiable ends, the party shall be acquitted and the jury shall have the right to determine the law and the evidence. (Section 57, 68, Statutes 1894).

"Notwithstanding that the jury are the judges of the law and fact, there are certain legal principles applicable to this case to which I desire to call your attention. A libel is a

malicious publication by writing, printing, picture, effigy, sign or otherwise than by mere speech, which exposes any living person to hatred, contempt, ridicule or obloquy, or which causes or tends to cause any person to be shunned or avoided, or which has a tendency to injure any person in his business or occupation. (Section 64, Statutes 1894.) A publication having the tenancy or affect mentioned in section 211 is to be deemed malicious, if no justification or excuse therefor is shown. The publication is justified when the matter charged as libelous is true, and was published for good motives and justifiable ends. The publication is excused when it is honestly made in the belief of its truth, and upon reasonable grounds for this belief, and consists of fair comments upon the conduct of a person in respect of public affairs.”

Judge Orr then defined the publication of libel and quoted the statute as to privileged communications as follows: “A communication made to a person entitled to or interested in the communication, by one who was also interested in or entitled to make it, or who stood in such relation to the former as to afford a reasonable ground for supposing his motive innocent, is presumed not to be malicious and is called a privilege communication.

“That is a communication made in good faith upon any subject matter, in which the party communicating has an interest or in reference to which he has a duty, public or private, either legal, moral or social, it made to a person having a corresponding interest or duty, is privileged and in such a case the inference of malice, which the law draws from defamatory words, is rebutted, and the onus of proving actual malice is cast upon the person claiming to

have been defamed. That, if the subject matter of the communications is one of public interest in the community of which the parties to the communication are members, it is sufficient as respects interest to confer the privilege. Malice as used in this instance does not mean envy, hatred or ill will, but in a legal sense it is that state of mind which prompts the doing of the act, without justification or legal provocation or excuse.

“In order that you shall find the defendant guilty as charged in the complaint, you must be satisfied by the evidence beyond a reasonable doubt. A reasonable doubt is such a condition of the mind as to so convince a common man to act upon his conviction in matters of the highest importance and concern to him. Actual certainty is not required.

“If you should find from the evidence, beyond a reasonable doubt as defined, that the defendant did make and publish the writing complained of, and that the writing was libelous in its nature and that there was neither justification or excuse therefore, then you should find the defendant guilty. But if you cannot so find, then you should find the defendant not guilty.”¹²

¹² *St. Paul Pioneer Press*, December 8, 1896, at 8.

Eight
(the verdict from the *Globe*)

REBECCA TAYLOR ACQUITTED.

Jury, After Four Hours, Reach a
Verdict.

Rebecca Taylor was pronounced not guilty of libel against Judge Schoonmaker by the jury last night. The jury went out at 6:30 o'clock last evening and returned the verdict of not guilty at exactly 10:30 o'clock.

There were present in the courtroom when the verdict was read, besides Judge Orr and Clerk Conroy, Attorney Durment, who defended Miss Taylor; Prof. N. S. Beardsley and Attorney James Cormican.

When the jury had filed into the courtroom and taken their seats, Foreman J. J. Watson handed over the verdict, which read:

“We the jury, in the above entitled action,
find the defendant not guilty.

(Signed) — J. J. Watson, Foreman.

Dated St. Paul, Dec. 7, A. D. 1896.”

Judge Orr thanked the members of the jury for their faithful and conscientious duty during the last week and discharged them. County Attorney Pierce Butler was not present when the verdict was given. Miss Taylor was also absent, as was Judge Schoonmaker, the plaintiff.

The jury was out four hours. Eight ballots were taken. The first was eight for acquittal and four for conviction.

The second stood nine for acquittal and three for conviction. After a number of ballots, at which the jury stood ten for acquittal, and then eleven, the ballot was unanimous.

The jury came in at 10 o'clock and asked for further information. Judge Orr repeated some of his instructions given in the charge.

Prof. N. S. Beardsley occupied the stand first in this morning's proceedings of the trial and testified to his going to Minneapolis to secure information for Miss Taylor's so-called libelous article.

Miss Taylor took the stand at 11 o'clock. Under Mr. Durment's examination she told that she published the article in question and did it because she didn't think Mr. Schoonmaker a fit man for the office of judge. When asked what concern it was of hers, she said she considered it the duty of any honest newspaper.

Mr. Butler attempted to show that by personally delivering the papers to W. P. Murray and C. P. Justus, Miss Taylor had personally and maliciously intended to distribute and publish libel.

Mr. Durment attempted to show that the defendant had delivered the papers with an entirely different object in view.

Both Messrs. Butler and Durment made strong pleas. Judge Orr delivered a fair charge, quoting the law extensively throughout.¹³



¹³ *St. Paul Globe*, December 8, 1896, at 2.

Unfortunately the Minnesota Historical Society does not have a microfilm copy of the issue of *Truth* describing the verdict of acquittal.

Conclusion

There were some irregularities in this trial. Prosecutor Pierce Butler deferred to former Judge Schoonmaker to argue against a motion to dismiss. The Judge made a settlement proposal in open court that was reported in newspapers the next day. “Bee” Taylor turned the offer down, asked the judge for a continuance and got into an argument with her own attorney. Arguing against a motion to dismiss, Butler minimized the charge of criminal libel: "This is not a crime punishable by death, transportation or imprisonment in a dungeon. It is a misdemeanor punishable by a small fine, or a short imprisonment." Perhaps for this reason juries were reluctant to find defendants such as Rebecca Taylor guilty of such a charge.



Appendix

Article	Pages
“Letter from a Newcomer” in <i>Truth</i> , May 30, 1896, first page.....	23-25
Theodore Schroeder, <i>Speech Bibliography</i> 186 (1922).....	26
Criminal Libel Law (1894).....	27-28
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AN OPEN LETTER FROM THE NEWCOMER.

St. Paul, Minn., May 30, 1896.

Dear Citizens of St. Paul:

At the command of a newspaper spirit, I have come to your fair city, laden with truth. I have several relatives here, but I beg that you will not judge me by them and turn a deaf ear to my mission, for I am very different, not having been sent into the world for the same purpose as they, nor having the same aspirations and desires.

I am grieved to say that my elder and more influential sisters worship the God of Mammon and live and move and have a being through his grace alone, therefore, they stoop to many things which would literally blister my tender young conscience,—idolatry, malice, craftiness, lies, with all manner of corruption.

My other sisters are weekly beings and were sent into the world merely to hang like barnacles upon the municipal rocks. At times they raise a great cry for some special reform, which enables them to live upon the public until an opportunity presents itself to follow the example of their powerful sisters. About that time they discover that the best thing they can do for reform is to "be silent for a time," and that while the people want truth they don't want it in just the way it has formerly been served, but "merely to touch on truth," and so they continue either to be "silent" or "merely to touch on truth" until they become independent enough to ignore it entirely or to furl the banner of falsehood.

I think I can speak with authority, for at one time my spirit was held captive in one of these tenements of clay for months. Later I was re-incarnated in another, but for a brief space. My spirit's wings beat with such force against its transparent walls that the poor, weak think shrank away from me in fright, leaving the cause of truth homeless.

It was then that the good newspaper spirit bade me welcome to this wee habitation, and tarry if but for a day.

I shall visit you in your homes and places of business. You will meet me upon the street and in the cars. Wherever you look I shall greet you. I expect to attend all public gatherings. I shall be delighted to have you return my calls, both social and business, when I trust we may become better acquainted. I shall be at home at Room 302 Endicott Bldg, 3d floor, where you can present me to your friends. An introduction may also be given at Milham's news stand on Seventh street.

If I live to win the cause for which I was called into existence, the cause of educational liberty, I shall speak to you in happier strain, but now I can only echo the sound of the fog bells from your sinking educational vessels, the cries for help of those on board, as the ship reels toward the rock bound coast, made dreadful by the screaming of the birds of prey, the hooting of educational owls, and the uncanny flapping of political bat wings.

Once the shame and curse of moral slavery is blotted from the "bulwarks of your nation," should I be spared, I come to amuse your idle hours with bits of humor; and by literary devices transport you to the dim enchanting half-forgotten land of memories; I will rear splendid intellectual edifices upon broad and deep spiritual foundations for the future citizen; I will sing strange, sweet, new, lullabys to your babes in the kindergarten, such as Froebel never dreamed of; I will put a soul in nature that she may point your children to nature's God; I will set the song which was sung to Judea's shepherds to the music of the

onward and upward march of a fraternal army.

Mothers and fathers, make a place for me in your hearts, I pray you, as I have been loyal to your children; teachers, help me to live, for I am fighting your battle; ministers of the gospel, hold up my hands, for I am laying foundations upon which you will erect spiritual palaces. Citizens all, your interests cannot be severed from mine, for mine is thine.

But should I go down in the heat of the battle, should the enemy cause me to evacuate my paper fort, should my friends allow me to die of starvation, my spirit will still be in camp, with the whole spiritual armor on, "for we wrestle against powers, against the rulers of the darkness of this world, against spiritual wickedness in high places."

Submitted in hope,

TRUTH.

A quarter century after the trial, Theodore Schroeder, the Secretary and lawyer for the Free Speech League, compiled and published *Free Speech Bibliography 186* (1922) (it is posted on the MLHP). This is the entry on Miss Taylor's newspaper:

Taylor, Rebecca, and Lawton, A. M.
Truth [a periodical.] (St Paul, Minn.)
May 31, 1896 et seq

TS

This journal for over a year was devoted to an attack upon C. B. Gilbert, superintendent of schools. The circulation of affidavits against his sexual morality produced an arrest, trial and acquittal of Taylor and Lawton for sending obscenity through the mails. Truth is devoted almost wholly to this contest. Indictment came in spite of the fact that Post Office department held affidavits available.



Statutes, c. 92a, Title 9(8), §§ 9496-9506, at 1741-1743 (1894).

The citations in Judge Orr's jury instructions are to the Penal Code,
which are in parenthesis.

§ 6496. "Libel" defined.

A malicious publication, by writing, printing, picture, effigy, sign, or otherwise than by mere speech, which exposes any living person, or the memory of any person deceased, to hatred, contempt, ridicule, or obloquy, or which causes, or tends to cause, any person to be shunned, or avoided, or which has a tendency to injure any person, corporation, or association of persons in his or their business or occupation, is a libel.

(Pen. Code, § 211.)

Impeachment of chastity. *State v. Moody*, (N. C.) 4 S. E. Rep. 119.

Libel of judge. *Richardson v. State*, (Md.) 7 Atl. Rep. 43. Of congressman. *State v. Schmitt*, (N. J.) 9 Atl. Rep. 774.

"Libel" defined. *Smith v. Coe*, 22 Minn. 276.

When the words are actionable *per se*, the malicious intent is an inference of law. *Simmons v. Holster*, 13 Minn. 249, (Gil. 232.)

Motive must be proven, if circumstances repel the legal inference. *Simmons v. Holster*, *supra*; *Aldrich v. Press Printing Co.*, 9 Minn. 133, (Gil. 123;); *Marks v. Baker*, 28 Minn. 162, 9 N. W. Rep. 678.

Proof of publication. *Simmons v. Holster*, *supra*.

Indictment—Sufficiency. *Richardson v. State*, (Md.) 7 Atl. Rep. 43; *State v. Schmitt*, (N. J.) 9 Atl. Rep. 774.

§ 6497. Libel a misdemeanor.

A person who publishes a libel is guilty of a misdemeanor.

(Pen. Code, § 212.)

§ 6498. Malice presumed—How justified or excused.

A publication having the tendency or effect mentioned in section two hundred and eleven is to be deemed malicious, if no justification or excuse therefor is shown. The publication is justified when the matter charged as libelous is true, and was published for good motives, and for justifiable ends. The publication is excused when it is honestly made, in the belief of its truth, and upon reasonable grounds for this belief, and consists of fair comments upon the conduct of a person in respect of public affairs.

(Id. § 213.)

See *Simmons v. Holster*, 13 Minn. 249, (Gil. 232.)

§ 6499. Publication defined.

To sustain a charge of publishing a libel, it is not necessary that the matter complained of should have been seen by another. It is enough that the defendant knowingly displayed it, or parted with its immediate custody, under circumstances which exposed it to be seen or understood by another person than himself.

(Pen. Code, § 214.)

§ 6500. Liability of editors and others.

Every editor or proprietor of a book, newspaper, or serial, and every manager of a partnership or incorporated association, by which a book, newspaper, or serial is issued, is chargeable with the publication of any matter contained in such book, newspaper, or serial. But in every prosecution for libel the defendant may show in his defense that the matter complained of was published without his knowledge or fault, and against his wishes, by another who had no authority from him to make the publication, and whose act was disavowed by him so soon as known.

(Id. § 215.)

Hewitt v. Pioneer Press Co., 23 Minn. 178; *Stewart v. Wilson*, Id. 449; *Smith v. Coe*, 22 Minn. 276; *Simmons v. Holster*, 13 Minn. 249, (Gil. 232;); *Aldrich v. Press Printing Co.*, 9 Minn. 133, (Gil. 123;); *Marks v. Baker*, 28 Minn. 162, 9 N. W. Rep. 678.

§ 6501. Publishing a true report of public official proceedings.

A prosecution for libel cannot be maintained against a reporter, editor, publisher or proprietor of a newspaper for the publication therein of a fair and true report of any judicial, legislative, or other public and official proceeding, or of any statement, speech, argument, or debate in the course of the same, without proving actual malice in making the report.

§ 6502. Qualification of last section.

The last section does not apply to a libel contained in the heading of the report, or in any other matter added by any other person concerned in the publication, or in the report of anything said or done at the time and place of the public and official proceeding, which was not a part thereof.

(Pen. Code, § 217.)

§ 6503. Indictment for libel in newspaper.

An indictment for a libel contained in a newspaper published within this state may be found in any county where the paper was published or circulated.

(Id. § 218.)

§ 6504. Punishment restricted.

A person cannot be indicted or tried for the publication of the same libel, against the same person, in more than one county.

(Id. § 219.)

§ 6505. Privileged communications.

A communication made to a person entitled to, or interested in, the communication, by one who was also interested in or entitled to make it, or who stood in such a relation to the former as to afford a reasonable ground for supposing his motive innocent, is presumed not to be malicious, and is called a privileged communication.

(Id. § 220.)

See §§ 6733, 6739.

Charge against candidate for public office, when privileged. *Marks v. Baker*, 23 Minn. 162, 9 N. W. Rep. 673. When not. *Aldrich v. Press Printing Co.*, 9 Minn. 133, (Gil. 123.)

§ 6506. Threatening to publish libel.

A person who threatens another with the publication of a libel concerning the latter, or concerning any parent, husband, wife, child, or other member of the family of the latter, and a person who offers to prevent the publication of a libel upon another person upon condition of the payment of, or with intent to extort, money or other valuable consideration from any person, is guilty of a misdemeanor.

(Pen. Code, § 221.)



JAMES SCHOONMAKER. Endowed with natural talents of a high order, James Schoonmaker early determined to enter upon a legal career, and through a systematic application of his abilities to the profession of his choice has achieved a splendid success, being now one of the leading attorneys of St. Paul. A native of New York, he was born in Woodburne, Sullivan county, of sturdy and thrifty stock, strains of Dutch, German and Scotch blood tracing through his veins, each bearing its impress for good on his character and attainments.

A bright and ambitious student in his youthful days, Mr. Schoonmaker was graduated from Alfred University, in Alfred, New York, in 1882, with the degree of M. B., and three years later, in 1885, received the degree of M. A. from the same institution. From Alfred he went to Madison, Wisconsin, where he entered the law office of Pinney & Sanborn, and attended the law school of the Wisconsin University, from which he was graduated in 1883 with the degree of Bachelor of Laws. On leaving this University Mr. Schoonmaker came to St. Paul in search of a favorable place in which to locate, and he has since remained in this city, his legal abilities having won him a place of prominence and influence among the able attorneys of Ramsey county. A stalwart supporter of the principles of the Republican party, he has never shirked the responsibilities of public office, having served as special judge of the municipal court of St. Paul from 1885, with the exception of one year, until 1890. Enterprising and active, Mr. Schoonmaker is also identified with two substantial enterprises, being vice-president and director of the Phoenix Laundry and the Profit Sharing Laundry, both of which are located in Minneapolis.

Fraternally Mr. Schoonmaker is a life member of the supreme body of the United Order of Foresters, of which he was supreme ranger from 1898 until 1900, and of which he has been supreme counselor and one of its executive council since 1904; he is a member and past master of Braden Lodge, No. 168, Ancient Free and Accepted Masons; past high priest of the Minnesota Chapter, No. 1, Royal Arch Masons, of St. Paul; past chancellor of Washington Lodge, Knights of Pythias, now consolidated with St. Paul Lodge, No. 2; of the Ancient Order of United Workmen; of the Knights of the Macabees and of the Modern Samaritans of the World. Although not a member of any religious organization, Mr. Schoonmaker is Unitarian in his beliefs.

On July 1, 1886, at Cameron Mills, New York, Mr. Schoonmaker was united in marriage with Harriet E. Warner, who is of Dutch ancestry. Mr. and Mrs. Schoonmaker have no children of their own, but Mrs. Schoonmaker's niece, Harriet M. Warner, has lived with them since she was three and a half years old, and is known as Harriet M. Schoonmaker. Mrs. Schoonmaker is prominent in social circles in St. Paul, and is identified with various organizations of a social nature. She is now serving her second term as regent of St. Paul Chapter of the Daughters of the American Revolution; she is chairman of the house and grounds committee of Sibley House; president of the N. W. Whist Association; she served ten years on the executive board of the Schubert Club, and has held the offices of federal secretary, recording secretary and served on the press and by-laws committees.

Credit.

The photographs on page 4 are from *Men of Minnesota* (1902).

Acknowledgment.

This article and others on libel cases in the late 1800s and early 1900s posted on this website would not have been possible without the microfilm library of newspapers at the Minnesota Historical Society, including several months of Rebecca Taylor's *Truth*. Once again I express my appreciation to the MHS and its staff who served researchers during the pandemic of 2020-2021.

