

JUSTICE IN HEAVEN

The Trial of Ann Bilansky



*Ramsey County courthouse, site of the 1859 trial of Ann Bilansky,
accused of murdering her husband*

In March 23, 1860, Sheriff Aaron W. Tullis led 40-year-old Ann Bilansky, convicted of killing her husband with arsenic, from her cell in St. Paul's Ramsey County Jail. Bilansky and 22 others, including clergy, jail officials, and several "gentlemen" brought there by morbid curiosity, marched to the gallows hastily erected in Court House Square at the

MATTHEW CECIL

corner of Fifth and Cedar Streets. After five minutes of prayer on the steps of the platform, Bilansky moved up to the drop, where she declared, “I die without having had any mercy shown me, or justice. I die for the good of my soul, and not for murder. . . . Your courts of justice are *not* courts of justice—but I will yet get justice in Heaven.”¹

A black cloth bag was placed over Bilansky’s head to cover her face, and the noose was slipped around her neck. Tullis released the drop, and the rope went taut as Bilansky’s body fell four feet, twitched once, and then was still. Perhaps 100 people watched from inside the courtyard, while others peered out of office windows in the jail building. Thousands more had gathered outside a fence erected to provide privacy. The body was left hanging for 20 minutes.

In 1903 Nicholas Pottgeiser recalled the scene. “I was determined to see that hanging, and when I failed to get on the inside, I pushed a large knot out of one of the boards in the fence and seated on a barrel I took it all in; but I don’t know as I would care to see another one,” he told the *St. Paul Globe*. “I can see that woman yet, as she looked when brought from the jail and marched to the gallows.” Governor Alexander Ramsey, who had refused to commute the death sentence despite receiving many petitions for mercy, recorded the event in a matter-of-fact diary entry: “Mrs. Anna Bilanski [*sic*] for the murder of her husband in March 1859 was executed.”²

¹ Here and below, *Daily Pioneer and Democrat* (St. Paul), Mar. 24, 1860, p. 3, *St. Paul Globe*, Feb. 15, 1903, p. 23.

² *St. Paul Globe*, Feb. 15, 1903, p. 23; Alexander Ramsey, diary, vol. 33, Mar. 23, 1860, Alexander Ramsey Papers, microfilm copy, R[oll] 39, F[rame] 548, Minnesota Historical Society (MHS), St. Paul.

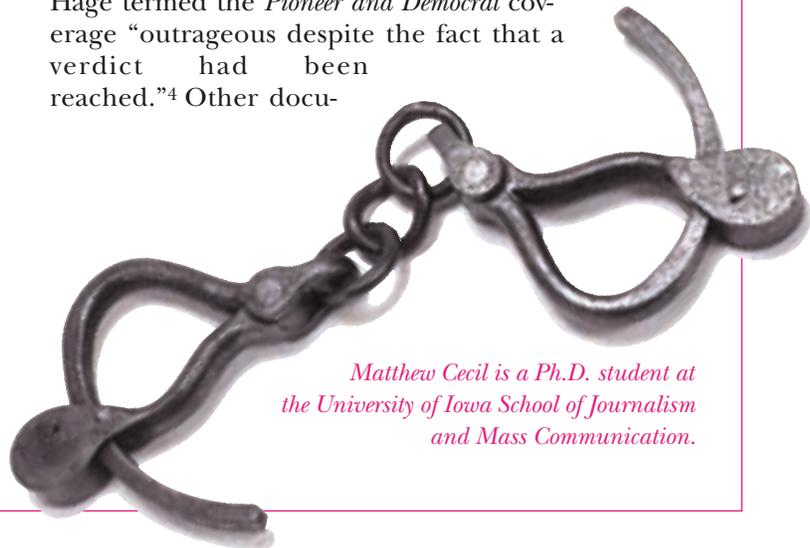
³ George E. Warner and Charles M. Foote, eds., *History of Ramsey County and the City of St. Paul* (Minneapolis: North Star Publishing, 1881), 323; Jane Lamm Carroll, “Criminal Justice on the Minnesota Frontier,” (Ph.D. diss., University of Minnesota, 1991), 93.

⁴ George S. Hage, *Newspapers on the Minnesota Frontier, 1849–1860* (St. Paul: Minnesota Historical Society, 1967), 116; Walter N. Trenerry, *Murder in Minnesota: A Collection of True Cases* (St. Paul: Minnesota Historical Society, 1962), 25–41. J. Fletcher Williams, a contemporary of Bilansky, also recorded her guilt in *A History of the City of Saint Paul to 1875* (1876; reprint, MHS Press, 1983), 121, 388–89, 392.

By 1860 St. Paul, the setting for this drama, was a bustling city of 10,000, the capital of Minnesota, the state’s largest community, and home to its biggest newspapers, the first dailies. Connected to the rest of the world to the south and east by steamboats, the city was quiet and isolated for five or six months each year when the Mississippi River was frozen. The Bilansky case, with its sensational details, was frequently the leading story in the city broadsheets, most prominently editor Earle S. Goodrich’s *Pioneer and Democrat*. The trial dominated the news from March 23 to June 3, 1859, leading the editorial column and undoubtedly generating great interest in and around the city.³

Notorious in its own time, this case remains significant for several reasons. Bilansky was the first white person and the only woman ever to be legally executed in Minnesota. In addition, the case raised questions about extra-judicial influences: mainly, the power of the press and resulting public pressure to sway a jury and, secondly, the intertwining of politics and justice, which might well have contributed to Governor Ramsey’s unwillingness to commute Bilansky’s sentence. Finally, the case is notable because it appears possible that Bilansky was innocent and, in any event, she did not receive a fair trial.

Several accounts of the affair have appeared in the historical literature. The most prominent, a chapter in Walter N. Trenerry’s *Murder in Minnesota*, was based almost exclusively on newspaper accounts, particularly the stories published in the *Pioneer and Democrat*. Those reports, however, presented an incomplete picture of the trial evidence, ignoring the defense case and focusing on the more lurid aspects of the evidence against Bilansky. In his study of Minnesota newspapers, George S. Hage termed the *Pioneer and Democrat* coverage “outrageous despite the fact that a verdict had been reached.”⁴ Other docu-



Matthew Cecil is a Ph.D. student at the University of Iowa School of Journalism and Mass Communication.



Pioneer and Democrat newspaper office at St. Paul's Third and Jackson Streets, about 1859

ments in the Alexander Ramsey Papers at the Minnesota Historical Society, including the trial transcript and a series of letters and petitions urging that he commute the death sentence, provide a broader and fairer basis for an examination of the case.

Trained as a tailor, Stanislaus Bilansky was 52 years old in 1859. A short, heavyset man with brown hair and a sallow complexion, he had moved to St. Paul from Wisconsin in 1842 and was one of the community's earliest pioneers. He purchased a claim and built a cabin between Phelan's Creek and Trout Brook, at a spot then called Oak Point (today just east of St. Paul's lowertown warehouse district, in the railroad corridor). Married twice during his

time in St. Paul and three times in all, Bilansky was, according to friends and acquaintances, an unlovable, melancholy, abusive, and unpleasant man. He drank heavily and became irritable, excitable, and violent when drunk. Bilansky frequently complained that he was ill, often predicted that he was near death, and visited his doctor for treatment 15 or 20 times annually.⁵

In the early 1850s Bilansky gave up tailoring and opened a bar and grocery in his cabin, which sat 200 yards from a flour mill on Stillwater Road (now East Seventh Street). The single-story structure had three main rooms. The front of the house was split into two rooms, one of which served as a bar and grocery, with its door to the adjoining sleeping room most often left open. The kitchen spanned the full width of the back of the house. A 10-by-12-foot

⁵ Minnesota Manuscript Census Schedule, 1857, Ramsey Co., microfilm copy, R4, F114, MHS; Williams, *History of . . . Saint Paul*, 121; State of Minnesota v. Anne [sic] Bilansky, handwritten transcript, Ramsey papers, R12A, F531, 544, 578, hereinafter cited as transcript. All but census microfilm citations are in the Ramsey papers.

cellar below and a two-room shanty behind the main structure made up the remainder of Bilansky's holdings.⁶

Bilansky's second wife, Ellen, left him in 1856 after nine years of marriage. The couple had four children. The three surviving—Benjamin, Rinaldo, and Kate, ages 10, 8, and 6 in 1860—remained with Bilansky after the divorce.⁷

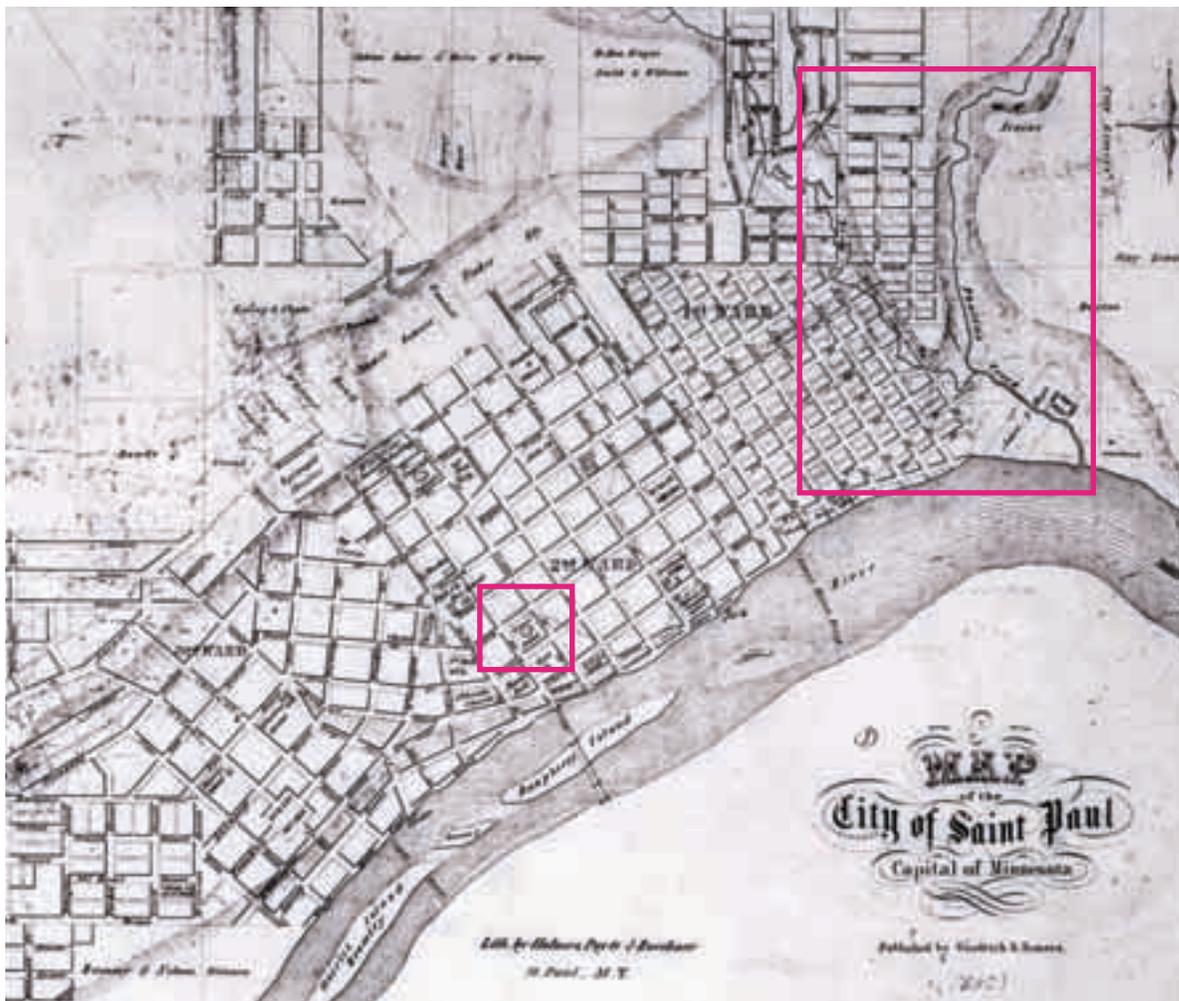
Despite his unpleasant demeanor, Bilansky married for the third time in September 1858. Mary Ann Evards Wright had moved to Minnesota from Pleasant Hill, Illinois, in April 1858

at the request of her nephew John Walker, who was ill with typhoid fever. (She and her husband had lived in Fayetteville, North Carolina, for several years before he was killed in a railroad accident.) Wright, who went by her middle name, Ann, was described as tall with sharp features and overlapping front teeth. She was intelligent and spirited with gray eyes, light hair, and a prominent nose. She had no children of her own and apparently took good care of the three Bilansky children, quickly settling into life in the small house on Stillwater Road. At Stanislaus Bilansky's request, John Walker moved

⁶ Transcript, R12A, F491-92, 545, 576, 578.

⁷ U.S. Manuscript Census Schedules, 1860, Ramsey Co., microfilm copy, R573, F68, MHS; transcript, R12A, F576.

St. Paul city map, drawn by G. H. Beldin and published in 1857 by Goodrich and Sommers; Phalen (Phelan's) Creek and Trout Brook (large box) mark the eastern edge of development. Court House Square (small box) was the site of the hanging.



into the shanty behind the Bilansky home and lived there for several months.⁸

In December 1858, after a long hunting trip, Bilansky became ill. He recovered but in late February 1859 fell ill again. At first it was a mild stomach ailment. Bilansky complained of a burning sensation in his stomach, was very thirsty, overly warm, and vomited several times each day, according to Rosa Scharf, who was hired to help around the house during this illness. On March 6, Dr. Alfred Berthier was called. The night before, Bilansky's condition had worsened. Sore and exhausted from frequent vomiting, Bilansky told Berthier he had eaten too much meat and had gotten his feet wet the day before. Berthier was not alarmed. "He did not seem then to be in any danger," the doctor testified two months later.⁹

Berthier prescribed a tonic of absinthe and water to be taken before each meal. Bilansky supplemented the treatment with frequent doses of a favorite patent medicine, Graffenburg pills. The patient was able to move from room to room in the house, but for much of the remaining five days of his life, he remained in bed. On Thursday, March 10, Bilansky told a visiting neighbor, Lucinda Kilpatrick, that he "had as leave die as live." At 3:30 A.M. on Friday, March 11, Bilansky called his eldest son to his bedside and asked him to bring a tumbler of liquor from the bar. Bilansky drank the liquor. One-half hour later, he was dead.¹⁰

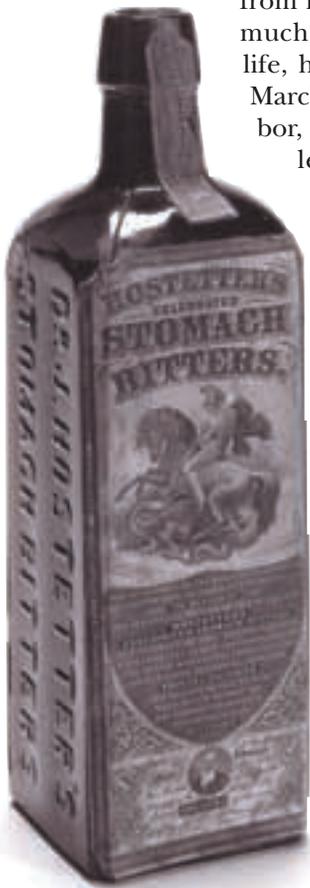
Later that morning, Walker, still living in Bilansky's shanty, assisted with funeral arrangements. He paid for the coffin and burial plot, as Ann Bilansky had no money. The funeral was scheduled for Saturday, March 12, and a death notice appeared in the *Pioneer and Democrat* lamenting the passing of a Ramsey County pioneer.¹¹

As the funeral procession prepared to leave for the ceme-

tery at about 2 P.M., officials of the Ramsey County coroner's office arrived and halted the preparations. A brief search was made of the Bilansky house, a doctor examined the body, and testimony was taken from several of those present. Kilpatrick, Scharf, Walker, and others testified before a hastily gathered coroner's jury, each swearing that he or she had seen nothing amiss. The jury concluded that Bilansky's death came of natural causes, although the newspaper reported that the jury was critical of Ann Bilansky's alleged "great want of care in proper attention being given him in his sickness" because she had not recalled the doctor. At 5 P.M., Stanislaus Bilansky was buried.¹²

Saturday evening, however, Kilpatrick reconsidered her testimony. She had not told the coroner's jury about a shopping trip she and Ann Bilansky had taken two weeks earlier. At the urging of her husband, Andrew, a carpenter, Kilpatrick told St. Paul Chief of Police John W. Crosby that on February 28 Bilansky had purchased arsenic from Day and Jenks drug store. Bilansky had told Kilpatrick at the time that her husband asked her to buy arsenic to poison rats that were gnawing vegetables in the cellar after the Bilanskys' cat was given away. On the basis of Kilpatrick's testimony, officials exhumed the body the next morning. A medical team assembled to perform a post-mortem examination. Bilansky and Walker were arrested Sunday afternoon, and a second coroner's jury was gathered on Tuesday, March 15.¹³

Kilpatrick and Scharf provided new testimony to the panel, and the first scientific evidence of poisoning was offered. A druggist, W. H. Wolff, and Dr. J. C. Goodrich testified about the preliminary results of the post-mortem examination. Wolff said one of the chemical analyses had yielded a single crystal which, "under the microscope, resembled arsenic." In his testimony, Goodrich was even less certain of the presence of arsenic, prompting the editor of the *Pioneer and Democrat* to comment that the evidence "was about as unsatisfactory as it was possible to make it. The medical testimony was as guarded and non-committal as modesty and professional abstruseness could make it."



Stomach Bitters, a popular patent medicine manufactured by Hostetter and Smith of Pittsburgh, 1860–84

⁸ Transcript, R12A, F485, 509, 586, 595, 596; *Pioneer and Democrat*, July 27, 1859, Mar. 24, 1860, both p. 3; Williams, *History of . . . Saint Paul*, 388.

⁹ Transcript, R12A, F484, 531–32, 644.

¹⁰ Transcript, R12A, F497, 506, 524, 531, 533.

¹¹ Transcript, R12A, F592; *Pioneer and Democrat*, Mar. 12, 1859, p. 3.

¹² *Pioneer and Democrat*, Mar. 15, 1859, p. 3.

¹³ *Pioneer and Democrat*, Mar. 16, 1859, p. 3.



*View of St. Paul taken from the steeple of the county courthouse, looking toward the Mississippi River.
The three-story building behind the church spire is Day and Jenks drug store.*

Nevertheless, the coroner's jury ruled that Bilansky died of arsenic poisoning. A grand jury agreed and indicted Bilansky for the murder of her husband. District Court Judge Edward C. Palmer set the trial for May 23. At her arraignment on that date, Bilansky's attorney entered a not-guilty plea.¹⁴

While life in Minnesota in 1859 could be described as dirty, disorderly, and sometimes drunken, recent scholarship has challenged the impression of excessive violence so often associated with the frontier West. Historian Jane L. Carroll found that by 1857 a stable criminal-justice system with relatively advanced judicial procedures and standards of evidence existed in Minnesota Territory. Further, life in the small cities of Minnesota in the 1850s was far less violent than the contemporaneous mining frontier

of the Sierra Nevada. "Crime and violence never became so routine as to become acceptable aspects of life," she concluded.¹⁵

Thus, when Bilansky appeared in court on May 23 with her legal team, led by a prominent and wealthy St. Paul lawyer, John Ball Brisbin, there was great public interest in the case. Born in Saratoga, New York, in 1827, Brisbin was educated at Yale College before moving to St. Paul in 1853. A Democrat, he was reporter for the Minnesota Territorial Supreme Court in the mid-1850s and president of the territorial council from 1856 to 1857. He had served two terms in the state House of Representatives and, in 1857, had been mayor of St. Paul. Opposing Brisbin was a young lawyer also from New York State, Ramsey County District Attorney Isaac V. D. Heard, who had lived in St. Paul since April 1852 and had been first elected district attorney in 1855.¹⁶

¹⁴ *Pioneer and Democrat*, Mar. 17, 1859, p. 3; Second District Court, General Term Docket, May 10, May 23, 1859, R12A, F679–80.

¹⁵ Carroll, "Criminal Justice," 177, 262–63.

¹⁶ U.S. Manuscript Census, 1860, Ramsey Co., 251, R573, F305; Warner and Foote, *History of Ramsey County*, 244, 499. The census lists Brisbin's assets as \$35,000 in property and \$25,000 in personal holdings.

Jury selection proceeded quickly, with only a few potential jurors dismissed because they had formed an opinion from news coverage or because they were scheduled to testify as witnesses. The 12-man jury included one particularly noteworthy member, Justus C. Ramsey, the governor's 35-year-old brother.¹⁷

In his opening statement, Heard described the three key arguments that made up the prosecution's circumstantial case against Bilansky. He asserted,

first, that Bilansky purchased arsenic and thus had the means for murder at her disposal. Second, Bilansky had "lived on improper terms" and had "occupied the same room" with Walker. Heard suggested that Walker was not Ann Bilansky's nephew and that an adulterous affair was the motive for murder. Finally, Heard charged, Bilansky made comments that suggested she had contemplated murder. All of this added up to proof of murder in the first degree, according to the prosecutor.¹⁸

Lucinda Kilpatrick was the principal witness for the prosecution. Kilpatrick, who had moved to St. Paul from Grand Rapids, Michigan, in mid-1857, rented a room in a house separated from the Bilansky residence by a vacant lot. Her testimony alleged that Bilansky had purchased arsenic and had made murderous comments. The direct examination was brief. Kilpatrick said she and the defendant had gone "up-town" on February 28. After purchasing some fabric, Bilansky told Kilpatrick that

her husband had asked her to buy some arsenic to poison the rats that were in their cellar. "She asked me to purchase it," Kilpatrick asserted. "I said no, if I want it I'll get it."¹⁹

The two women stopped at Wolff's drug store, where the druggist offered not arsenic powder but a more expensive form. Short on money, Bilansky refused and instead bought 10 cents worth of arsenic, a white powder in a small jar, at Day and Jenks store. Kilpatrick testified that Bilansky had said she "would not mind giving Bilansky a pill if the doctor was not attending him." According to Kilpatrick, the defendant had continued that if her husband "should drop away sudden," authorities might "have suspicion on her." Nothing more was said until after Stanislaus Bilansky's death when, according to Kilpatrick, Ann Bilansky attempted to cover up her purchase. When the first coroner's inquest was called, Kilpatrick alleged, Bilansky had taken her aside. "She asked me to swear I bought the arsenic," Kilpatrick testified. "I said to her . . . if they do not find arsenic in the stomach they can do nothing with you. She answered and said suppose he took it himself."²⁰

Kilpatrick's testimony next revealed that Stanislaus Bilansky had told her he "didn't like" the relationship between Walker and his wife. Lastly, Kilpatrick testified, after Bilansky's death she saw no "manifestation of grief by the defendant, no tears."²¹

Brisbin's vigorous cross-examination revealed that Kilpatrick may have had a strong motive to lie. He repeatedly attempted to question her about her personal relationships, attempting to show that she was promiscuous and had an improper relationship of her own with Walker. "Did you have, since your return from St. Anthony and previous to your marriage, have illicit intercourse with a great number of persons?" Brisbin asked. Kilpatrick refused to answer, and Judge Palmer sustained Heard's objections to this and most other questions. The ones Kilpatrick did answer suggested she had a relationship with Walker. "Our friendly terms were broken up over a month ago," Kilpatrick said, referring to Walker. "[I] can't tell the time when the coldness commenced."²²



John B. Brisbin, anonymous painting from about 1857 when he was mayor of St. Paul

had moved to St. Paul from Grand Rapids, Michigan, in mid-1857, rented a room in a house separated from the Bilansky residence by a vacant lot. Her testimony alleged that Bilansky had purchased arsenic and had made murderous comments. The direct examination was brief. Kilpatrick said she and the defendant had gone "up-town" on February 28. After purchasing some fabric, Bilansky told Kilpatrick that

¹⁷ District Court docket, May 23, 1859, R12A, F680–81.

¹⁸ Transcript, R12A, F482.

¹⁹ Transcript, R12A, F482, 486, 491.

²⁰ Transcript, R12A, F482–83.

²¹ Transcript, R12A, F485–86.

²² Here and below, transcript, R12A, F489–91.

Brisbin then tried to establish direct evidence of the relationship with several anonymous letters. "I offer to show that during the months of January and February 1859 she sent presents and letters of affection to Walker," Brisbin told Judge Palmer. When the missives were shown and Kilpatrick was asked whether she had written them to Walker, she refused to respond, and the judge did not force her. Brisbin then introduced a breastpin and a ring into evidence and asked Kilpatrick whether she had given them to Walker. Again, she would not answer. It seems unlikely that Brisbin would have produced these items unless he was certain that Kilpatrick was their source.

In his cross-examination, Brisbin did not challenge the assertion that Bilansky had purchased arsenic. Instead, he tried to impeach the trustworthiness and elicit possible ulterior motives of the prosecution witnesses. Kilpatrick had lived in St. Paul for only one year. She had refused to answer questions about her past jobs, homes, and relationships. Finally, confronted with apparent physical evidence of her relationship with Walker, Kilpatrick said nothing.

The next witness, housekeeper Rosa Scharf, had been hired on March 2, 1859, to help around the house because of Bilansky's illness. Her testimony consisted of a series of perceptions and several alleged incidents, many of which, on cross-examination, were revealed to be less than they at first appeared. Scharf testified that Walker had visited the house twice during Bilansky's illness and early on the morning following his death. During the morning visit, she could not hear what was said, but "attention was called to them [Walker and Ann Bilansky] by their looks." Further, "they did not look natural." In addition, Scharf testified that Bilansky did not treat her husband "as I think a husband should be treated." Most scandalous of all—and damning, in public opinion—was Scharf's testimony that on the night after the funeral the defendant had undressed in front of Walker. The *Pioneer and Democrat* reported Scharf's testimony, and the undressing story seemed to convince the writer of Bilansky's adultery. While the newspaper ignored the direct evidence presented in court of Kilpatrick's promiscuous nature, it condemned Bilansky on the basis of a housekeeper's impressions.²³

In reality, the undressing incident was not the sensual event that Scharf and the newspaper at first suggested. According to Scharf's further testimony, Bilansky put on her nightclothes in the sleeping room as Walker readied for bed in the bar room. The door between them was open, but the two were neither together in the same room nor isolated from others staying in the small house. Scharf was present, as were the children, when Bilansky changed into her bedclothes. The two women and the children slept in the sleeping room while Walker slept on the floor of the adjoining bar room. "I asked her the next morning how she could do so before Walker," Scharf testified. "She said she was so used to him that she didn't mind him." Apparently more modest, Scharf removed only her dress and slept in her underclothes.²⁴

Brisbin, who had attempted to raise doubts about Kilpatrick's motives, likewise questioned Scharf's credibility. Noting that she had said nothing about her impressions of an improper relationship between Walker and Bilansky at the first coroner's inquest, Brisbin asked Scharf if she had in the intervening days discussed the case with Kilpatrick. Scharf replied that she saw Kilpatrick "almost every day" after the funeral and that they had frequently talked about the case. Furthermore, Scharf was living with Kilpatrick during the trial and came to court with her each day.²⁵ It appears that Brisbin was attempting to show that Kilpatrick, with her own motive of adultery, initiated a vendetta against Bilansky and used Scharf as a tool.

Kilpatrick's testimony was intended to prove opportunity and to suggest that Bilansky contemplated murder. Scharf's testimony alluded to a motive. After several more witnesses expanded on those general themes, Heard presented his scientific evidence. The *Pioneer and Democrat* reported that the medical testimony had improved since the second inquest, but it appears the evidence was still far from foolproof. Dr. Goodrich, who had been so ambivalent about his reading of the scientific evidence at the second coroner's inquest, did not appear at the trial. Instead, Dr. Thomas R. Potts testified that he and the other doctors had limited

²³ Transcript, R12A, F505-08; *Pioneer and Democrat*, May 25, 1859, p. 3.

²⁴ Transcript, R12A, F509, 515.

²⁵ Transcript, R12A, F517.

their internal examination to Bilansky's stomach and intestines, finding patches of inflammation in the larger portion of the stomach. The patches, Potts testified, were consistent with arsenic poisoning. Under cross-examination, Potts said he not previously performed a post-mortem exam on a victim of arsenic poisoning and that the inflammation might have been consistent with other syndromes such as chronic alcohol abuse, one of several chronic illnesses, or an overdose of patent medication.²⁶

Dr. William H. Morton, who had led the post-mortem team, next took the stand to testify about the chemical tests on Bilansky's stomach. According to Morton, that organ had contained residue of arsenic sufficient to cause death within 30 minutes. The *Pioneer and Democrat* reported this testimony in detail and

Box for Cayer and Company's cathartic pills, made in Lowell, Massachusetts: another cure from the nineteenth century's arsenal of home remedies. The tiny container is ½ inch high, 2 inches long, and 1 inch wide.



published a summary of the six chemical-analysis tests used to check for arsenic. Under cross-examination, however, Morton admitted that of the six, two had failed to produce evidence of arsenic, two were considered unreliable, and one had not been employed.

Thus, only one—a reduction test in which heat applied to a chemical solution alleged to contain arsenic produced an indicator ring in a test tube—yielded a result consistent with the presence of arsenic. Morton also revealed that he had not “applied himself particularly to chemistry” and had never performed a chemical analysis for arsenic before. Further, he testified that he had sold Stanislaus Bilansky two boxes of Graffenburg pills a few weeks before his death. If taken all at once, Morton admitted, the patent-medicine pills might have been lethal.²⁷

On Friday, May 28, the prosecution rested its

case, and Judge Palmer ordered the defense to proceed. Lead defense attorney Brisbin was ill at this key point, when he should have been outlining his opening argument. Prosecutor Heard later wrote that Brisbin's illness rendered it impossible for the defense to define clearly its case and to present certain evidence that might prove Bilansky's innocence. Nonetheless, Palmer ordered the trial to continue.²⁸

Brisbin's associate, Mr. Williams, proceeded to attack inconsistencies in the prosecution's case, focusing on the motive and scientific evidence. Why, Williams asked, had Bilansky been sick for nearly two weeks if, as Morton had testified, enough arsenic was found in his stomach to cause death in 30 minutes? The testimony of Scharf and Kilpatrick had not established the romance motive, Williams said. “Now what is the proof, where has there been any evidence to establish that; — none whatever.” The defense, Williams said, would show that the Bilansky house, 200 yards from a flour mill, had been plagued by rats after the house cat was given away. Moreover, the defense would raise questions about Bilansky's business dealings and psychological health.²⁹ The clear implication was that if Bilansky died of arsenic poisoning, he had taken the fatal dose himself.

The first defense witness called was Bilansky's second wife, Ellen Truett. She testified that Bilansky was an abusive and melancholy man who drank and ate heavily and, when drunk, was violent and difficult. She also offered a glimpse into Bilansky's psyche, reporting that he had an odd fixation with death, frequently declaring that he would die in March. Bilansky had had a sister who died in March, and he believed that was a sign. Each year, Truett testified, a few weeks before that month began, he would again turn melancholy and predict his imminent death. Finally, Truett testified that the defendant had been grief-stricken at her husband's funeral and had cried in the wagon which took the two women, along with housekeeper Scharf, home from the burial.³⁰

Next, ten-year-old Benjamin Bilansky took

²⁶ *Pioneer and Democrat*, Mar. 20, 1859, p. 3; transcript, R12A, F557–59, 561–62.

²⁷ Transcript, R12A, F565, 570, 573; *Pioneer and Democrat*, May 28, 1859, p. 3.

²⁸ I. V. D. Heard to Alexander Ramsey, Mar. 22, 1860, R12A, F714.

²⁹ *Pioneer and Democrat*, Mar. 28, 1859, p. 3. Mr. Williams may have been Henry L. Williams, a New Englander who studied at Bowdoin College and was admitted to the Minnesota Bar in January 1861. Perhaps he was studying law under Brisbin and assisting him with the Bilansky trial; C. C. Andrews, *History of St. Paul* (Syracuse, N.Y.: D. Mason and Co., 1890), 259.

³⁰ Transcript, R12A, F577–79.

the stand, testifying that the family home was infested with rats and that he had never seen Ann Bilansky behaving improperly with Walker. Three other witnesses also testified to the presence of rats in the Bilansky home. A three-year acquaintance and close neighbor, G. B. Galinska, stated that Bilansky had money concerns. "A year ago last spring he was troubled about hard times," Galinska said. "He often said he had as soon die as live . . . he owed \$200 for which he was paying 36 percent." Three other acquaintances testified that Bilansky had "borrowed a great deal of trouble" and had financial difficulties.³¹

The jury went home for the weekend and received an extra day off when juror Abraham Bennett was ill. When the trial resumed on Tuesday, May 31, the defense turned to the scientific evidence. St. Paul's city physician, Canadian-born Joseph A. Vervais, took the stand. Vervais criticized the scientific analysis, saying that the post-mortem should have included an examination of the brain, liver, and other organs. "Where the post-mortem is confined as . . . has been done in this case, [I] should not think it sufficient to find the cause of death," he stated. Vervais further impugned the methodology and extent of the chemical procedures used to test for arsenic. The only test that showed a positive indication could have been flawed and was not sufficient by itself to prove the presence of arsenic. Further tests should have been performed on the ring that formed, Vervais said. "These rings might have formed by overheating the glass. The first rings amount to nothing." Under cross-examination, Vervais testified that he was not a chemist but defended his qualifications and added that he had consulted several experts in preparing his analysis.³²

When the defense rested its case, Palmer instructed the jury, and deliberations began at 12:30 p.m. on June 3. After five hours, the jurors returned to court. Bilansky sat quietly as the verdict was read: guilty of the charge of murder in the first degree. The courtroom was silent as the jurors were polled, each answering that he agreed with the guilty verdict.³³

The defense immediately entered motions to arrest judgment and to request a new trial, and Palmer heard arguments on the motions on June 16. The main legal issues were the

numerous prosecution objections Palmer sustained during the questioning of Kilpatrick and Scharf and the illnesses of Brisbin and the juror Bennett. On June 22 Palmer denied the motion to arrest judgment and referred the motion for a new trial to the Minnesota Supreme Court.³⁴

Brisbin argued two key points before the Supreme Court in July. First, he said that Bilansky should not be subject to the death sentence under an archaic tradition of English Common Law, benefit of clergy. In dismissing the point, Justice Charles E. Flandrau wrote that the benefit-of-clergy tradition, intended to spare literate persons from capital punishment, was outdated and had been superseded by many subsequent laws. Brisbin's second point of law involved Palmer's rulings that had allowed Kilpatrick to avoid answering questions about her relationship with Walker. Since adultery and fornication were illegal in Minnesota, Flandrau wrote in the court opinion, Kilpatrick could legally refuse to answer the questions under the Fifth Amendment protection against self-incrimination. The questions "did not, it is true, go directly to that point [adultery], but affirmative answers to them would form important lines in a chain of evidence to establish such an offense." Further, Palmer had the right to rule the questions improper if he believed they were intended only to degrade or embarrass the witness. Finally, the court ruled that Brisbin had failed to provide an offer of proof that an admission of adultery would prove Kilpatrick was lying to implicate Bilansky. On July 25, 1859, the Supreme Court remanded



Justice Charles E. Flandrau

³¹ Transcript, R12A, F523, 536, 551, 580, 582, 583, 594, 596.

³² Andrews, *History of St. Paul*, 302; transcript, R12A, F598, 612, 617.

³³ *Pioneer and Democrat*, June 4, 1859, p. 3.

³⁴ District Court docket, 1860, R12A, F688–90.

the case to district court for sentencing.³⁵

That afternoon, Walker met with Bilansky at the Ramsey County jail for two hours. After dinner that evening, Bilansky was allowed to remain in the hall for an extra two hours, chatting with the jailer. When the jailer went to get his keys in the adjoining office building, Bilansky, her legal appeals at an end, took the opportunity to escape. According to newspaper reports, she ran downstairs, squeezed through

the bars of an open, ground-level window, and traversed Court House Square. Bilansky walked to the Lake Como area and hid in the tall grass about one mile from the lake. After a few days, she notified Walker that she needed help.³⁶

On August 1, Walker met Bilansky, gave her some men's clothes to wear, and the two began walking towards St. Anthony. About two miles from town, Ramsey County deputies caught up with them. Walker was jailed for more than a month, but on September 13, a Ramsey County grand jury refused to indict him.

On December 2, 1859, Bilansky appeared in court for sentencing with a new

attorney, Willis A. Gorman, a prominent and respected lawyer who had been Minnesota's second territorial governor. When allowed to speak, Bilansky stood and said simply, "If I die in this case, I die an innocent woman. I don't think I have had a fair and just trial." Palmer sentenced her to one month in solitary

confinement—possibly to spare outgoing Governor Henry Hastings Sibley the chore of issuing a death warrant—with death by hanging to follow upon the order of the new governor.³⁷

It was during Bilansky's stay in solitary confinement that one of the key witnesses against her committed suicide. Rosa Scharf, whose impressions had provided the prosecution with the adultery motive, was found dead on January 5, 1860. The coroner's inquest discovered that she had purchased "unusually strong" laudanum a few days earlier, and this empty vial was found in her room. The night she died, Scharf had visited the Kilpatricks. Lucinda Kilpatrick told the coroner's jury that she had seen nothing odd about Scharf's behavior that evening. Andrew Kilpatrick testified that Scharf had asked him what would become of Bilansky.³⁸ It is possible that Scharf felt guilty for her part in the conviction of the condemned woman and that guilt, at least in part, led to her suicide.

On January 25, Governor Ramsey issued a warrant charging Sheriff Tullis with the duty of arranging for Bilansky's execution on March 23. The *Pioneer and Democrat* applauded Ramsey's action: "There is no doubt of her guilt, and we can conceive of no sufficient reason why the law should not be allowed to take its course, or why anyone should desire for a commutation of the sentence."³⁹

In spite of the newspaper's judgment, Bilansky's supporters immediately began lobbying Ramsey to commute the sentence to life in prison. Those who opposed the hanging fell into several categories. Some were adamantly opposed to capital punishment. Others believed Bilansky had not received a fair trial. Still others thought it wrong to put a woman to death.

Petitioners on Bilansky's behalf fought a losing battle. Practical considerations made it difficult for the politically pragmatic governor to intervene. Had Ramsey commuted the sentence, he might have embarrassed his brother, Justus, who had served on the Bilansky jury. The two brothers worked together closely in busi-



Alexander Ramsey in an 1863 photograph taken in Mathew Brady's Washington, D.C., studio

³⁵ Supreme Court of Minnesota, *Minnesota Reports, 1859* (St. Paul: John B. West and Co., 1878), 169, 171–88.

³⁶ Here and below, *Pioneer and Democrat*, July 27, 1859, Aug. 3, Aug. 6, Sept. 14, 1859—all p. 3.

³⁷ *Pioneer and Democrat*, Dec. 3, 1859, p. 3. On Gorman, see Warren Upham and Rose B. Dunlap, comps., *Minnesota Biographies, 1655–1912*, Minnesota Historical Collections, vol. 14 (St. Paul: Minnesota Historical Society, 1912), 267–68.

³⁸ *Pioneer and Democrat*, Jan. 10, 1860, p. 3.

³⁹ *Pioneer and Democrat*, Jan. 26, 1860, p. 3.

ness, and Justus, who apparently believed in Bilansky's guilt, likely had a strong influence on the governor's deliberations. In addition, Bilansky was represented by Gorman, a Democrat and longtime political foe of Ramsey, a Whig turned Republican. Ramsey might have avoided any action that would bring credit to his rival. Bilansky's first defense attorney, Brisbin, was also a politically active Democrat. Perhaps more important than any of these motives, commuting Bilansky's sentence would have been a controversial act, likely to anger a public skittish about criminal justice. Courting controversy was something a low-key land speculator and veteran politician like Ramsey was trained to avoid. In his diary, Ramsey petulantly dismissed those who pleaded for him to stop the hanging of Bilansky. On March 20 he wrote, "The approaching execution of Mrs. Bilansky subjects me to much annoyance on the part of persons asking her commutation."⁴⁰

That annoyance included an act of the state legislature, which on March 5 sent to Ramsey a bill commuting Bilansky's sentence. The bill's sponsors argued that Bilansky had not received a fair trial and that it was unsavory for Minnesota to inaugurate capital punishment by executing a woman. Ramsey vetoed the measure on March 8, asserting that it violated the governor's constitutionally guaranteed pardoning power. He then used his imagination to create an account of the crime that supported his decision:

She procured poison and then administered it; not in such quantities as at once to destroy life, but little by little, that no suspicion might arise. She sat by the bedside of her husband, not to foster, but to slay. She watched without emotion the tortures she had caused, and, by and by, administered no healing medicine, no cooling draught, but ever, under a guise of love and tender care, renewed the cup of death.⁴¹

This melodramatic message, unsupported by evidence at the trial, made it clear that the governor would not heed any calls for mercy. Its strident tone made it difficult for Ramsey to reverse himself even if last-minute evidence in

support of commutation was incontrovertible.

There were many who nevertheless continued pleading for mercy. Gorman's petition for commutation listed 10 reasons why Bilansky should not be hanged, among them: the arsenic evidence had not been clear; two jurors had, since the trial's end, expressed dissatisfaction with the verdict; the press had prejudiced the public against Bilansky; her attorney had fallen ill during his argument to the jury; and additional information had surfaced since the trial. Finally, Gorman wrote, Bilansky should not be hanged because "I firmly believe her to be innocent." Supreme Court Justice Flandrau, in a letter written in July 1859, had urged Governor Sibley to commute the sentence on chivalric grounds. This letter was included in the pardon and parole records of Ramsey's term, making it likely that he was aware of Flandrau's opinion. "It is my firm conviction," the justice wrote, "that a strict adherence to the penal code will have a salutary influence in checking crime in the state, but it rather shocks my private sense of humanity to commence by inflicting the extreme penalty on a woman."⁴²

On March 22, 1860, the day before the scheduled execution, another petitioner urged commutation. Isaac Heard, the Ramsey County district attorney who had prosecuted Bilansky, wrote that he considered it his duty to express his "grave and serious doubts as to whether the defendant has had a fair trial," since the decision to allow jurors to go home in the midst of the trial left them open to influence by the



*Willis A. Gorman,
Bilansky's second attorney, 1866*

⁴⁰ Ramsey, diary, vol. 33, Mar. 20, 1860, R39, F548.

⁴¹ Minnesota, *Journal of the House of Representatives*, 1860, p. 368, 407, 695–99; Minnesota, *Journal of the Senate*, 1860, p. 402, 423; *Pioneer and Democrat*, Feb. 9, 1860, p. 3.

⁴² Gorman to Ramsey, n.d., R12A, F668; Charles E. Flandrau to Governor H. H. Sibley, July 25, 1859, R12A, F633–34.

community, which had been prejudiced by the one-sided newspaper coverage. Heard cited the extra day off due to juror Bennett's illness, as well as Brisbin's illness and resulting inability to bring out possible exculpatory evidence, as further proof that Bilansky was not fairly judged by an impartial jury.⁴³

Brisbin, in his petition to the governor, offered a hint at the evidence that he had been unable to present at the trial: Bilansky had been having money problems, and there existed proof that he had attempted to kill himself earlier, about the time that his second wife left him. "I hope it is not improper for me to state that it can be proved that Bilanski attempted to

poison himself . . . and at one time did in fact take poison for self-destruction."⁴⁴

Although Brisbin did not specify what the proof might be, he did offer further clarification on the issue of jury separation. Early in the trial, Brisbin wrote, members of the jury had asked that he allow them frequent breaks to attend to their businesses. The lawyer found himself in a situation in which any response could prejudice the jurors against his client. If he consented to separation, the jurors could be influenced by the community and the press. If he refused, the jurors might be angry with him and deflect that anger to his client. Brisbin consented, freeing the jury to mingle with the com-

⁴³ Heard to Ramsey, Mar. 22, 1860, R12A, F714-15.

⁴⁴ Here and below, J. B. Brisbin to Ramsey, Mar. 22, 1860, R12A, F717-18, 720.



Long and highly opinionated summary of the Bilansky case and its outcome, also featuring the state's first interview news story, published in the Pioneer and Democrat, March 24, 1860

munity for days at a time during the trial.

Six days before her scheduled execution, Bilansky wrote to Ramsey. In four pages of neat, evenly spaced handwriting, she restated the grievances repeated in her counsel's petitions and again asserted her innocence.

I have now been imprisoned in Ramsey Co. Jail for nearly one year. And for the past half year have waited patiently to have an opportunity to satisfy the public mind of the innocence of the crime on which I have been imperfectly and unfairly tried. Denied a fair hearing under the form of Law,—that Law which should throw around me the bulwark of its protection,—I have only to abide as calmly as I can the result of its great injustice unless I am shielded from this legal wrong by the interposition of a higher power than the courts now constituted in our midst.⁴⁵

Ignoring the pleas for mercy, Ramsey chose to allow the execution to occur on March 23. The next day, the *Pioneer and Democrat* published the first interview story in state newspaper history. (This genre had first appeared in American journalism in 1836 but was not widely used until after the Civil War.) On March 22, an unknown *Pioneer and Democrat* writer visited Bilansky in her second-floor jail cell. The day after the execution, the newspaper published the brief interview consisting of a handful of quotations interspersed with counterpoints of editorial opinion, tacked on to a lengthy recapitulation of the prosecution case. The story reported that Bilansky appeared pale, with deep circles under her eyes. First asked to comment upon the actions of Palmer at her trial, she said, "I earnestly entreat him, as my dying wish, that he might cor-

rect the mistakes he made at my trial," adding that she believed that Lucinda Kilpatrick and her husband orchestrated her downfall and influenced Scharf's testimony as well. "Mrs. Kilpatrick made a great many false statements," she said. "I always believed that her husband forced her to do so. Rosa Scharf also made false statements, influenced by the Kilpatricks." The writer concluded his unsympathetic interview with the words, "Probably no jail ever contained a criminal, either male or female, under imprisonment for a crime, who exhibited such a complete want of decency or propriety."⁴⁶

It is impossible from a vantage point more than 130 years distant to determine with certainty whether justice was served by the conviction of Ann Bilansky. Questions can, however, be raised about whether the execution should have proceeded. As to the murder charge, reasonable doubt appears to exist. Witnesses with questionable motives and shaky scientific evidence made up the majority of the prosecution case. The defense offered evidence undercutting prosecution witnesses and pointed out Bilansky's melancholy nature, raising the possibility that he took his own life.

Even given the jurors' verdict, Ramsey's decision to allow the execution appears ill judged. Whether unmoved by the substantive pleas for mercy or mindful of practical political consequences of commutation, Ramsey chose to do nothing. But the trial was clearly flawed. Ramsey should have heeded the advice of the prosecutor in the case and intervened to stop the execution of Ann Bilansky.

⁴⁵ Ann Bilansky, "Statement of Mrs. Bilansky," Mar. 17, 1860, R12A, F705.

⁴⁶ Hage, *Newspapers*, 114; *Pioneer and Democrat*, Mar. 24, 1860, p. 3.

All images and the two objects, photographed by Peter Latner, are in the MHS collections.



Copyright of **Minnesota History** is the property of the Minnesota Historical Society and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. Users may print, download, or email articles, however, for individual use.

To request permission for educational or commercial use, [contact us](#).