# John Leppla v. The Minneapolis Daily Tribune

# Willis Creore v. The Minneapolis Daily Tribune

(1885)

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## Preface

In October and December 1885 two libel suits against the parent company of *The Minneapolis Daily Tribune* were tried to juries in Hennepin County District Court. In each case the trial judge ruled that the critical words were libelous as a matter of law, leaving the amount of damages to the jury.

The first arose out of an interview with Mrs. Eleanor Leppla who was being sued of divorce by her husband, John. The *Tribune* not only paraphrased inflammatory passages from the Answer she filed in District Court but also quoted remarks about John made during a follow-up interview with her. John Leppla then brought suit.

The second case arose when a *Tribune* reporter mixed up the names of a man who was arrested for theft and the man who filed criminal charges against him. When *Tribune* learned that the actual complainant was not the defendant heading to jail, it published an explanation of the mishap on four days. Nevertheless, Willis Creore brought suit.

In blistering editorials following the completion of each case, the *Tribune* criticized lawyers who brought libel actions against newspapers "on shares," which today are called "contingency fee contracts." As it happens the same lawyer represented both plaintiffs: Thomas Canty, a future Hennepin County District Court judge and Associate Justice of the Minnesota Supreme Court. In a combative "Letter to the Editor" of the *Tribune* at the end of December, Canty denounces the newspaper, defends his conduct and characterizes himself as a "poor and humble lawyer."

Accounts of both cases, taken mostly from the *Tribune* itself, follow.

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# 1.
# John Leppla v. *Minneapolis Daily Tribune*

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## A. The Libel

The following is from the *Minneapolis Sunday Tribune*, February 22, 1885, at page 3.

DAMAGED $5,000.

John Leppla Alleges He Has Been Libeled
That Much by the "Tribune."

John Leppla, the proprietor of a sample room, at No. 114 Third street north, yesterday began a libel suit against the TRIBUNE claiming that his reputation has been damaged to the extent of $5,000. The complaint, after rehearsing the well-known fact that the TRIBUNE has a large and extensive circulation in Minneapolis and throughout the state of Minnesota, charges that on October 19, 1884, the responsible conductors of the paper "maliciously printed concerning the plaintiff the following false and defamatory matter:"

"Mrs. John Leppla says that she is living in mortal fear that her husband will carry out his threats and take her life. The unhappy couple are not living together, and the woman says that he has made frequent and emphatic threats that he would kill her if it cost him his life."

Mr. Leppla's attorney is Mr. Thomas Canty. Messrs. Cross, Hicks Carlton, the TRIBUNE'S attorneys, will probably meet the case by serving a demurrer to the complaint at an early day.

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## B. Demurrer Denied.

District Court Judge Lochren's ruling denying the *Tribune's* motion to dismiss Leppla's complaint was reported in the paper on July 19, 1885, at page 5.[1]

Gleaned In the Courts.

In the suit of John Leppla against the TRIBUNE, for $5,000 damages for an alleged libel, Judge Lochren yesterday filed a decision overruling the demurrer to the complaint. The statement complained of was the following: "Mrs. John Leppla says that she is living in mortal fear that her husband will carry out his threats to take her life, etc." The decision holds that "the fact that it purports to be the statement of another person, who is named, does not change its character nor make it privileged."

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[1]At the time of the Leppla case, a demurrer usually was used by the defendant to contend that even if the facts in the complaint were true, they were insufficient to establish a valid cause of action and, therefore, the complaint must be dismissed.

This is the definition of "demurrer" in Statutes, c. 66, Title 6, §§92, 93, at 720 (1878), in effect at the time of the Leppla case:

> **§92. Defendant may demur, when —on what grounds**. The defendant may demur to the complaint within twenty days after service thereof, when it appears upon the face thereof, either:
> *First*. That the court has no jurisdiction of the person of the defendant or the subject of the action;
> *Second*. That the defendant that the plaintiff is not legal capacity to sue;
> *Third*. That there is another action pending between the same parties for the same cause;
> *Fourth*. That there is a defect of parties, plaintiff or defendant;
> *Fifth*. That several causes of action are improperly united;
> *Sixth*. That the complaint does not state facts sufficient to constitute a cause of action.
>
> §**93. Requisites of demurrer—to what it may be taken**. The demurrer shall distinctly specify the grounds of objection to the complaint; unless it do so, it may be disregarded. It may be taken to the whole complaint, or any of the causes of action stated therein.

## C. The Verdict.

The case was tried to a jury on October 1-2,
and its verdict was reported in the
*St. Paul Daily Globe*, October 3, 1885, at page 3:

### A Verdict for One Cent Against the General—-Notes.

The trial of the Leppla-Tribune libel suit before Judge Young was resumed yesterday morning. The circumstances leading to the alleged libel in brief were that in October 1884. Lena Leppla was granted divorce from John Leppla, on the ground of cruelty.

The TRIBUNE made a note of the fact to which Mr. Leppla objected, as being untrue. A reporter was sent out to investigate, and learned from Mrs. Leppla that she was in fear of violence from her husband. This was also given to the public in the shape of another paragraph. Upon the strength of this Mr. Leppla sued for $5,000 damages.

Yesterday Gen. Nettleton, who was the nominal figure-head of the paper at the time, was examined and testified as to his entire lack of knowledge bearing on the case. E. J. C. Atterbury, the then city editor, testified as to Leppla's "kicking" about the first item and the publication of the result of the reporter's interview with Mrs. Leppla. Mrs. Leppla testified for the defense that she had heard from different parties that her husband threatened her life, but could not say who her informants were. The plaintiff tried to introduce several witnesses to establish his character, but the court ruled these out.

Thomas Canty, the attorney for the plaintiff, in his plea indulged in an invective against newspapers and newspaper-men.

The jury retired, and returned a verdict of $00,000.01. damages for the plaintiff.

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The *Tribune* also reported the jury's verdict on Saturday, October 3, 1885, at page 5:

## Libel Suit

John Leppla, who sued the Minnesota Tribune Company to recover $5,000 for an alleged libelous notice printed in the TRIBUNE, October 19, 1884, was awarded the princely sum of 1 cent. In the issue of October 18 was printed the following on the city page:

In the district court yesterday Eleanor Leppla filed her answer to the proceedings brought against her by her husband John Leppla for divorce. In her answer Mrs. Leppla alleged that on July 12, the plaintiff left her without cause or provocation and has not since lived with her, or in any way provided for her support. Still further she denies having failed to keep her marriage vows. As charged by the plaintiff, he, on the contrary, having been the one to fail. Mrs. Leppla then charges the plaintiff with having maintained a house of ill-repute on Third street north, and also with having committed adultery with numerous women, among them being one Mrs. Best, who met the plaintiff at the rear of Day's lumber yard. She avers that he has had detectives watch her with a hope of securing evidence against her. Mr. Leppla is reputed worth $12,000. Alimony for support is asked for.[2]

This led to a further investigation of the case, and a reporter was assigned to interview Mrs. Leppla which led to the following notice October 19:

Mrs. John Leppla says she is living in mortal fear that her husband will carry out his threats and take her life. The unhappy couple are not living together, and the woman says that he has made frequent and emphatic threats that he would kill her if it cost him his life.[3]

[2] This paragraph in the *Tribune* available online is torn and hard to reproduce.
[3] This paragraph is printed on page 8 of the *Sunday Tribune*, October 19, 1884.

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## D. The *Tribune* Erupts

The *Tribune* accompanied its report of the jury's verdict
with a blistering editorial
on page 4 of its October 3, 1885, edition:

### Damages, One Cent.

The libel suit of one John Leppla against the TRIBUNE for the sum of $5,000, pending the greater part of the past year, resulted yesterday in a verdict for the plaintiff, the damages being fixed by the jury at one cent. In some aspects the case is an interesting one, although it is not so in any of its incidents.

Mr. Leppla, who was, we believe, a Washington avenue saloon-keeper, brought a divorce action against his wife, on the ground of adultery, in October of last year. Mrs. Leppla filed an answer in which she made various grave charges against her husband.

The TRIBUNE'S court reporter obtained a very brief routine synopsis of this answer, and it appeared in the paper of October 18.

Mr. Leppla was offended at the publication, and informed the city editor that the allegations were untrue. Reporters were detailed to look further into the matter, and as a result there appeared the next day a four or five line item in which the essential statement was as follows: "Mrs. John Leppla says that she is living in mortal fear that her husband will carry out his threats and take her life."

The obscure item was of course written by the reporter without malicious intentions. That it was justifiable in fact was evidently the opinion of the jury in refusing to award more than nominal

damages. Construed by strict precedents and rules of law, however, Judge Lochren held that the publication was technically libelous, and hence the allowance of one cent by the jury.

Every newspaper which is prosperous and financially responsible, is constantly subjected to the annoyance of libel suits brought by persons who have no equitable ground of grievance whatever, but who hope to make something by the venture. These cases are of course much more numerous from the fact that there are always lawyers ready to prosecute them on shares. The whole thing is merely a form of speculation. But though tempting to a certain class of persons, it is not often profitable. Courts and juries are constantly growing more sensible and just in dealing with such cases. And new doctrines are yet to bring the law of libel into still better keeping with the time, so that speculative attempts to bleed newspapers for large amounts on trivial and technical grounds, will fail so uniformly as to become infrequent.

Well-ordered newspapers have not the slightest incentive to libelous utterances, but on the contrary have every reason for publishing the news impartially and properly.

And it is nowadays of transcendent public importance that the news should be given. The press must therefore be protected by the public so far as possible against the sharks and adventurers who lie in wait to make profit out of casual statements, of court news and the like, in which there is neither intentional offense nor any real injury.

The need for a liberalizing of the law of libel, and the encouraging good sense of juries in these cases, are both well illustrated by a case decided in Michigan three days ago.

It was in many respects strikingly like the TRIBUNE'S case. The Detroit Free Press published a synopsis of a declaration filed in a divorce suit, and was sued for libel. The judge held that the

paper must in justification prove the truth of all the charges made in the legal document which it had epitomized. The jury brought in a verdict of damages in the sum of six cents, and the costs fell to the plaintiff. The Chicago Tribune of yesterday contains a vigorous editorial discussion of this Michigan case, which is reprinted in another column.

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## 2.
## Willis Creore v. The Minneapolis Daily Tribune

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### A. The Libel.

An account of the work of the city police on July 13, published in *The Minneapolis Daily Tribune*, July 14, 1885, at page 5, concluded with this item:

### Forgery and Embezzlement.

. . .

Later in the afternoon Officer McNamara arrested William Creore, a book agent, on a warrant sworn out by H. B. Graves, charging Creore with embezzlement. Graves is an eastern publisher with a general office in room 48, Wood's block, of which Creore was manager, and Graves charges that Creore sold a copy of "Milton's Paradise Lost" for $7 failed to return the money. Both prisoners will have a hearing this morning.

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## B. The Correction.

The *Tribune* realized a mistake had been made and published the following on July 15, 1885, at page 5:

### Willis Creore

Monday afternoon Mr. Willis Creore caused the arrest of a sub-agent, employed as a book canvasser by Creore, on the charge of embezzlement. The reporter, to whom the information was given, met the officer making the arrest at 6:30 p. m., and hastily took the facts from the officer. In the report Mr. Creore himself is announced as the person arrested, instead of the party making the arrest. How the reporter succeeded in reversing the order of the names of complainant and respondent is not clear, but is just as annoying to Mr. Creore.

This article was reprinted in the Tribune
on three successive days:

Minneapolis Daily Tribune, July 17, 1885, at 5
Minneapolis Daily Tribune, July 18, 1885, at 3
Minneapolis Daily Tribune, July 19, 1885, at 5

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## C. The Verdict

The Jury's verdict was published in the *St. Paul Daily Globe*, December 17, 1885, at page 3:

The libel suit of Willis Creore against the Tribune was tried before Judge Young yesterday morning. The jury was not over five minutes in deciding upon a verdict awarding one cent damages for the plaintiff, thus giving the newspaper a practical victory. The suit grew out of an error in the publication of an item concerning the arrest of a book agent for embezzlement at

the instance of the plaintiff. The reporter, by a blunder, mentioned Mr. Creore as being the person arrested. The paper upon discovering the mistake published a correction in several subsequent issues in order to prevent any injurious consequences to the victim of reportorial inaccuracy.

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The next day this item was printed in the *Globe*,
December 18, 1885, at page 3:

Papers brought out as defendants in libel suits are treated very discriminatingly by intelligent juries. When a paper, through a simple habit of blundering, technically libels a man, it is let off with 1 cent and a warning; when it pitches into a man with the active intention of making the atmosphere lurid about him, it is mulcted all the way from $1,000 to $25,000. The jury always considers the accountability of a paper.

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## D. The *Tribune* Erupts — Again.

Editorial in the *Minneapolis Daily Tribune*,
December 17, 1885, at page 4:

### Another Libel Suit Ended.

The solvent newspaper which has not on its hands from one to half a dozen frivolous libel suits, instigated by shyster lawyers who undertake the case on shares as a speculative venture, is nowadays the fortunate exception. [4]

[4] For Justice Canty's views on lawyers who represent clients "on shares" (i.e., on a contingency retainer) see his concurrence in *Gammons v. Johnson*, 76 Minn. 76, 83 (1899).

As a matter of fact it is comparatively seldom that a libel suit is prosecuted in which there is any equitable title to damages. Newspaper publishers are conversant with the law of libel. They are not, moreover, malicious persons. They are engaged in the reputable and highly necessary work of collecting and disseminating legitimate public news. They have no motive for doing injustice to individuals,—and use great precautions to avoid it. Consequently most libel suits are brought on technical violations of the law, by adventurers and persons who have no characters to lose, abetted by those disreputable scalawags who everywhere infest and disgrace the legal profession. It is not often that such suits succeed, but once in a while they do succeed and they are always an annoyance and a source of possible loss and danger to a newspaper. To an appreciable extent they embarrass and hinder a paper in doing its full duty towards the public, while they do not in the least tend to make the press more scrupulous and responsible in its utterances. The press is always in sympathy with the reputable part of the community. Libel suits are usually a form of assault upon the just liberty of the press by the disreputable part of the community.

It is not invariably so, but in the great majority of instances this is the case. It has not been many days since we had occasion to comment upon the outcome of a frivolous libel suit against this paper, in which the jury awarded damages of one cent.

Yesterday another of the Tribune's half-dozen libel suits was disposed of in the same way. The jury again awarded damages of one cent. The suit was brought by one Creore, a book agent. A routine local news item in the Tribune of July 14 stated that Creore had been arrested for embezzling the proceeds of a copy of "Paradise Lost." The facts were that Creore had procured a warrant for the arrest of another man. The reporter had inadvertently transposed names in writing up his police news. The following morning, the Tribune conspicuously and particularly corrected the mistake and made amends for the injustice accidentally done. This correction was published

morning after morning for a number of days. Any reasonable man would have been satisfied. But Mr. Creore was made to believe that the Tribune's inaccurate item, far from being an injury to him might be made to prove a lucky windfall. A lawyer named Canney (sic), who makes a specialty of cases like Mr. Creore's, at once took the matter in hand. A damage suit for $5,000 was brought against the Tribune. In the trial the Tribune's attorneys Messrs. Miller, Young & Miller of course admitted the fact of the libel, but proved its inadvertence and its prompt and repeated correction. Judge Young's charge covered the ground admirably.

The jury, fortunately, was an intelligent and sensible one, and it readily saw the bearings of the case. But a technical libel had been committed, on the free admission of the defense, and there was nothing for the jury to do but make the damages nominal hence the verdict of one cent.

But the Tribune has been subjected to the annoyance of defending the suit and is out of pocket to the extent of its court expenses and attorneys' fees.

In a case of this kind the plaintiff is generally a sort of lay figure. Mr. Creore of course has had nothing to lose in the case and probably nothing to do with it beyond getting some share of the plunder if the venture had succeeded. It is fair to presume that the real principal in the prosecution of the claim was the lawyer, who undertook it for what there was in it, and has lost nothing except such portion of his precious time and labor as he has bestowed upon the case. For the great majority of frivolous libel suits, shady lawyers are directly responsible. They in fact are the principals. They are on the *qui vive* for opportunities, and take cases at their own risk.

Railroad and municipal corporations even more than news-papers are subject to the speculative assaults of this class of lawyers. Under the common law "champery" (sic) was an

indictable offense.[5] In the New England states and the older Southern states it is still true that the speculative prosecution of other people's claims is an offense which if proved against a lawyer results in disbarment and disgrace. It is time that the practice of law should be more strictly regulated in the Northwestern states. And in the absence of salutary laws for the protection of the public against shysters and their methods, the bar itself should in every possible way discountenance and disown the men who disgrace an honorable profession.

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## E. More Criticism of Canty

The following item was in the "Truthful James" column,
*Minneapolis Sunday Tribune*,
December 27, 1885, at page 9:

### Truthful James

. . . .

Recent events in the courts remind me of an incident which occurred in Judge L. W. Collins' court two years ago in which a lawyer named Canty figured. A man named Ernest Bruce had brought suit for the recovery of some real estate and the defendant introduced prominent citizens of Fergus Falls to testify to his character. The testimony was hard on the defendant, and his attorney, who was this same Canty, began to grow desperate and to interpolate questions in cross examination not admissible under the rules of evidence. Judge Collins grew weary of this performance and threatened to close up the attorney for the plaintiff if he did not desist. "But," said

[5] In *Maslowski v. Prospect Funding Partners LLC* (June 3, 2020), the Minnesota Supreme Court abolished the common law prohibition against "champerty," which it defined: "Champerty is 'an agreement to divide litigation proceeds between the owner of the litigated claim and a party unrelated to the lawsuit who supports or helps enforce the claim.' Champerty, Black's Law Dictionary (11th ed. 2019)."

Canty, defiantly, "the other side has not objected to any questions."

"Well, I object," interposed the judge, "and the objection is sustained. If you ask another such question you will go down stairs with the sheriff." The county jail was below and Canty subsided.

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## F. Thomas Canty Replies

From the *Minneapolis Daily Tribune*,
December 28, 1885, at page 3:

### Mr. Canty Rises to Emphatically Remark.

To the Editor of the Tribune:

I have lately acted as attorney in the prosecution of two libel suits against the Tribune, the Leppla case and the Creore case. After each trial it came out with a general tirade against me, in which it charged me with nothing in general or in particular except high treason in having the audacity to sue so exulted and supreme an object as the Tribune. But it wanted more substantial mud than that to throw at me, so it put its sleuth hounds on my track to hunt me down and find something to publish against my character. Now after much exhaustive research it has found nothing against me except that I am poor and humble, like most young attorneys, and that I plod along and mind my own business.

But lo! Truthful (!) James has found something. He says in yesterday's issue the paper that on the trial of a certain action in Fergus Falls about two years ago, Judge Collins threatened to fine me for contempt. My client was Earnest Buso, the man who first settled and built up Fergus Falls, and at one time owned nearly all the land around there, but, like Bill King in

Minneapolis, he undertook too much; then the grasshopper came and ruined him, and then he left there and homesteaded, settled and built up the present town of Red Lake Falls in Polk county. About three years ago he employed me to look over the remnants of his lost fortune at Fergus, as the result of which brought two suits to recover portions of the town of Fergus. A large portion of the people of Fergus were interested either directly or indirectly in these suits, and the contest was very bitter.

The episode of which he speaks, in which Judge Collins threatened to fine me for contempt, was nothing more than has happened many times in our courts, and there is not a judge before whom I have practiced, Judge Collins included, who will not certify that I conduct myself in court as a gentleman. Neither did I "subside" in that case because of the threats of the judge. I made my points, took my exceptions, and went on with the trial, and the judge and I have long since forgotten the matter.

I always regarded both the Leppla and Creore cases as meritorious and just causes of action against the Tribune. The Tribune made a very infamous charge against Leppla. He went to the office and complained of it, but instead of retracting the charge, the Tribune came out with still another charge against him.

Then he sued the Tribune for libel; it justified, that is, it defended on the ground that the charges were true, but on the trial it totally failed to prove any part of the charges. The judge so charged the jury, and charged them also that they should presume that Leppla was a man of ordinary good character and that they should bring in a verdict for him. While the jury were out considering their verdict the attorneys, witnesses and other bystanders who heard the trial, estimated that the verdict would range somewhere between $3,000 and $5,000, but to the surprise of everyone in the court room, they brought in a verdict of only one cent. It has since transpired, that one of the

jurors who was never drawn on the regular panel, but who got on the jury at his own solicitation in place of regular jurymen who had been excused and who served on the jury through several of the periods for which the regular panel is drawn because he wanted the job of earning his dollar a day because he had no better employment—this juryman told his 11 associates that he know personally that Leppla was guilty of the charges preferred against him by the Tribune, and they, human-like and *jury*-like, believed him, and brought in a verdict for one cent, although the Tribune had searched the whole city for such evidence and could not find it.[6] This juryman probably wants a job of being policeman or something, and wants the Tribune's influence to assist him in getting it.

In the other case the Tribune offered no excuse for making the charge that Creore was in the lockup, charged with embezzling his employer's property, except the blind stupidity of its reporter in reporting the same, and his perverse stupidity in refusing afterward to withdraw the charge before it was published or printed, when he was told by another employe of the Tribune that there must be some mistake about it, as he had seen Creore on the street, that evening, and that consequently he could not be in the lockup. No one had misled the Tribune in this matter; it had received no fake information except from its own reporter. A little investigation after the warning it had received would have prevented the publication and annoyance to Creore. But, on the contrary, the facts showed the most total indifference and wonton disregard of the consequences on the part of all persons responsible for the publication until they woke up to realize that a libel suit was on hand when they retracted.

The principal reason why the Tribune has been so successful in these two libel suits is because it is the extreme champion on

[6] Canty's description of this particular juror fits the profile of the "professional juror" who loitered in courtrooms in Minneapolis and St. Paul in the late 19th century hoping to be selected for jury duty and earn two dollars a day. See Douglas A. Hedin, "The Professional Juror in Minnesota" (MLHP, 2020).

the part of Minneapolis in the fierce rivalry that exists between the two cities, and our juries for the last two terms have been composed of the most aggressive business men in the city.

I have no objection to the Tribune's winning all the libel suits it can and crowing loud when it does win them. That is its sacred privilege. But I would suggest that it is not the part of good sense to abuse the attorney who brought the suit. It reveals the fact that there is a narrow-minded and ill-liberal soul somewhere around the Tribune office.

It is a long lane that has no turn, and if the Tribune keeps up in its present course it may suddenly wake up some fine day and find out that it does not own the earth nor all the juries in Hennepin county either.

THOMAS CANTY.

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This article is one of a series of articles on libel suits against Minnesota newspapers in the 19th Century posted on the MLHP website.

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