

[G.R. No. 1409. February 17, 1906]

**THE UNITED STATES, PLAINTIFF AND APPELLEE, VS. WILLIAM CROZIER,
DEFENDANT AND APPELLANT.**

D E C I S I O N

CARSON, J.:

It was proven at the trial of this case that the following editorial was published on the 18th day of February, 1903, in The Manila American, a newspaper printed, published, and circulated in Manila and the Philippine Islands, of which the appellant, William Crozier, was on that day the proprietor:

“It is a pity that the acquittal of Major Glenn was not allowed to stand without being smirched with the remarks that General Davis smeared over it in his review of the case which was published in yesterday’s newspapers. General Davis’s summing up of the case is a direct slap at General Wade and the other able officers who composed the Glenn court. It may help him in his ambition to command the Army upon the retirement of General Miles, but it will do him no good with the American people. General Davis will retire on account of the age limit on the 26th of July. General Miles is not due for retirement for several weeks later. Up to the time of General Miles’s visit to the Philippines he and Davis were bitter enemies. But, according to a letter recently received in Manila from Washington, it would appear that the Administration is now beginning to pat General Miles on the back and call him a ‘bully boy with a glass eye’ and otherwise flatter him, with the hope that he may be induced to retire ahead of General Davis. If Roosevelt, Root, et al. succeed in working the taffy mill overtime, Miles may be induced to fall into their scheme. Davis is wise, too. He knows full well that he can not hope to command the Army except by the voluntary retirement of General Miles before he must step down and out. He

knows that Miles has no use for Glenn, and that he is more or less to blame for Glenn's last trial. So, while he could not disapprove the findings of the Glenn court, he did what might be construed as an act to ingratiate himself with the White House faction, and help them in their efforts to 'work' Miles into the humor of forgiveness. He approved the finding of the court, but he appended a few apparently unnecessary and unjust remarks that nominally amount to disapproval.

"General Davis's remarks are not going to hurt Glenn one single iota. They will only go to strengthen the regard in which he is held by the American people, and especially those Americans who fought the battles of the Philippines long before General Davis ever came out here. General Davis has a right to approve of the roasting alive of American soldiers, of the brutal and fiendish mutilation of dead American soldiers, of the crippling of innocent children because their parents were friendly to Americans, but it is poor taste for him to say so, as he virtually did, in his remarks."

Based upon this article an information was filed against Orozier, charging him with criminal libel, as defined and penalized in Act No. 277 of the Philippine Commission. Section 1 of this act is as follows:

"A libel is a malicious defamation, expressed either in writing, printing, or by signs or pictures, or the like, or public theatrical exhibitions, tending to blacken the memory of one who is dead, or to impeach the honesty, virtue, or reputation, or publish the alleged or natural defects of one who is alive, and thereby expose him to public hatred, contempt, or ridicule."

It can not be doubted that the article in question tended to impeach the honesty, veracity, and reputation of General George W. Davis, against whom it was directed, and to expose him to public hatred, contempt, and ridicule. It accuses and was intended to accuse him of misconduct in office and the prostitution of his judicial functions as reviewing officer of the proceedings of a general court-martial. It charges him with having added unnecessary and unjust remarks in his review of the findings of a court which had been convened to hear and try charges against a brother officer, and its clear and unmistakable intendment was to give the reader to understand that these unnecessary and unjust remarks were inspired by

selfish and ignoble motives, and that they were inserted solely with the hope of advancing the writer's own selfish interests and private ends, and not in the "honest and faithful" discharge of his duty.

Section 4 of Act No. 277 provides that in all criminal prosecutions for libel the truth may be given in evidence to the court, and if it appears that the matter charged as libelous is true, and was published with good motives and for justifiable ends, the party shall be acquitted, but it is not contended in this case that the statements made in the foregoing article are true; on the contrary, it appeared from the evidence adduced at the trial that in the same publication wherein said article was published, the accused, after criminal proceedings had been instituted against him, over his own signature, retracted and withdrew tins statements made therein and declared that "investigation has disclosed that the article published in this paper was unwarranted and unjust, and reflected without just reason upon General Davis's motives in the review of the Glenn criminal proceedings," and that "The Manila American has unintentionally done an act of injustice to an honored officer of the widest experience, proven ability, and absolutely unquestionable integrity."

No attempt was made to show the existence of a justifiable motive for the publication of this admittedly false defamation, and it must therefore be held to have been malicious, under the terms of section 3 of the act, which provides that an injurious publication is presumed to have been malicious if no justifiable motive for making it is shown.

Counsel for the appellant insists that the prosecution failed to establish affirmatively the fact that there ever existed any such person as General Davis, and therefore that the information should be dismissed. We are of opinion, however, that there can be no doubt of the existence and identity of the person to whom the article referred, and that the retraction signed by the defendant himself and introduced in evidence, and upon which the accused relied in palliation of the offense, leaves no room for question upon this point.

What has been said sufficiently answers the various points raised by the defendant, excepting those touching the right of the accused to presentment and trial by a jury of his peers, which, however, we do not deem it necessary to discuss.

The sentence imposed by the trial court should be affirmed, with the costs of this instance against the appellant. After the expiration of twenty days judgment will be entered in accordance herewith, and the case remanded to the court wherein it originated. So ordered.

Arellano, C. J., Torres, Mapa, and Willard, JJ., concur.

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