FIRST DIVISION

[G.R. No. L-12592. March 8, 1918.]

**THE UNITED STATES**, *plaintiff-appellee*, ***vs***. **FELIPE BUSTOS ET AL.**, *defendants-appellants*.

*Kincaid & Perkins* for appellants.

*Acting Attorney-General Paredes,* for appellee.

## SYLLABUS

1. CONSTITUTIONAL LAW; FREEDOM OF SPEECH AND PRESS; ASSEMBLY AND PETITION; HISTORY. — Freedom of speech as cherished in democratic countries was unknown in the Philippine Islands before 1900. It was among the reforms sine *quibus* non insisted upon by the Filipino People. The Malolos Constitution, the work of the Revolutionary Congress, in its bill of rights, zealously guarded these basic rights. A reform so sacred to the people of these Islands and won at so dear a cost should now be protected and carried forward.

2. ID.; ID.; ID.; ID. — The Constitution of the United States and the State constitutions guarantee the right of freedom of speech and press and the right of assembly and petition. Beginning with the President's Instructions to the Commission of April 7, 1900, these gruaranties were made effective in the Philippines. They are now part and parcel of the Organic Law — of the Constitution — of the Philippines Islands.

3. ID.; ID.; ID.; STATUTORY CONSTRUCTION. — These paragraphs in the Philippine Bill of Rights carry with them all the applicable English and American jurisprudence.

4. ID.; ID.; GENERAL PRINCIPLES. — The interests of society and the maintenance of good government demand a full discussion public affairs. Complete liberty to comment on the conduct of public men is necessary for free speech. "The people are not obliged to speak of the conduct of their officials in whispers or with bated breath in a free government, but only in a despotism." (Howarth *vs*. Barlow [1906], 113 App. Div. N. Y., 510.) Of course, criticism does not authorize defamation.

5. ID.; ID.; ID. — The guaranties of a free speech and a free press include the right to criticize judicial conduct.

6. ID.; ASSEMBLY AND PETITION; GENERAL PRINCIPLES. — The right to assemble and petition is a necessary consequence of republican institutions and the complement of the right of free speech. Assembly means a right on the part of citizens to meet peaceably for consultation in respect to public affairs. Petition means that any person or group of persons can apply without fear of penalty to the appropriate branch or office of the Government for a redness of grievances.

7. ID.; FREEDOM OF SPEECH AND PRESS; ASSEMBLY AND PETITION; PRIVILEGE. — The doctrine of privileged communications rests upon public policy, "which looks to the free and unfettered administration of justice, through, as an incidental result, it may, in some instances, afford an immunity to the evil-disposed and malignant slanderer." (Abboth *vs*. National Bank of Commerce, Tacoma [1899], 175 U.

S., 409, 411.)

8. ID.; ID.; ID.; QUALIFIED PRIVILEGE. — Qualified privilege which may be lost by proof of malice. "A communication made bona fide upon any subject matter in which the party communicating has an interest or in reference to which he has a duty, is privileged, if made to a person having a corresponding interest or duty, although it contain criminatory matter which without this privilege would be slanderous and actionable." (Harrison *vs*. Rush, 5 E. & B. 344; 1 Jur. [N. S.], 846; 25 L. J. Q. B., 25; 3 W. R., 474; 85 E. C. L., 344.)

9. ID.; ID.; ID.; ID.; — Even when the statements are found to be false, if there is probable cause for belief in their truthfulness and the charge is made in good faith, the mantle of privilege may still cover the mistake of the individual. Personal injury is not necessary. The privilege is not defeated by the mere fact that the communication is made in intemperate terms. Finally, if a party applies to the wrong person through some natural and honest mistake as to the respective functions of various officials, such an unintentional error would not take the case out of the privilege.

10. ID.; ID.; ID.; ID.; MALICE. — In the usual libel case, malice can be presumed from defamatory words. Privilege destroys that presumption. the onus of proving malice then lies on the plaintiff.

11. ID.; ID.; ID.; ID. — A privileged communication should not be subjected to microscopic examination to discover grounds of malice or falsity. Such excessive scrutiny will defeat the protection which the law throws over privileged communications.

12. ID.; ID.; ID. — Previous decisions of this court concerning libel reviewed and distinguished.

13. ID.; ID.; ID. — A petition, prepared and signed at an assembly of numerous citizens including affidavits by five individuals, charging a justice of the peace with malfeasance in office and asking for his removal, was presented through lawyers to the Executive Secretary. The Executive Secretary referred the papers to the judge of first instance of the district. The judge of first instance, after investigation, recommended to the Governor-General that the justice of the peace filing a motion for new trial, the judge of first instance ordered the suppression of the charges and acquitted the justice of the peace of the same. Criminal action was then begun against the petitioners, now become the defendants, charging that portions of the petition presented to the Executive Secretary were libelous. The trial court found thirty-two of the defendants guilty and sentenced each of them to pay a nominal fine. On a review of the evidence, we find that express malice was not proved by the prosecution. Good faith surrounded the action of the petitioners. Their ends and motives were justifiable. The charges and the petition were transmitted through reputable attorneys to the proper functionary. The defendants are not guilty and instead of punishing them for an hones endeavor to improve the public service, they should rather be commended for their good citizenship.

## D E C I S I O N

**MALCOLM**, *J* :

This appeal presents the specific question of whether or not the defendants and

appellants are guilty of a libel of Roman Punsalan, justice of the peace of Macabebe and Masantol, Province of Pampanga. The appeal also submits the larger question of the attitude which the judiciary should take in interpreting and enforcing the Libel Law in connection with the basic prerogatives of freedom of speech and press, and of assembly and petition. For a better understanding, the facts in the present appeal are first narrated in the order of their occurrence, then certain suggestive aspects relative to the rights of freedom of speech and press and of assembly and petition are interpolated, then the facts are tested by these principles, and, finally, judgment is rendered.

First, the facts. In the latter part of 1915, numerous citizens of the Province of Pampanga assembled, the prepared and signed a petition to the Executive Secretary through the law office of Crossfield & O'Brien, and five individuals signed affidavits, charging Roman Punsalan, justice of the peace of Macabebe and Masantol, Pampanga, with malfeasance in office and asking for his removal. Crossfield & O'Brien submitted this petition and these affidavits with a complaint to the Executive Secretary. The petition transmitted by these attorneys was signed by thirty-four citizens apparently owners (now the defendants), and contained the statements set out in the formation as libelous. Briefly stated the specific charges against the justice of the peace were.

1. That Francisca Polintan, desiring to make complaint against Mariano de los Reyes, visited the justice of the peace, who first told her that he would draw up the complaint for P5; afterwards he said he would take P3 which she paid; also kept her in the house for four days as a servant and took from her two chickens and twelve "gandus;"

2. That Valentin Sunga being interested in a case regarding land which was on trial before the justice of the peace, went to see the justice of the peace to ascertain the result of the trial, and was told by the justice of the peace that if he wished to win he must give him P50. Not having this amount, Sunga gave the justice nothing, and a few days later was informed that he had lost the case. Returning again to the office of the justice of the peace in order to appeal, the justice told him that he could still win if he would pay P50;

3. That Leoncio Quiambao, having filed a complaint for assault against four persons, on the day of the trial the justice called him over to his house, where he secretly gave him (Quiambao) P30; and the complaint was thereupon shelved.

The Executive Secretary referred the papers to the judge of first instance for the Seventh Judicial District requesting investigation, proper action and report. The justice of the peace was notified and denied the charges. The judge of first instance found the first count not proved and counts 2 and 3 established. In view of this result, the judge, the Honorable Percy M. Moir, was of the opinion "that it must be, and it is hereby, recommended to the Governor-General that the respondent be removed from his position as justice of the peace of Macabebe and Masantol, Province of Pampanga, and it is ordered that the proceedings had in it is ordered that the proceedings had in this case be transmitted to the Executive Secretary."

Later the justice of the peace filed a motion for a new trial; the judge of first instance granted the motion and reopened the hearing; documents were introduced, including a letter sent by the municipal president and is councilors of Masantol, Pampanga, asserting that the justice of the peace was the victim of prosecution, and that one Agustin Jaime, the auxiliary justice of the peace, had instituted the charges for personal reasons; and the judge of first instance ordered a suppression of the charges against Punsalan and acquitted him of the same. Attorneys for complainants thereupon

appealed to the Governor-General as requested the record does not disclose.

Criminal action against the petitioners, now become the defendants, was instituted on October 12, 1916, by virtue of the following information:

> "That on or about the month of December, 1915, in the municipality of Macabebe, Pampanga, P.I., the said accused, voluntarily, illegally, and criminality and with malicious intent to prejudice and defame Mr. Roman Punsalan Serrano who was at said time and place justice of the peace of Macabebe and Masantol of this province, wrote, signed, and published a writing which was false, scandalous, malicious, defamatory, and libelous against the justice of the peace Mr. Roman Punsalan Serrano, in which writing appear among other things the following:
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> " 'That the justice of the peace, Mr. Roman Punsalan Serrano, of this town of Macabebe, an account of the conduct observed by him heretofore, a conduct highly improper of the office which he holds, is found to be a public functionary who is absolutely unfit, eminently immoral and dangerous to the community, and consequently unworthy of the office.
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> " 'That this assertion of the undersigned is evidenced in a clear and positive manner by facts so certain, so serious, and so denigrating which appear in the affidavits attached hereto, and by other facts no less serious, but which the undersigned refrain from citing herein for the sake of brevity and in order not to bother too much the attention of your Honor and due to lack of sufficient proof to substantiate them.
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> " 'That should the higher authorities allow the said justice of the peace of this town to continue in his office, the protection of the rights and interest solemnly guaranteed by the Philippine Bill of Right, and justice in this town will not be administered in accordance with law.
>
> " 'Than on account of the wrongful discharge of his office and of his bad conduct as such justice of the peace, previous to this time, some respectable citizens of this town of Macabebe were compelled to present an administrative case against the said Roman Punsalan Serrano before the judge of first instance of Pampanga, in which case there were made against him various charges which were true and certain and of different characters.
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> " 'That after the said administrative case was over, the said justice of the peace, far from changing his bad and despicable conduct, which has roused the indignation of this town of Macabebe, subsequently performed the acts above-mentioned, as stated in the affidavits herewith attached, as if intending to mock at the people and to show his mistaken valor and heroism.'
>
> "All of this has been written and published by the accused with the deliberate purpose of attacking the virtue, honor and reputation of the justice of the peace, Mr. Roman Punsalan Serrano, and thus exposing him to public hatred, contempt, and ridicule. All contrary to law."

It should be noted that the information omits paragraphs of the petition mentioning the investigation before the judge of first instance, the affidavits upon which based and the concluding words, "To the Executive Secretary, through the office of Crossfield & O'Brien."

The Honorable Percy M. Moir found all the defendants, with the exception of Felix Fernandez, Juan S. Alfonso, Restituto Garcia, and Manuel Mallari, guilty and sentenced each of them to pay a fine of P10 and one thirty-second part of the costs, or to suffer subsidiary imprisonment in case of insolvency. New attorneys for the defense, coming into the case, after the handing down of the decision, filed on December 16, 1916, a

motion for a new trial, the principal purpose of which was to retire the objection interposed by then counsel for the defendants to the admission of Exhibit A consisting of the entire administrative proceedings. The trial court denied the motion. All the defendants, except Melecio S. Sabado and Fortunato Macalino appealed making the following assignments of error:

> "1. The court erred in overruling the motion of the convicted defendants for a new trial.
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> "2. The court erred in refusing to permit the defendants to retire the objection inadvertently interposed by their counsel to the admission in evidence of the *expediente administrativo* out of which the accusation in this case arose.
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> "3. The court erred in sustaining the objection of the prosecution to the introducing in evidence by the accused of the affidavits upon which the petition forming the basis of the libelous charge was based.
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> "4. The court erred in not holding that the alleged libelous statement was unqualifiedly privileged.
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> "5. The court erred in assuming and impliedly holding that the burden was on the defendants to show that the alleged libelous statements were true and free from malice.
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> "6. The court erred in not acquitting the defendants.
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> "7. The evidence adduced fails to show the guilt of the defendants beyond a reasonable doubt. This is especially true of all the defendants, except Felipe Bustos, Dionisio Mallari, and Jose T. Reyes."

We have thus far taken it for granted that all the proceedings, administrative and judicial, were properly before this court. As a matter of fact counsel for defendants in the lower court made an improvident objection to the admission of the administrative proceedings on the ground that the signatures were not identified and that the same was immaterial, which objection was partially sustained by the trial court. Notwithstanding this curious situation by reason of which the attorney for the defense attempted to destroy through his objection the very foundation for the justification of his clients, we shall continue to consider all the proceedings as before us. Not indicating specifically the reason for this action, let the following be stated: The administrative proceedings were the basis of the accusation, the information, the evidence, and the judgment rendered. The prosecution cannot be understood without knowledge of interior action. Nothing more unjust could be imagined than to pick out certain words which standing by themselves and unexplained are libelous and then by shutting off all knowledge of facts which would justify these words, to convict the accused. The records in question are attached to the *rollo*, and either on the ground that the attorneys for the defense retired the objection to the introduction of the administrative proceedings by the prosecution, or that a new trial should have been had because under section 42 of the Code of Criminal Procedure "a case may be reopened on account of errors at law committed at the trial," or because of the right of this court to call in such records as are sufficiently incorporated into the complaint and are essential to a determination of the case, or finally, because of our conceded right to take judicial proceedings supplemental to the basis action, we examine the record as because us, containing not alone the trial for libel, but the proceedings previous to that trial giving rise to it. To this action, the Government can not complain for it was the prosecution which tried to incorporated Exhibit A into the record.

With these facts pleading justification, before testing them by certain principles which make up the law of libel and slander, we feel warranted in seizing the opportunity

to intrude an introductory and general discussion of freedom of speech and press and assembly and petition in the Philippine Islands. We conceive that the time is ripe thus to clear up certain misapprehensions on the subject and to place these basic rights in their proper light.

Turning to the pages of history, we state nothing new when we set down the freedom of speech as cherished in democratic countries was unknown in the Philippine Islands before 1900. A prime cause for revolt was consequently ready made. Jose Rizal in "Filipinas Despues de Cien Anos" (The Philippines a Century Hence, pages 62 et seq.) describing "the reforms *sine quibus non,*" which the Filipinos insist upon, said:

> "The minister, . . . who wants his reforms to be reforms, must begin by declaring the press in the Philippines free and by instituting Filipino delegates."

The Filipino patriots in Spain, through the columns of "La Solidaridad" and by other means invariably in exposing the wants of the Filipino people demanded." (*See* Mabini*, La Revolucion Filipina*.) The Malolos Constitution, the work of the Revolutionary Congress, in its Bill of Rights, zealously guarded freedom of speech and press and assembly and petition.

Mention is made of the foregoing data only to deduce the proposition that a reform so sacred to the people of these Islands and won at so dear as one would protect and preserve the covenant of liberty itself.

Net comes the period of American-Filipino cooperative effort. The Constitution of the United States and the State constitutions guarantee the right of freedom of speech and press and the right of assembly and petition. We are therefore, not surprised to find President McKinley in that Magna Charta of Philippine Liberty, the Instruction to the Second Philippine Commission, of April 7, 1900, laying down the inviolable rule "That no law shall be passed abridging the freedom of speech or of the press or of the rights of the people to peaceably assemble and petition the Government for a redress of grievances."

The Philippine Bill, the Act of Congress of July 1, 1902, and the Jones Law, the Act of Congress of August 29, 1916, in the nature of organic acts for the Philippines, continued this guaranty. The words quoted are not unfamiliar to students of Constitutional Law, for they are the counterpart of the first amendment to the Constitution of the United States, which the American people demanded before giving their approval to the Constitution.

We mention the foregoing facts only to deduce the proposition never to be forgotten for an instant that the guaranties mentioned are part and parcel of the Organic Law — of the Constitution — of the Philippines Islands.

These paragraphs found in the Philippine Bill of Rights are not threadbare verbiage. The language carries with it all the applicable jurisprudence of great English and American Constitutional cases. (Kepner *vs*. U. S. [1904], 195 U. S., 100; Serra *vs*. Mortiga [1907], 204 U. S., 470.) And what are these principles? Volumes would inadequately answer. But included are the following:

The interest of society and the maintenance of good government demand a full discussion of public affairs. Complete liberty to comment on the conduct of public men is a scalpel in the case of free speech. The sharp incision of its probe relieves the abscesses of officialdom. Men in public life may suffer under a hostile and an unjust accusation; the wound can be assuaged with the balm of a clear conscience. A public officer must not be too thin-skinned with reference to comment upon his official acts. Only thus can the intelligence and dignity of the individual be exalted. Of course,

criticism does not authorized defamation. Nevertheless, as the individual is less than the State, so must expected criticism be born for the common good. Rising superior to any official, or set of officials, to the Chief Executive, to the Legislature, to the Judiciary — to any or all the agencies of Government — public opinion should be the constant source of liberty and democracy. (See the well considered cases of Wason *vs*. Walter, 4 L.R. 4 Q. B., 73; Seymour *vs*. Butterworth, 3 F. & F., 372; The Queen *vs*. Sir R. Garden, 5 Q. B. D., 1.)

The guaranties of a free speech and a free press include the right to criticize judicial conduct. The administration of the law is a matter of vital public concern. Whether the law is wisely or badly enforced is, therefore, a fit subject for proper comment. If the people cannot criticize a justice of the peace or a judge the same as any other public officer, public opinion will be effectively muzzled. Attempted terrorization of public opinion on the part of the judiciary would be tyranny of the basest sort. The sword of Damocles in the hands of a judge does not hang suspended over the individual who dares to assert his prerogative as a citizen and to stand up bravely before any official. On the contrary, it is a duty which every one owes to society or to the State to assist in the investigation of any alleged misconduct. It is further the duty of all know of any official dereliction on the part of a magistrate or the wrongful act of any public officer to bring the facts to the notice of those whose duty it is to inquire into and punish them. In the words of Mr. Justice Gayner, who contributed so largely to the law of libel. "The people are not obliged to speak of the conduct of their officials in whispers or with bated breath in a free government, but only in a despotism." (Howarth *vs*. Barlow [1906], 113 App. Div., N. Y., 510.)

The right to assemble and petition is the necessary consequence of republican institutions and the complement of the right of free speech. Assembly means a right on the part of citizens to meet peaceably for consultation in respect to public affairs. Petition means that any person or group of persons can apply, without fear of penalty, to the appropriate branch or office of the government for a redress of grievances. The persons assembling and petitioning must, of course, assume responsibility for the charges made.

Public policy, the welfare of society, and the orderly administration of government have demanded protection for public opinion. The inevitable and incontestable result has been the development and adoption of the doctrine of privilege.

> "The doctrine of privileged communications rests upon public policy, 'which looks to the free and unfettered administration of justice, though, as an incidental result, it may in some instances afford an immunity to the evil-disposed and malignant slanderer.'" (Abbott *vs*. National Bank of Commerce, Tacoma [1899], 175 U. S., 409, 411.)

Privilege is classified as either absolute or qualified. With the first, we are not concerned. As to qualified privilege, it is as the words suggest a *prima facie* privilege which may be lost by proof of malice. The rule is thus stated by Lord Campbell, C. J.

"A communication made bona fide upon any subject-matter in which the party communicating has an interest, or in reference to which he has a duty, is privileged, if made to a person having a corresponding interest or duty, although it contained criminatory matter which without this privilege would be slanderous and actionable." (Harrison *vs*. Bush, 5 E. & B., 344; 1 Jur. [N.S.], 846; 25 L. J. Q. B., 25; 3 W. R., 474; 85 E. C. L., 344.)

A pertinent illustration of the application of qualified privilege is a complaint

made in good faith and without malice in regard to the character or conduct of a public official when addressed to an officer or a board having some interest or duty in the matter. Even when the statements are found to be false, if there is probable cause for belief in their truthfulness and the charge is made in good faith, the mantle of privilege may still cover the mistake of the individual. But the statements must be made under an honest sense of duty; a self-seeking motive is destructive. Personal injury is not necessary. All persons have an interest in the pure and efficient administration of justice and of public affairs. The duty under which a party is privileged is sufficient if it is social or moral in its nature and this person in good faith believe he is acting in pursuance thereof although in fact he is mistaken. The privilege is not defeated by the mere fact that the communication is made in intemperate terms. A further element of the law of privilege concerns the person to whom the complaint should be made. The rule is that if a party applies to the wrong person through some natural and honest mistake as to the respective functions of various officials such unintentional error will not take the case out of the privilege.

In the usual case malice can be presumed from defamatory words. Privilege destroy that presumption. The onus of proving malice then lies on the plaintiff. The plaintiff must bring home to the defendant the existence of malice as the true motive of his conduct. Falsehood and the absence of probable cause will amount to proof of malice. (See White *vs*. Nicholls [1845], 3 How., 266.)

A privileged communication should not be subjected to microscopic examination to discover grounds of malice or falsity. Such excessive scrutiny would defeat the protection which the law throws over privileged communications. The ultimate test is that of *bona fides*. (See white *vs*. Nicholls [1845], How., 266; Bradley *vs*. Heath [1831], 12 Pick. [Mass.], 163; Kent *vs*. Bongartz [1885], 15 R. L., 72; Street, Foundations of Legal Liability, vol. 1, pp. 308, 309; Newell, Slander and Libel, various citations; 25 Cyc. pages 385 et seq.)

Having ascertained the attitude which should be assumed relative to the basic rights of freedom of speech and press and of assembly and petition, having emphasized the point that our Libel Law as a statute must be construed with reference to the guaranties of our Organic Law, and having sketched the doctrine of privilege, we are in a position to test the facts of this case with these principles.

It is true that the particular words set out in the information, if said of a private person, might well be considered libelous *per se*. The charges might also under certain conceivable conditions convict one of a libel of a government official. As a general rule words imputing to a judge or a justice of the peace dishonesty or corruption or incapacity or misconduct touching him in his office are actionable. But as suggested in the beginning we do not have present a simple case of direct and vicious accusations published in the press, but of charges predicated on affidavits made to the proper official and thus qualifiedly privileged. Express malice has not been proved by the prosecution. Further, although the charges are probably not true as to the justice of the peace, they were believed to be true by the petitioners. Good faith surrounded their action. Probable cause for them to think that malfeasance or misfeasance in office existed is apparent. The ends and the motives of these citizens — to secure the removal from office of a person thought to be venal — were justifiable. In no way did they abuse the privilege. These respectable citizens did not eagerly seize on a frivolous matter but on instances which not only seemed to them of a grave character, but which were sufficient in an investigation by a judge of first instance to convince him of their seriousness. No undue publicity was given to the petition. The manner of commenting

on the conduct of the justice of the peace was proper. And finally the charges and the petition were submitted through reputable attorneys to the proper functionary, the Executive Secretary. In this connection it is sufficient to note that justices of the peace are appointed by the Governor-General, that they may be removed by the Governor-General upon the recommendation of a judge of First Instance, or on the Governor-General's own motion, and that at the time this action took place the Executive Bureau was the office through which the Governor-General acted in such matters. (See Administrative Code of 1917, secs. 203 and 229, in connection with the cases of U. S. *vs*. Galeza [1915], 31 Phil., 365, and of Harrison *vs*. Bush, 5 E. & B., 344, holding that where defendant was subject to removal by the sovereign, a communication to the Secretary of State was privileged.)

The present facts are further essentially different from those established in other cases in which private individuals have been convicted of libels of public officials. Malice, traduction, falsehood, calumny, against the man and not the officer, have been the causes of the verdict of guilty. (See U. S. *vs*. Sedano [1909], 14 Phil., 338, 339; U. S. *vs*. Contreras [1912], 23 Phil., 513; U. S. *vs*. Montalvo [1915], 29 Phil., 595.)

The Attorney-General bases his recommendation for confirmation on the case of the United States *vs*. Julio Bustos ([1909], 13 Phil., 690). The Julio Bustos case, the Attorney-General says, is identical with the Felipe Bustos case, with the exception that there has been more publicity in the present instance and that the person to whom the charge was made had less jurisdiction than had the Secretary of Justice in the Julio Bustos case. Publicity is immaterial if the charge against Punsalan is in fact a privileged communication. Moreover, in the Julio Bustos case we find wild statements, with no basis in fact, made against reputable members of the judiciary, "to persons who could not furnish protection." Malicious and untrue communications are not privileged. A later case and one more directly in point to which we invite special attention is United States *vs*. Galeza ([1915], 31 Phil., 365). (Note also Yancey *vs*. Commonwealth [1909], 122 So. W., 123.)

We find the defendants and appellants entitled to the protection of the rules concerning qualified privilege, growing out of constitutional guaranties in our bill of rights. Instead of punishing citizens for an honest endeavor to improve the public service, we should rather commend them for their good citizenship. The defendants and appellants are acquitted with the costs de officio. So ordered.

*Arellano, C.J., Johnson, Araullo, Street,* and *Fisher, JJ.,* concur.

## Separate Opinions

**CARSON**, *J., concurring*:

I concur.

I think it proper to observe, however, that in my opinion the Attorney-General is entirely correct when he says that this case is substantially identical with the former "Bustos case (The United States *vs*. Bustos, 13 Phil. Rep., 690). I believe that a careful reading of our decisions in these cases is sufficient to demonstrate that fact. The truth is that the doctrine of the prevailing opinion in the former Bustos case has long since been abandoned by this court; and in my opinion it would make for the more efficient administration of the Libel Law in these Islands to say so, in so many words. (Cf. U. S. *vs*. Sedano, [1909], 14 Phil. Rep., 338, 339; U. S. *vs*. Contreras [1912], 23 Phi. Rep., 513;

U. S. *vs*. Montalva [1915], 29 Phil. Rep., 595; and U. S. *vs*. Galeza [1915], 31 Phil. Rep., 365.)