

CRITICISING JUDGES—LIBEL—PRIVILEGED COMMUNICATIONS.

a judge upon the bench took exceptions to the conduct of a solicitor, lost his patience, which seems however to have been no very great loss, and fell to scolding like a very Billingsgate fishwoman. The principal legal journals of London commented in unmeasured terms on the scandalous scene, and in the name of the profession, tendered their sympathy to the aggrieved solicitor. Upon faults such as these, and they are not uncommon, the public may and should comment freely, but if a judge honestly and faithfully strives diligently to do his whole duty, he is entitled to the commendation of the community, however distasteful to the feeling or adverse to the interests of the people his rulings may be. The recent proceedings in California against the judges of the Supreme Court of that State, upon which we commented some weeks ago, is a striking illustration of the extremes to which a people may be carried by an adverse ruling on a point of great public interest. Not only was the legislature convened in extra session for the avowed purpose of repealing out of office the judges who made the obnoxious decision, but charges of imbecility, physical and mental, were preferred against two of the judges in aid of the nefarious project of removing from office, judges confessedly upright because they expounded the law the way they understood it. Judges ought to be subject to fair criticism of their official acts, but surely they should hold their offices free from such perils as those which environed the California judges.—*Central Law Journal*.

LIBEL—PRIVILEGED COMMUNICATIONS.

The following are the head notes of two cases reported in the *American Law Register* for August last:—

Briggs v. Garrett.—Citizens and voters have the constitutional right publicly to discuss and canvass the qualifications of candidates for public office, and information honestly communicated by one citizen to others at a public meeting, to the effect that a candidate for such office had been charged by a reputable citizen with grave misconduct, is a privileged communication, and the person communicating such information is not liable to an action

for libel therefor, although the charge was false in fact and its falsity could have been discovered by inquiry.

Such communication being privileged, legal malice is not inferrible, and on the trial of a civil action for libel against the party who made the communication the court is justified, in the absence of proof of actual malice, in entering a nonsuit.

The fact that reporters of the public press were present at the meeting at which such privileged communication was made is immaterial.

At a meeting of a body of citizens of Philadelphia, styled the "Committee of One Hundred," assembled for the purpose of considering the merits of candidates for public office, a letter reflecting severely upon the character of one of the judges of the Common Pleas, who was a candidate for reelection, by statements subsequently acknowledged to be wholly untrue, was, by order of the chairman read by the secretary, and appeared at length the following day in the daily papers. Held, that the communication being based upon probable cause, was proper for discussion at such a meeting, and the court will not reverse a judgment of nonsuit entered in an action for libel brought against the chairman of the meeting.

Bronson v. Bruce.—Charges of crime which are false, made in a newspaper against a candidate for Congress, though made without malice and in an honest belief of their truth, are not privileged communications; but if they were published in good faith, after reasonable and proper investigation, this fact may go to mitigation of damages.

The editor then discusses them as follows:—

The above cases form an important addition to the literature upon the interesting question therein discussed. In the case of *Express Printing Co. v. Copeland*, recently decided by the Supreme Court of Texas, and reported in 24 Am. Law Reg. (N. S.) 640, the rule was laid down, that where a person consents to become a candidate for public office conferred by a popular election, he should be considered as putting his character in issue so far as respects his qualifications for the office; and that whatever pertains to the qualification of the candidate for the office sought is a legitimate subject for discussion and comment; but statements and comments made must be confined to the truth, or what in good faith and upon probable cause is believed to be true, and the matter must relate to the suitability or unfitness of the candidate for the office.