

communication made bona fide upon any subject-matter in which the communicating has an interest, or in reference to which he has a duty, is privileged, if made to a person having a corresponding interest of duty, although it contains defamatory matter which without this privilege would be actionable, and this, though the duty is not a legal one, but only a moral or social duty of imperfect obligation. Such communications are protected for the common welfare and convenience of society."

"The same principle obtains in France (*Pandectes Françaises, Rep., vol. 24, Vo. Diffamation, No. 412, No. 413, No. 422, No. 424, No. 431, No. 433.*

"From all this it results that privilege does not relieve the party saddled with the charge of having slandered the plaintiff from all responsibility for his words, but it throws upon the plaintiff the onus of proving, in an affirmative manner, that the words were used through malice.

"As to the point as to what circumstances made an occasion privileged, it is not necessary for the purposes of this judgment to lay down any general rule. It is sufficient to say, with the writers and with the courts, that he who is discharging a public duty is acting in a privileged occasion.

"The respondent was an alderman of the city of Montreal when he used the words he is charged with using, and his remarks were made with reference to a contract which was then under consideration by the council of that city. The presumption of malice on respondent's part disappears and the appellant had to make positive proof of malice. Has it done so? While the evidence is contradictory, I think it is proved that the respondent declared that the offer he had received had been made by the appellant. But it must be remembered that if this