

Liability for Libel Under the Present State of Philippine Jurisprudence

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INTRODUCTION

AMERICAN constitutional law bears out the fact that liberty of speech and of the press is very essential for the existence and perpetuity of a free government. (Cooley, *Constitutional Limitations*, 510, 6th Ed.) Among other things, the first amendment to the United States Constitution provides that Congress shall not enact any law abridging the freedom of speech or of the press. Organic laws of the different States have therefore safeguarded the privilege. A provision of similar import in the Philippine Constitution runs thus: "No law shall be passed abridging the freedom of speech or of the press." (Art. III Sec. 1, Subsec. 8).

This constitutional guarantee assures the development of an enlightened public opinion. (P.P.I. vs. Perfecto, 43 Phil. 225). Changes will readily be made and vices remedied, in the government for the latter will be responsive to the will of the people as the privilege consists in the right to utter, to print, and publish any statement whatever without subjection to the previous censorship of the government. (U. S. vs. Sotto, 38 Phil. 666). It implies immunity from legal censure and punishment for the publication, so long as it is not harmful in its character, when tested by such standards as the law affords. (Cooley, *Constitutional Limitations*, p. 518 6th Ed.) "But it does not mean immunity from willful abuses of that freedom, which if permitted to go unre-

buked, would soon make the license of an unrestrained press even more odious to the people than would be the interference of the government with the expression of opinion." (U. S. vs. Sotto, *supra*).

Like any other right, the freedom of speech and of the press is not therefore unlimited. It should be subject to the laws protecting other individual rights and promoting social interests. Laws against obscenity, libel, slander, and sedition are limitations on the right. (Sinco, *Philippine Government and Political Law*, p. 489, 5th Ed.) A person shall be liable for any libelous matter which he publishes, for the privilege consists merely of a right to print what one chooses, without any previous license, but subject thereafter to be held responsible therefor. (U. S. v. Sedano, 14 Phil. 338).

A person's private reputation is as much a constitutional right as the possession of life, liberty, or property. (Park v. Detroit Free Press Co., 72 Mich. 560, 40 N. W. 731). The right to enjoyment of private reputation unassailed is of ancient origin. (Newell, *Slander & Libel*, 3rd. ed. 126) and necessary to human society. (Coleman v. McLennan, 78 Kan. 711, 20 L.R.A. n.s. 361). It falls under the guarantee to personal security, thus the right to recover damages to reputation cannot be abridged by statute. (McGee v. Baumgartner, 121 Mich. 287, 80 N. W. 21).

The case of *Coleman v. McLennan* (*supra*) points out the

propriety and importance of the study of the law on defamation. "A good name is rather to be chosen than great riches. A good reputation honestly earned is not only one of the most satisfying sources of man's own contentment but from a commercial standpoint it is one of the most productive kinds of capital, he can possess." In recognition of this dictum, the writer attempts to discuss the Philippine law on libel, to determine the liability for violation thereof as gleaned from entirely new decisions repealing old rulings on the topic, and to advance some humble comments and suggestions.

DEFINITIONS AND DIFFERENTIATIONS

At common law, defamation has no concise definition. Broadly it is an attack upon the reputation of another. It may be a false publication to bring one into disrepute and it includes the idea of calumny. "It is the malicious poisoning of the mind of others against the party assaulted." (36 C. J. 1142).

Libel, slander, and malicious prosecution are all methods of defamation. (Spencer vs. Johnson, 142 Ga. 267, 82 S. E. 646). In early times the common law slander is the general and original word for all kinds of defamation—oral and written. (Belo v. Smith, 91 Texas 221, 42 S. W. 850). But in modern usage, slander is expressed orally and limited to defamation by words spoken. (Harrison v. Pool, 24 Ga. A. 587, 101 S. E. 765). Libel is expressed by print, writing, pictures, or signs. (Spence v. Johnson, supra).

American cases make no distinction between libel and malicious prosecution as the latter is just an aggravated form of an action for libel as in it the libel is sworn to

before a magistrate. (Briggs vs. Garrett, 111 Pa. 404, 56 Am. R. 274). A different ruling prevails in the Philippines. Malicious prosecution is not provided for in the Revised Penal Code. Thus the action must either be for libel or false testimony. In the commission of the offense of libel, the underlying purpose of discrediting the reputation of a person is essential. If alleged libelous matter is only incidental in a scheme of unlawful acts which have other underlying purposes, the appropriate action is not for libel but for the offense derived from such purposes. Thus if a sworn complaint is false and was presented with full knowledge of such falsity, the appropriate action is for false testimony and not libel. (P. P. I. vs. Velasco et al., C. A. G. R. 43186, 35 O. G. 91).

Scandalum magnatum, literally means slander of great men. (Bouvier's Law Dictionary). It refers to word spoken in derogation of a peer, judge, or other officers of the realm. It is distinguished from the common action of slander as it is considered as a graver offense. The crimes of *lese majeste* and *scandalum magnatum* are not recognized under the American principles of government. (Sillars vs. Collier, 151 Mass. 50, 23 N. E. 723, 6 L.R.A. 680). "It is difficult to conceive of any principle on which prosecutions for libels on the system of government can be based, except when they are made in furtherance of conspiracy with the evident purpose and intent to incite rebellion and civil war." (P. P. I. vs. Perfecto, supra).

In its most general and comprehensive sense it may be said that any publication that is injurious to the reputation of another is libel. (Julian v. Kansas City Star Co., 209 Mo. 35, 107 S. W.

496). In *P. P. I. vs. Velasco et al.*, (supra) libel is a malicious defamation expressed in print or writing, or by signs or pictures tending to blacken the memory of the dead, with an intent to provoke the living, or to injure the reputation of one who is alive, and thereby expose him to public hatred, contempt, or ridicule (citing *Newell, Slander and Libel*, 3rd Ed. 32).

PHILIPPINE LAW ON LIBEL:

The old Spanish Penal Code previously in force in the Philippines had provisions penalizing *defamacion*. Under the Penal Code calumny and insults when expressed publicly in writing, constitutes the crime of libel, while the same acts constitute slander when expressed in words spoken. By the enactment of Act 277 the Philippine Legislature intended to repeal the Penal Code provisions on calumny and insults when expressed publicly in writing. (*P. P. I. vs. Castro*, 43 Phil. 842).

Act 277 has had the effect of repealing so much of Art. 256 of the Penal Code which punishes any person "who by writing shall defame, abuse, or insult, any minister of the Crown, or other person in authority," as relates to written defamation, abuse, or insult. (*P. P. I. vs. Perfecto*, supra).

The present law on libel is found in Arts. 553-362 of the Revised Penal Code. Libel which should have been translated as defamation is defined in Art. 353 which states: "A libel is a public and malicious imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition, status or circumstance tending to cause the dishonor, discredit, or contempt of a natural or judicial person, or to

blacken the memory of one who is dead."

The present code includes all kinds of attacks against honor under defamation thus disregarding all differences between calumny, insults and libel. When a statute defines libel, then such statutory definition governs. (*State v. Older*, 19 N. M. 393, 143 P. 482) and only such statute will be used in arriving at a conclusion whether publication is libelous or not.

ELEMENTS OF LIBEL

Defamatory Words or Imputations.

From the foregoing definition of libel by the Revised Penal Code. we can conclude that there are three essential elements; namely, defamatory words or imputations, malice, and publication. Defamatory means calumnious or injurious to reputation. To defame is to speak evil of one maliciously, to dishonor, to render infamous. (*Gundrum v. Daily News Pub. Co.*, 175 Iowa 60, 156 N. W. 840). But a defamatory publication which is false and calculated to bring the person defamed into disrepute is not necessarily malicious. (*Gundrum v. Daily News Pub. Co.*, 175 Iowa 60, 156 N. W. 840).

In order for defamatory imputations to be libelous per se, it is not essential that the words should involve an imputation of crime, or otherwise impute the violation of some law, or moral turpitude, or moral conduct. Defamatory words to be libelous per se must be of such a nature that the court can as a matter of law presume that they will tend to degrade the party or hold him up to public hatred, ridicule or contempt, or cause him to be avoided. (*White v. Nicholls*, 3 How. 266, 11 L. Ed. 591).

Malice—"Malicia" as defined in the *Enciclopedia Juridica Española* (Vol. 21, p. 542) indicates what the ordinary use of the word connotes, that the action must be the result of a deliberate evil intent and does not cover a mere voluntary act. (P. P. I. v. Malabanan, 36 O. G. 165). In libel, malice may either be malice in law or malice in fact. Malice in law is a presumption of law and dispenses with the proof of malice, when words raising such presumption are shown to have been uttered. This kind of malice does not imply ill-will, hatred, or intent to injure. (17 R. C. L. 322) and it is not necessarily inconsistent with good motive, accident, or inadvertence.

Malice in fact involves some intent of mind and heart, ill-will against a person. This is the malice of evil motive. (Davis v. Hearst, 160 Cal. 143, 116 P. 530). As opposed to malice in law which is presumed to exist by fiction of law, malice in fact is never presumed but must be proved. (P. P. I. v. Burgos, 32 O. G. 59, p. 1128). There is no malice in law when justifiable motives exist, and in the absence of malice in fact, there is no libel. But if there is malice in fact, one cannot be relieved from liability by pretense of justifiable motives. (U. S. v. Bustos, 13 Phil. 690). Express malice of an alleged libelous publication may be inferred from the style and tone of the publication. (U. S. v. Sedano, 14 Phil. 338).

Publication—Publication has been defined as the communication of defamatory matter to a third person. Since basis of an action for defamation is damage for injury to character in the opinion of other men, in order to render libel of any kind actionable, there must be a publication thereof. (Roberts v. Eng. Mfg. Co., 155 Ala. 414,

46 L. 752). To publish is to make public, to make known to the people in general. (Ford vs. Owen, 158 S. E. 147 cited in Ocampo v. Evangelista, 37 O. G. 109, p. 2196). Thus sending libelous matter in a sealed envelope by messenger to the libelled person is not a publication. (Lopez v. Delgado, 8 Phil. 26).

The delivery of a libelous article to a typesetter in the employ of a publisher is sufficient publication (U. S. v. Crame, 10 Phil. 135). Although a person accused of libel did not have the intention of publishing in the newspaper the libelous article and he sent it to the publisher for the sole purpose of defending himself from the attacks against him in the other issues of the said newspaper, yet he cannot be exempt from liability, because the remission of such article to other persons, as those managing a newspaper constitutes in itself a publication, and cannot annul, nor in any manner alter or diminish its defamatory nature. (P. P. I. v. Tolentino, 37 O. G. p. 1763).

When there is no proof that the owner of a printing press ever took part in the publication of a libelous article, said owner is not liable for damages resulting therefrom. Mere act of printing libel is not in itself a publication thereof, because to publish is to make public, while to print means to make an impression with inked type. Where a printer prints a libelous article at the request of the author thereof, and delivers it, once printed to the same author, he does not publish it, though there are grounds to hold that the author has published it upon delivery to the printer. (Ocampo v. Evangelista, supra).

The publication need not refer by name to the libelled party. Under Act 277, plaintiff in a civil ac-

tion may call his friends to state that in reading the libel, they at once concluded it was directed against the plaintiff. (*Cousin v. Jakosalem*, 6 Phil. 155). The fact that libelous words used apply to the plaintiff may be shown by testimony of the witnesses who knew the parties and circumstances. (*Worcester v. Ocampo*, 22 Phil. 42). But libel cannot be committed except against somebody who must be properly identified through colloquium or innuendo. If passage is vague and does not single out definite person or persons, then action will not lie. (*P. P. I. vs. Andrada*, 37 O. G. 92, p. 1783).

Bearing in mind, the above elements of libel, and the differences between libel and slander, an interesting question confronts us—

Is defamation by radio, libel or slander?

Time and again, this question has also arisen in the United States. A line of authority holds that written words read aloud constituted the publication of a libel, and not therefore slander. (*Sorenson v. Wood*, 123 Neb. 348, 243 N. W. 82, 82 A.L.R. 1098 (1932)). The other school of thought preserves the rigid distinction between defamatory materials published by words and those published by writing. Thus an Australian court held that radio defamation is slander whether read from script or not as the publication is done orally. (*Wisconsin Law Review*, December, 1935).

In the Philippines, defamatory materials broadcasted over the radio shall always be libel. The Revised Penal Code lays down a fixed rule when it provided in Art. 355 that a libel committed by means of writing or other similar means, as printing, lithography, engraving, radio, phonograph, painting, theatrical exhibitions,

cinematographic exhibitions, or other similar means, shall be punished by prision correccional in its minimum and medium periods or by a fine ranging from 200 to 6,000 pesos, or both, in addition to the civil action which may be brought by the offended party. In all occasions, radio defamation in the Philippines will constitute libel.

It is hereby suggested that the above provision be modified that radio defamation be distinguished into either libel or slander. The distinction can be based on the fact as to whether the defamatory matter has been read or has been extemporaneously spoken. In radio defamation, distinction between libel and slander is necessary because (1) written matter shows greater deliberation and more malignity than spoken matter, (2) written matter is more generally diffused, (3) written defamation is more permanent in form. (*Thorley v. Lord Kerry*, 4 Taunt 355, *Cooley on Torts*, Wis. Law Rev., Dec., 1935).

CRIMINAL LIABILITY FOR LIBEL

There is no real distinction between civil and criminal libels. (*State v. Powell*, 66 Mo. A. 598). The only distinction if any is that a writing may be insufficient to sustain a civil action and yet sufficient to prove a criminal prosecution. In many jurisdictions, laws make it a crime to publish libel, and these statutes contain definitions of libel, which are generally applicable also in civil actions. (*Jones v. Register*, 177 Iowa 144, 158 N. W. 571).

Under the old law, Act 277, civil and criminal actions in libel are separate and independent remedies. A judgment in a criminal prosecution for libel constitutes no bar to a civil action based upon

the same acts or transactions. Among other reasons, it may be stated that the State must prove its case by evidence which shows the guilt of the defendant beyond a reasonable doubt, while in a civil case by a preponderance of evidence. (*Ocampo vs. Jenkins*, 14 Phil. 681; *Worcester vs. Ocampo*, 22 Phil. 42).

But the above ruling on civil and criminal liabilities has been repealed by the latest decision on the subject—*Ocampo vs. Evangelista, et al.* G. R. 44036, 37 O. G. 109, p. 2196. Among other things, it holds that "It should not be open to question that the incorporation into the Revised Penal Code of the libel law automatically made applicable to it certain general principles of said Code on the criminal and civil responsibilities of the persons accused of crime. One of such principles is that acquittal in the criminal prosecution entails exemption from civil liability." The Court seriously doubts the persuasiveness of the decisions in the *Ocampo* cases as these were decided on the theory that civil and criminal actions in libel are completely separate and independent actions. Such theory was maintained because of the inapplicability at that time of the rule of the Penal Code followed in the cases of *Almeida v. Abaroa*, 8 Phil. 178, 218 U. S. 476; *Francisco v. Onrubia*, 46 Phil. 327, and *Wise vs. Larion*, 45 Phil. 314—that a person not criminally liable is neither civilly liable.

Section 11 of Act 277 on independent civil action was not incorporated in the Revised Penal Code. Arts. 355 and 360 of the Revised Penal Code strengthen the theory that in libel, exemption from criminal liability is exemption also from civil liability. In 355 Revised Penal Code (*supra*) a libel may be punished by fine

or imprisonment or both as adjudged in a criminal action in addition to civil action which may be brought by the offended party. Art. 360, Revised Penal Code provides: "The criminal and the civil action for damages in cases of written defamations as provided in this chapter may be filed simultaneously or separately with the Court of First Instance of the province wherein the libel was published, displayed or exhibited regardless of the place where the same was written, printed, or composed." These do not imply a distinct civil remedy. The first makes the civil action an additional punishment; while the second reiterates the rule that every person criminally liable is also civilly liable.

It is humbly submitted that the older ruling in the *Ocampo* cases is more in consonance with justice and natural reason. Publication of an alleged libelous matter will in one way or another, always injure a person's reputation and thus reparation for the damage caused must always be secured to the offended party. Besides we must not lose sight of the fact that such ruling on civil liability in *Ocampo v. Evangelista*, (*supra*) is just an *obiter dictum*. There is no previous acquittal of defendant in the criminal case for in the very words of the Court "the plaintiff-appellant *forestalling* a verdict for defendant's favor suggests that such acquittal in a criminal case constitutes no bar to a civil action for damages arising out of said libel."

The old libel law did not impose criminal liability upon accomplices and accessories and upon certain co-principals. But incorporation of libel provisions of Act 277 into the Revised Penal Code makes principals, accomplices, and accessories liable as generally provided for all crimes by Act. 16 R. P. C. It is interesting to note

that a juridical person as a corporation cannot be criminally prosecuted for libel. (*West Coast Life Ins. Co. v. Hurd*, 27 Phil. 401).

CIVIL LIABILITY FOR LIBEL

Every person has the right to have his reputation remain unimpaired. (*Oliver vs. La Vanguardia*, 48 Phil. 429). Such right comes under the constitutional guarantee to personal security such that the consequent right to recover damages to reputation cannot be abridged by statute. (*McGee v. Baumgartner*, 121 Mich. 287, 80 N. W. 21). But the damages to reputation which a person has suffered cannot be accurately estimated. Thus the amount depends on the particular circumstances of each case and on the sound discretion of the Court. (*Guevara vs. Almario*, 56 Phil. 476).

Actual damages need not be proved where the article is libelous per se. (*Phee vs. La Vanguardia*, 45 Phil. 211). Where the defamation consists of an imputation of a criminal offense involving moral turpitude which if true will subject party to prosecution, this is libelous per se. Other imputations which are of similar nature are those imputations which prejudice a party in his trade or profession, which charge a party with contagious disease which if true will exclude him from society, and which charge a party of want of integrity or unfitness to comply with duties of office. (*Newell, Libel and Slander*, 3rd Ed.)

At common law, the *general damages* which the law presumes to result from the publication of the defamatory matter arise by inference of law, and are not required to be proved by evidence. If the words are actionable per se, such damages will be presumed. General damages are such as the

law presumes to be the consequence of the defendant's act. Where the tendency of the words is to impair plaintiff's reputation, although no actual pecuniary loss has in fact resulted, the damages are to be determined. Estimation will be based on the extent the defamation tends to expose plaintiff's reputation to public hatred, contempt and ridicule, the social and business standing of the plaintiff, and whether the method of publication tends to add ignominy to the effects and thereby increase plaintiff's mental sufferings. (*Jimenez v. Reyes*, 27 Phil. 52).

Special damages unlike general and exemplary damages cannot be left to Court's discretion, because such kind of damages cannot be inferred but must be proved. Damages to the business of a professional man cannot be allowed unless both the volume of his business and its value for a reasonable time before and after the libel are satisfactorily shown. (*Jimenez v. Reyes*, 27 Phil. 52). If any special damage has also been suffered, it must be set out in the pleadings, and if the plaintiff fails to prove it at the trial, yet he may still recover general damages. (*Newell, Libel and Slander*, 948, 3rd Ed.)

Pecuniary damages for the loss of anticipated profits in libel cases must not be only capable of proof but must be proved with a reasonable degree of certainty. (*Choa Tek Hee v. Phil. Pub. Co.*, 34 Phil. 447). Under Act 277 where no pecuniary damages were proved, yet the Court may fix damages to feeling and reputation and also punitive damages, if the offense is aggravated by evil motive. (*Macleod v. Phil. Publishing Co.*, 12 Phil. 427).

Punitive or Exemplary Damages may also be recovered under

Sec. 11, Act 277 if the defendant was actuated by malice. But malice implied by law in case of libel per se is not sufficient to support an award of exemplary or punitive damages. There must be a showing of aggravating circumstances in order to allow the imposition of punitive damages. "Thus if a publication is made with special ill-will or bad intent, or in reckless disregard of rights of others then punitive damages may be imposed." (Choa Tek Hee v. Phil. Publishing Co., *supra*).

At present, are punitive or exemplary damages for libel recoverable? Under Sec. 11, Act 277 as above stated, an offended party could recover in a civil action not only the actual pecuniary damage sustained by him, but also damages for injury to his feelings and reputation, and such punitive damages as the Court would believe to be just on the offender and as a deterrent to others. However the present Revised Penal Code, is silent as to the kind and nature of the damage recoverable in libel. Thus the implication is that only actual or pecuniary damage may be recovered in a civil action on libel. (Guevara, Commentaries on the Revised Penal Code). Our local Supreme Court expressed an *obiter dictum* to this effect in *Ocampo v. Evangelista* (37 O. G. 109, p. 2196) and stated that recovery of punitive damages is not authorized in the present Revised Penal Code. Under the generally accepted rules of statutory construction, if the Legislature changes the phraseology of a previous law, there is intention to change the law and the latter law prevails.

With due respect to the learned decision, we beg to differ. It is humbly submitted, that the measure of damages at present remains the same as before the enactment of the Revised Penal Code and thus

punitive damages can still be recovered. "The intention of the Legislature in repealing Act 277 was merely to repeal the penal provisions of said Act, such that this repeal did not affect the civil actions provided for in said law." (Albert on the Revised Penal Code). The Revised Penal Code is a law which revises the old Penal Code and other penal laws, consequently the civil provision of Act 277 is not repealed, as it is a part of the private substantive law on damages.

We must take note of the fact that under the Civil Code, damages to feelings and reputation could be recovered. In the case of *Musso vs. Vicente*, decided by the Supreme Court of Spain, (*V Lawyers' Journal* 636, July 31, 1937), a young girl was published to have eloped with a priest with whom she had an issue two months before. The girl came from a chaste and respectable family. The father of the woman filed an action for damages to her feelings and reputation. Defendant contended that plaintiff must prove actual damages—as effects on marriage prospects. Citing Art. 1902 Civil Code, our Supreme Court granted the amount asked for as damages to feelings and reputation in libel cases.

This novel decision of the Spanish Supreme Court repeals its earlier decisions to the effect that no damages for pain and suffering may be allowed. That old ruling has been consistently followed by our local Supreme Court beginning with the case of *Marcelo v. Velasco*, 11 Phil. 287. This was reiterated in *Algarra v. Sandejas*, 27 P.R.A. 159. But in *Manzanares v. Moreta*, 38 Phil. 821, the Supreme Court granted damages for death of a child, notwithstanding the lack of satisfactory proof of actual pecuniary loss. (But see

Bernal vs. House, 54 Phil. 327, and Lilius vs. M.R.R. Co. 59 Phil. 765). In above-mentioned case, the Spanish Supreme Court expressly recognizes the right to recovery in a civil action under Act 1902 of the Civil Code for damages for pain and injured feelings—which damages are also the necessary consequence of a libelous publication.

In further support of our contention, we resort to the *argumentum ad inconveniente*. If punitive damages are not allowed, and if actual damages will only be granted, then inconveniences will follow. One's reputation could be impaired and one's good name besmirched at the mere whim of another. A poor but virtuous and upright individual, who has no professional nor personal accomplishments will then possess no civil remedy against the outrages of libelers and "mud-slingers" who will set up the defense that no actual damages has been suffered. Besides cases are very rare where the loss of business profits can be traced to the libel for there are always other attending circumstances which may constitute the bases. (Santos, Lectures on Torts and Damages).

Lastly an individual's enjoyment of a reputation unassailed is guaranteed by the due process clause of our Constitution. Thus our legislature cannot deprive us of the right to sue for damages to feeling and reputation. As one's enjoyment of a good name falls under the guarantee of personal security, then the right to recover damages to reputation cannot be abridged by statute. (McGee v. Baumgartner, 121 Mich. 287, 8 N. W. 21).

CONCLUSION

In the foregoing discussions, the writer has made some humble

comments and suggestions pertaining to the libel law in the Philippines. It is hereby submitted:

1. That defamation by radio is always considered as libel by the Revised Penal Code and it would be more just and equitable if radio defamation be distinguished into libel or slander, for the reasons thereunder stated;

2. That in libel cases, the principle of the Revised Penal Code that exemption from criminal liability entails exemption from civil liability, is not applicable;

3. That punitive or exemplary damages are still recoverable in libel cases; and

4. That under Art. 1902 of the Civil Code, damages for pain and injured feelings may be allowed.

Even though how far these discussions may have carried us, yet we shall always be confronted with the actual reality—the present state of the Philippine law on libel. It is thus proper to conclude with a summary of distinctly new principles governing the present liability for libel.

Libel is the malicious imputation of a discreditable act or condition to another. Malice or ill-will must either be proved or may be taken for granted in view of the grossness of the imputation. This discreditable act or condition must be imputed to another, and such imputation must be public. (P. P. I. vs. Andrada, 37 O. G. 92, p. 1783) that is it must be known to a person other than the accused and the offended party. (P. P. I. vs. Willimont, G. R. 39196, unpublished). These requisites are also necessary for conviction under Art. 358 of the Revised Penal Code—slander or oral defamation. (P. P. I. vs. Arcand, G. R. 46336, XIX Phil. Law Journal, 5, p. 231).

Many of the provisions of the old libel law have not been incor-

porated into the Revised Penal Code such that some of the existing theories are modified. Under Act 277, the proof of truth and defamatory imputation was always admissible (Sec. 4) but under the Revised Penal Code "proof of the truth of an imputation of an act or omission, not constituting a crime, shall not be admitted unless the imputation shall have been made against government employees with respect to the facts related to the discharge of their official duties. (Art. 361). Under the old law the person libelled was entitled to recover actual pecuniary damages for injury to feelings and reputation and such exemplary damages as the Court may determine (Sec. 11) but under the Revised Penal Code recovering exemplary damages is not allowed.

The incorporation of the libel law into the Revised Penal Code automatically made applicable to it certain general principles of the said Code on criminal and civil liabilities. The old law did not

impose criminal liability upon accomplices, accessories, and upon certain co-principals, but at present all offending parties are criminally liable. The principle that acquittal in criminal prosecution carries with it exemption from civil liability is applicable at present to civil actions for libel. (*Ocampo v. Evangelista*, G. R. 44036, 37 O. G. 109, p. 2196).

Liability to make full compensation for damages to reputation is provided for by law. The value of such reputation is recognized and thus the law protects it from slanderous words or libelous publication. The enjoyment of a private reputation is as much a constitutional right as the possession of life, liberty, or property. (*Park v. Detroit Free Press Co.*, 72 Mich. 560, 40 N. W. 731, 1 L.R.A. 599). As held in *Coleman v. McLennan* (20 L.R.A. [n.s.] 361) it is one of those rights necessary to human society that underlie the whole scheme of civilization.