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## Applied courtesy

Hubert H. Karley

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their clients. The plaintiff alleged that the defendant, while engaged in the performance of his duties as superintendent of the Ford Motor Company, made false and defamatory statements, in the presence of others, to the effect that the plaintiff, while in the employ of the company, had stolen spark plugs and other property of the company. It appeared that the statements were made during the course of an investigation which the defendant was conducting after being informed that the plaintiff on several occasions had exchanged spark plugs, of the kind used by the company, for gasoline. The defendant claimed that the statements made were privileged communications, made without malice. The court held, inasmuch as the words complained of by the plaintiff were spoken during the course of the investigation, and inasmuch as it was the duty of the defendant, as superintendent, to conduct the investigation, that "the occasion on which the words were spoken by the defendant was such that they constitute a privileged communication, for which no action lies unless the words were spoken with actual malice."

This decision is strengthened by other decisions and definitions. In the decision in the New York case of *Klinck v. Colby*, Judge Folger declared that privileged communication exists "when a communication is fairly made by a person in the discharge of some private or public duty, legal or moral, or in the conduct of his own affairs, in matters where his interest is concerned."

In the case of *Richardson v. Cooke, et al*, 56 South 318, where the defendant, an insurance adjuster, wrote letters to certain insurance companies charging the plaintiff, also an insurance adjuster, with being incompetent, amateurish, etc., the higher court of Louisiana sustained the defendant on the ground that he communicated the statement to a party who had an interest in the subject matter.

Also Newell on slander and libel in defining privileged communication says:

"The proper meaning of a privileged communication is only this: That the occasion on which the communication was made rebuts the inference of malice prima facie arising from a statement prejudicial to the character of the plaintiff, and puts upon him the burden of proving that there was malice. In short, that the defendant was actuated by motives of personal spite or ill will, independent of the occasion on which the communication was made."

The accountant is a disinterested person called in to determine the condition of a business. The very fact that he is a disinterested party, in addition to the accounting knowledge and skill he possesses, is what makes his investigations of value to the client and other interested parties. In most cases the accountant has not the slightest acquaintance with the client's employes, and hence there should be no reason for malice in the report of the accountant. The occasion of an audit is one where the accountant is expected to verify the transactions and results of a business and report the conditions as found to the client. Surely, it is reasonable to expect that any irregularity which may exist will be reported with fairness, and such being the case, except in individual cases where malice can be proved, any communication made by the accountant to his client concerning the condition of the business should be regarded as privileged communication, not only by common law but by statutes as well.

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## Applied Courtesy

BY H. H. KARLEY

(Supervising Accountant, Detroit Office)

**F**EW things are better calculated to break down the cordial relations which ought to exist—and usually do exist—between the client and a visiting auditor, than a lack of consideration on the part of the auditor in the usage of the client's records. The points have often

been stressed that the auditor's business is the client's private business; that the client's records should not be defaced or unduly marked; or that the client's documents should not be disarranged. Recent occurrences coming to the writer's notice brought home sharply the importance of promptly returning intact such files or documents as it was necessary to borrow during the course of an audit.

A case in point came to the writer's attention recently. A visiting auditor—not, fortunately, of our organization—had occasion to use the treasurer's private record of price rebates received. The information contained therein was highly confidential, and was carefully guarded at all times by the treasurer. It was found several weeks after the auditor's departure in a drawer of the desk that the auditor had been using, but only after a prolonged search. This, together with several other instances of a like nature, will make it very difficult for that man ever to build up again any semblance of the spirit of cooperation and friendliness formerly accorded him.

The writer recalls another case of a similar nature where, on the occasion of our first attendance at the office of a new client, we were refused permission to remove accounts payable vouchers from the files, the client explaining that he would assign an employe to do the work because previous auditors had misfiled or lost many vouchers.

Courtesy towards a client and his staff includes careful guarding and prompt return or accurate refile of his records. Its importance could well be impressed on new members of our staff.

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### News Items

The Accountants Foundation, Inc., has been designated trustee of the \$50,000 fund recently presented by the firm to The Accountants Club of America, Inc., to be known as the Elijah Watt Sells

Memorial Fund, and the check for the amount of the fund has been turned over to the trustee. The formal presentation of the gift to The Accountants Club of America, Inc., was made at the annual meeting of the Club held at the Waldorf-Astoria Hotel on the evening of November 21, 1927.

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It is with deep regret that we announce the death of Mr. James Furse, of the New York Broad Street practice office staff. Mr. Furse was taken suddenly ill with appendicitis while visiting in Savannah, Georgia, and died on March 18, after an emergency operation.

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Mr. Victor G. Gendron, of our Los Angeles office, is to be congratulated upon passing the C. P. A. examination of the State of California.

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Mr. William D. Shay, of our New York Thirty-ninth Street office, has recently been admitted to associate membership in the American Institute of Accountants.

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An article by Mr. Homer A. Dunn on "Arbitration of Commercial Disputes" appeared in *The Certified Public Accountant* for March, 1928.

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An article by Mr. Lewis A. Carman, manager of our Los Angeles office, entitled "An Accounting Enigma," appeared in *The American Accountant* for March, 1928.

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Mr. Hutchinson, manager of our Charlotte office, read a paper on "Federal Individual Income Tax Returns" before the Kiwanis Club of Charlotte on March 1, 1928.