

notice, and the Inspector, knowing McKnight, knowing the marriage connection, and believing that McKnight came within the general description of "brother-in-law" of the plaintiff, gave the notice, naming McKnight in the notice as the brother-in-law of the plaintiff.

J. S. Fraser, K.C., for the plaintiff.

M. Wilson, K.C., and J. M. Pike, K.C., for the defendant.

BOYD, C.:— . . . The language of the statute is specific, and is limited (in this connection) to the "parent, brother or sister, of the . . . wife" of the person addicted to the excessive use of liquor. In such category McKnight did not come, and he had really no more authority to intervene than the stranger in the street. . . .

It is a serious matter to stigmatise a man in business as one addicted to the use of liquor in excess—to put this into writing and to publish it among the houses of entertainment as the deliberate act of a public officer. . . . The effect of the notice served under the statute . . . is to promulgate a libel (if it is unauthorised) and to expose him to various disabilities and to interfere with his freedom of action to a greater or lesser extent. It is popularly called putting him on "the Indian list"—though neither word is appropriate. . . . This unwarrantable notice did more or less harm to the plaintiff and his business. The principle of law applicable is well stated in *Connors v. Darling*, 23 U. C. R. 541, in these words: "The law would be in a singularly unsatisfactory state if there could be no redress for an injury committed in clear violation of the precise words of the statute, although without improper motive in the person causing the injury."

What is the legal status of the public officer under R. S. O. 1897 ch. 88, which applies to every functionary fulfilling any public duty (sec. 1, sub-sec. 2)? If what he does is done in the execution of his office, he is entitled to notice of action (secs. 13 and 14). This notice is of different character according to the circumstances of the case as defined in the Act. That is to say, if he is acting in respect of a matter within his jurisdiction, and goes wrong through honest error or innocent irregularity, he is entitled to a notice of action under sec. 1, charging malice and an absence of reasonable and probable cause, and these matters must be proved to establish liability. But if, on the other hand, he acts without jurisdiction (or has exceeded his jurisdiction), under sec. 2, the notice need not contain these charges, and the plaintiff need not prove them in order to recover. The notice in this case