Three actions by the same plaintiff against different defendants, the publishers of newspapers, were tried together.

The judgment of FALCONBRIDGE, C.J., is noted in 15 O.W.N. 215, sub nom. Pohlman v. Times Printing Co.

The appeal was heard by MEREDITH, C.J.C.P., BRITTON, SUTHERLAND, and MIDDLETON, JJ.

J. A. Soule, for the appellants.

T. N. Phelan, for the plaintiff, respondent.

MEREDITH, C.J.C.P., reading the judgment of the Court, said that the single question involved in the appeal was, whether the defendants were entitled to have the judgment set aside and the action dismissed under and by reason of the provisions of sec. 8 of the Libel and Slander Act—"No action for libel contained in a newspaper shall lie unless the plaintiff has . . . given to the defendant notice in writing specifying the statement complained of . . ."

The plaintiff did give notice in writing, and the publication referred to in the notice obviously contained several libellous statements if all the statements were untrue; but they were not; and the plaintiff did not now nor at any time complain of those which one might consider, even in war-time, the graver statements, as far as the plaintiff's character might be affected by them. All that he had complained of, and recovered judgment for, were those which related to his nationality and matters connected with it.

It could not be held that in his notice he "specified the statement complained of." His notice could not be read as a complaint of every statement contained in the whole publication—in the notice he said, "which article is largely untrue and libellous," not altogether so.

Section 8 must be treated as remedial. In other like legislation as to giving notice, power to excuse want of notice and to aid faulty notice is sometimes given, but none is given in this enactment; it is peremptory—"No action . . . shall lie."

Therefore, if the case was within the provisions of sec. 8, the faults of the notice could not be cured or avoided; and the appeal must be allowed and the action dismissed. It was not a case for a new trial. Reasonable men could not find that the notice specified the statement complained of, even if the words could be considered capable of such a meaning.

The contention that sec. 15 of the Act deprived the defendants of the benefit of sec. 8 was abandoned, after it had been made upon the hearing of the appeal, in view of the pleadings and the