dreaming, that would not be sufficient. I cannot see what the facts are which he believed in, and which if they had existed would have justified him. There is no evidence that any offence had been committed on that night by anyone; much less that any one had been found committing any offence. How could the defendant honestly believe in facts which, if true, would justify him?

MONTAGU SMITH, J.—I am of the same opinion. In *Read* v. *Coker*, Jervis, C. J., lays it down broadly that "to entitle a defendant to a notice of action it is enough to show that he *bonâ fide* believed he was acting in pursuance of the statute for the protection of his property." Perhaps the rule stated in those general terms may be too wide; but the rule laid down by Williams, J., in *Roberts* v. *Orchard*, is enough for us in disposing of this case, and the defendant has not brought himself within it; and the meaning of the rule is, the defendant must not only believe that he is right in law but that those facts exist, which if they had existed, would justify him; and that was the view of Parke, B., in *Hughes* v. *Buckland*, 15 M. & W. 346, where the plaintiff was apprehended while fishing, for he says, "The defendants, in order to be protected, must have *bonâ fide* and reasonably believed Colonel Pennant to be the owner of the place where the plaintiff was fishing, and that the trespass was committed within the limits of his property;" and so it was held in *Downing* v. *Capel*. Here I am not satisfied that the defendant believed, indeed I think that he did not believe, that his house had been broken into. The defendant himself might have satisfied the jury as to the state of his mind, but he did not choose to undergo the ordeal.

Rule refused.

CORRESPONDENCE.

TO THE EDITORS OF THE CANADA LAW JOURNAL.

Gentlemen,—"Scarboro," in the June number of the *Law Journal*, answers my communication in the the March number of the *Local Courts Gazette*, and detects an apparent contradiction, as to whether I meant that the discharge of an insolvent discharges debts not included in the schedule, and correctly asserts that the cases cited by me prove that such debts are not barred by discharge. At first I thought it best not to advert to the matter again, but, on reflection, think it fair that an error either from omission in engrossing or printing (probably the former) should be corrected.

In quoting *Stephenson* v. *Green*, 11 U.C.Q.B., deciding "that a final order granted under the English acts similar to our then bankrupt and insolvent acts, could *not* be set up as a defence to any debt *not* included in the schedule," the word "not" between the words "could" and "be" was accidentally omitted, which made me appear, in that sentence, to contend that debts not included were discharged. But you can easily see such was not my intention; and "Scarboro" admits that "at the end of my letter one would think I actually agreed with him." In this, he is so far right, for it is there plainly stated "that a creditor whose claim is not in the schedule, would not be barred by discharge."

The reason of referring to the cases was to clear doubts "Scarboro" expressed in the March number of the *Local Courts Gazette*. He there stated, "it should be enacted distinctly (*there is now some doubt on the subject*) that the insolvent shall be discharged only from the debts or liabilities mentioned in his schedule of debts;" and for the further reason that I failed to see the necessity of legislation on that subject, owing to these discussions, and as we now both agree in this respect, perhaps none is required on most, if not all, the other points to which he alludes in his March letter, and, if a fair trial is given the acts, in a short time many doubtful and difficult points may be decided.

Whilst agreeing with "Scarboro" that if assignees resort to the practice to which he alludes, their conduct is reprehensible, as well as illegal, I assert again, that it is due to the neglect of creditors in making an example by proof of such practice, before the judge. If "Scarboro" knew of any such practice, why did he not try the experiment before the court? I think such an assignee would be dismissed.

QUINTS.

The *Pall Mall Gazette* extracts the following remarkable piece of news from a French paper of Wednesday last:—"Interesting specimen of the manners and customs of the English.—A few days since a tailor was tried in London, for the murder of a soldier. The judge in passing sentence, severely reprimanded the prisoner, and concluded his address thus:—'You have not only murdered a fellow-creature with an illegal weapon; you have done more—you have damaged and rendered worthless with that same weapon the overalls of your Queen.' It is well known that in England everything is in a legal sense the property of the Queen." The foundation of this wonderful paragraph is traceable in an old anecdote told of Eskgrove, a Scotch judge, who, in sentencing a tailor who had stabbed a soldier, was said to have aggravated his offence in the following fashion:—"And not only did you murder him, whereby he was bereaved of his life, but did wilfully thrust, pierce, push, project, or impel the lethal weapon through the belly-band of his regimental breeches, *which were his Majesty's*." The concluding *dictum* as to English law is probably the private incubation of the penny-a-liner who hoaxed the French editor.