Notice of Action.

King v. *Chamberlain*, C.P., 19 W.R. 931.

It is not, perhaps, to be wondered at that, in interpreting clauses in Acts of Parliament which provide for the protection of those acting in pursuance of the statute, by requiring notice of action, the analogy of action for malicious prosecution should have been often though erroneously followed, and a similar test applied. Of course, if the thing done were in reality in pursuance of the statute, no action would lie, and therefore no notice of action would be required, or, at least, not for the same reason. On the other hand, if the statute were made a mere pretence, and the act were really one of wilful malice, the clause would obviously have no application. Assuming then, a wrongful act, but the existence of an honest and *bona fide* belief in the defendant, what must be the contents of that belief: Not, certainly, that he is acting by virtue of such and such a chapter of such and such a volume of the statute book; but, upon the other hand, not merely a general belief that he is acting legally; an error as to the law will not help him here more than elsewhere. It remains, therefore, that the error must be an error as to facts; and, putting together right law and wrong facts, it results that he must have thought facts to exist which, if they had existed, would have made his conduct lawful under the statute in question. The only question that remains is, whether, in addition to this *bona fide* belief in the facts, there must have been reasonable and probable grounds for the belief. It has been for some time settled that this need not be proved, although the existence of such grounds may be an argument in favour of, and their absence an argument against, the existence of the belief. *Downing* v. *Copel*, L. R. 2 C. P. 461, however, and *Lester* v. *Hart* L. R. 2 C. P. 322, have apparently misled some people, although both cases were really illustrations only of the proposition that it is not enough for a man to believe generally that he is acting legally, and that his error must be not in the law but in the facts. In the latter case, however, it must be admitted expressions are used which might mislead; it is useful, therefore, to have the principle so affirmed and those expressions explained, as was recently done in *King* v. *Chamberlain*.—*Solicitors' Journal.*

POSTAL CARDS.

May a person with impunity make use of the new postal cards to send his neighbour defamatory and scurrilous language concerning him? According to the daily papers, this question has been answered by a metropolitan magistrate in the affirmative; but we cannot but think there must be some inaccuracy in the report. It is said a tradesman applied to Mr. Newton for a summons against a man who had sent him a libel on a post-card, and that the learned magistrate refused to grant it, on the ground that there was no more a publication of the contents of the card than there would have been had it been a sealed letter. We would caution any evil-disposed person from relying on this supposed decision as providing a safe and cheap mode for abuse and defamation. The first point to be noticed is, that ever since the time of Lord Mansfield it has been admitted law, that the sending a letter containing a libel to the party against whom it is made is a sufficient publication to sustain an indictment, although it would not support an action. In the case of *Reg.* v. *Burdett* (3 B. & A. 717), the court held that a delivery of a sealed letter containing a libel at the post-office is a publication there. The reason why an action will not lie on a libel when the only publication has been to the party libelled is, because the plaintiff could sustain no injury unless he himself communicated the libel, but this reason does not excuse the libeller from being prosecuted for the offence, the gist of the crime being not the injury to the individual, but the provocation and tendency to a breach of the peace. This is no obsolete doctrine. Within the last two years a man was sentenced at the Old Bailey for writing a libellous letter to and of the prosecutor. But we go a step further, and contend that there is a great difference between sending a letter in an envelope and writing a libel on a post-card, which can and probably will be read by clerks, letter carriers, domestic servants and others. It must be remembered that the annoyance caused to the recipient of the libel will arise from the suspicion that others have seen it, and in this way a nervous person's life might be made a perfect burden to him, although in fact he alone might have read the imputations upon his character. If a man wishes to abuse you, and is not anxious that others should see it, it is surely not too much to require him to pay a penny for a stamp, and put the abuse under cover. It was held by Lord Ellenborough that where it was proved that the defendant knew that a clerk of the plaintiff opened his master's letters in his absence, there was evidence for the jury to consider whether the defendant did not intend the letter to come to the hands of a third person: *Delacroix* v. *Thevenot*, 2 Stark. 63. Surely in the same way the fact that a person wrote on a post-card would be some evidence of a desire that the contents should be known by others than the plaintiff. It was only last year that an attorney recovered damages in an action for libel, where the libel was part of the direction of a letter addressed to him, as "Old Perjury Jones, of Goring Place, Llanelly, South Wales:" *Jones* v. *Bewicke*, L. Rep. 5 C. P. 32. It is true that the letter carrier was obliged in the course of his duty to read the direction, but still we submit that the case has a bearing upon the question before us.—*Law Times.*

Residence.—A. had lodgings at E., where his family resided; but, being employed at M., he was furnished lodging there and slept there, though not obliged to do so, with the exception of one or two nights a week, when he slept at E. *Held*, that A.'s residence was at E.—*Taylor* v. *Overseers of St. Mary Abbott*, L. R. 6 C. P. 309.