

unnecessarily delayed the removal of these persons from the hotel, in their anxiety to prevent the spread of the disease they caused them to be removed from the hotel to the hospital before, in the opinion of their medical adviser, it was, having regard to their condition, prudent to do so.

Section 88 prohibits the removal of any sick person except by permission and under direction of the board or the medical health officer or the attending physician, and it would be a most extraordinary condition of things, if a board, acting in good faith, as this board beyond question did, were answerable in damages because its members, acting under the advice of its medical officer, had delayed the removal of the sick and infected until it was safe to remove them without danger to their lives, especially when, as in this case, the sick and infected were members of the family of the occupant of the house in which they were lying sick, or servants of his, and included among their number the occupant himself.

'The placarding of the hotel was also a necessary thing to be done, and it was the duty of the board and the health officer to have it done by Ward or to do it themselves: secs. 88, 90.

I find no evidence that defendants or any of them took possession of the hotel or that they excluded Ward or his employees or the public from entering it, except in so far as the placarding of the hotel operated to deter them from doing so.

It may be that under the 3rd regulation of the provincial board of health, which is by the Act given the force of law, it was the duty of the board of health to have provided another place in which to put the persons who had been exposed to contagion, and, if so, the board undoubtedly did not fulfil that duty. There are, however, I think, several answers to this branch of Ward's claim. For the mere breach of that duty no action lies, and if, as I think is the proper conclusion upon the evidence, whatever may have been the attitude of the persons who had been exposed to contagion, as to their being confined in the hotel, Ward either consented to or acquiesced in their being placed and kept there, he is not entitled to complain. . . .

But, assuming that they were kept in the hotel against his will, I fail to see what injury was done to Ward; there was, at most, but a technical invasion of his rights, for the hotel would not have been fit for the reception of guests any sooner than it was, even if the persons who had been exposed to contagion had not been confined there; it was fit for the