

health officer, remained in the hotel. Ward makes the further complaint against all the defendants that they placed upon the hotel, in the front and rear, placards stating that there was smallpox within the hotel; these acts are also alleged to have been done illegally, maliciously, and without reasonable and probable cause; and Ward complains also that after the persons exposed to contagion who had been kept in the hotel had been released, it was necessary to cleanse and disinfect the hotel, and that the doing of this occupied two weeks, and he claims damages for this as well as the other before mentioned alleged wrongs, and also for the alleged conversion of a quantity of supplies, fuel, and material which were in the hotel, for the value of mattresses, clothing, and other articles belonging to him, which, as he alleges, were destroyed by fire by defendants, and for the value of other bedding and clothing belonging to him, which, as he also alleges, defendants converted to their own use.

I am of opinion that the action of Ward was rightly dismissed.

As regards defendants the local board of health, apart from other insuperable difficulties in the way of Ward's recovering, the action necessarily fails because the board is not a corporation and cannot be sued as such or as a legal entity: *Township of Logan v. Hurlburt*, 23 A. R. 628, 659; *Sellars x. Village of Dutton*, 7 O. L. R. 646, 3 O. W. R. 664; *Kingston v. Salvation Army*, 7 O. L. R. 781, 3 O. W. R. 556.

The substance of the claim against defendants other than Marr and Golden as to the use of the hotel is that they made use of it as a smallpox pest hospital or hospital for 5 days, and after that, for 17 days longer, they used it as a place of confinement for the persons who had been exposed to contagion, and during that time prevented Ward from carrying on his business there.

I am of opinion that this claim failed as well against the board as the individuals who composed it, and this for several reasons.

For the mere neglect of the board, in case of an outbreak of smallpox, to comply with sec. 106 of the Public Health Act, R. S. O. ch. 248, in my opinion no action by Ward lies. I am also of opinion that the proper conclusion on the evidence is that the board was not guilty of any violation of the section, but that the members of it acted with reasonable care and promptness in providing a hospital in which to place the sick and infected, and, so far from having improperly or