

The action was tried without a jury at Brockville.

J. A. Hutcheson, K.C., for the plaintiff.

G. H. Watson, K.C., and J. A. Hope, for the defendants.

BRITTON, J., reviewed the facts in a written opinion, and said that the contract was not that the defendants would nurse the plaintiff, but that they would give her reasonable care and attention, under the directions of her medical advisers, and comforts and conveniences, including food, under the direction of the hospital authorities.

The hospital is a charitable institution. The defendants are a corporate body under the name of "The Smith's Falls Public Hospital," but there is no share capital. Defendants in such a position may be held liable for damages resulting from negligence of employees and may have to pay: *Mersey Docks Trustees v. Gibbs* (1866), L.R. 1 H.L. 93.

Reference also to *Hall v. Lees*, [1904] 2 K.B. 602; *Evans v. Mayor, etc., of Liverpool*, [1906] 1 K.B. 160; *Hillyer v. Governors of St. Bartholomew's Hospital*, [1909] 2 K.B. 820.

The contract in the present case was—and the only duty to the plaintiff was—that the defendants should in good faith use due care and skill in selecting the medical staff and in employing and permitting nurses in training and other assistants to work for and attend to patients in the hospital.

The relationship of master and servant did not exist between the defendants and the physicians and nurses and other attendants assisting at an operation—no matter whether the attending physicians and nurses were paid by the defendants or not.

The hospital was well managed—the directors were not guilty of any negligence in selecting any of the official staff or attendants.

*Action dismissed, without costs.*